

RECORDING REQUESTED  
BY  
PLACER TITLE COMPANY

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

WEINTRAUB GENSHLEA CHEDIAK SPRO  
Law Corporation  
Attn: Curtis C. Sproul, Esq.  
400 Capitol Mall, Suite 1100  
Sacramento, California 95851 0208

110-2068



PLACER, County Recorder  
JIM MCCAULEY

**DOC- 2004-0164157**

Acct 2-PLACER TITLE

Wednesday, DEC 08, 2004 12:00:00

MIC \$3.00:AUT \$57.00:SBS \$56.00

REC \$59.00:

Ttl Pd \$175.00

Nbr-0001198376

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(Space Above For Recorder's Use)

MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WESTPARK

DN/2

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WESTPARK**

This Master Declaration is made by 1600 Placer Investors, L.P., a California limited partnership (the "Declarant").

**RECITALS**

A. The Declarant is the owner of that certain real property located in the City of Roseville, County of Placer, State of California that is more particularly described in Exhibit "A", which is referred to herein as either the "Property" or by its common name which is "Westpark" or the "Westpark Property". The Westpark Property is approximately 1,484 acres in size.

B. Declarant desires to develop the Property as a multi-phased planned development pursuant to this Master Declaration and the Entitlement Documents, as defined in Section 1.11, below.

C. If developed in accordance with the Entitlement Documents, Westpark is planned to include a diverse mix of housing meeting a wide range of housing needs for the City of Roseville, public facilities, such as schools, parks, open spaces and recreational amenities, a Village Center, and other commercial areas, services and amenities. This Master Declaration is being Recorded in the chain of title to all lands comprising the Westpark development, however it is likely that as Phases of the Property are sold to Subdividers and Commercial Developers, this Master Declaration may be modified as applied to those Phases in accordance with Article XIII, below.

D. Declarant intends to sell Parcels of real property in Westpark to Subdividers who will then record final subdivision maps for such Parcels, develop Separate Interests, business/commercial buildings, or industrial buildings on or within the Parcels (depending on their zoning), and sell or lease those Separate Interests, business/commercial buildings or industrial buildings to third-party purchasers periodically as market conditions determine. Supplemental Declarations containing additional and supplemental covenants, conditions and restrictions specifically affecting the real property comprising particular Parcel(s), may be Recorded in accordance with Article XIII, below, in order to reflect the character, use, and other special requirements applicable to the Subdivider's plan of development within the Phase.

E. By this Master Declaration, Declarant intends to establish a common scheme and plan for development, possession, use, enjoyment, maintenance, repair, restoration and improvement of Westpark and the Separate Interests and Parcels therein conveyed. Notwithstanding the anticipated development of Westpark in accordance with the plan of phased

development contemplated by this Master Declaration, nothing in this Master Declaration shall be construed or interpreted to commit Declarant to develop any portion of Westpark in accordance with any present planning, or to the annexation of all or any part of Westpark to this Master Declaration, whether or not it is so developed. Accordingly, nothing contained herein shall obligate Declarant to refrain from the further subdivision or re-subdivision of the lands comprising Westpark, and Declarant shall be free to so further subdivide or re-subdivide. Nothing contained herein shall obligate Declarant to refrain from the further subdivision, re-subdivision or reversion to acreage of portions of Westpark not theretofore annexed, and Declarant shall be free to so further subdivide or re-subdivide, or revert those portions of Westpark. Declarant and Subdividers may develop commercial properties in future Phases of Westpark where such development is permitted by the Entitlements Documents.

F. In view of the foregoing, Declarant, by Recording this Master Declaration in the chain of title to the Property comprising Westpark, hereby subjects such Property to the covenants, conditions, restrictions, assessments, liens, easements, and equitable servitudes (collectively, the "equitable servitudes") set forth herein in order to cause this Master Declaration to run with the Property. It is the further intent of the Declarant, from and after the date of Recordation of this Master Declaration, that the equitable servitudes imposed by this Master Declaration shall be binding on all current and future owners of any Separate Interests and Parcels within Westpark and their successors and assigns. By accepting deeds, leases, easements or other grants or conveyances to the aforementioned portions of Westpark, the Owners, Residents, tenants, and other transferees for themselves and their heirs, executors and administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the provisions of this Master Declaration hereinafter set forth except to the extent such persons are specifically excepted.

## **ARTICLE I**

### **Definitions**

Section 1.01. "Architectural and Landscape Committee" means the Architectural and Landscape Committee created in accordance with Section 3.02, below.

Section 1.02. "Association" means an association of property owners, as defined in Civil Code section 1351(a), that is organized to own and/or manage and maintain Common Areas and common facilities of a common interest development (as defined in Civil Code section (c)) and to perform other obligations and responsibilities pursuant to a Supplemental Declaration Recorded in the chain of title of real property comprising the common interest development. An "Association" includes, without limitation, a Project Association.

Section 1.03. "City" means the City of Roseville, State of California, and its various departments, divisions, employees and representatives.

Section 1.04. "Common Area" means that portion of a common interest development, as defined in Civil Code section 1351(c), that is not a Separate Interest.

Section 1.05. "Condominium" shall mean an estate in real property as defined in sections 783 and 1351(f) of the California Civil Code, or any similar California statute hereinafter enacted. Section 1351(f) provides that a Condominium consists of an undivided interest in common in a portion of the real property on which the Condominium Project is located coupled with a separate interest in a space called a "Unit", the boundaries of which are described on a recorded final Subdivision Map, parcel map or condominium plan.

Section 1.06. "Condominium Project" shall mean a condominium project as defined in section 1351(f) of the California Civil Code, or any similar California statute hereinafter enacted, including all property annexed to such project, if such project is developed in phased increments.

Section 1.07. "County" means the County of Placer, State of California, and its various departments, divisions, employees and representatives.

Section 1.08. "Declarant" means 1600 Placer Investors, LP, a California limited partnership, and its successors and assigns, if (i) such successors and assigns acquire any or all of Declarant's interest in a portion or all of Westpark for the purpose of purchase or sale, and (ii) the Declarant has expressly transferred or assigned to such successors or assigns its rights and duties as Declarant to such portion or all of Westpark. For any such successor or assignee to be deemed a Declarant under the terms of this Master Declaration, Declarant shall Record a certificate so designating said successor or assignee as a Declarant. Any assignment of Declarant rights to another person or entity shall identify those rights that are being assigned and those rights, if any, that are being retained by the Assignor Declarant.

A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all or any portion of Westpark which beneficiary has acquired any such property by foreclosure, power of sale or deed in lieu of such foreclosure or sale.

So long as expressly consented to by 1600 Placer Investors, LP, (or its successor who has been expressly granted this consent authority) there may be more than one Declarant at any given time; provided, however, that (i) the designation of co-Declarants shall be in the sole discretion of the Declarant; (ii) any designation may be of less than all special Declarant rights and privileges under this Master Declaration; and (iii) any person who is designated as a co-Declarant shall be a co-Declarant only with respect to those portions of Westpark owned by that co-Declarant and the rights and obligations of the Declarant with respect to the Master Association and its Members shall be exercised as agreed among the co-Declarants with the consent of the California Department of Real Estate.

The Declarant shall also have the power and authority pursuant to this Master Declaration to transfer to one or more Subdividers certain rights and privileges reserved or granted to the Declarant hereunder without designating the Subdivider as a successor or co-Declarant; provided that the assignment of certain enumerated Declarant rights and privileges is set forth in a Supplemental Declaration Recorded in accordance with Article XIII, below.

Section 1.09. "Design Guidelines" means the West Roseville Specific Plan Design Guidelines as set forth in Part 12 of the Specific Plan.

Section 1.10. "Development Agreement" means the Development Agreement dated February 18, 2004 by and Between the City of Roseville and 1600 Placer Investors, LP, relative to the West Roseville Specific Plan.

Section 1.11. "Eligible Holder" shall mean any Institutional Holder, or an insurer or guarantor of a loan held by an Institutional Holder.

Section 1.12. "Entitlement Documents" is a collective term that means and refers to the West Roseville Specific Plan, the Development Agreement, as defined in Section 1.09, above, the General Plan Amendments, Rezone, and the Environmental Impact Report for the West Roseville Specific Plan and Sphere of Influence Amendment, approved by the Roseville City Council on February 4 and 23, 2004, as those documents may be amended, supplemented or modified from time to time. The term "Entitlement Documents" shall also include any large or small lot Subdivision Map for any portion of Westpark.

Section 1.13. "Established Drainage" shall mean the drainage pattern existing at the time of the completion of the grading of the land within the Property or any Lot within the Property (as evidenced by maps or plans approved by the appropriate public agency).

Section 1.14. "Government Mortgage Agency" means the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Federal National Mortgage Association or any similar entity, public or private, authorized, approved or sponsored by any governmental agency to insure, guarantee, make or purchase mortgage loans.

Section 1.15. "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is or becomes regulated by, or is subject to, or governed under, any local governmental authority, any agency of the State of California or any agency of the United States Government, including, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," "hazardous material," "toxic material" or "toxic substance" under any federal, state or local governmental rule, regulation, ordinance, statute or act now or hereafter enacted, (ii) petroleum and any petroleum by-products, (iii) asbestos, (iv) urea formaldehyde foam insulation, or (v) polychlorinated biphenyl.

Section 1.16. "Improvement" or "Improvements" means and includes, but is not limited to, buildings, outbuildings, lighting, roads, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, waterlines, irrigation, sewers, electrical, cable and gas distribution facilities, hedges, plantings, planted trees and shrubs, poles, signs and all other structures and landscaping of every type and kind.

Section 1.17. "Lot" means and refers to any of the separate plots of land shown upon any Recorded small lot subdivision map of any Parcel in Westpark or any portion of such a Parcel (but shall not refer to any Parcel).

Section 1.18. "Major Thoroughfares" shall mean and refer to Blue Oaks Boulevard, West Side Drive, Pleasant Grove Boulevard and Fiddymment Road, and all arterial and collector roads within Westpark, as shown on the Specific Plan.

Section 1.19. "Master Declaration" means this instrument, as it may be amended from time to time, and/or supplemented or modified by Recordation of a Supplemental Declaration pursuant to Section XIII, below.

Section 1.20. "Mortgage" or "Mortgagee," respectively, shall refer to the mortgage or deed of trust securing an encumbrance on a Parcel or Lot and, respectively, the beneficiary of such encumbrance.

Section 1.21. "Owner" shall mean and refer to the record owner, whether one or more person or entity, of a fee simple title to any Lot which is part of Westpark. Accordingly, the term "Owner" includes any Subdivider, as defined in Section 1.31, below. If the Lot is subject to a recorded land installment sale contract, the term "Owner" shall mean and refer to the contract vendee. "Owner" shall not include those persons who have an interest in a Lot merely as security for the performance of an obligation.

Section 1.22. "Parcel" shall mean and refer to the separate plots of land shown on the Large Lot Subdivision Map for Westpark conditionally approved by the City of Roseville Planning Commission on January 8, 2004, and as more particularly enumerated in Table 4-2 (Land Use, Zoning & Units by Parcel) of the Specific Plan. Any reference herein to a Parcel by letter and number shall mean and refer to the Parcel letter and number as presented in the Specific Plan and the Large Lot Subdivision Map for Westpark.

Section 1.23. "Planned Development" means a common interest development of the type described in section 1351(k) of the California Civil Code.

Section 1.24. "Project" or "Projects" means one or more buildings, together with the Project Lot on which the building(s) is/are located, on any portion of Westpark that is developed as a Condominium Project or a townhouse style Planned Development.

Section 1.25. "Project Common Area" means any real property in Westpark that is owned, leased, controlled or maintained by Project Association and held by the Project Association as common area for the use, enjoyment or benefit of the members of that Project Association who are the Owners of Separate Interests in the Project, their tenants, lessees, guests and invitees.

Section 1.26. "Project Declaration" means each Supplemental Declaration that is recorded in the Official Records of Placer County to create a Project within Westpark.

Section 1.27. "Property" is synonymous with the terms Westpark and Westpark Property and means and refers to the real property more particularly described in Exhibit "A".

Section 1.28. "Record", "Recording", "Recorded", and "Recordation" means, with respect to any document, the recordation or filing of such document in the Office of the Placer County Recorder.

Section 1.29. "Separate Interest" is a term that is defined in Civil Code section 1351(l) and includes an individual unit in a Condominium Project and a separately owned Lot in a Planned Development; provided, however, that for purposes of this Master Declaration the term "Separate Interest" shall not be interpreted to include any buildings or other improvements constructed on any Parcel that is zoned for business, commercial or industrial uses under the Specific Plan.

Section 1.30. "Specific Plan" means the West Roseville Specific Plan adopted by the Roseville City Council on February 4, 2004, by Resolution No 04-40, as the Specific Plan may be amended from time to time.

Section 1.31. "Subdivision Map" shall, depending on the context, mean either (i) the official plat of the Final Map for Westpark Large Lot Subdivision - Phase Nos. 1, as approved by the Roseville City Council and filed in the Office of the Placer County Recorder on 10-21, 2004, as Document No. AA pg 4; or (ii) any small lot subdivision map that is subsequently Recorded by a Subdivider with the consent of the Declarant and in accordance with the Specific Plan.

Section 1.32. "Subdivider" means any person who acquires any Parcel or Project Lot from the Declarant for the purpose of engaging in the business of constructing Separate Interests or business professional, community commercial or industrial buildings on the Parcel or for the purpose of further subdividing the Project Lot for the purpose of the resale or lease of Separate Interests to third party purchasers or lessees. The Declarant shall be a Subdivider to the extent that the Declarant further develops any Parcel pursuant to a small lot Subdivision Map.

Section 1.33. "Supplemental Declaration" means any Declaration (as defined in California Civil Code section 1351(h)) which may be Recorded pursuant to Article XIII, below, which supplements this Master Declaration and which may affect solely a Condominium Project, a commercial lot or parcel, or Lots within a particular Phase of the Westpark common interest development. The Declarant or any Subdivider (with the consent of the Declarant) may Record a Supplemental Declaration with respect to any Phase of Westpark at any time prior to the sale of a Separate Interest in that Phase to a third party pursuant to a Public Report.

Section 1.34. "Westpark" or the "Westpark Property" means and refers to the real property that is more particularly described in Exhibit "A", attached hereto. At times herein the Westpark Property is simply referred to as the "Property."

**ARTICLE II**  
**Purpose of Westpark Master Declaration**

Section 2.01. Purpose of the Master Declaration. This Master Declaration and any Supplemental Declarations later recorded with respect to any Phase are declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the property comprising Westpark and are established for the purpose of enhancing, perfecting and maintaining the value, desirability and attractiveness of Westpark. This Master Declaration shall run with all of the real property within Westpark for all purposes and shall be binding upon and inure to the benefit of Declarant, the Master Association, all Subdividers, all Owners and the tenants and lessees of Owners who occupy Separate Interests within Westpark, and their successors in interest.

Section 2.02. Modification of Entitlement Documents. Nothing in this Master Declaration shall be construed to prevent the Declarant, with the consent of the City, from modifying, or seeking to modify, any or all of the Entitlement Documents, or any portions thereof.

Section 2.03. Relationship with Specific Plan and Development Agreement. The Specific Plan and the Development Agreement each provides specific obligations, requirements and restrictions with respect to the development of the Parcels and/or Lots within Westpark. It shall be the responsibility of the Owner of each Parcel or Lot to comply with all of the specific obligations, requirements and restrictions that apply to that Owner's particular Parcel(s) or Lot(s). It is the purpose of this Section 2.03 to give each prospective Owner and each other person having any interest in any portion of the Property notice of such obligations, requirements and restrictions. In the event of any conflict between the provisions of this Master Declaration and Development Agreement, the provisions of Development Agreement shall control. This Master Declaration shall be in addition to the Specific Plan and Development Agreement, and, in those instances where this Master Declaration is more specific than either of those documents, or treats a subject not contained in such documents, this Master Declaration shall control.

**ARTICLE III**  
**Architectural Approval of Improvement Projects**

Section 3.01. Purpose of the Architectural and Landscape Committee. One of the purposes of this Master Declaration and the architectural and landscaping controls stated in this Article III is to assure that the initial development and subsequent maintenance of the lands comprising Westpark are aesthetically pleasing and are undertaken and installed in accordance with the Design Guidelines. Achievement of this aesthetic goal is the function of the Architectural and Landscape Committee, as set forth in this Article III, through review of plans and specifications, inspection of construction to assure compliance with the approved plans and specifications, and enforcement of the provisions of this Master Declaration. Any building or improvement projects undertaken by or on behalf of the Declarant shall be exempt from the requirements of this Article III and shall not be subject to the jurisdiction of the Architectural and Landscape Committee.



Section 3.02. Architectural and Landscape Committee. There shall be an Architectural and Landscape Committee (the "Committee") composed of a minimum of three (3) Members, which shall be responsible for performing the functions set out in this Article III.

(a) The initial members of the Architectural and Landscape Committee shall be appointed by the Declarant.

(b) The Declarant alone shall be entitled to remove and replace any member or members of the Architectural and Landscape Committee and to fill all vacancies on the Architectural and Landscape Committee, so long as the Declarant owns ten percent (10%) or more of the Property comprising Westpark by acreage. Once the Declarant is no longer entitled to solely appoint and remove all members of the Architectural and Landscape Committee, the Declarant shall remain entitled to solely appoint and remove one of the three members of the Architectural and Landscape Committee until the earlier of such time as (i) the Declarant no longer owns any portion of Westpark; or (ii) the Declarant Records a Supplemental Declaration in which the Declarant voluntarily relinquishes its right to appoint any member of the Architectural and Landscape Committee and the Declarant calls for appointment of a new Committee pursuant to the procedures set forth in subparagraph (c), below.

(c) Once the Declarant owns less than ten percent (10%) of the Property comprising Westpark (computed by acreage), then a majority of the Owners of all Lots and Parcels within Westpark casting votes with respect to the election of members of the Committee within the prescribed balloting period (with each Lot to count as one (1) vote) shall be entitled to remove and replace two (2) of the members of the Architectural and Landscape Committee and to fill subsequent vacancies with respect to two (2) of the three (3) members of the Architectural and Landscape Committee. At such time as the Declarant owns less than ten percent (10%) of the Property comprising Westpark, the Declarant shall send, by first-class mail, written notice to all Owners in accordance with Article XV, below, of a community meeting of Owners to be held at a suitable location within the Village Center of the Property for purposes of conducting an election of new members to fill two vacancies on the Architectural and Landscape Committee. The date, time and location of that meeting shall be set forth in the notice and at least forty-five (45) days' prior notice shall be given. During the notice period, but no later than fifteen (15) days prior to the scheduled date for the meeting, any Owner may submit his or her name, together with statement of qualifications (not to exceed one page) to the Committee as a candidate for election to the Committee. In order to be a candidate, the Owner's submission must include a statement of qualifications. At the meeting a ballot listing all candidates' names, together with all statements of qualifications, shall be prepared by a representative of the Committee and distributed to all persons who attend the meeting. The two candidates who receive the highest number of votes from Owners (with each Lot and Separate Interest counting as one vote) attending the meeting shall be elected to the two vacant positions on the Committee.

(d) Once the Declarant no longer owns any portion of the Property comprising Westpark, the Committee shall be expanded to five (5) persons who are Owners of Lots or Separate Interests in Westpark who shall be selected to serve in accordance with the selection procedures set forth in subparagraph (c), above.

(e) With the exception of persons appointed to the Committee by the Declarant, in no event shall more than one Owner of a Lot or Separate Interest in the same subdivision or common interest development in Westpark be a member of the Architectural and Landscape Committee at the same time.

(f) In those portions of Westpark that are subdivided as common interest developments, as defined in Civil Code section 1351(c), the board of directors of the owners Association with jurisdiction over the Separate Interests in the common interest development shall be entitled to cast the Owner votes pursuant to subparagraph (c), above, for the Separate Interests within the common interest development.

(g) Owners who are elected by other Owners to serve on the Architectural and Landscape Committee pursuant to this Section shall remain in office until they resign, die, or are the subject of a petition for special election, signed by at least five percent (5%) of all Owners of Lots or Separate Interests in Westpark and delivered to the Committee, requesting that an election be held to replace one or more of the then incumbent members of the Architectural and Landscape Committee. Upon receipt of a valid petition, the Committee shall be obligated to notice a special election in accordance with the procedures described in subparagraph (c), above, within ninety (90) days following receipt of the petition. If the Committee fails to act within said ninety (90) day period, the petitioners shall be authorized to notice the election so long as all Owners are sent notice of the meeting by first-class mail.

Section 3.03. Separate or Subordinate Committees. The Declarant, in a Recorded Supplemental Declaration, shall be entitled to establish, or approve the establishment of, one or more separate or subordinate architectural committees with jurisdiction over the review and approval of Improvement projects within the subordinate committee's jurisdictional area, as defined in the Supplemental Declaration. For example, the Declarant may, in its discretion, determine that it is desirable to establish an architectural committee with jurisdiction over the implementation of development standards for the Village Center Plan described in Section 10 of the Specific Plan, or for those Parcels within Westpark that are zoned for community commercial (CC), business professional (BP), light industrial (LI) and general industrial (IND) uses and described in Section 4 of the Specific Plan. Separate or subordinate committees may also be authorized with jurisdiction over Improvement projects within Planned Developments or Condominium Projects undertaken on Project Lots in Westpark. When the phrase "architectural committee having jurisdiction" is used in this Master Declaration the reference is intended to suggest that a separate or subordinate committee may have been created pursuant to a Supplemental Declaration and that the separate or subordinate committee has either exclusive jurisdiction or initial jurisdiction to review and approve the Improvement project, rather than the Architectural and Landscape Committee formed pursuant to this Article III.

If a separate architectural committee is established with sole jurisdiction over any area or Parcel within Westpark, Owners of Separate Interests or Parcels that are within the jurisdiction of that separate architectural committee shall have no right to vote in the election of members of the Architectural and Landscape Committee in accordance with Section 3.02, above. Instead, such Owners shall have such rights to vote in the election of members of the separate

architectural committee having jurisdiction over their Separate Interests or Parcels as are set forth in the Supplemental Declaration creating the separate architectural committee.

Section 3.04. Approvals Required. No Improvement shall be constructed, installed, made or placed:

(a) within the Landscape Corridors (as defined in Section 5.02, below) located adjacent to Westpark; or

(b) within the residential street rights-of-way located within Westpark; or

(c) upon any portion of Westpark designated for multi-family residential land use or as a common interest development, as defined in Civil Code section 1351(c), unless the plans therefor shall have been submitted and approved by the Architectural and Landscape Committee. In addition, any variance under Section 3.13 of this Master Declaration involving Westpark Property shall require review and approval by the Architectural and Landscape Committee. In exercise of its authority, the Architectural and Landscape Committee may: condition its approval of proposals and plans and specifications on such changes or conditions thereto as it deems appropriate; require submission of additional plans and specifications or other information prior to approval or disapproval of the proposed grading, landscaping, construction, alterations or additions; and require an additional reasonable fee payable to the Architectural and Landscape Committee to accompany each application for approval.

Section 3.05. Plans and Specifications to be Submitted to the Architectural and Landscape Committee.

(a) Landscape Corridor Projects. With respect to landscaping projects along landscape corridors within Westpark, the Owner shall submit the following prior to any submission to the City:

(i) Preliminary Landscape Plans. The Owner shall submit to the Architectural and Landscape Committee, prior to submission to the City for the City's review and approval, preliminary plans and specifications (hereinafter referred to as the "Preliminary Landscape Plans"), prepared by an architect or planner licensed to practice landscape architecture or landscape planning in the State of California. The Preliminary Landscape Plans shall be in such form and contain such information as may reasonably be required by the Architectural and Landscape Committee, but shall in any event include the following:

(A) A site grading plan, utility plan and landscape plan; and

(B) A letter from the landscape architect or landscape planner certifying that he has read and understands the provisions of Article V of this Master Declaration, Development Agreement and the Specific Plan and that the Preliminary Landscape Plans comply therewith.

(ii) Final Landscape Plans. After the Architectural and Landscape Committee and the City have approved the Preliminary Landscape Plans and prior to the submission of final landscape plans to the City to obtain appropriate permits, the Owner shall submit in duplicate to the Architectural and Landscape Committee for the Architectural and Landscape Committee's review and approval complete and detailed final landscape plans, specifications and working drawings for the proposed Improvements prepared by a licensed landscape architect (the "Final Landscape Plans"). The Final Landscape Plans shall be in the form as may then be required by the City and shall contain such additional information as may be reasonably required by the Architectural and Landscape Committee.

(iii) Plan Changes. Material changes in approved Final Landscape Plans must be similarly submitted to and approved by the Architectural and Landscape Committee prior to any work based thereon, which approval shall not be unreasonable withheld.

(iv) Plan Review Fee. Each Owner shall pay the Architectural and Landscape Committee, upon submission of the Preliminary Landscape Plans, the reasonable fee established by the Architectural and Landscape Committee in a published fee schedule in order to compensate it for the review of the Preliminary and Final Landscape Plans described above. The Architectural and Landscape Committee may increase such fees from time to time as needed to compensate it for the time and expense involved in such review.

(v) Alterations. All alterations or additions to the landscaping shall likewise require the prior written approval of the Architectural and Landscape Committee. Such alterations and additions shall be treated as above. Routine planting, trimming and maintenance shall not be considered as alterations.

(b) Multi-Family Improvement Projects. With respect to any Improvement to be constructed, installed, made or placed upon any portion of Westpark designated for multi-family residential land use, the Owner shall submit the following:

(i) Preliminary Building Plans. The Owner shall submit to the Architectural and Landscape Committee, prior to submission to the City for the City's review and approval, preliminary plans and specifications (hereinafter referred to as the "Preliminary Building Plans"), prepared by an architect licensed to practice architecture in the State of California. The Preliminary Building Plans shall be in such form and contain such information as may reasonably be required by the Architectural and Landscape Committee, but shall in any event include the following:

(A) A site development plan showing generally the location and dimensions of all proposed buildings, driveways, parking areas, walkways, landscape areas, loading areas, storage and refuse areas and walls;

(B) A site grading plan, utility plan and landscape plan;

(C) Construction drawings, elevations and samples of proposed materials as are appropriate to adequately depict the style, size, location, shape, kind, color and materials of the proposed Improvements; and

(D) A letter from the architect certifying that he has read and understands the provisions of this Article III, Development Agreement and the Specific Plan and that the Preliminary Building Plans comply therewith.

(ii) Final Building Plans. After the Architectural and Landscape Committee has approved the Preliminary Building Plans and prior to the submission of final building plans to the City to obtain building permits the Owner shall submit in duplicate to the Architectural and Landscape Committee complete and detailed final architectural plans, specifications and working drawings (the "Final Building Plans") for the proposed Improvement. The Final Building Plans as submitted for the Architectural and Landscape Committee's review and approval shall be in the form as may then be required by the City and shall obtain such additional information as may be reasonably required by the Architectural and Landscape Committee.

(iii) Plan Changes. Material changes in approved Final Building Plans must be similarly submitted to and approved by the Architectural and Landscape Committee prior to the construction of any Improvement based thereon, which approval shall not be unreasonably withheld.

(iv) Plan Review Fee. Each owner shall pay the Architectural and Landscape Committee, upon submission of the Preliminary Building Plans, the reasonable fee established by the Architectural and Landscape Committee in a published fee schedule in order to compensate it for the review of the Preliminary and Final Building Plans described above. The Architectural and Landscape Committee may increase such fees from time to time as needed to compensate it for the time and expense involved in such review.

(v) Alterations. All exterior alterations or additions to the Improvements shall likewise require the prior written approval of the Architectural and Landscape Committee above.

(c) Planned Development and Condominium Projects. The Architectural and Landscape Committee shall also have jurisdiction over the review and approval of the plans and specifications for any Planned Development or Condominium Project. With respect to any Planned Development or Condominium Project, the Subdivider shall submit to the Architectural and Landscape Committee the following:

(i) Improvement Plans. The Subdivider shall submit to the Architectural and Landscape Committee building elevation plans that depict the models or types of structures that the Subdivider intends to construct.

(ii) Declaration of Covenants, Conditions and Restrictions. The Architectural and Landscape Committee shall also have the right to review and approve any declaration of covenants, conditions and restrictions that the Subdivider intends to Record in the chain of title to Lots or other separate interests in the Planned Development or Condominium Project ("Project

Declaration”). The purpose of that review and approval is to assure that the contents of any such Project Declaration are consistent with this Master Declaration and those portions of the Entitlement Documents that are applicable to the Subdivider’s project.

(iii) Plan Changes. Material changes in approved Improvement Plans or Project Declaration must be similarly submitted to and approved by the Architectural and Landscape Committee prior to the construction of any Improvement based thereon, which approval shall not be unreasonably withheld.

(iv) Plan Review Fee. Each Subdivider shall pay the Architectural and Landscape Committee, upon submission of the Improvement Plans and Project Declaration, the reasonable fee established by the Architectural and Landscape Committee in a published fee schedule in order to compensate it for the review of the Preliminary and Final Building Plans described above. The Architectural and Landscape Committee may increase such fees from time to time as needed to compensate it for the time and expense involved in such review.

Section 3.06. Committee Review and Approval Procedures. No submission for Committee approval required by this Master Declaration shall be deemed appropriately submitted unless all relevant information and materials required by Section 3.05 have been personally received by the Architectural and Landscape Committee, return receipt requested, with postage fully prepaid or personally delivered and receipted by a member of the Architectural and Landscape Committee. The mailing address of the Architectural and Landscape Committee is the same as the mailing address for the Declarant set forth in Section 15.01, below. The Architectural and Landscape Committee's approval or disapproval of Preliminary Plans, Final Plans, Planned Development or Condominium Project building elevation plans, plans for alterations and modifications, and material changes thereof, shall be given in writing to the applicant within thirty (30) days after receipt by the Architectural and Landscape Committee of all materials required by the Architectural and Landscape Committee.

The Architectural and Landscape Committee's approval or disapproval of the resubmittal which alters only those items revised by the Architectural and Landscape Committee's previous review shall be given in writing to the applicant within fifteen (15) days after receipt by the Architectural and Landscape Committee of all materials required by the Architectural and Landscape Committee; provided, however, that when additional changes are made, the time period shall be thirty (30) days. An application shall be deemed approved by the Architectural and Landscape Committee if a majority of the Architectural and Landscape Committee members vote favorably on such application. Any application submitted pursuant to this Master Declaration shall be deemed approved, unless written disapproval or a request for additional information or materials by the Architectural and Landscape Committee shall have been sent to the applicant within such thirty (30) day period. In granting or denying approval, the Architectural and Landscape Committee may give the applicant such directions concerning the form and substance of the final application for approval as the Architectural and Landscape Committee may deem proper or desirable for the guidance of the applicant.

Section 3.07. Authority to Retain Consultants. The Architectural and Landscape Committee may retain an architect and/or other consultant, who need not be a member of the Architectural and Landscape Committee, to review plans and specifications submitted to it, the cost of which may be included in the plan review fee described above.

Section 3.08. Compensation. The members of the Architectural and Landscape Committee shall receive no compensation for their services rendered hereunder, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 3.09. Inspection and Enforcement. The Architectural and Landscape Committee may at any time enter any portion of the Property comprising Westpark, and inspect any landscaping or other Improvement for which the Architectural and Landscape Committee's approval of plans is required under this Master Declaration; provided, however, that the Architectural and Landscape Committee's right of inspection shall terminate thirty (30) days after the Improvements shall have been completed and the respective Owners shall have given written notice to the Architectural and Landscape Committee of such completion. If, as a result of such inspection, the Architectural and Landscape Committee finds that such Improvement was done without obtaining its approval of the plans therefor or was not done in substantial compliance with the plans approved by it, it shall notify the Owner in writing of the failure to comply with this Master Declaration within thirty (30) days from the inspection, specifying the particulars of noncompliance. The Architectural and Landscape Committee shall have the authority to require the Owner to take such actions as may be necessary to remedy the noncompliance. In addition, the Architectural and Landscape Committee shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Architectural and Landscape Committee or that it does not conform to the plans and specifications submitted to the Architectural and Landscape Committee.

If any legal proceeding is initiated to enforce the provisions of this Master Declaration, the prevailing party shall be entitled to collect costs and reasonable attorneys' fees. The Architectural and Landscape Committee shall have the right to seek specific performance of the provisions of this Master Declaration and each Owner specifically agrees, for itself, its successors and assigns that monetary damages are not adequate for violations hereof and specific performance is an appropriate remedy.

If, for any reason, the Architectural and Landscape Committee fails to notify the Owner of any noncompliance within thirty (30) days after receiving a notice of completion from the Owner, the Architectural and Landscape Committee shall be deemed to have given final acceptance of the Improvements in accordance with approved plans.

Section 3.10. Completion Requirement. Once commenced, construction of any approved Improvement, including landscaping, shall be diligently prosecuted through completion pursuant to the timeline submitted to and approved by the Architectural and Landscape Committee. The Committee's approval may include specific deadlines for the completion of approved projects, which time may vary depending on the nature and scope of the project.

Section 3.11. Licensed Contractors. Structural Improvements shall be constructed and landscaping shall be installed by an appropriate contractor licensed under the laws of the State of California

Section 3.12. Telephone and Electrical Service. No overhead telephone or electrical service lines may be constructed on any Lot or cross over any Lot except on a temporary basis as approved by the Architectural and Landscape Committee.

Section 3.13. Variances. The Architectural and Landscape Committee may authorize variances from compliance with any of the design restrictions of this Master Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variances must be evidenced in writing and must be signed by a majority of the members of the Architectural and Landscape Committee. If variances are granted, no violation of this Master Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Master Declaration for any purpose except as to the particular landscaping or other Improvement and particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of all or any portion of the Property.

Section 3.14. Liability of Committee Members. Neither the Declarant, the Architectural and Landscape Committee, nor their duly authorized representatives or members shall be liable to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural and Landscape Committee's duties under this Master Declaration, unless due to the willful misconduct or bad faith of the Architectural and Landscape Committee or any member thereof.

Section 3.15. Compliance With Governmental Regulations. Review and approval by the Architectural and Landscape Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements (including, without limitation, requirements imposed by the Entitlements Documents, the responsibility for which shall lie solely with the Owner who desires to construct, install, or modify the Improvement.

#### **ARTICLE IV**

#### **Subdivision and Property Use Restrictions**

Section 4.01. Subdivision Restrictions. No Parcel within Westpark shall be further subdivided or resubdivided without the prior written approval of the Architectural and Landscape Committee, such approval to be within the sole and absolute discretion of the Architectural and Landscape Committee. In no event shall any residential Lot, as shown on any small lot Subdivision Map, be further subdivided.



Section 4.02. Permitted Uses. Except as otherwise provided by this Master Declaration, the uses within any Lot, including, but not limited to, the type of use and the density of such use, shall be as set forth in the Entitlement Documents and the City Zoning Code, as they may be amended from time to time, to the extent such uses are otherwise allowed by law.

Section 4.03. General Use Restrictions. Unless otherwise provided in a Supplemental Declaration recorded pursuant to Section XIII of this Master Declaration, the provisions in this Section 4.03 shall apply to all Parcels and Lots within Westpark:

(a) Offensive Activities. Nuisances. No noxious or offensive activity shall be carried on within Westpark, nor shall anything be done or placed thereon which may be or become a nuisance or cause unreasonable embarrassment, disturbance or annoyance to other owners in the quiet enjoyment of their property. Without limiting any of the foregoing, no Owner shall permit excessive noise, including, but not limited to, the barking of dogs and the excessive playing of music systems, to emanate from the Owner's Lot, which would unreasonably disturb another Owner's quiet enjoyment of his or her Lot.

(b) Antennas, Aerials and Satellite Dishes. No outside television antenna, aerial, satellite dish or similar device for the transmission or reception of television, radio, satellite, or other signals or any kind are permitted except:

(i) Declarant shall have the right, without obligation, to erect, place or install and maintain any such apparatus for the benefit of all or a portion of the Property.

(ii) Antennas or satellite dishes that are one meter or less in diameter or diagonal measurement which are designed to receive video programming services via multi-point distribution services, including multi-channel multipoint distribution services, instructional television fixed services and local multipoint distribution services (collectively "Permitted Device[s]") may be erected, placed or installed on a Separate Interest, provided that any such Permitted Device is placed in the least conspicuous location on the Separate Interest at which an acceptable quality signal can be received.

(c) Sign Restrictions. No signs whatsoever (including, but not limited to, commercial, political and similar signs) shall be erected or maintained on any Separate Interest except:

(i) signs required by legal proceedings;

(ii) no more than one identification sign for individual Separate Interests;

(iii) no more than one "for sale" or "for lease" sign pertaining to the Separate Interest on which the sign is located. In the case of Condominium Units, such signs shall only be permitted in the window of the Unit, unless otherwise authorized by the Project's Sub-Association;

(iv) other signs, such as open house or garage sale signs, or signs advising of the existence of security or surveillance services, or "no solicitation" signs, the nature, size, number, and location of which have been approved in advance and in writing by the Architectural Review Committee or are in accordance with written guidelines which may be developed and approved by the Committee;

(v) signs of the Declarant or any Subdivider located on any Parcel owned by the Declarant or the Subdivider; provided, however, that once a Lot has been sold by a Subdivider to a third party, no signs permitted by this subparagraph (e) may be erected or maintained on the Separate Interest without the consent of its new Owner. Signs of the kind identified in this subparagraph (e) shall conform to any master marketing signage program promulgated by the Architectural and Landscape Committee;

(vi) signs posted by any Association on its Common Area; and

(vii) such other signs (including but not limited to builder signs, shopping center, apartment and business identification signs) which are in conformance with the requirements of (or approved by) the City of Roseville and which have been approved in writing by the Architectural and Landscape Committee as to size, quantity, colors, design, message content and location.

Other sign requirements and/or restrictions may be imposed on business professional, community commercial and/or industrial Parcels by recordation of a Supplemental Declaration in accordance with Article XIII, below.

(d) Trash. Trash, garbage or other waste within Westpark shall be kept only in sanitary containers, which containers shall not be visible from any street or other Separate Interest. Notwithstanding the foregoing, trash kept in sanitary containers may be brought to the front of a Lot for the reasonable time necessary in connection with trash collection. Different procedures for the maintenance of trash containers, and/or for the collection and disposal of trash within Planned Developments or Condominium Projects may be set forth in the Project Declaration. Other requirements and/or restrictions may be imposed on business professional, community commercial and/or industrial Parcels with respect to the maintenance and disposal of trash on such Parcels by recordation of a Supplemental Declaration in accordance with Article XIII, below.

(e) Storage Areas. Storage of personal property by residential Owners or tenants within any residential subdivision in any portion of Westpark shall only be permitted entirely within the Owner's/tenant's residence or garage or in storage areas originally constructed by a Subdivider as Exclusive Use Common Areas appurtenant to a Separate Interest. Garages shall not be used for storage if such use will eliminate one or more parking bays in the garage. There shall be no woodpiles nor storage piles accumulated on top, or outside, of any enclosed storage area. Commercial and industrial projects shall be constructed with enclosed storage and trash areas that are appropriate and adequate to accommodate the intended uses of the buildings on the Parcel.

(f) Leases. No Owner shall enter into any rental, lease or tenancy arrangement unless such Owner shall have first obtained, in writing, the express agreement of the lessee or tenant (which may be included as a provision in the lease or tenancy agreement) that the landlord/tenant arrangement is subject in all respects to the provisions of this Master Declaration and any Supplemental Declaration applicable to the Owner's property, and that any failure by the lessee or tenant to comply with the terms of this Master Declaration or Supplemental Declaration shall be a default under the lease or tenancy agreement.

(g) Parking and Vehicles. No boat, trailer, recreational vehicle, camper, truck, commercial vehicle or inoperable vehicle shall be parked or left on any portion of any residential Lot or Separate Interest within Westpark, unless the same is fully enclosed within the garage, or located on the side or rear of that Lot and adequately screened to the satisfaction of the Architectural and Landscape Committee; provided, however, parking by commercial vehicles for the purpose of making deliveries shall be permitted. In order to prevent or eliminate any parking problems within Westpark, or to further define and enforce the restrictions of this subparagraph (g), the Architectural and Landscape Committee shall have the power and authority to establish additional rules, restrictions and penalties, including the impositions of fines or towing procedures for repeated violations of the parking restrictions, as determined by the Architectural and Landscape Committee.

The foregoing parking restrictions shall not be deemed to prevent trailers or temporary structures for use incidental to the construction of a project or the sale of Lots pursuant to Article XI, below (Declarant and Subdivider Exemptions), or incidental to the construction on property owned by the Declarant or a Subdivider, but the same shall be promptly removed upon completion of all such construction and all such sales activities.

(h) Animals. The following restrictions regarding the care and maintenance of pets shall be observed by each Owner and resident of a residential Lot or Separate Interest in Westpark:

(i) A reasonable number of common household pets may be kept on each Separate Interest so long as the same are not kept, bred or maintained for commercial purposes. No other animals, livestock, or poultry of any kind shall be kept, bred or raised on or within any Separate Interest.

(ii) Permitted pets shall be kept under reasonable control at all times.

(iii) No pets may be kept on any Separate Interest in Westpark that result in an annoyance or are obnoxious to other Owners. No dog whose barking disturbs other Owners shall be permitted to remain within any Separate Interest. Owners shall prevent their pets from soiling all portions of other Owners' Lots and shall promptly clean up any mess left by their pets.

(i) Prohibition on Transient Use. No Owner of a Separate Interest in Westpark unit shall lease or otherwise rent that unit for transient, boarding house or hotel purposes.

Section 4.04. Maintenance. All structures within Westpark shall at all times be maintained in good condition and repair and in the manner more particularly set forth in Article V, below. Without limiting the foregoing, structures shall, at all times following the issuance of an occupancy permit, be kept well and properly painted. The Architectural and Landscape Committee may serve an Owner with notice of the defective condition, specifying a reasonable deadline for correction thereof. If such notice is given and the Owner fails to diligently proceed to correct the defective condition, the Architectural and Landscape Committee may hire the work done and charge the Owner for the costs thereof. Each Owner grants the Architectural and Landscape Committee and its contractors the right of entry for such purposes.

Section 4.05. Slope/Drainage. Each Owner shall maintain the slopes upon the Owner's Lot at the slope and pitch fixed by the finish grading thereof, including watering and maintenance of the slopes. Each Owner of a Lot within Westpark agrees for said Owner and Owner's assigns that said Owner will not in any way interfere with the Established Drainage over Owner's Lot from adjoining or other Lots or Parcels in Westpark, or that, in the alternative, Owner will make adequate provisions for proper drainage in the event it is necessary to change the Established Drainage over Owner's Lot, provided any such changes to the Established Drainage are approved in writing by the Architectural and Landscape Committee.

Section 4.06. Temporary Structures and Outbuildings. No recreational vehicle, trailer, mobile home, camper, tent, shack, used structures, structures of a temporary character, or other outbuildings shall be used on any Lot at any time as a Residence. This Section is not intended to prohibit outbuildings from being constructed on residential Lots, so long as the outbuilding is (i) located outside the Lot's prescribed set back areas, (ii) the structure is of a kind and is intended for a use that is customarily found on residential lots; (iii) the structure is approved by the Architectural and Landscape Committee or other architectural committee having jurisdiction over the Improvement project; and (iv) the structure has a design, color and appearance that is in harmony with the color, design and exterior appearance of the Lot's principal residence. In addition, an Owner may erect, construct and maintain on such Owner's Parcel or Lot such structures and displays as may be reasonably necessary for the conduct of the business of completing construction or sale of the Improvements on such Parcel or Lot so long as the structure or display is approved in writing by the Architectural and Landscape Committee, in its sole and absolute discretion.

Section 4.07. Unsightly Items. All weeds, rubbish, debris, or unsightly material or objects of any kind shall be regularly removed from the Parcels or Lots and shall not be allowed to accumulate thereon.

Section 4.08. Window Covers. No window in any residence or building in any portion of Westpark shall be covered with aluminum foil, newspapers, signage of any kind or other material not designed for use as a window cover. No Owner may modify any window covering originally installed or required to be installed by Declarant and visible from the exterior of a building, without prior written approval of the Architectural and Landscape Committee which approval shall not be unreasonably withheld.

Section 4.09. Mineral Exploration. No oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any portion of the Property, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any portion of the Property or within five hundred (500) feet below the surface of the Property. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected, maintained or permitted on any portion of the Property.

Section 4.10. Drainage. There shall be no interference with the Established Drainage pattern and system over any portion of the Property unless adequate provision is made for proper drainage and is approved in writing by the Architectural and Landscape Committee. For the purposes hereof an “established drainage pattern and system” is defined as the drainage which exists at the time the overall grading of the Property is completed or that which is shown on any plans approved by the Architectural and Landscape Committee, and includes, but is not necessarily limited to, underground drain pipes, storm water retention systems and patterns of drainage over the Property from and to adjoining properties and improvements. The Architectural and Landscape Committee shall have the right to use the established drainage pattern and system for the purpose of draining the property and improvements thereon; provided that such right of drainage shall not include the right to discharge noxious or offensive matter.

Section 4.11. Hazardous Materials. No Owners or Owner's occupants shall release, generate, use, store, dump, transport, handle or dispose of any Hazardous Material within the Property or otherwise permit the presence of any Hazardous Material on, under or about the Property, or transport any Hazardous Material to or from any portion of Westpark; provided, however, Owners and Owner's occupants may use, in incidental quantities, such cleaning agents and/or office supplies that are reasonably necessary in the use and operation of such Owner's Lot. In the event an Owner or its occupants violates the foregoing, the Architectural and Landscape Committee shall have the right, but not the obligation, to cure such violation and assess any cost thereof to the Owner as a Special Assessment. Any Owner in breach or violation of the foregoing, or in the event of a breach or violation of the foregoing by an occupant, or the Owner whose Parcel or Lot is utilized by such occupant in breach or violation of the foregoing, shall indemnify, defend and hold harmless the Declarant, the Architectural and Landscape Committee, the Architectural and Landscape Committee and all other Owners and occupants from and against any and all claims, judgments, damages, penalties, fines, costs, losses, expenses, and liabilities arising therefrom. In addition, any and all damages, penalties, fines, costs, losses or expenses incurred by the Architectural and Landscape Committee, including, without limitation, the cost of any required or necessary repair, cleanup or detoxification arising out of a breach or violation hereof shall constitute a Special Assessment against such Owner's Parcel or Lot.

Section 4.12. Density Limitations. No Owner shall develop any Parcel or Lot owned by such Owner within Westpark in excess of the permitted coverage ratio allowed by the City and Development Agreement without the prior written approval of both the City and the Architectural and Landscape Committee.

Section 4.13. Backwater Valves. The City may condition sewer service to each Lot or Separate Interest upon the installation of a backwater valve to comply with City of Roseville

Improvement Standards. In the event a backwater valve is called out on a City approved plan, it shall be the responsibility of the Owner of the Lot/Separate Interest that is subject to the backwater valve requirement to maintain the valve and prevent damage from occurring thereto. The City shall have no responsibility for maintenance or performance of the valve and shall not be liable for any damage occurring to any residence located on the lot, or its contents, due to the failure of the valve for any reason whatsoever.

Section 4.14. Water Softeners. As provided in Section 3.8.7 of Development Agreement, water softeners shall not be used within Westpark and neither the Declarant nor any Subdivider shall provide water stubouts for the installation of water softeners.

Section 4.15. Instant Hot Water Feature. As provided in Section 3.7.7 of the Development Agreement, every residential unit within Westpark, shall include a recirculating hot water system or similar technology to provide instantaneous hot water at each hot water faucet.

## **ARTICLE V Landscape Corridors and Landscape**

Section 5.01. Purpose. In order to soften an otherwise hard streetscape and to help define a more intimate pedestrian scale, the Specific Plan requires that street trees providing shade and foliage are to be located within the landscaped setback areas along major arterial streets and collector streets running through and adjacent to Westpark. The major arterial and collector streets designated for application of these special landscaping requirements are shown in the Design Guidelines of the Specific Plan. In addition, in order to provide for the beauty of Westpark, and to enhance the property values of all Owners, Declarant has determined that the Owner of each Lot and Parcel should provide and maintain internal landscaping.

Section 5.02. Landscape Corridors. Landscape corridors (the "Landscape Corridors") shall be created within Westpark for all Major Thoroughfares (as defined in Section 1.18, above) and are also required by the Specific Plan with respect to some collector roads.

(a) Size of Corridor. The Landscape Corridor for each of the roadways within Westpark shall be as set forth in Tables 7-1 and 10-20 the Specific Plan, and as follows:

- (i) Blue Oaks Boulevard: Figure 7-2 of the Specific Plan;
- (ii) Pleasant Grove Boulevard: Figure 7-5 of the Specific Plan;
- (iii) West Side Drive: Figure 7-4 of the Specific Plan;
- (iv) Fiddymment Road: Figures 7-5 and 7-6 of the Specific Plan;
- (v) Phillip Road: Figure 7-9 of the Specific Plan;

- (vi) Typical collector streets: Figure 7-7 of the Specific Plan; and
- (vii) Village Center Streets: Figures 10-18 through 10-20 of the Specific Plan.

All Landscape Corridors described above are each measured from the back of the curb of the street, and are subject to expansion at intersections. To the extent the applicable Landscape Easement (the "Landscape Easement") requires property beyond the public rights-of-way within the Property, the Owner of each Lot shall dedicate such additional portion to the City as is necessary to create a Landscape Easement when needed to accommodate a portion of a Landscape Corridor. The Landscape Easement shall permit the City to maintain the landscaping within the Landscape Corridors in accordance with the terms of the Development Agreement. Each Owner hereby grants the Declarant the full power and authority to make such grant on behalf of such Owner. This power shall be coupled with an interest.

(b) Submission to the Committee. No landscaping or other work within a Landscape Corridor shall be commenced until the Owner of the Lot that includes the Landscape Corridor shall have first received the approval of its complete landscaping plan and timetable from the Architectural and Landscape Committee in accordance with Article III. Such plans shall include the size, type and location of all plants, materials and drainage systems, and shall be consistent with the Landscape Design Guidelines. Such Owner shall obtain the Architectural and Landscape Committee's approval of the Preliminary Landscape Plan for the Owner's portion of the Landscape Corridor prior to submitting such plan to the City for its approval.

(c) Timing for Installing Corridor Landscaping. Installation of Landscape Corridor landscaping, as shown on the approved landscaping plan, shall be accomplished within twelve (12) months after the date of the City's approval of a final Subdivision Map for the Subdivider's Parcel. For purposes of this subparagraph (c), the landscaping that the Owner must install is that portion of the Landscape Corridor that is adjacent to the Parcel that is the subject of the final Subdivision Map approved by the City. The time limits contained in this subparagraph (c) shall be subject to such more stringent time limits as may be imposed by the City.

Section 5.03. Residential Street Landscaping. Each local residential street within Westpark shall be constructed so as to maintain a planter strip no less than five feet (5') in width between the street curb and the sidewalk (referred to in Section 3.5.6.1 of the Development Agreement as a "Separated Sidewalk"). Although the City shall determine the ultimate configuration of the planter strip for each such street, no landscaping or other work within this strip shall be commenced until the Subdivider shall have first received the approval of its complete landscaping plan and timetable from the Architectural and Landscape Committee in accordance with Section 3.05, above. Such Owner shall obtain the Architectural and Landscape Committee approval of the Preliminary Landscape Plan prior to submitting such plan to the City for its approval. Such plan shall include the size, type and location of all plants, materials and drainage systems and shall be consistent with the applicable Landscape Design Guidelines. Landscaping shown on the approved plan must be installed within twelve (12) months after the date of the City's approval of a final subdivision map for the property containing the residential street. The landscaping which must be so installed is that portion of the landscape strip which is

adjacent to or contained in the subdivision shown on the final Subdivision Map approved by the City.

Section 5.04. External Subdivision Fences. Each residential subdivision within Westpark bordering a Major Thoroughfare (as defined in Section 1.18, above) shall be separated from each such Major Thoroughfare by a fence or wall constructed in accordance with Figure 12-30 (Walls and Fencing Key) of the Specific Plan. For purposes of this section, a "residential subdivision" shall be the area within a final residential subdivision map approved by the City. The fence must be installed within twelve (12) months after the date of the City's approval of a final small lot Subdivision Map for each subdivision in Westpark. If the particular subdivision is to be constructed in phases, the fence so installed must extend along the entire portion of the Major Thoroughfare bordering that portion of the Lot which is the subject of the phased tentative subdivision map approved by the City, and such installation shall be completed within twelve (12) months after the date of the City's approval of the first final subdivision map based upon such tentative subdivision map.

Section 5.05. Internal Landscaping Requirement.

(a) Lot Landscaping. Every Owner of a residential Lot within Westpark shall be responsible for installing within twelve (12) months of completion of the residence or Separate Interest thereon attractive high quality landscaping on those portions of that particular Lot which are visible from any street within the Property.

(b) Committee's Right to Complete. In the event that the Owner of a residential Lot fails to install or maintain such landscaping properly or on a timely basis, the Architectural and Landscape Committee may cause the appropriate work to be done and shall be entitled to reimbursement for the costs thereof from the Owner.

(c) Enforced Delay. In the event of a restriction on landscaping installation being imposed by any public agency with authority to impose such a restriction, the obligations imposed by this Section 5.05 shall be suspended for the duration of such restriction.

Section 5.06. Owner's Duty to Maintain.

(a) Landscape Corridors. Unless and until the Westpark Community Facilities District No. \_\_ is formed pursuant to Section 3.20.1 of the Development Agreement ("Westpark CFD No. \_\_") or some other form of City maintenance of the Landscape Corridors is established, each Owner shall be obligated to maintain each and every portion of any Landscape Corridor on his or her Parcel or Lot within Westpark, consistent with the requirements of the Specific Plan. In addition, no Owner may change any element of the initial landscaping of the Landscape Corridor without the prior written consent of the Architectural and Landscape Committee.

(b) Local Residential Streets. Trees and landscaping in the planter strips of local residential streets (as opposed to Major Thoroughfares) shall be maintained by the Owner whose Lot is immediately adjacent to such street planter strips.



(c) Internal Landscaping. Each Owner of a residential unit or Separate Interest in Westpark shall be obligated to maintain in good and attractive condition all other landscaping located upon his or her Lot or Separate Interest. In the event that the Owner fails to maintain such landscaping properly or on a timely basis, the Architectural and Landscape Committee may cause the appropriate work to be done and shall be entitled to reimbursement for the costs thereof from the defaulting Owner.

## **ARTICLE VI Covenant for Special Assessments**

Section 6.01. Creation of the Lien and Personal Obligation of Special Assessments. Each Owner of any Parcel or Lot, including the Declarant to the extent Declarant is an Owner as defined herein, by acceptance of a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance is deemed to covenant and agree to pay Special Assessments to be fixed, established and collected from time to time as provided in this Master Declaration. The Special Assessments, together with interest thereon, late charges, attorney's fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Parcel or Lot, and any Improvements thereon, against which each such Special Assessment is levied. Each such Special Assessment, together with such interest, late charges, costs and attorneys' fees shall also be the personal obligation of the Owner of such Parcel or Lot at the time when the Special Assessment becomes due and such personal obligation to pay the Special Assessment shall not be terminated by a conveyance or any transfer of an Owner's interest in such Parcel or Lot necessary to be deemed an Owner hereunder. Although the obligation to pay the Special Assessment, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof shall run with the land, the personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

Section 6.02. Purpose of Special Assessments. The Special Assessments levied pursuant to this Master Declaration shall be used exclusively for the purposes of promoting the general welfare of the Owners of the Westpark Properties, the management of Westpark, and the enhancement and protection of the value, desirability and attractiveness of Westpark and the quality of environment within Westpark, including, without limitation, administering and enforcing these covenants, conditions and restrictions, collecting and disbursing funds pursuant to this Master Declaration or furthering any other duty or power of the Architectural and Landscape Committee.

Section 6.03. Certificate of Payment. The Architectural and Landscape Committee shall, upon demand, furnish to any Owner liable for Special Assessments, a certificate in writing, setting forth the extent to which the Special Assessments on a specified Parcel or Lot have been paid, and the amount of delinquency, if any. A reasonable charge may be collected by the Architectural and Landscape Committee for the issuance of these certificates.

Section 6.04. Special Assessments. Special Assessments shall be levied by the Architectural and Landscape Committee against a Parcel or Lot and the Owners thereof to reimburse the Architectural and Landscape Committee for: costs incurred in bringing an Owner and his or her Parcel or Lot into compliance with the provisions of this Master Declaration, the Development Agreement and the Specific Plan, including, without limitation, attorneys' fees, costs, interest and any other charges relating thereto.

In the event the Architectural and Landscape Committee undertakes to provide materials or services which benefit individual Parcels or Lots and which may be accepted at the election of individual Owners of those Lots or Parcels, such Owners in accepting such materials or services agree that the costs thereof shall be a Special Assessment against their property only.

Section 6.05. No Offsets. All Special Assessments shall be payable in the amount specified by the Architectural and Landscape Committee and no offsets against such amount shall be permitted for any reason, including, without limitation, as a result of a claim that (i) the Architectural and Landscape Committee is not properly exercising its duties and powers as provided in this Master Declaration; or (ii) an Owner receives no benefit from the Special Assessment.

Section 6.06. Exempt Property. All properties irrevocably offered for dedication to a public authority shall be exempt from the Special Assessments created herein.

Section 6.07. Delinquency. Any Special Assessment provided for in this Master Declaration shall be delinquent when not paid on or before thirty (30) days after such Special Assessment becomes due (the "Delinquency Date"). A late charge equal to ten percent (10%) of the unpaid Special Assessment or Ten Dollars (\$10), whichever is greater (the "Late Charge"), shall be levied against all Special Assessments not paid by the Delinquency Date. Delinquent Special Assessments not paid on or before fifteen (15) days of the Delinquency Date shall bear interest at the rate of ten percent (10%) per annum, but in any event not higher than the maximum rate permitted by law (the "Delinquency Interest Rate"). Delinquency Interest shall accrue from the fifteenth day following the Delinquency Date or the date upon which notice of the Delinquency was given by the Architectural and Landscape Committee, whichever is later. The Architectural and Landscape Committee may, at its option, and without waiving the right to judicially foreclose its lien against the Parcel or Lot, pursue any available remedies, including, without limitation, bringing an action at law against the Owner personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 6.08, below, to foreclose the lien against the Parcel or Lot. If action is commenced, there shall be added to the amount of such Special Assessment the late charge, interest, the cost of such action, the attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include said late charge, interest and reasonable attorneys' fees, together with the costs of action. Each Owner vests in the Architectural and Landscape Committee or its assigns, the right and power to bring all actions at law or lien foreclosure against such Owner or other Owners for the collection of such delinquent Special Assessments.

Section 6.08. Notice of Claim of Lien. No action shall be brought to foreclose said Special Assessment lien or to proceed under the power of sale herein provided until sixty (60) days after the date of a "Notice of Claim of Lien" is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Parcel or Lot, and a copy thereof is recorded by the Architectural and Landscape Committee in the office of the County Recorder in the County. The Notice of Claim of Lien must recite a good and sufficient legal description of any such Parcel or Lot, the record Owner or reputed Owner thereof, the amount claimed which shall include the Late Charge and the Delinquency Interest discussed in Section 6.07, above, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien, the name and address of the Architectural and Landscape Committee and, in order for the lien to be enforced by non-judicial foreclosure, the identity of the trustee appointed pursuant to Section 6.09, below. The recordation of the Notice of Claim of Lien shall create a lien on the Parcel or Lot from and after the time of recordation. The Notice of Claim shall be executed and acknowledged by a member of the Architectural and Landscape Committee.

Section 6.09. Foreclosure Sale. Any Special Assessment lien may be enforced in any manner permitted by law including sale by the court, sale by the trustee designated in the Notice of Claim of Lien or sale by the Architectural and Landscape Committee after failure of the Owner to make the payments specified in the Notice of Claim of Lien within said sixty (60) day period. Any such sale provided for above is to be conducted in accordance with the provisions of Section 2924, 2924b, 2924c, 2924f, 2924g and 2924h of the California Civil Code as said statutes may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. The Declarant through its duly authorized agents, shall have the power to bid on the Parcel or Lot, using as a credit bid the amounts secured by said lien or funds borrowed for such purpose, at the sale, and to acquire and hold, lease, mortgage, and convey the same. The Architectural and Landscape Committee shall appoint a trustee of the applicable Parcel or Lot(s) for purposes of noticing and effecting any sale pursuant to the provisions of this Section 6.09.

Section 6.10. Curing of Default. Upon the timely payment or other satisfaction of:

- (a) All delinquent Special Assessments specified in the Notice of Claim of Lien;
- (b) All other Special Assessments which have become due and payable with respect to the Parcel or Lot as to which such Notice of Claim of Lien was recorded; and
- (c) Interest, late charges, attorneys' fees and other costs of collection pursuant to this Master Declaration and the Notice of Claim of Lien which have been accrued.

Members of the Architectural and Landscape Committee or any other persons designated by the Architectural and Landscape Committee are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a reasonable fee to cover the costs of preparing and filing or Recording such release.

Section 6.11. Special Assessment of Other Owners. In the event the Architectural and Landscape Committee is unable to obtain payment from one or more Owners for any Special Assessment(s) prior to the Delinquency Date for such Special Assessment(s) (as described in Section 6.07, above), the Architectural and Landscape Committee, without releasing any delinquent Owner and without waiving any remedy as set forth herein, may assess the other record Owners of Westpark Property for such unpaid Special Assessments(s). To the extent that the Architectural and Landscape Committee recovers from a delinquent Owner all or part of any delinquent Special Assessment which has been reassessed to and paid by other Owners, the Architectural and Landscape Committee shall reimburse the other Owners on a pro rata basis by the amount of the delinquent Special Assessment collected from such delinquent Owner.

## **ARTICLE VII**

### **Repair and Maintenance Obligations**

Section 7.01. Repair and Maintenance by the Owners. The Owner of each Parcel or Lot shall be responsible for the repair and maintenance of its Parcel or Lot and any Improvements located thereon (including the surface which faces such Owner's Parcel or Lot of any lot dividing wall constructed thereon). Such Owner maintenance shall include, without limitation:

- (a) Any and all necessary maintenance or replacement of all landscaping as required in accordance with the Specific Plan and/or a Supplemental Declaration anywhere within such Parcel or Lot, including without limitation the trimming, watering and fertilization of all grass, ground cover, shrubs and trees, removal of dead or waste material and replacement of any dead or diseased grass, ground cover, shrubs or trees; and
- (b) Keeping all unimproved portions of such Parcel or Lot mowed and weeded and clear of all rubbish, trash and debris, maintaining any ground cover and keeping such Parcel or Lot in a neatly landscaped and sightly condition.

Section 7.02. Additional Maintenance and Repair Obligations of Owners.

(a) Maintenance Obligations Associated with Construction Activities. In connection with any construction undertaken by any Owner on such Owner's Parcel or Lot, such Owner shall implement and observe appropriate dust and mud control measures as necessary and/or as may be reasonably and non-discriminatorily imposed by the Architectural and Landscape Committee to minimize interference with the use and enjoyment of any other Owner's Parcel or Lot by any other such Owner and/or such other Owner's occupants. In addition, any Owner undertaking construction on such Owner's Parcel or Lot shall be solely responsible for, and shall reimburse the Architectural and Landscape Committee for the cost of, cleaning and/or repairing any streets within the Owner's Parcel or Lot prior to their dedication to the City where such cleaning or repair is necessitated by or results from the construction by the Owner on such Owner's Parcel or Lot. Such owner shall further be responsible for the repair and/or cleaning of any other Owner's Parcels or Lots and/or the Improvements located on any such Owner's Parcel or Lot resulting from such construction.

(b) Maintenance of Fencing Adjacent to Open Space Preserve Areas. Owners of Parcels and Lots that abut any Open Space Preserve Areas, as defined in Section 7.08, below, shall be obligated to maintain fencing along the common boundary line of the Owner's Parcel or Lot and the Open Space Preserve Area in accordance with Section 7.08(c), below.

Section 7.03. Right of Committee to Maintain and Install. In the event that an Owner fails to accomplish any maintenance, repair or installation of landscaping as required by Section 7.01 or any additional maintenance obligations of an Owner pursuant to Section 7.02, or if any Owner violates any of the provisions of Article VI, above, the Architectural and Landscape Committee or its delegates may, but shall not be obligated to, cause such maintenance, repair and installation to be accomplished as hereinafter set forth:

(a) Upon finding by the Architectural and Landscape Committee of a deficiency in such maintenance, repair or installation, the Architectural and Landscape Committee shall give notice of such deficiency to the Owner. The Owner shall have no more than ten (10) days (the "Period") following the receipt thereby of written notice of such deficiency from the Architectural and Landscape Committee to select a day or days upon which such maintenance, repair or installation work shall be accomplished;

(b) The date which said Owner selects to cure the deficiency shall be no more than thirty (30) days from the end of the Period;

(c) Unless the Owner and the Architectural and Landscape Committee otherwise agree, such maintenance or installation to cure the deficiency shall take place only during daylight hours on any day excluding holidays;

(d) If the Architectural and Landscape Committee pays for all or any portion of such maintenance or installation, such amount shall be a Special Assessment against the affected Owner and his Parcel or Lot.

Section 7.04. Standards for Maintenance and Installation.

(a) The exterior of all Improvements within any Parcel or Lot, including without limitation window glass, signs, walls, fences and roofs shall be maintained and repaired by the Owner of such Parcel or Lot, in a first-class manner and in an orderly and safe condition.

(b) Slopes and landscaped and improved areas within any Parcel or Lot, including, without limitation, any drainage facilities located thereon, which are within a portion of a Parcel or Lot and which are not part of the City Required Maintenance Area shall be maintained continuously by the Owner of such Parcel or Lot, in a first-class manner and in an orderly and safe condition so as to enhance their appearance, maintain established slope ratios and drainage patterns, prevent erosion or sliding problems, and facilitate the orderly discharge of water through drainage systems and facilities established by Declarant. No structure, planting or other material shall be placed or permitted to remain, or other activities undertaken on any area within the Property that might create erosion or sliding problems, or interfere with established drainage systems or facilities.

(c) Every Parcel or Lot and all Improvements thereon shall at all times be maintained by the Owner of such Parcel or Lot in compliance with the Specific Plan, any standards adopted by the Architectural and Landscape Committee and all other applicable laws, ordinances, orders, codes, rules, regulations and requirements of all federal, state, county, municipal and other governmental agencies and bodies having jurisdiction.

Section 7.05. Right of Entry. The Architectural and Landscape Committee shall have the right, following not less than twenty-four (24) hours notice, to enter upon any Parcel or Lot in connection with any maintenance, repair or construction in the exercise of the powers and duties of the Architectural and Landscape Committee.

Section 7.06. Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Architectural and Landscape Committee to maintain, replace or restore the underground facilities of public utilities. However, the Architectural and Landscape Committee may take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 7.07. Identification and Maintenance/Management of Wetlands Areas.

(a) Identification of Wetlands Areas. The Declarant has obtained verification from the U.S. Army Corps of Engineers that approximately 16.19 acres of vernal pools and 3.87 acres of wet swales/channels exist on portions of the Property. The Declarant has also obtained from the U. S. Army Corps of Engineers (the "Army Corps") a permit (the "404 Permit") to fill specific wetland resources in conjunction with development of the Property. Declarant is obligated by Development Agreement to diligently pursue and obtain issuance of the 404 Permit and any amendment, modification or supplement thereto, or an additional 404 Permit if required, in order to implement the Project, including but not limited to off-site improvements such as Phillip Road, Blue Oaks Boulevard and Pleasant Grove Boulevard. Declarant has mitigated the impacts of such wetland fills through a combination of on-site preservation, off-site preservation and/or on-site and off-site creation of wetland resources.

The 404 Permit will require preservation and/or creation of wetland resources within the Property ("Preserve Area" or "Open Space Preserve"). At the election of the City, the City and the Declarant shall cooperate with one another in the formation of a conservancy or a Maintenance Community Facilities District (the "Maintenance CFD") in accordance with Section 3.20 of Development Agreement, with the authority to assume and/or administer the costs of maintaining the Preserve Area in accordance with the 404 Permit.

(b) Maintenance by Declarant. The Declarant, and/or its successors, shall be solely responsible for satisfying all monitoring, reporting and, at the expense of the Maintenance CFD, maintenance, requirements under the 404 Permit during the remaining and any extended monitoring period, as determined by the Corps, for the Preserve Area. Furthermore, during said monitoring period, Declarant is obligated by Development Agreement to indemnify, defend and hold City harmless from any and all costs, liabilities or damages for which the City is held responsible or alleged to be responsible under the 404 Permit, which arise out of or relate to any failure of Declarant to satisfy such monitoring requirements, excluding any such failure caused

by the active negligence of City or any employees, agents or contractors thereof. The City has acknowledged and agreed that any proposed use or improvement of the Open Space Preserve will be subject to the provisions of the 404 Permit and Operations & Management Plan.

(c) Operation and Management Plan. The Declarant has prepared an Operations & Management Plan ("O&M Plan") required for the 404 Permit, to maintain consistent management strategies among the City's Preserves and Open Space Preserve areas created by Westpark.

Section 7.08. Open Space Preserve Areas. Pursuant to the 404 Permit described in Section 7.07, the Declarant has designated certain portions of Westpark, more particularly described in Exhibit GG to Development Agreement, as Open Space Preserve Areas (the "Preserve Areas").

(a) Disclosure Concerning Importance of Protecting Preserve Areas. One of the principal goals of the protected Preserve Areas is to protect the listed species and habitats that are located within those portions of Westpark. In order to preserve the remaining vernal pool habitat and associated watershed, the following activities shall be prohibited in Preserve Areas, except as specifically permitted by the O&M Plan: (a) no vehicles of any kind (e.g., passenger vehicles, motorcycles, bicycles, or off-road recreational vehicles) shall be allowed or operated in Preserve Areas by any person; (b) no structures shall be placed, erected or maintained in any Preserve Areas, including any vernal pool preserves; (c) no dumping and or burning of rubbish, garbage or any other waste or fill materials shall be deposited in any Preserve Areas; (d) there shall be no alteration of existing topography or any other alteration or uses of Preserve Areas for any purposes, including the exploration for, or development of mineral extraction in any Preserve Areas; (e) there shall be no killing, removal, alteration, or replacement of any existing native vegetation in Preserve Areas; (f) there shall be no placement of storm water drains or other diversion or alteration of water that will disturb the existing hydrologic characteristics of the Preserve Areas or their associated watersheds; (g) there shall be no fire protection activities, other than those that are necessary or appropriate to protect neighboring structures and improvements or to suppress a fire that has its origin in the Preserve Area; (h) there shall be no use of pesticides or herbicides in any Preserve Areas; and (i) there shall be no other activities or actions taken that may degrade the quality of runoff from the Property.

(b) Maintenance of Preserve Areas and Construction of Certain Frontage Improvements. Once the Declarant has satisfied all conditions of the 404 Permit and the Operations and Management Plan, and the required monitoring and reporting period has expired, the Declarant is obligated by Development Agreement to convey the Preserve Areas to the City for maintenance by the Maintenance CFD (see section 3.20.2.7 of the Development Agreement). Within the Parcels designated as Open Space (i.e., parcels W-81, W-82, W-83) the Declarant is obligated by Development Agreement to construct frontage improvements including sidewalk and landscaping as outlined in the Design Guidelines.

(c) Maintenance of Fencing Adjacent to Preserve Areas. Each Owner of a Parcel or Lot that abuts a Preserve Area, as defined in Section 7.08, below, shall be obligated to install protective fencing along the common border of the Parcel or Lot and the Preserve Area in

accordance with the descriptions and depictions for such fencing that are set forth in the Operations and Management Plan. This fencing is intended to protect and restrict access to the Preserve Areas in order to promote the environmental preservation and enhancement objectives of the restrictions set forth in subparagraph (a), above. Furthermore, it is the obligation of each such abutting Owner to maintain the boundary fence separating the Owner's Parcel or Lot and the Preserve Area in a first-class condition and appearance and to promptly repair or replace the fencing if it is damaged or is at the end of its useful life. In the event of a default by any Owner of his/her/its obligations hereunder, the Architectural and Landscape Committee shall have rights of enforcement pursuant to Section 7.03, above, and in the event of a default by both the Owner and the Committee, the City shall have the enforcement rights and rights of entry provided in Article 5 of the Development Agreement and Section 12.06, below.

## ARTICLE VIII Easements

Section 8.01. Amendment to Eliminate Easements. So long as Declarant owns at least one (1) Parcel or Lot within Westpark, this Master Declaration cannot be amended to modify or eliminate the easements reserved to Declarant without prior written approval of Declarant and any attempt to do so shall have no effect. Any attempt to modify or eliminate this Section 8.01 shall likewise require the prior written approval of Declarant.

Section 8.02. Nature of Easements. Unless otherwise set forth herein, any easement reserved to Declarant herein shall be nonexclusive.

Section 8.03. Certain Rights and Easements Reserved to Declarant. The following rights and easements are hereby reserved to Declarant:

(a) Utilities. Easements over Westpark for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary sewer lines and drainage facilities as are needed to service any portion of Westpark and/or to further develop any undeveloped portions of Westpark are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements shall not unreasonably interfere with the use and enjoyment by the other Owners of their Parcels or Lots. Where drainage facilities that are to be owned and maintained by the City of Roseville are constructed by the Declarant and located outside of the City's road rights-of-way, the City shall have a non-exclusive public utility easements for the ownership and maintenance of such lines, together with access thereto for maintenance purposes.

(b) Ingress and Egress. Easements over Westpark sufficient to guarantee access and entry to Westpark and any Improvements thereon for any authorized Fire Inspector, Building Official, or any other official charged with carrying out the laws of the City or any other governmental entity.

(c) Additional Easements. There is hereby reserved to Declarant the right to acquire such additional easements over Westpark as it shall deem necessary and appropriate in its sole



discretion; provided, however, such easements shall not unreasonably interfere with the use and enjoyment by the other Owners of their Parcels or Lots.

Section 8.04. Certain Easements for Owners.

(a) Rights and Duties: Utilities. Wherever sanitary sewer connections, water connections, electricity, gas, telephone and cable television lines or drainage facilities are installed within the Property, there is hereby reserved to Declarant, together with the right, to grant and transfer the same to Owners, an easement to the full extent necessary for the full use and enjoyment of such portion of such connections which service an Owner's Parcel or Lot, and to enter upon any Parcel or Lot owned by any other Owner, or to have utility companies enter upon the Parcels or Lots, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below, provided that such Owner or utility company shall repair any damage to a Parcel or Lot caused by such entry as promptly as possible after completion of work thereon.

(b) Drainage. There is hereby reserved to Declarant, together with the right to grant and transfer the same to Owners, easements for drainage over Westpark through the drainage patterns and systems established, designed and constructed by the Declarant within Westpark in accordance with Section 3.10 of the Development Agreement and in conformance with the City of Roseville's improvement Standards, Storm Water Management Program, and the Placer County Storm Water Management Manual (for detention facilities) and the 404 Permit O&M Plan (for Open Space Preserves).

(c) Property Access. There is hereby reserved to Declarant, together with the right to grant and transfer the same to Owners, easements for reciprocal ingress and egress, maneuvering and parking for the benefit of such Owners and their occupants and their respective invitees; provided, however, such easements shall not unreasonably interfere with any Owner's use and enjoyment of his or her Parcel or Lot.

Section 8.05. Settlement and Encroachment. There is hereby reserved to Declarant, together with the right to grant and transfer the same to each of the Owners, an easement for the benefit of, and appurtenant to each Owner's Parcel or Lot and burdening each contiguous Parcel or Lot, for the purpose of:

(a) Support and accommodation of the natural settlement of structures; and

(b) Encroachments due to original engineering or surveying errors, errors in original construction, errors in reconstruction or repair in accordance with plans and specifications approved in writing by the Architectural and Landscape Committee.

Section 8.06. Emergency Vehicle Access. Declarant hereby reserves to itself, together with the right to grant and transfer same to its successors and assigns, the City and/or any public or private entities, a non-exclusive easement for public emergency vehicles and personnel acting

in a public emergency over all portions of each Owner's Parcel or Lot designed for vehicular or pedestrian traffic.

Section 8.07. Construction Staging. Except as otherwise negotiated among any Owners, there is hereby reserved to Declarant, together with the right to grant and transfer the same to any Owner and its contractors, subcontractors and representatives, the right to perform construction maintenance and temporarily store materials and equipment ("Staging") on any undeveloped and/or unimproved portion of Westpark as the same may from time to time exist during the course of the construction of improvements on such Owner's Parcel or Lot. Any Staging on any portion of Westpark except such Owner's own Parcel or Lot shall require the prior written approval of the Declarant and, in the event the Staging requires use of a Parcel or Lot not owned by the Declarant, such Staging shall also require the prior written approval of the Owner of such Parcel or Lot. Any Owner participating in Staging shall, at its sole cost, expense and liability maintain the portion of the Parcel or Lot used for Staging in a safe condition and shall be responsible for any damage to such Parcel or Lot which may occur as a result of or in connection with the Staging. The Owner performing the Staging shall not suffer or permit to be enforced against the Parcel or Lot being used for Staging, or any portion thereof, any mechanics', materialmens', contractors' or subcontractors' liens or any claim for damage arising from the Staging, and such Owner shall promptly cause to be released or satisfied all of said liens, claims or demands before any action is brought with respect to the Parcel or Lot. Any person who is using a Parcel or Lot of another Owner for Staging (with proper consents as required above) agrees to indemnify and to hold harmless the Owner(s) of the Parcel or Lot that is being used for Staging from all losses, liabilities and for any and all such liens, claims and demands and all costs and expenses in connection therewith, including, but not limited to, reasonable attorneys' fees.

Before entering upon any other Owner's Parcel or Lot to conduct any Staging, an Owner shall, at its own cost, procure and maintain a policy of public liability and property damage insurance from an insurance carrier reasonably acceptable to the Owner on whose Parcel or Lot the Staging is being conducted. This policy shall (a) name the other Owner as an additional insured and indemnify such Owner against liability for property damage or personal injury (including death) resulting from entry upon such Owner's Parcel or Lot by the Owner conducting the Staging, and/or by such Owner's agents or contractors, (b) have a combined single liability limit of at least Ten Million Dollars (\$10,000,000.00), plus reasonable cost of living adjustments, (c) be stated to be primary and non-contributing with any insurance that the Owner of the Parcel or Lot on which the Staging will occur may carry, and (d) require that at least thirty (30) days' prior written notice of cancellation or modification be given to the Owner of the Parcel or Lot on which the Staging will occur. Upon termination of the Staging, the Owner performing the Staging shall repair and restore every portion of the Parcel or Lot used for Staging to at least as good a condition as existed prior to the Staging. In the event the Staging interferes with the use, enjoyment or development of the Owner of the Parcel or Lot being used for Staging, upon notice from the Declarant and/or the Owner of such Parcel or Lot, the Owner performing the Staging shall suspend such performance until such time as the Staging will not interfere with the use, enjoyment or development of the Parcel or Lot by the Owner of the Parcel or Lot. Any license which may be given under this Section 8.07 for Staging activities shall be terminable without

cause at the will of either Declarant or the Owner of the Parcel or Lot on which the Staging activities take place on thirty (30) days' prior written notice.

## **ARTICLE IX Protection of Mortgages**

Section 9.01. Filing Notice: Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Master Declaration requires the Architectural and Landscape Committee to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Architectural and Landscape Committee a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Parcel or Lot within the Property. Such notice shall state which Parcel or Lot is encumbered by such Mortgage and whether such Mortgagee is a Mortgagee in a first position of priority. Notwithstanding the foregoing, if any right of a Mortgagee under this Master Declaration is conditioned on a specific written request to the Architectural and Landscape Committee, in addition to having delivered the notice provided in this Section 9.01, a Mortgagee must also make such request, either in a separate writing delivered to the Architectural and Landscape Committee or in the notice provided above in this Section 9.01, in order to be entitled to such right. Except as provided in this Section 9.01, a Mortgagee's rights pursuant to this Master Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Special Assessments levied by the Architectural and Landscape Committee hereunder shall not be affected by the failure to deliver a notice to the Architectural and Landscape Committee. Any notice or request delivered to the Architectural and Landscape Committee by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

Section 9.02. Priority of Mortgage Lien. No breach of any of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage or deed of trust made in good faith and for value encumbering any Parcel or Lot, or any portion thereof. All covenants, conditions and restrictions of this Master Declaration shall, however, be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Parcel or Lot or portion thereof except as otherwise provided in this Article.

Section 9.03. Curing Defaults. A Mortgagee shall have the right but not the obligation to cure any breach of the provisions of this Master Declaration relating to a Parcel or Lot encumbered by such Mortgagee's Mortgage. A Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Master Declaration which occurred prior to the date such Mortgagee acquired the title to a Parcel or Lot which is noncurable or of a type which is not practical or feasible to cure. The determination of the Architectural and Landscape Committee made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all Mortgagees.

Section 9.04. Resale. It is intended that any loan to facilitate the resale of any Parcel or Lot after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Mortgagees.

Section 9.05. Relationship with Special Assessment Liens (Article VI, above).

(a) The lien provided for in Article VI of this Master Declaration for the payment of Special Assessments shall be subordinate to the lien of any Mortgage which was recorded prior to the date any such Special Assessment becomes due.

(b) If any Parcel or Lot subject to a monetary lien created pursuant to Article VI shall be subject to the lien of a Mortgage: (1) the foreclosure of any lien created pursuant to Article VI of this Master Declaration shall not operate to affect or impair the lien of such Mortgage; and (2) the foreclosure of the lien of said Mortgage, the acceptance of a deed in lieu of foreclosure of the Mortgage or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, except for liens or claims for a share of such Special Assessments resulting from a reassessment pursuant to Section 6.11 hereof, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

(c) Nothing in this Section 9.05 shall be construed to release any Owner from his obligations to pay for any Special Assessment levied pursuant to this Master Declaration.

Section 9.06. Other Rights of Mortgagees. Any Mortgagee or its mortgage servicing contractor, shall, upon written request to the Architectural and Landscape Committee, be entitled to:

(a) Inspect the books and records of the Architectural and Landscape Committee during normal business hours; and

(b) Receive written notification from the Architectural and Landscape Committee of any default in the performance of the obligations imposed by this Master Declaration by the Owner whose Parcel or Lot is encumbered by such Mortgagee's Mortgage; provided, however, the Architectural and Landscape Committee shall only be obligated to provide such notice to Mortgagees who have delivered a written request therefor to the Architectural and Landscape Committee specifying the Parcel or Lot to which such request relates.

Section 9.07. Mortgagees Furnishing Information. Mortgagees are hereby authorized to furnish information to the Architectural and Landscape Committee concerning the status of any Mortgage.

Section 9.08. Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Master Declaration, the provisions of this Article shall control.

## **ARTICLE X Protection from Liens**

Section 10.01. Architectural and Landscape Committee to Defend Certain Actions. In the event that a lawsuit is brought against all or substantially all of the Members which will or could result in any lien or encumbrance being levied against the Property or a substantial portion thereof, the Architectural and Landscape Committee may defend such lawsuit and the costs of such defense shall be a Special Assessment against all of the Members joined as defendants in such lawsuit; provided, however, in the event that an insurance carrier is obligated to provide such defense under a policy of insurance carried by the Architectural and Landscape Committee, the Architectural and Landscape Committee shall be relieved of the obligation to provide such defense. Nothing contained herein shall in any way limit the rights of any Owner or Owners or Subdivider to retain counsel of their choice to represent them in such lawsuit at their own expense. In the event that an Owner/Subdivider so chooses, he or she shall not be relieved of liability for the Special Assessment provided for in this Section 10.01.

Section 10.02. Payment of Lien. In the event that a lien or encumbrance attaches to all or substantially all of the Property by reason of judgment or otherwise, the Architectural and Landscape Committee may promptly take the appropriate steps to remove such lien, including but not limited to the payment of money and the posting of a bond. The Architectural and Landscape Committee shall have the power to borrow money and to take such other steps as are necessary to free the Property of such liens.

Section 10.03. Owners to be Specially Assessed. Simultaneously with any action taken pursuant to Section 10.02, the Architectural and Landscape Committee shall levy a Special Assessment against all of the Owners whose Parcels or Lots were subject to the lien or encumbrance which caused the Architectural and Landscape Committee to act pursuant to said Section equal to each such Owner's pro rata share of such lien or encumbrance. In the event that such Special Assessment is not paid within thirty (30) days of its due date, the Architectural and Landscape Committee may effect the remedies of the California Civil Code and Article VI hereof.

Section 10.04. Reimbursement by Certain Owners. In the event that it shall be proven in a court of law of competent jurisdiction over the claim or claims causing the Architectural and Landscape Committee to take action under this Article that a judgment resulting in a lien on all or a portion of the Property was primarily due to the acts or omission of a particular Owner or his or her agents, employees or invitees, such Owner or Owners shall reimburse the Architectural and Landscape Committee for all expenses incurred by it pursuant to the provisions of this Article X. Upon such reimbursement, the Architectural and Landscape Committee shall distribute the funds received to the Owners against whom Special Assessments were levied pursuant to the provisions of this Article.

**ARTICLE XI**  
**Limitation of Restrictions on Declarant and Subdividers**

Section 11.01. Completion and Sale of Development. Declarant is undertaking work in connection with Westpark. Each Owner may undertake the work of constructing internal site improvements and structures. The completion of that work and the sale or other disposal of the Parcels and Lots is essential to the establishment and welfare of Westpark. In order that such work may be completed as rapidly as possible, nothing in this Master Declaration shall be understood and construed to:

(a) Prevent the Declarant, its contractors or subcontractors from doing on Westpark, or any part thereof, whatever is reasonably necessary or advisable in connection with the completion of the Declarant's work; or

(b) Once approved by the Architectural and Landscape Committee, prevent any Subdivider from completing the approved Improvements and development of a Parcel or Lot in accordance with the approved plans and specifications; or

(c) Prevent Subdividers or their representatives from erecting, constructing, storing and maintaining on any parts of Westpark such equipment, structures or other Improvements, including, but not limited to, models, sales and construction offices, refuse containers, construction equipment and construction materials as may be reasonably necessary for the conduct of its business of completing the work as has been approved by the Architectural and Landscape Committee, and disposing of the Parcels or Lots by sale, lease or otherwise; or

(d) Prevent the Declarant from conducting on any part of Westpark its business of completing said work and of establishing these properties as a mixed use development and of disposing of the Parcels in Lots by sale, lease or otherwise; or

(e) Prevent the Declarant from maintaining such sign or signs on any Parcel in Westpark that is owned by the Declarant (or maintained by Declarant with the consent of the Parcel Owner) as may be necessary for the sale, lease or disposition thereof.

(f) Prevent an Owner from maintaining such sign or signs on its Lot as may have been approved by the Architectural and Landscape Committee.

The rights of Declarant in this Master Declaration may be assigned by Declarant to any successor (to all or any part of Declarant's interest in Westpark) by an express assignment incorporated in a recorded deed that transfers an interest to such successor (see Section 1.08, above).

## **ARTICLE XII**

### **Enforcement of Declaration**

Section 12.01. Remedy at Law Inadequate. Except for the nonpayment of any Special Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Master Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, to comply with any provision of this Master Declaration may be enjoined by appropriate legal proceedings instituted by Declarant, any Owner, the Architectural and Landscape Committee, or by their respective successors in interest.

Section 12.02. Nuisance. Without limiting the generality of the foregoing Section 12.01, the result of every act or omission whereby any covenant contained in this Master Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 12.03. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner or other party hereto under this Master Declaration, the court may award to the prevailing party in such action such attorneys' fees and other costs as it may deem just and reasonable.

Section 12.04. Cumulative Remedies. The respective rights and remedies provided by this Master Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Master Declaration.

Section 12.05. Failure Not a Waiver. The failure of Declarant, any Owner, the Master Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Master Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Declarant, the Master Association or the Board, or any of its officers or agents.

Section 12.06. Right of Enforcement by the City of Roseville. Various provisions of the Entitlement Documents required that this Master Declaration contain certain covenants and restrictions which are identified in Section 16.02(b), below. The City of Roseville shall have the right, but not the obligation, to enforce any of the terms, provisions, conditions, restrictions and other standards set forth in this Declaration or in the Entitlement Documents pertaining to the maintenance and improvement of the Property, including, without limitation, landscape, Open Space and Preserve Area fencing requirements (see Section 7.08(c), above), recreation areas, parking areas, roads, landscaping adjacent to, and the landscape medians located within public roadways, and all other provisions in this Declaration that either reference the City of Roseville or the conditions of approval or which relate to or are required by any of the Entitlement

Documents. The City of Roseville shall have the discretionary right to enforce any of those provisions, including, without limitation the right to bring an enforcement or other court action deemed appropriate by the City, and to collect all costs, expenses, and attorneys fees incurred by the City in the course of enforcing its rights hereunder.

**ARTICLE XIII**  
**Supplemental Declarations and De-Annexation of Property**

Section 13.01. Supplemental Declarations.

(a) Authority to Record Supplemental Declarations. During the course of developing Westpark, it may become necessary or appropriate for Declarant or a Subdivider, with approval of the Declarant, to Record a Supplemental Declaration. Recordation of Supplemental Declarations by the Declarant (or by a Subdivider with the approval of the Declarant) for a particular Phase is hereby approved at any time prior to the sale of any Separate Interests in that Phase to a third party. In addition, if the Declarant conveys a Phase to a builder of Condominium Project, cluster or townhome residences or conveys a commercial parcel to an Owner or developer who intends to construct, sell and/or lease offices or units in the business or commercial facility constructed or to be constructed on the parcel, the Declarant may join with such purchasers in Recording a Supplemental Declaration applicable to that Phase or commercial parcel. However, nothing herein shall require that any commercial parcel be subjected to this Master Declaration.

(b) Content of Supplemental Declarations. Any Supplemental Declaration shall describe the portion of the Annexable Property to which it is to apply, recite that the Supplemental Declaration is being Recorded pursuant to the authority conferred by this section and may include, without limitation:

(i) Description of Common Areas and Common Facilities. A description of any Common Areas (including all exclusive use common areas, as that term is defined in section 1351(i) of the California Civil Code) and Common Facilities within the annexed Phase;

(ii) Specification of Property Use Restrictions Applicable to the Annexed Property. Property use restrictions and design and building standards which shall apply solely to the Separate Interests (and any Improvements constructed thereon) within the annexed Phase, and/or property use restrictions and design and building standards which supplement amend or replace restrictions set forth in this Master Declaration so as to conform to the design or contemplated use of Improvements located or planned for construction within the annexed phase.

(iii) Separate Architectural Review. A separate Architectural Committee to perform design review and approval functions described in the Supplemental Declaration with respect to Improvement projects in a particular Phase of Westpark or to perform the functions described in Article III in lieu of the Architectural and Landscape Committee constituted in accordance with Article III, above. If a particular Phase is affected by a Supplemental Declaration that establishes a separate Architectural and Landscape Committee, that committee

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shall have jurisdiction over the initial design and construction of any Improvements proposed for construction on such Phase, as well as subsequent changes in exterior design or appearance; provided, however, that the Supplemental Declaration can provide that the Architectural and Landscape Committee's determination must also be ratified by the Architectural and Landscape Committee organized pursuant to Article III, above.

(iv) Supplemental or Separate Improvement Requirements. Supplemental Declarations may also include authorization for the adoption of separate or supplemental Improvement Requirements applicable to Improvement projects on Separate Interests located within the annexed Phase.

(v) Establishment of Sub Association(s). A Supplemental Declaration may, but need not, provide for the establishment of a Sub Association, to be comprised of Owners of Separate Interests within the area encompassed within the Supplemental Declaration; and

(c) Supplemental Declarations for Commercial/Business Parcels. Without limiting the foregoing, in the event that any parcels zoned for commercial or business uses are annexed to Westpark it is likely that a Supplemental Declaration will be recorded in connection with said annexation in order to (among other things) impose property use restrictions, landscape maintenance requirements and minimum construction standards that are appropriate for such commercial properties. Without limiting the foregoing, any such Supplemental Declaration for a business or commercial parcel may add or eliminate property use restrictions and/or minimum construction standards applicable to the covered Separate Interest or Parcel. Any Supplemental Declaration for a Commercially Zoned Parcel may also provide for a business owners' association with jurisdiction over the Parcel, as well as provisions permitting the annexation of other commercial/business Parcels to the Supplemental Declaration and the jurisdiction of the business owners' association.

Section 13.02. Reconciling Conflicts Among Documents. This Master Declaration shall control if there is any conflict between any Declaration of Annexation or Supplemental Declaration and the provisions of this Master Declaration; provided, however, that to the extent that any provision hereof is expressly modified by a Supplemental Declaration, no conflict shall be deemed to exist; and, provided further, that this Master Declaration and any Supplemental Declaration shall be construed so as to be consistent with one another to the extent that the reconciliation of provisions is reasonably possible. However, the inclusion in any Supplemental Declaration of covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, limitations, liens or charges which are more restrictive or more inclusive than in the Governing Documents shall not be deemed to constitute a conflict with the provisions of this Master Declaration.

Section 13.03. De-Annexation and Amendment. Declarant has the right, at its sole option, to (a) amend a Declaration of Annexation or a Supplemental Declaration, or (b) remove from Westpark any property described in a Recorded Declaration of Annexation or a Supplemental Declaration by executing and Recording a rescission of such document, so long as all of the following conditions are satisfied at the time of the execution of the amendment or rescission: (i) no Separate Interest in the annexed Phase encumbered by the Master Declaration

of Annexation and/or Supplemental Declaration has been conveyed to an Owner; (ii) Assessments have not commenced for any Separate Interest in such annexed Phase; (iv) any disclosures or other covenants and conditions that are required by the Development Agreement to be set forth in Recorded covenants, conditions and restrictions are included in any Supplemental Declaration that is Recorded on the De-Annexed Property; and (v) approval of the de-annexation is obtained from the City Attorney to the extent such approval is required by the Development Agreement. The conditions set forth in the preceding sentence shall not apply to any de-annexation of Parcels for the purpose of conveying said Parcels to the City of Roseville or other public agency.

#### **ARTICLE XIV Notifications Required by the City of Roseville**

Section 14.01. Disclosure to Buyers Concerning Potable Water Supplies. Westpark will be served by both surface water and groundwater supplies. Variations in the appearance, taste and color of water may be noticed from time to time. Water storage facilities are located on Parcel W-74 and ground water wells will be located on Parcels W-76 and W-77, which Declarant shall dedicate to City in Phase 4, and upon which Declarant shall construct two (2) groundwater wells at the approximate location shown on Exhibit "U" of the Development Agreement.

Section 14.02. Recycled Water Use Disclosure to Buyers. Recycled water shall be used for irrigation of parks and landscape setbacks, medians, paseos and other landscape areas of Westpark, including all multi-family and non-residential landscaping uses.

Section 14.03. 60KV Disclosure. Certain Easement Areas more particularly described in Exhibit CC of Development Agreement have been established for 60kV power lines. Pursuant to those Easements the City may utilize the public utility easements along the west side of Fiddymment Road, north and south side of Blue Oaks Boulevard, and the east side of West Side Drive and south side of Pleasant Grove Boulevard to construct 60kV overhead electric lines. This power line easement affects the following Parcels: W-60, W-61, W-62, W-83, W-15, W-87 and potentially on W-11, W-12, W-25, W-72, W-24 and W-8.

Section 14.04. Other Required Disclosures to Subsequent Purchasers. The Development Agreement requires the following additional disclosures to all subsequent purchasers of any Lots and/or residential units within the Westpark Property:

(a) Fiddymment Road, West Side Drive and Blue Oaks Boulevard are designated as truck routes.

(b) Phillip Road, Bob Doyle Drive and Village Green Drive are designated as temporary truck routes to the Pleasant Grove Wastewater Treatment Plan and the Roseville Energy Park until Phillip Road and Blue Oaks Boulevard are constructed and connected.

(c) All Lots and Parcels in Westpark are subject to the terms of Development Agreement.

(d) The Development will be served by surface water supplies and in emergency/drought conditions, may also be served by groundwater supplies.

(e) Recycled water will be used to irrigate parks and landscape setbacks, medians, paseos and other landscape areas including all multi-family and non-residential landscaping uses.

(f) Owners are required to implement water conservation measures that are set forth in the West Roseville Water Conservation Program.

(g) Public utility easements may be used to construct 60kV overhead power lines on the west side of Fiddymment Road, along Blue Oaks Boulevard, on the east side of West Side Drive and south side of Pleasant Grove Boulevard.

(h) An exclusive utility easement has been granted to the City that may be used for high-pressure natural gas line through the area to serve the Roseville Energy Park.

(i) Requirement for fifty percent (50%) reduction in construction waste stream.

(j) The Pleasant Grove Wastewater Treatment Plant and associated facilities will be located as specifically described in the Specific Plan's figure 4-1 as N.A.P.O.T.S. Prior to the issuance of the first residential building permit on the Property, Developer shall dedicate to City a site of fifteen (15) acres (a portion of W-71) for City's use in expanding the Pleasant Grove Wastewater Treatment Plant as shown on Exhibit "S" of the Development Agreement.

(k) The Roseville Energy Park is planned to be located on a portion of the Fiddymment Ranch property north of the Property and south of Blue Oaks Boulevard (see Figure 4-1 of the Specific Plan).

(l) A Regional Soccer Complex and related recreational facilities are planned to be located on a portion of the Fiddymment Ranch property north of the Property, south of Blue Oaks Boulevard on Parcels F-55 and F-56 (see Figure 4-1 of the Specific Plan).

(m) The purchase agreement for any Lot or Separate Interest shall disclose the location of all schools and parks within one mile of the Lot or Separate Interest.

(n) An off-leash dog park is planned for Parcel W-53.

(o) A 15-foot easement, in addition to residential setback requirements, for all Low Density Residential and Medium Density Residential lots adjacent to West Side Drive is required to achieve a 50-foot separation/buffer from back of curb on West Side Drive (a planned six-lane arterial).

(p) A disclosure on parcel W-14 that a 77' by 100' open space parcel may, at the City's discretion, ultimately be used for road right of way to continue Pleasant Grove Boulevard to the west.

(q) Parcels adjacent to Open Space may have a public bike trail adjacent to residential lots.

(r) A portion of the proposed Placer Parkway may be included in the Specific Plan Area.

(s) There is a retention basin located on the Reason Farms property that is located north of Blue Oaks Boulevard and north of the Property. (see Figure 4-1 of the Specific Plan).

(t) Well sites and water storage facilities are located on Parcels W-76, W-77 and W-74, respectively.

(u) Owners of residential units adjacent to separated sidewalks shall be responsible to maintain the area between the curb and sidewalks (see Sections 5.03 and 5.06(b), above).

(v) The Declarant is obligated by Development Agreement to convey to the City a recycled water tank site and pump station facilities on a 5.1-acre site (Parcel W-74), north of the Pleasant Grove Wastewater Treatment Plant. That location is more specifically depicted in Exhibit "V" of the Specific Plan.

(w) A solid waste recycling center is planned south of the Pleasant Grove Wastewater Treatment Plant on Parcel W-74

(x) Masonry walls, including walls adjacent to landscape corridors and other public facilities, are owned not by the City but by the adjacent property Owner, who is responsible for their maintenance, repair and replacement.

(y) Portions of the Property are located adjacent to land that is zoned for agricultural uses. Additionally, areas zoned Open Space may be used for grazing of livestock.

## ARTICLE XV

### Notices to the Declarant and Owners

Section 15.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to Declarant: Westpark Associates, 2150 Douglas Blvd, Suite 110, Roseville, California 95661 (or to such other address as Declarant may from time to time designate in writing to the Master Association).

With a copy to: William A. Falik, 100 Tunnel Road,

If to any Owner: Berkeley, California, 94705; FAX: 510-704-8803  
To the street address of his or her Lot, Parcel or Separate Interest or to such other address as he or she may from time to time designate in writing to the Master Association for purposes of notice.

Section 15.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co Owners of any Separate Interest, to any general partner of a partnership which is the Owner of Record of the Lot, Parcel or Separate Interest, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Separate Interest, shall be deemed delivered to all such co Owners, to such partnership, or to such corporation, as the case may be.

Section 15.03. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four (4) days after deposit in the United States mail in the County.

**ARTICLE XVI**  
**Amendment of Master Declaration and Termination**

Section 16.01. Amendment of Master Declaration. This Master Declaration may be amended as follows:

(a) During the first fifteen (15) years of the initial term of this Master Declaration, Declarant may, by a duly recorded instrument, modify, amend, revoke or terminate this Master Declaration or any provision thereof insofar as it affects property owned by Declarant.

(b) Otherwise, during such fifteen (15)-year period, any modification, amendment, revocation or termination of this Master Declaration with respect to any property not owned by Declarant shall be made upon the approval of: (1) the Declarant plus a majority vote of approval by the other record Owners of the Property comprising Westpark so long as Declarant owns ten percent (10%) of the Property and thereafter, (2) by a two-thirds majority vote of approval of the record Owners of the Property comprising Westpark, with each Lot or Separate Interest to count as one (1) vote. Notwithstanding the foregoing, subparagraph (a) and Articles XI and XIII shall not be amended, modified or revoked without the written approval of the Declarant for so long during such fifteen (15) year period as the Declarant owns any property in Westpark.

(c) After such fifteen (15)-year period, this Master Declaration or any provision hereof may be modified, amended, revoked or terminated as to all Property comprising Westpark by a two-thirds majority vote of the Owners of Westpark Properties, with each Lot or Separate Interest to count as one (1) vote.

Section 16.02. Additional Approvals Required for Amendments.

(a) Approval by the U.S. Army Corps of Engineers. No amendment to, or repeal of, any of the following provisions of this Master Declaration may be made without the prior written consent of the U.S. Army Corps of Engineers: 7.06(a).

(b) Approval by the City of Roseville. No amendment to, or repeal of, any of the following provisions of this Master Declaration may be made without the prior written consent of the City Attorney of the City of Roseville: Any provision that is required to be included in this Declaration by the Entitlement Documents, including, without limitation, Section 7.08 and Article XIV, above.

Section 16.03. Right of Amendment if Requested by a Governmental Mortgage Agency or Federally Chartered Lending Institutions. Anything in this Article to the contrary notwithstanding, the Declarant reserves the right to amend all or any part of this Master Declaration to such an extent and with such language as may be requested by Governmental Mortgage Agencies which require such an amendment as a condition precedent to such agency's approval of this Master Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Separate Interest or any portions thereof. Any such amendment shall be effectuated by the recordation, by Declarant, of a Certificate of Amendment duly signed by or on behalf of the authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the Governmental Mortgage Agency, or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon all of Westpark and all persons having an interest therein.

Section 16.04. Effective Date of Amendment. No modification, amendment, revocation, termination or extension of this Master Declaration allowed hereunder shall be effective until a proper instrument in writing describing such modification, amendment, revocation, termination or extension has been properly executed, makes appropriate reference to this Master Declaration and any amendments thereto, and is acknowledged and recorded in the Office of the County Recorder of Placer County.

**ARTICLE XVII**  
**General Provisions**

Section 17.01. Term. The covenants and restrictions of this Master Declaration shall run with and bind the land for a term of thirty (30) years from the date this Master Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless and until wholly revoked in accordance with Section 13.03, above.

Section 17.02. Indemnification. The Architectural and Landscape Committee (but not the Declarant) shall indemnify any person who was or is a party, or is threatened to be made a party,

to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a director, officer, employee, servant or agent of the Architectural and Landscape Committee against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Architectural and Landscape Committee or a court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Architectural and Landscape Committee, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Architectural and Landscape Committee, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Architectural and Landscape Committee may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, servant or agent of the Architectural and Landscape Committee, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Architectural and Landscape Committee would have the power to indemnify him against such liability hereunder or otherwise.

Section 17.03. Declarant Not Liable. During the term of this Master Declaration and thereafter, neither Declarant nor the officers, directors, employees and agents of it shall be liable for damages or otherwise to any Owner of any Property relying on these restrictions for reason of their unenforceability or by reason of Declarant's enforcement or nonenforcement thereof. IN ADDITION, DURING THE TERM OF THIS MASTER DECLARATION AND THEREAFTER, EACH OWNER AGREES THAT THE OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST THE DECLARANT OR THE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS OF IT, TO RECOVER ANY SUCH DAMAGES, AND HEREBY RELEASES ALL CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE DECLARANT ARISING OUT OF OR IN CONNECTION WITH THE ENFORCEMENT (OR LACK THEREOF) OF THIS MASTER DECLARATION.

Section 17.04. Owners' Obligation to Provide Copy of Master Declaration. Each Owner, including without limitation any Subdivider, shall be obligated to provide a copy of this Master Declaration, and any amendments, or modifications thereof, to any prospective purchaser of any Separate Interest in the Westpark Property as soon as practicable before the transfer of title to the Lot or execution of a real property sales contract therefor, as defined in Civil Code section 2985.

Section 17.05. Construction.

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Master Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of Westpark as set forth in the Recitals of this Master Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Master Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this Master Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Master Declaration.

(e) Exhibits. All exhibits referred to herein are deemed to be incorporated herein by reference, whether or not actually attached.

(f) References to the Declarant and the Master Association. Any reference in this Master Declaration to the Declarant or the Master Association shall include any successors or assignees of such entities' rights and powers hereunder subject, however, to the limitation on the definition of Declarant's successors (see Section 1.08, above).

(g) References to Statutes and Regulations. This Master Declaration contains many references to California and federal statutes and/or regulations applicable to Westpark, the Master Association and the Owners of Lots in Westpark that are in effect as of the date that this Master Declaration is Recorded in the Official Records of Placer County, California. In the event that any statute or other law or regulation is subsequently amended in a way that renders the corresponding provision of this Master Declaration to be inconsistent or in conflict with the amended or revised statute or regulation, the provision of the Master Declaration shall be deemed to be automatically amended or rescinded to conform to the revised statutory or regulatory provision and the Board of Directors shall be authorized and empowered to execute, acknowledge and Record an amendment reflecting that change in this Master Declaration without necessity of further Member approval, so long as the necessity for the change is confirmed in a legal opinion provided to the Master Association's Board of Directors by its legal counsel.

Section 17.06. Rule Against Perpetuities. If any interest purported to be created by this Master Declaration is challenged under the Rule against Perpetuities or any related rule of law, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be: (a) those which would be used in determining the validity of the challenged interest; plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

Section 17.07. Change of Circumstances. No change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Master Declaration.



Section 17.08. Declarant's Disclaimer of Representations. Anything to the contrary in this Master Declaration notwithstanding, and except as otherwise may be expressly set forth in a recorded instrument with the County Recorder of Placer County, California, the Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Westpark can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Master Declaration, or that any such land (whether or not it has been subjected to this Master Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

Section 17.09. References to the Covenants in Deeds. Deeds to and instruments affecting any Lot may contain the covenants set forth in this Master Declaration or may incorporate this Master Declaration by reference; but regardless of whether any such reference is made in any deed or instrument, this Master Declaration shall run with the land, and be binding upon the grantee-Owner or other person claiming through any instrument and his/her heirs, executors, administrators, successors and assigns.

Section 17.10. Counterparts. This Master Declaration may be executed in counterparts, each of which shall be deemed an original, but all of which, together, when signed by all of the parties hereto, shall constitute one and the same instrument.

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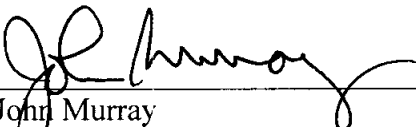
IN WITNESS WHEREOF, 1600 Placer Investors, L.P., a California limited partnership, has executed this Master Declaration on the date listed below.

Dated: \_\_\_\_\_, 2004.

**DECLARANT:**

**1600 PLACER INVESTORS, L.P.**  
a California limited partnership

By: **WESTPARK COMMUNITY BUILDERS, LLC,**  
a California limited liability company  
Its: General Partner

By:   
\_\_\_\_\_  
John Murray  
Its: Member



**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WESTPARK**

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Order No. 110-2068  
UPDATE  
Version 7

**EXHIBIT "A"  
LEGAL DESCRIPTION**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF PLACER, CITY OF ROSEVILLE, AND IS DESCRIBED AS FOLLOWS:

**PARCEL ONE:**

**LOTS 1 THRU 29, INCLUSIVE AND THE REMAINDER PARCEL, OF PLAT ENTITLED "WESTPARK PHASE 1" FILED FOR RECORD OCTOBER 21, 2004, IN BOOK AA, AT PAGE 4, OFFICIAL RECORDS OF PLACER COUNTY.**

**APN NOS. 017-100-043 AND 044, 017-150-003 AND 037**

**PARCEL TWO:**

**THE EAST HALF OF THE EAST HALF OF SECTION 22, TOWNSHIP 11 NORTH, RANGE 5 EAST, MOUNT DIABLO MERIDIAN.**

**APN: 017-100-021**

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