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FOUNTAINGROVE II WEST

DECLARATION

OF

RESTRICTIONS

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 - DEFINITIONS.....	3
1.1 Annexation Property	3
1.2 Architectural Review Committee or Committee	3
1.3 Declarant	3
1.4 Declaration	3
1.5 Development	3
1.6 Improvements	3
1.7 Lot or Residential Lot	3
1.8 Map	4
1.9 Mortgage	4
1.10 Mortgagee	4
1.11 Owner	4
1.12 Person	4
1.13 Participating Builder	4
1.14 Phase	4
ARTICLE 2 - PROPERTY RIGHTS AND EASEMENTS	4
2.1 Type of Development	4
2.2 Property Rights	5
2.3 Easements	5
2.4 Reservation of Rights	5
2.5 Development Requirements	5
ARTICLE 3 - RESTRICTIONS	5
3.1 Residential Use	5
3.2 Leasing	6
3.3 Owner's Maintenance Obligations	6
3.4 Landscaping	6
3.5 Restricted Uses	6
ARTICLE 4 - ARCHITECTURAL REVIEW	13
4.1 Architectural Review Committee	13
4.2 Approval	13
4.3 Non-liability	15
4.4 Completion of Work	15
4.5 Governmental Approval	16
4.6 Declarant Exemption	16
4.7 Enforcement	16
4.8 Declarant's Successor or Assign	16
4.9 Residential Lot Easements	16
4.10 Bonds or Security Deposits	16
4.11 Indemnification	17

4.12	Inspection of Work.....	17
4.13	Views.....	18
4.14	Retirement by Declarant	18
4.15	Dormant Architectural Review Committee	19
4.16	Term of Office.....	19
ARTICLE 5 - AMENDMENTS.....		20
5.1	Amendment Procedure.....	20
5.2	Effective Date of the Amendment	20
ARTICLE 6 - MISCELLANEOUS PROVISIONS		20
6.1	Headings	20
6.2	Severability	20
6.3	Discrimination	20
6.4	Number and Gender.....	20
6.5	Reservation or Grant of Easements.....	20
6.6	Term	21
6.7	Reserved Rights of Declarant	21
6.8	Assignment by Declarant.....	21
6.9	Enforcement.....	21
6.10	Remedies.....	22
6.11	Notices	22
6.12	No Enforcement Waiver	23
6.13	Mortgage Protection	23
6.14	Declarant's Right to Alter Plan of Development.....	23
6.15	Counterpart Execution	23
ARTICLE 7 - DISPUTE MECHANISM.....		23
7.1	Dispute Notification.....	23
7.2.	Arbitration of Disputes	24
ARTICLE 8 - ANNEXATION.....		25
8.1	Subsequent Phases	25
8.2	The Declaration of Annexation.....	25
8.3	Rights of Owners	26

EXHIBIT "A" - Legal Description of Property Owned by Fountaingrove

EXHIBIT "B" - Legal Description of Property Owned by Tuscany

EXHIBIT "C" - Legal Description of Initial Property

EXHIBIT "D" - Legal Description of Annexation Property

FOUNTAINGROVE II WEST
DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS ("this Declaration") is made as of October 29, 1999 by FOUNTAINGROVE VIEW PARTNERS, L.P., a California limited partnership formerly known as Dividend Fountaingrove Partners, a California limited partnership ("Fountaingrove") and TUSCANY AT FOUNTAINGROVE, a California limited partnership ("Tuscany"). Fountaingrove and Tuscany are hereinafter collectively referred to as the Declarant.

RECITALS

A. Fountaingrove is the owner of that certain real property located in City of Santa Rosa, County of Sonoma, State of California (the "Property") more particularly described on Exhibit "A", attached hereto and by this reference incorporated herein.

B. Tuscany is the owner of that certain real property located in the City of Santa Rosa, County of Sonoma, State of California (also, the "Property") more particularly described on Exhibit "B", attached hereto and by this reference incorporated herein.

C. Declarant desires and intends to sell and convey Residential Lots, within the Property, as defined below, (and any real property annexed hereto) to various individuals subject to certain basic protective restrictions, limitations, easements, covenants, reservations, liens and charges between it and the purchasers or users of the Property as hereinafter set forth.

D. The development of the Property shall occur in Phases, as defined below. The initial Phase of development shall consist of that portion of the Property more particularly described on Exhibit "C", attached hereto and by this reference incorporated herein (the "Initial Property"). The Initial Property consists of eleven (11) Residential Lots and is the first (1st) Phase of a planned six (6) Phase residential development. If developed as planned, the Development, as defined below, will ultimately consist of two hundred and six (206) Residential Lots. Declarant makes no guarantee that all, or any, of the additional Phases proposed to be developed within the Property will ever be completed, or annexed hereto.

NOW, THEREFORE, Declarant hereby declares that all of the Initial Property described above, is, and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following protective restrictions, limitations, conditions, covenants, reservations, liens and charges, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of Residential Lots with or without Improvements, and which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development and every part thereof. Each and all of the restrictions herein contained shall run with the Initial Property

and shall be binding upon all parties having or acquiring any right, title or interest in any Residential Lot within the Development, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The provisions of this Declaration shall be enforceable by any of the Owners of an interest in the Initial Property, any property annexed to the Development or by the Declarant (so long as the Declarant owns all or any portion of the Annexation Property), against any other Owner or Owners thereof.

ARTICLE 1 **DEFINITIONS**

Unless the context indicates otherwise, the following terms shall have the following definitions:

1.1 **Annexation Property.** That certain real property located in the County of Sonoma described in **Exhibit "D"**, attached hereto and by this reference incorporated herein, which may be annexed hereto and added to the scheme created by this Declaration. Upon such annexation, the annexed property shall be governed by, and subject to each and every provision of this Declaration and any amendments hereto.

1.2 **Architectural Review Committee or Committee.** The Architectural Review Committee or Committee as further described in Article 4.

1.3 **Declarant.** Fountaingrove View Partners, L.P., a California limited partnership formerly known as Dividend Fountaingrove Partners, a California limited partnership and Tuscany at Fountaingrove, a California limited partnership, their successors and assigns, if such successors and assigns should acquire any portion of the Property from Declarant for the purpose of development and are designated by Declarant as the Declarant for the purposes hereof by a duly recorded written instrument.

1.4 **Declaration** shall mean and refer to this Declaration of Restrictions, as the same may be amended, changed or modified, from time to time.

1.5 **Development.** The Property and all Improvements, including the residences, constructed thereon and any additional real property annexed hereto, including but not limited to the Annexation Property and made subject to this Declaration in accordance with the provisions of this Declaration.

1.6 **Improvements.** Any fixtures affixed to any Lot in the Development within the meaning of California Civil Code Section 660.

1.7 **Lot or Residential Lot** shall mean and refer to (a) any plot of land shown upon the Map for the Initial Property, and (b) any plot of land shown upon any recorded subdivision

map of the Annexation Property that may be subsequently annexed into the Development in accordance with the provisions described in Article 8.

1.8 Map. The subdivision map entitled "Fountaingrove II West, Unit 1" filed for record in Sonoma County, California, on June 18, 1998, in Book 581 of Maps at pages 1 through 10, and any additional recorded maps that describe any lots that are subsequently annexed into the Development in accordance with the procedures described in Article 8.

1.9 Mortgage. A recorded Mortgage or deed of trust against a Lot in the Development.

1.10 Mortgagee. A Mortgagee under a Mortgage or a beneficiary under a deed of trust recorded against a Lot in the Development.

1.11 Owner. The record title Owner or Owners of a Lot in the Development.

1.12 Person. Any natural Person, partnership, corporation or other legal entity.

1.13 Participating Builder. Any individual, partnership, joint venture, corporation or other entity other than Declarant, to which Declarant conveys any portion of the Development or Annexation Property for the purpose of constructing residences and related Improvements thereon for resale to the general public or for the purpose of reselling finished Lots to the general public. A Participating Builder shall be deemed to be an Owner of all Lots it owns and shall be subject to all of the rights and obligations of an Owner as provided for in this Declaration upon annexation of its Lots to this Declaration.

1.14 Phase. The Lots shown on the Map and one (1) or more Lots within the Annexation Property which are simultaneously annexed to the Development by the recordation of a Declaration of Annexation in the Office of the County Recorder of Sonoma County, and for which a final subdivision public report has been issued by the California Department of Real Estate.

ARTICLE 2

PROPERTY RIGHTS AND EASEMENTS

2.1 Type of Development. This Development is a standard subdivision that is expected to ultimately contain approximately two hundred six (206) Residential Lots if and when the entire Development is completed. The first Phase will contain eleven (11) Residential Lots. Declarant has no obligation to annex any additional Phase into the Development. If any additional portion of the Annexation Property is developed and not annexed into the Development, the property in that phase will not be subject to this Declaration.

2.2 Property Rights. Each Owner shall own a fee interest in a Residential Lot and the Improvements constructed thereon.

2.3 Easements. Each Lot is subject to such easement(s), rights-of-way, or dedications as may be granted or reserved on the Map or any additional maps recorded subsequent hereto, any deed to a Lot, any other document or instrument recorded in the public records or as may be set forth in this Declaration.

2.4 Reservation of Rights. Notwithstanding any property rights, including easements, granted or reserved herein, each Lot is subject to the right of Declarant or its agents to enter on any portion of the Development to construct any improvements that Declarant intends to construct on any portion of the Development or the Annexation Property upon annexation hereto, to advertise and sell Lots in the Development, to construct and maintain model homes, to make repairs, and to correct any construction problems thereon.

2.5 Development Requirements. As part of the approvals for the Fountaingrove II development of which the Property and the Annexation Property are a part, the real property in the Development is subject to the Fountaingrove II Planned Community District Policy Statement adopted by the City of Santa Rosa per Ordinance no. 2905, August 1991 (the "Policy Statement"), the Fountaingrove II Design Program (Design Guidelines and Open Space Management Plan) (the "Design Program") and the Use Permit Provisions for Fountaingrove II (the "Permit Provisions"). In addition to the restrictions contained in this Declaration, each Lot shall be subject to the provisions contained in the Policy Statement and Design Program. If there is any conflict between the restrictions contained in this Declaration and the provisions of the Policy Statement or Design Program, the restriction or provision that is considered more restrictive shall control.

ARTICLE 3 **RESTRICTIONS**

3.1 Residential Use. Each Lot shall be used for residential purposes only; and no part of the Development shall be used or caused, allowed or authorized to be used in any way directly or indirectly for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Owners or occupants of the Lots may use a room or rooms in the residence constructed thereon as an office, provided that the primary use of the Lot is as a residence, no advertising or sign is used in any manner in connection with the office use, and no customers, clients, or patients enter the Lot on any regular basis. The use of Lots by the Declarant or its designees or any Participating Builder as models or sales or construction offices for purposes of developing, improving and selling the Lots in the Development shall not be a violation of this restriction, provided that such use shall terminate no later than fifteen (15) years after the date of recordation of this Declaration.

3.2 Leasing. Any Owner may rent or lease his or her Lot, provided each of the following conditions is satisfied:

(i) The lease or rental agreement must be in writing and must be for a term not less than thirty (30) days; and

(ii) Any lease or rental agreement shall be subject to this Declaration, and shall contain a provision that any failure to comply with the terms of the Declaration shall constitute a default under the lease or rental agreement, regardless of whether it so provides in the lease or rental agreement. If any tenant breaches any restriction contained in this Declaration, the Owner shall immediately take such steps as may be necessary to correct the breach, including, if necessary, eviction of the tenant.

3.3 Owner's Maintenance Obligations. Each Owner shall maintain his or her Lot and all Improvements and landscaping thereon in good condition and repair at all times.

3.4 Landscaping. Each Owner, at his or her cost, shall maintain the landscaping in the front, rear and side yards of the Owner's Lot in a healthy and weed-free condition. The Owner shall immediately remove and replace any dying or dead vegetation on the Owner's Lot. Maintenance shall include regular fertilization, irrigation, pruning, and other customary prudent landscaping practices.

Each Owner shall install landscaping in the front yard of the Lot at the time the dwelling on the Lot is first occupied but in no event later than one hundred eighty (180) days following close of escrow for such Lot. Upon prior written approval of the Committee in accordance with Article 4, all landscaping shall be installed pursuant to landscaping guidelines adopted by the Committee as amended from time to time.

3.5 Restricted Uses. The following activities, uses and Improvements are prohibited or restricted within the Development and the adjoining public rights-of-way:

(i) **Nuisances.** Activities, noises, uses and Improvements that are noxious, illegal or offensive, or which may be or become a nuisance, or cause unreasonable disturbance, or annoyance to occupants or interfere with the quiet use and enjoyment of the Lots; or which may adversely affect the availability or cost of insurance; or which may impair the structural integrity of any building in the Development, are prohibited.

(ii) **Shortwave or Other Radio Operation.** The operation of any shortwave or any other kind of radio transmitter from any Lot is prohibited if such operation in any way interferes with radio, television, or other electronic signal reception on any other Lot.

(iii) **Garage Sales.** The use of front yards and garages for garage sales or other activities visible from any other Lot or any public right-of-way for more than two (2) days within any twelve (12) consecutive month period is prohibited.

(iv) **Animals.** Except as set forth hereinbelow, the keeping, raising or breeding of animals of any kind is prohibited, except that not more than three dogs or three cats or any combination thereof (not exceeding three) may be kept provided they are not kept, raised or bred for commercial purposes. The limitation on dogs does not apply to guide dogs used by legally blind persons who are occupants of Lots. Other household pets, including, but not limited to rabbits, hamsters, birds, rats, mice, frogs, non-poisonous snakes, lizards, turtles and tortoises, may be kept providing they are caged or otherwise housed in an enclosed facility and are not kept, raised, or bred for commercial purposes. Such household pets must be restrained on a leash or otherwise under the direct control of an individual when in public areas. This subsection shall not be construed to limit or prohibit the keeping of fish or other marine life in an aquarium. Occupants must prevent dogs and other pets from continuously barking or making other loud noises or defecating on other Lots. Animals which are kept in violation of this subsection or are vicious by nature or by temperament shall be permanently removed by their Owner from the Development.

(v) **Television or Radio Equipment.** No television or radio poles, antenna, satellite dishes, cables or other external fixtures or personal property shall be installed or maintained on any Lot or Improvements that is visible from any public right-of-way or any other Lot.

Nothing herein shall be construed to restrict in any manner, the Declarant's right to authorize a cable television franchisee or other provider of similar services to provide cable television, radio or other similar services to the Development.

(vi) **Signs.** No sign of any kind shall be displayed on any Lot so as to be visible from any public right-of-way or any other Lot, except the following:

(a) Any sign advertising the Lot for sale or for rent that is in compliance with the sign guidelines established by the Committee, which guidelines shall be in compliance with and not more restrictive than any applicable state and local laws and ordinances;

(b) Any sign of a political nature, provided the sign is placed inside a window;

(c) Any sign approved by the Committee either on an individual basis or pursuant to guidelines adopted by the Committee; or

(d) Any sign or other structure approved by Declarant for the purpose of advertising, marketing and selling all or any portion of the Development.

(vii) **Trash Removal.** Each Lot Owner, other than Declarant, during construction on any portion of the Development, shall be responsible for the removal of all the trash, rubbish and garbage from that Owner's Lot and such trash, rubbish and garbage shall not be allowed to accumulate thereon. All trash or refuse shall be kept only in sanitary containers, which

containers shall be kept in screened or enclosed areas so that the containers are not visible from any other Lot or public right-of-way except on trash removal days if curbside service is provided.

(viii) **Automobile Maintenance.** No maintenance or repairs shall be performed on any automobile except within an enclosed garage or except for any emergency repairs that are necessary in order to remove the vehicle to a proper repair facility.

(ix) **Alterations, Modifications or Additions.** There shall be no alterations, modifications or additions made to any Lot or any Improvement thereon except in compliance with the provisions of Article 4.

(x) **Compliance with Law.** No Owner shall permit anything to be done, grown or kept on his or her Lot that violates any law, ordinance, statute, rule or regulation of any local, county, State or federal agency.

(xi) **Drilling.** No drilling, mining, or quarrying operation shall be conducted on any Lot at anytime.

(xii) **Window Coverings.** The interior surfaces of all windows shall be covered with normal and customary window coverings, such as curtains, drapes, shutters or blinds. The exterior side of window coverings shall be white, off-white, beige or other neutral or wood tones unless otherwise approved in writing by the Committee.

(xiii) **Trees.** The removal of native trees or shrubs from any Lot without the prior written approval of the Committee and the City of Santa Rosa is prohibited.

(xiv) **Nonstandard Vehicles; Mobile Homes.** The placement or maintenance of mobile homes, motor homes, trucks, commercial vehicles, campers, boats, trailers or similar vehicles within the Development is prohibited except: (i) within enclosed garages used by a single Lot; (ii) where required temporarily for the construction, repair, refinishing, or maintenance of any part of the Development; (iii) for moving furnishings, equipment, or supplies into or out of the Development; or (iv) light pickup trucks and vans used for personal use which can be parked inside the garage are permitted.

(xv) **Motorcycles; Bicycles.** Motorcycles or bicycles shall be stored within an enclosed garage or a fenced enclosure where they are not visible from any other Lot or public right-of-way or in such other locations as may be approved by the Committee.

(xvi) **Mechanical Devices.** The installation or maintenance of mechanical or other devices not a part of, or replacement for, original construction on the roof or exterior surface of the structure on any Lot, if such device is visible from any other Lot or public right-of-way, is prohibited. The Committee may grant waivers, exceptions or variances from this prohibition if such waivers, exceptions or variances are appropriate in light of technological or similar changes and are otherwise consistent with the purposes of this Declaration.

(xvii) **Exterior Antennas.** The installation or maintenance of any exterior antennas that are visible from any other Lot or public area is prohibited, except under roof overhangs that are part of original construction or whose construction has been approved in accordance with this Declaration. This prohibition may be enforced even if enforcement action is not commenced within the time limitations otherwise provided by this Declaration.

(xviii) **Sports Apparatus.** The erection of free-standing basketball standards or fixed sports apparatus in the front of any Lot is prohibited. Basketball standards affixed to the structure of a dwelling and located in the side or rear yards are permitted, provided the standards do not exceed regulation size, are neutral in color, and are constructed in a workmanlike manner and properly maintained.

(xix) **Lighting.** The installation of any exterior lighting whose source is visible from neighboring Lots is prohibited without the prior written approval of the Committee, except for ordinary nondirectional bulbs that: (i) do not exceed one hundred fifty (150) watts; and (ii) are white or yellow in color.

(xx) **Screen Doors.** The installation of any screen door or similar fixture visible from the street is prohibited without the prior written approval of the Committee, which approval shall not be given unless the Committee finds that such door or fixture is harmonious in style and color with the exterior of the dwelling constructed on the Lot and with other doors and fixtures previously approved.

(xxi) **Accessory Structures.** The construction, placement, or maintenance of accessory structures or buildings on any Lot prior to the construction of the dwelling structure is prohibited. The use of trailers, tents, shacks, garages or other outbuildings or structures as a temporary or permanent residence is prohibited except that Declarant and each Participating Builder may have a sales trailer office and a construction trailer during the construction and sales periods of their project.

(xxii) **Utility and Right-of-Way Easements.** The placement of any buildings within utility or right-of-way easements shown on any Map or deed or recorded in the public records of Sonoma County is prohibited except as permitted thereunder.

(xxiii) **Parking.** Owners or occupants shall park motor vehicles overnight only in the garage or driveways of the Lot that they occupy. No garage shall be used for storage or otherwise utilized so that it cannot be used to park at least two of occupant's motor vehicles. No garage shall be converted to living quarters or used in any manner that prevents its use as parking space for two (2) vehicles.

(xxiv) **Building Standards for Single-Family Dwellings.** Except as may be otherwise approved by the Committee, any Improvements installed on any Lot shall conform to the following standards:

(a) **Height.** No Improvement shall exceed two stories in height, and in no event more than thirty-five (35) feet in height from the finished grade immediately below the point of measurement. Fireplace chimneys may exceed this height by twenty-four (24) inches to meet the City of Santa Rosa or any other applicable code requirement. The Committee in its discretion may allow higher height requirements on an individual Lot basis so long as any such improvement conforms to all governmental requirements.

(b) **Minimum Floor Area.** The minimum floor area requirements of dwellings constructed within the Development exclusive of garages or exterior porches shall be as follows: SF-1 Lots — 2,500 square feet; SF-2 Lots — 2,200 square feet; SFC Lots — 1,800 square feet.

(c) **Garages.** Each dwelling constructed on a Lot shall have at least a two (2) car garage, but not more than three (3) garage doors may face the street. No carport shall be constructed or maintained on any Lot. Driveways shall conform to City of Santa Rosa code requirements and shall not be changed without prior written approval of the Committee.

(d) **Roofs.** All roofs shall be constructed of Class A, fire-retardant roof materials. The color of the roofing materials and the roof pitch shall comply with any guidelines established by the Committee.

(e) **Exterior Materials.** Exterior materials may be of wood, wood products, stucco, copper, stone and brick. No Lot shall use exterior wall materials of plywood, aluminum, other metal (besides copper), vinyl, or other plastics, or have a plastic or vinyl finish. Door and window frames shall be of wood, vinyl or metal materials, but in no case in bright aluminum or other bare metal color.

(f) **Color.** Except for doors, the exterior surfaces of all structures shall be painted in white, light pastels or earth tones or other colors approved by the Committee. Wood may be finished in stains.

(g) **Detached Structures and Additions.** Any solid walls on the Lot detached from the dwelling thereon must be painted, stained or finished to blend in color with the dwelling on such Lot and may be no more than eight (8) feet in height. Detached structures must maintain five (5) foot setbacks from rear and side yard fences. Additions to the main structure on a Lot must match it in color, materials, style, and quality of workmanship.

(h) **Fences.** All fences visible from adjoining public rights-of-way shall be of wood, brick, stone, stucco or a combination of such materials and shall comply with the Design Program described in Section 2.5 and such other guidelines as may be established by the Committee.

(i) **Mechanical.** All air conditioning, swimming pool, spa equipment and other mechanical equipment located on a Lot shall be located at ground level and be screened so as not to be visible from public rights-of-way or other Lots.

(j) **Utility Lines.** Except for temporary lines used during construction, all utility and service lines shall be underground, except access ports and above-ground transformers.

(xxv) **Grades, Slopes and Drainage.** No Owner of any Lot shall in any manner alter, modify or interfere with the grades, slopes or drainage on any Lot. No Owner shall undertake any activity which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. Each Owner of a Lot covenants for himself, his heirs, successors and assigns that he will permit free access by Owners of adjacent or adjoining Lots, their agents and employees, to all slope areas or drainage ways located on his Lot which affect said adjacent or adjoining Lots, which access is essential for the maintenance or permanent stabilization of said slopes or maintenance of the drainage facilities for Lots other than the Lot on which the slope or drainage way is located.

(xxvi) **Noise.** No power tools or speaker, horn, whistle, bell or other similar sound facility or equipment shall be permitted upon any Lot which is capable of producing any sound in excess of sixty-five (65) decibels measured at a point fifty (50) feet from (i) the outside of a building from which the sound emanates or (ii) the speaker or other similar facility or equipment from which the sound emanates. No activity shall be undertaken or permitted upon any Lot, which activity causes any sound, whether intermittent, recurrent or continuous, in excess of forty-five (45) decibels measured at any point on the boundary line of the Lot. Decibel measurements shall be the average of at least three and at most five decibel readings by a qualified engineer. The provisions of this section shall not, however, prohibit the installation or use of devices designed and used solely for security purposes.

(xxvii) **Disposal of Chemicals.** The use, storage or disposal on any Lot of chemicals other than normal and customary household products, declared to be dangerous to human or domestic animal health or otherwise declared to be a hazardous substance by any governmental agency is prohibited. Pesticides and herbicides are prohibited if such chemical or any product or residue thereof may seep, drain, flow, drift or otherwise migrate into any adjacent property or any natural or artificial waterway or body of water existing in the Property or adjacent property.

(xxviii) **Re-subdivision.** No Residential Lot shall be subdivided or partitioned.

(xxix) **Solar Systems.** All solar system collector units shall be integrated into the design of the dwelling in which each is installed in accordance with requirements of the Committee.

(xxx) **Dog Houses/Runs.** Dog houses shall be permitted in rear and side yards only, provided such dog houses are constructed so that no single dimension i.e. height, length or width, exceeds forty-eight (48) inches. Chain-link dog runs shall be permitted in rear yards and side yards if screened from adjacent Lots by landscaping, provided such chain-link dog runs are painted black and are constructed no higher than adjacent fences, or six feet, whichever is lower.

(xxxI) Play Equipment. Children's play equipment shall be permitted in rear yards or side yards wider than fifteen (15) feet only, provided such equipment is: (1) constructed of wood materials or materials painted to match the color of the dwelling, or (2) screened from view from any other Lot.

(xxxII) Spas/Hot Tubs. Upon prior written approval of the Committee in accordance with Article 4, spas and hot tubs shall be permitted in rear and side yards only and in compliance with all City codes and regulations, including without limitation, set-back requirements and such guidelines as may be adopted by the Committee. All spas and hot tubs and appurtenant mechanical equipment, pipes and wiring must be screened from view from any adjacent Lot by landscaping.

(xxxIII) Patios/Decks. Upon prior written approval of the Committee in accordance with Article 4, patios and decks shall be permitted in rear and side yard areas, provided such patios and decks comply with any requirements of local law and otherwise do not extend to within two feet of any side or rear yard fence, do not alter, disrupt or interfere with any drainage sale or contour established on the Lot by Declarant or any Participating Builder and comply with such guidelines as may be adopted by the Committee.

(xxxIV) Gazebos. Upon prior written approval of the Committee in accordance with Article 4, gazebos and similar structures shall be permitted in rear or side yards only, provided the installation complies with any requirements of local law and with such guidelines as may be adopted by the Committee. In addition, no gazebo or similar structure shall be constructed or otherwise placed on any Lot if the structure is located within five (5) feet of any rear or side yard fence. No gazebo or similar structure constructed anywhere within a rear or side yard shall exceed nine feet in height without the written consent of all adjacent Owners, and in no event shall any such structure exceed eleven feet in height. Gazebos shall be painted to match trim or body of main house or stained a neutral wood tone. Gazebos shall be screened from adjacent Lots by landscaping.

(xxxv) Trellis. Upon prior written approval of the Committee in accordance with Article 4, trellises shall be permitted in rear and side yards, provided the installation complies with any requirements of local law and with such guidelines as may be adopted by the Committee.

(xxxvi) Garden Sheds. Upon prior written approval of the Committee in accordance with Article 4, garden sheds shall be permitted in rear yards and any side yard greater than ten feet wide. Garden sheds shall not exceed six feet in height nor have a floor area exceeding thirty (30) square feet. Garden sheds shall be set back from adjacent fences at least three feet, and landscaping shall be installed to screen the shed from adjacent Lots.

(xxxvii) Clotheslines. No exterior clothesline shall be erected or maintained on any Lot, and there shall be no exterior drying or laundering of clothes on any balcony, patio, porch or other outside area on any Lot.

ARTICLE 4

ARCHITECTURAL REVIEW

4.1 Architectural Review Committee. An Architectural Review Committee shall be established by the Declarant. The Committee shall be composed of three (3) members. Declarant may appoint all of the original members of the Committee and all replacements until all Lots owned by Declarant have been sold. Members of the Committee appointed by Declarant need not be Lot Owners. The Committee may delegate to one or more of its members the right and duty to grant or withhold all necessary or appropriate consents or approvals hereunder, except for the granting of variances pursuant to this Article. If one or more members has been delegated such right and duty, all correspondence from the Committee shall set forth such designation. The Committee may engage the services of an architect or other qualified professional to assist in reviewing plans and specifications.

Pursuant to the paragraph above, if a member appointed by Declarant is removed by Declarant or resigns, the replacement shall be appointed by the Declarant. Until a replacement is named, the remaining members of the Committee shall have full authority to act on behalf of the Committee. No member of the Committee shall be entitled to any compensation for serving as a member, provided that the member shall be entitled to be reimbursed by the Committee for any expenses incurred by the member in performing its duties provided the member received prior authorization for the incurrence of the expense. Other than as otherwise set forth herein all actions of the Committee shall be governed by a majority vote of the members. The Committee shall meet at such times and places as it shall designate.

The Committee shall prepare initial architectural guidelines (the "Guidelines") regarding architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and other matters relating to any Improvements to be constructed or installed on the Lots and shall establish specific standards, procedures and fees for reviewing all plans and specifications submitted to it for prior approval. The Committee may, from time to time in its sole discretion, amend said Guidelines if done by majority vote. The Guidelines shall comply with the use restrictions described in Article 3. Factors that shall be considered in approving proposed plans and specifications shall include, without limitation: (i) conformity and harmony of external design with other Lots in the Development; (ii) effect of the proposed building location on neighboring Lots; (iii) relation of the topography, grade and finished ground elevation of the Lot to that of adjoining Lots; (iv) proper facing of elevations with respect to nearby streets and adjoining Lots; (v) overall conformity with the general purpose of the Development and the restrictions in this Declaration; and (vi) adherence to the Guidelines.

Any Guidelines adopted by the Committee shall comply with the Design Program described in Section 2.5.

4.2 Approval. None of the following actions shall take place on any Lot or within the Development without the prior written approval of the Committee in accordance with the procedures established herein:

- (i) Any construction, installation, landscaping, replacement, alteration or removal of any building, outbuilding, structure, wall, fence, garage, storage area, berm, drainage swales or other Improvements;
- (ii) Any grading, excavation or site preparation; or
- (iii) Any placement or storage of building materials or temporary structures (including trailers, tents, mobile homes, offices or vehicles).

Any Owner, except the Declarant and its designated agents, proposing to perform any work of any kind which requires the prior approval of the Committee shall apply to such Committee for approval by notifying the Committee of the proposed work. Said notification shall be in writing, delivered personally or mailed, return receipt requested, to the Committee at the address specified herein or as same has been changed by the Committee from time to time. Proper notice shall include two (2) sets of complete plans and specifications and any inspection fee set forth in the Guidelines. Such plans and specifications shall conform with the Guidelines established by the Committee and shall adequately describe: the proposed Improvements; plot plan of the Lot; all exterior elevations; materials; colors; signs; landscaping plans (including the type of sodding, seeding, trees, hedges, shrubs and irrigation); number, size and layout of parking; storage areas; trash enclosures; grading and excavation plans; easements and utility locations; proposed fencing; construction schedule; such other information as the Committee shall require. The Committee, in its sole discretion, may grant variances or exceptions from any Guidelines it has established for approving plans and specifications, including variances from the building standards for single-family dwellings contained in Section 3.5 (xxiv), which variances or exceptions may contain such conditions and time limitations as the Committee deems appropriate. The approval or disapproval by the Committee of any plans, specifications, drawings, grading plans, heights or any other matters submitted for approval or consent shall not be deemed to be a waiver by the Committee of its right to approve, disapprove, object or consent to any of the features or elements embodied therein when the same features or elements are embodied in other plans, specifications, drawings or other matters submitted to the Committee. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or the Guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the Guidelines for any purpose except as to the particular Lot and particular provision hereof covered by the variance.

If the Committee has established landscaping Guidelines, all landscaping and planting (including tree removal) shall comply with the Guidelines, subject to such variances as may be approved in writing by the Committee.

The proposed residence to be constructed on the Lot (other than those to be constructed by Declarant) is to be a custom home and is not to be, in the judgment of the Committee, substantially similar in exterior appearance to any other dwelling in the Development.

Notwithstanding anything herein to the contrary, any Owner may repaint the Improvements on the Owner's Lot in the same colors and remove and replace any siding or roofing materials with the same material and in the same color as originally constructed without the approval of the Committee.

The Committee shall require the payment of an inspection fee by the applicant upon notification of such applicant's proposed work and submission of applicant's plans and specifications. The amount of any such fee shall be uniformly set by the Committee and shall be determined in a reasonable manner based upon the reasonable cost of completion of the construction, alterations or additions contemplated or the cost of architectural or other professional fees incurred by the Committee in reviewing plans and specifications. If the Committee fails to approve or disapprove any plans or specifications in writing within forty-five (45) days of receipt of the complete set of plans and specifications the plans and specifications shall be deemed approved unless a written extension is executed by the person submitting the plans and specifications and by the Committee. One (1) set of plans and specifications as finally approved shall be stamped approved and shall be retained by the Committee as a permanent record.

4.3 Non-liability. The Committee, the Declarant or the other Lot Owners, or their respective successors or assigns, or any director, other partner, employee or agent thereof, shall not be liable to any Owner submitting plans to the Committee for damage, loss or prejudice suffered or claimed on account of the approval or disapproval of any plans, drawings and specifications whether or not defective or to any other Lot Owners or occupants by reason of any act or omission arising out of or in connection with the approval or disapproval of any plans, drawings or specifications or the construction of any Improvement or performance of any work performed on any Lot, whether or not pursuant to approved plans, drawings and specifications. Approval shall not constitute any warranty or representation by the Committee or its members or Declarant that the plans and specifications satisfy any applicable governmental law, ordinance or regulation or that any Improvement constructed in accordance with the plans shall be fit for the use for which it was intended and safe for use and occupancy. Applicants shall make their own independent verifications of the foregoing and shall not rely on the Committee or its members or Declarant in any manner in this regard. Neither the Committee, its members or Declarant or any director, officer, employee or agent of any of them shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any action to rectify any noncompliance with the Declaration or the Guidelines or on account of the development of any property within the Development or based on any determination or action performed pursuant to this Declaration.

4.4 Completion of Work. On receipt of written approval, the Owner shall commence the work as soon as reasonably practicable and shall diligently pursue the completion of the work. If the work is not commenced within ninety (90) days after receipt of approval or completed within one hundred eighty (180) days following commencement, or such later date as the Committee shall approve, the approval shall automatically be deemed revoked and no further work shall be done without again obtaining the written approval of the Committee as described herein. The work shall be done in strict compliance with the approved plans and specifications except for minor non-material changes as may be necessary during the course of construction.

Any change that affects the exterior appearance of any Improvement shall be conclusively presumed to be a material change and shall require the prior written approval of the Committee. Except in the case of a bona fide emergency, all work shall be performed during reasonable daylight hours. All persons performing such work shall use their best efforts to minimize (i) the duration of the work, (ii) the inconvenience to other Owners in the Development and (iii) the accumulation of debris and construction materials on and around the Lot.

4.5 Governmental Approval. Before commencement of any alteration or Improvement approved by the Committee, the Owner shall comply with all appropriate governmental laws and regulations and shall obtain all required governmental permits and approvals therefor. Approval by the Committee does not satisfy necessary and appropriate approvals and permits that may be required from any governmental entity with appropriate jurisdiction.

4.6 Declarant Exemption. Declarant or its successors shall not be subject to the approval requirements of this Article 4 in connection with the construction or alteration of any Improvement in the Development, provided that this exemption shall expire on the fifteenth (15th) anniversary of the recordation of this Declaration.

4.7 Enforcement. If any Owner or occupant violates the provisions of this Article 4, the Declarant, the Committee or any Owner, in addition to any other remedy available at law or equity, may bring an action to compel compliance, including but not limited to an action for a court order mandating the removal of any Improvement or other property constructed or installed in violation of the provisions of this Article 4. In such action, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

4.8 Declarant's Successor or Assign. Declarant may assign its rights and delegate its duties under this Article 4 to any Person, which assignment and delegation shall be effective on the date a "Notice of Assignment" is recorded in the records of Sonoma County, California. Any successor or assign subsequently may assign its rights and delegate its duties in the same manner hereunder.

4.9 Residential Lot Easements. Each Owner, by accepting title to a Lot, hereby agrees to and grants to each member of the Committee and any agent or employee of the Committee, at all reasonable hours, an easement of ingress and egress on, over and across said Lot for the purpose of inspection, rectification of any nonconforming condition thereon or compliance with any provision of this Declaration.

4.10 Bonds or Security Deposits. The Committee shall require that an Owner post a bond, cash security deposit or irrevocable letter of credit in a form satisfactory to the Committee in an amount not to exceed Five Thousand Dollars (\$5,000.00), in favor of the Committee, prior to approving any proposed work of Improvement. No person shall commence any work of Improvement until any and all such bonds, security deposits and/or letters of credit have been properly posted with the Committee. The proceeds of such bonds, security deposits and letters of credit shall be used by the Committee as deemed reasonably necessary by the Committee to

remedy any breach or default by an Owner of any provision of this Article or remedy any failure by such Owner to:

- (1) Remove any lumber, materials or debris within a reasonable period of time following completion of the work of Improvement; or
- (2) Construct or install the work of Improvement in accordance with the plans and specifications approved by the Committee;
- (3) Complete the work of Improvement in a timely manner;
- (4) Comply with any provision of this Declaration; or
- (5) Repair any damage caused by such Owner, or such Owner's contractors, subcontractors, employees, invitees and/or guests, including but not limited to, damage to public improvements, streets or other property or improvements within the Development.

4.11 Indemnification. The Owner of any Lot upon which any work of Improvement is being performed shall indemnify, defend and hold harmless the Declarant, the Committee, and every other Owner in the Development from and against any and all liability arising out of or otherwise resulting from any negligent or intentional act or omission relating to the performance of such work.

4.12 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

- (1) Upon the completion of construction, reconstruction or the alteration of the approved Improvement, or upon the completion of any other work for which approved plans are required under this Article, the Owner shall give written notice thereof to the Committee.
- (2) Within fifteen (15) days thereafter, the Committee, or its duly authorized representative, may inspect such Improvement. If the Committee finds that such construction, reconstruction or alteration was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within fifteen (15) days after the inspection. Such notice shall specify the particulars of noncompliance, and shall require the Owner to remedy such noncompliance. Said notice shall specify the date the Committee or its duly authorized representative performed the inspection of the Improvements and the date on which such notice was issued.
- (3) If it is determined by the Committee or its representative that there is noncompliance, the Owner shall remedy or remove same as directed by the Committee within forty-five (45) days from the date upon which notice of the noncompliance was issued. If the Owner does not remedy such noncompliance within said period of time or within any extension of such period as the Committee may grant, the Committee, at its option, may either remove the noncomplying Improvement or otherwise remedy the noncompliance and the Owner shall

reimburse the Committee for all expenses incurred in connection therewith including reasonable attorneys' fees, upon demand.

(4) If for any reason the Committee fails to notify the Owner in writing of any noncompliance within fifteen (15) days after receipt of said notice of completion from the Owner, the Improvement shall be deemed to be in accordance with said approved plans.

4.13 Views. In granting or denying the architectural approvals required hereunder, the Committee shall consider the effect of any Improvement on the views of adjacent Lots. No Lot Owner shall permit any obstruction in any location or any vegetation to grow to such a height or density as to unreasonably obstruct the view from any other Lot. In the event of a dispute between Owners as to the obstruction of a view from a Lot, such dispute shall be submitted to the Committee, whose majority decision in such matters shall be binding. Any such obstruction shall, upon request of the Committee, be removed or otherwise altered to the satisfaction of the Committee by the Owner upon whose Lot said obstruction is located. If said Owner fails to take such action as required, the Committee, or their authorized agents or employees, may, but is not obligated to, enter upon such Lot, rectify the condition, and charge such Owner the cost thereof. Declarant makes no assurance whatsoever concerning the continued existence or impact on views by any construction of Improvements, whether such construction has been approved by the Committee or not, or occurs on property contiguous to the Development. Each Owner, by accepting title to a Lot, hereby acknowledges that (a) there are no protected views within the Development unless such a determination is made by the Committee as provided above, and no Lot is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping or other installation of Improvements by Declarant or other Owners may impair the view from any Lot.

4.14 Retirement by Declarant. Subject to Declarant's rights under paragraph 4.1 above, at any time, Declarant and those members of the Committee appointed by Declarant, may withdraw from the Committee and the Owners of Lots in the Development shall assume the management and operation of the Committee. In order to withdraw, a member of the Committee appointed by Declarant, shall mail to the Chairman of the Committee or to the Declarant a notice stating that such member of the Committee appointed by Declarant, has determined that he/she shall withdraw from the Committee as of a certain effective date specified in such notice, such effective date being not more than sixty (60) and not less than thirty (30) days following the date of the notice. In such case the vacant seat on the Committee shall be filled by Declarant in accordance with paragraph 4.1 above. Upon the sale of all Lots owned by Declarant (or sooner at the election of Declarant) Declarant shall notify all Owners of Lots within the Development that Declarant has withdrawn from said Committee as set forth hereinabove and that all seats on said Committee are vacant. The notice shall state that in the event Declarant does not exercise its right to appoint a replacement as set forth in Paragraph 4.1 above, all Owners who wish to become members of the Committee must submit their names to Declarant at the address of the Committee within two (2) weeks of the date of such notice. Following Declarant's receipt of such names of Owners, Declarant shall publish the list of such persons to all Owners. All Owners shall thereupon have one (1) week to vote for no more than three (3) of such persons to serve on the Committee and return such votes to the Declarant. If all positions on the Committee

are vacant then those three (3) Owners receiving the most votes shall constitute the new membership of the Committee as of the effective date of Declarant's withdrawal. If three (3) or fewer than three (3) Owners respond, those Owners who responded shall automatically constitute the members of the Committee and no vote of the Owners shall be required and such members shall have the authority to fill any vacancy in the members of the Committee following the effective date of Declarant's withdrawal.

4.15 Dormant Architectural Review Committee. If no Owners or fewer than three (3) Owners respond to the notice of the Declarant and advise that they desire to serve on the Committee, the Declarant shall have no further obligation to seek Owners to serve on the Committee. In the event that no Owners respond to the notice, the Committee shall not be disbanded, but the Committee shall only become inactive until, upon the written notice of any Owner (the "Activating Owner") to all other Owners in the Development, the Activating Owner calls for volunteers to become members of the Committee. Thereupon the Activating Owner shall follow the same procedures set forth above used by Declarant as if the Activating Owner were the Declarant in order to obtain the names of Owners who wish to serve on the Committee and thereafter, if necessary, vote among such Owners to determine which of the responding Owners shall serve as members of the Committee. The Activating Owner may, but is not required to, include his own name as one of the responding Owners who wishes to be a member of the Committee and may disclose his desire to be a member of the Committee in notices to the Owners. The Activating Owner may designate any date as an effective date for the Owners to commence to function as the Committee so long as such date is not less than thirty (30) and not more than sixty (60) days from the date of the Activating Owner's first notice to the Owners. The members of the activated Committee shall immediately mail to all the Owners at the addresses of the Lots a notice to the Owners setting forth the official address of the Committee for notice purposes.

4.16 Term of Office. Those members of the Committee appointed by Declarant shall serve for so long as the Declarant has the right to appoint the members of the Committee. Any Owners becoming members of the Committee following the retirement of Declarant's appointees shall serve for a one (1) year term, except that any person who becomes a member after the annual election of members in the manner described in this paragraph shall serve only until the next annual election. The members shall be elected annually, the first annual election occurring on the anniversary date of the effective date of the retirement of the Declarant's appointees or from the effective date of the activation of a dormant Committee in the manner provided for in this Declaration. The names of persons consenting to be members of the Committee shall be sent to all Owners at the addresses of the Lots or at the addresses shown on the records of the Committee. Each Owner shall have fifteen (15) days to cast three (3) votes for any person or persons shown on such list and those three (3) Owners receiving the highest total votes shall thereafter constitute the Committee until their successors are elected and accept such positions. Incumbent members of the Committee shall be responsible for organizing, supervising and counting the votes in an election. The Committee shall submit to the Owners the name of every Owner who requests in writing thirty (30) days prior to the date of the annual election that the Committee submit his name as a candidate to be a member of the Committee.

ARTICLE 5

AMENDMENTS

5.1 Amendment Procedure. This Declaration may be amended in any respect by the vote or written assent of the holders of not less than seventy-five percent (75%) of the total voting power of all Owners (including Declarant) in the Development and the vote or written assent of the holders of not less than fifty percent (50%) of the total voting power of all Owners in the Development (excluding Declarant); provided, however, that for so long as Declarant owns at least one (1) Lot, Declarant must give its written approval to any amendment of this Declaration. For purposes herein, each Lot is entitled to one vote. If there are two or more Owners of any one Lot, the vote cast by any one Owner shall be conclusively presumed to be the vote cast for all the Owners of that Lot. If more than one vote is cast for any one Lot on any single issue, the vote of that Lot shall not be counted for that issue.

5.2 Effective Date of the Amendment. The amendment is effective when it has been approved by the appropriate percentage of Owners as required herein, the approval has been certified in a writing executed and acknowledged by the Owners of at least three Lots in the Development, and the amendment and certification have been recorded in the county in which the Development is located.

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 Headings. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

6.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other provision.

6.3 Discrimination. No Owner shall execute or cause to be recorded any instrument that imposes a restriction on the sale, leasing or occupancy of the Owner's Lot on the basis of race, sex, marital status, national ancestry, color or religion.

6.4 Number and Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine and neuter shall include the masculine, feminine or neuter as the context requires.

6.5 Reservation or Grant of Easements. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in any deed to any Lot.

6.6 Term. The term of this Declaration shall be for a period of fifty (50) years from the date on which this Declaration is recorded in the county in which the Development is located. After that time, this Declaration and each of its restrictions and covenants and other provisions automatically shall be extended for successive ten (10) year periods unless this Declaration is rescinded by the written consent of Owners holding a majority of the total voting power with each Lot entitled to one vote. The rescission shall be effective when a notice of rescission has been recorded within six (6) months of the termination date in the records of the county in which the Development is located, signed by the then Owners of at least fifty percent (50%) of the Lots.

6.7 Reserved Rights of Declarant. Declarant is recording this Declaration as part of the construction of a residential development. In order that all work necessary to complete the Development and establish a substantially occupied residential community completed as rapidly as possible, no Owner and no covenant, condition or restriction contained herein shall be understood, construed or applied in any manner that would interfere with Declarant's rights to complete construction of the Development and Improvements and to sell the Residential Lots and Improvements. The rights retained by Declarant during the construction and sales period shall include, but shall not be limited to, the right to:

- (i) maintain construction equipment, personnel and materials on any portion of the Development;
- (ii) use such portions of the Development as may be necessary or advisable to complete the construction or sales;
- (iii) maintain construction or sales offices and sales personnel on the Development;
- (iv) maintain sale signs or other appropriate advertisements on the Development;
- (v) maintain model homes for viewing by prospective purchasers; and
- (vi) allow prospective purchasers access to the Development to inspect any model homes or any portion of the Development.

6.8 Assignment by Declarant. Declarant may assign all of its rights and delegate all of its duties pursuant to this Declaration to any other Person. From and after the date of such assignment and/or delegation, the Declarant shall have no further rights and/or duties hereunder. Successors or assigns of Declarant shall execute an instrument assuming the rights and duties of the Declarant hereunder and thereafter shall be entitled to exercise all the rights of Declarant and shall be obligated to perform all the Declarant's duties, provided such successor or assign shall not be liable in any manner for any act or omission committed or omitted by the Declarant before the date such successor or assign succeeded to the rights of the Declarant hereunder.

6.9 Enforcement. The limitations, restrictions, conditions and covenants set forth in this Declaration constitute a general scheme for (i) the maintenance, protection and enhancement

of the value of the Lots within the Project; and (ii) the benefit of all Owners. Said limitations, restrictions, conditions and covenants are and shall be covenants running with the land or equitable servitudes, as the case may be.

6.10 Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. The Committee, the Declarant, or any Owner shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto. Every act or omission whereby any covenant, restriction or condition in this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated by Declarant, by the then Owner or Owners of any Lot within the Development or by the Committee. Remedies specified in this Declaration shall be deemed cumulative and in addition to any others now or hereafter existing as a matter of law or equity. The failure of Declarant, any Owner, or the Committee to enforce any of the covenants, restrictions or conditions contained herein shall not be deemed a waiver of the right to enforce the same thereafter or to enforce any other covenant, restriction or condition herein.

6.11 Notices. Any notice permitted or required by this Declaration shall be considered received on the date the notice is personally delivered to the recipient or forty-eight (48) hours after the notice is deposited in the United States mail, first-class, registered or certified mail, postage prepaid and addressed to the recipient at the address that the recipient has provided to the Committee for receipt of notice, or if no such address was provided, at the recipient's Lot address in the Development. For purposes of notice hereunder the address of the Committee shall be:

Architectural Review Committee
c/o Fountaingrove View Partners
c/o Nakano International Corp.
111 West St. John Street - Suite 702
San Jose, CA 95113
Attn: Kenji Shimada

Telephone No. (408) 286-9702
Fax No. (408) 286-9701

and

Architectural Review Committee
Tuscany at Fountaingrove
c/o Christopherson Homes
416 Aviation Blvd., Suite A
Santa Rosa, CA 95403
Attn: Keith Christopherson

Telephone No. (707) 524-8222
Fax No. (707) 524-8234

or such other address as is later designated by Declarant, in writing, and mailed to the Owners in accordance herewith.

6.12 No Enforcement Waiver. Failure to enforce a covenant, condition or restriction in the past shall not, in and of itself, constitute a defense to any action brought against any Owner for violation of any restriction contained herein. Each Owner, by acceptance of a deed to a Lot in the Development, acknowledges that the enforcement of these restrictions may vary on a case by case basis as a result of changing conditions, circumstances or other reasons, and agrees that the failure of Declarant, any Owner or the Committee to enforce any of the covenants, conditions or restrictions contained herein shall not be deemed a waiver of the right to enforce the same thereafter or to enforce any other covenant, condition or restriction contained in this Declaration.

6.13 Mortgage Protection. No breach of any of the covenants, conditions and restrictions herein contained shall defeat or render invalid the lien of any Mortgage or deed of trust encumbering any Lot in the Development made in good faith and for value. The purchaser of a Lot at any foreclosure or trustee's sale shall take title to the Lot subject to this Declaration.

6.14 Declarant's Right to Alter Plan of Development. Declarant hereby reserves the right to modify, amend, change, or eliminate altogether, the multi-Phase plan of development hereinabove described. Such rights shall include, without limitation, the right to delete any and all subsequent Phases of development, and to combine and alter the configuration and number of Phases, and/or divide the subsequent Phases into additional Phases. There is no guarantee by, or obligation of Declarant to complete all six (6) Phases of development or to annex same into the Project.

6.15 Counterpart Execution. This Declaration may be executed in any number of counterparts with the same effect as if Fountaingrove and Tuscany had signed the same documents. All counterparts shall be construed together and shall constitute one agreement.

ARTICLE 7 **DISPUTE MECHANISM**

7.1 Dispute Notification. Any disputes between any Owner(s) and the Declarant or any director, officer, partner, employee, contractor, subcontractor, design professional or agent of Declarant (collectively, "Declarant" for purposes of this Article) relating to this Declaration the use or condition of the Development, and/or the construction and installation of any Improvements located thereon shall be subject to the following provisions:

7.1.1. Notice. The Owner shall give written notice (herein, the "Notice") to the Declarant against whom the claim is made, which shall describe the nature of the claim and the proposed remedy.

7.1.2 Right to Inspect and Right to Cure: Within a reasonable period after receipt of the Notice, which period shall not exceed ninety (90) calendar days, the Declarant and the Owner shall meet at a mutually acceptable place within the Development to discuss the claim. At such meeting or at such other mutually agreeable time, Declarant and Declarant's representatives shall have full access to that portion of the Development that is subject to the claim for the purposes of inspecting and investigating same. The parties shall negotiate in good faith in an attempt to resolve the dispute. If the Declarant elects to take any agreed upon corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Development to take and complete such agreed upon corrective action.

7.2. Arbitration of Disputes. It is the intention of the Declarant that, except as otherwise expressly provided herein, any and all disputes arising under this Declaration, shall be determined by binding arbitration. Accordingly, any dispute between any Owner(s) and the Declarant, with respect to the interpretation of any of the provisions of this Declaration, or with respect to any alleged breach hereof, shall be submitted to binding arbitration before JAMS/ENDISPUTE ("JAMS") or if JAMS shall have ceased to do business within the county where the dispute arises, then the American Arbitration Association ("AAA"). (JAMS or its successor, AAA, is hereafter referred to as the "Administrator"). Notwithstanding any other provision of this Declaration, this section shall not be amended without the written consent of Declarant. In the event of any dispute, the following rules and procedures shall apply:

7.2.1. The Declarant shall advance the fees necessary to initiate the arbitration, with the costs and fees, including ongoing costs and fees to be paid as agreed by the parties and if they can't agree as determined by the arbitrator with the costs and fees of the arbitration to ultimately be borne as determined by the arbitrator;

7.2.2. The arbitration shall be both neutral and impartial;

7.2.3. A neutral and impartial individual shall be appointed to serve as arbitrator, with the arbitrator to be appointed no more than sixty (60) days from the Administrator's receipt of a written request from a party to arbitrate the claim or dispute. In selecting the arbitrator, the provisions of Section 1297.121 of the California Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed therein or in Section 1297.124 of the California Code of Civil Procedure.

7.2.4. The arbitration shall be held in the county where the Property is located unless the parties agree to some other location.

7.2.5. The arbitration shall be commenced promptly and timely in accordance with (i) the rules of the arbitration, or if the rules don't specify a date by which the arbitration must commence, then (ii) a date as agreed to by the parties, and if they cannot agree, (iii) a date determined by the arbitrator;

7.2.6. The arbitration shall be conducted in accordance with rules and procedures which are reasonable and fair to the parties.

7.2.7. The arbitration shall be concluded, in a prompt and timely fashion.

7.2.8. The arbitrator is authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of the arbitration. The parties agree that the arbitrator shall not have the power to award punitive damages.

7.2.9. The arbitration shall apply California substantive law in rendering a final decision.

7.2.10. The parties agree to be bound by the decision of the arbitrator, which shall be final and non-appealable. Judgment upon the decision rendered by the arbitrator may be entered in any court having proper jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement.

ARTICLE 8 ANNEXATION

8.1 Subsequent Phases. All or any portion of the Annexation Property may be annexed into the Development and added to the scheme of this Declaration in one or more phases by the Declarant or any Participating Builder without the assent of any of the Owners. Declarant reserves the right at its discretion to annex some or all subsequent phases and the number of lots in each such phase in any given order and at any given time and to make any modification thereto. Each subsequent phase shall be annexed into the Development and made subject to this Declaration by the recording of a Declaration of Annexation as described in Section 8.2.

Declarant, for itself and its successors and assigns, has no obligation to annex any portion of the Annexation Property into the Development and does not represent or warrant that any such additional property will be annexed into the Development. Any property that is not annexed will not be subject to the covenants, conditions or restrictions contained in this Declaration.

8.2 The Declaration of Annexation. The Declaration of Annexation shall describe the real property to be annexed and shall state that it is being executed pursuant to the terms of this Declaration for the purpose of annexing the property described in the Declaration of Annexation to the Development and to subject such property to the terms of this Declaration. The Declaration of Annexation may contain such complementary additions to and modifications of the covenants, conditions and restrictions set forth in this Declaration as are necessary to reflect the different character, if any, of the annexed property and which are not inconsistent with the general scheme of this Declaration. The changes, if any, shall apply only to the annexed property. Except as set forth in this Section, no Declaration of Annexation shall add, delete, revoke, modify or otherwise alter the covenants, conditions and restrictions set forth in this Declaration. Any Declaration of Annexation recorded in accordance with the terms of this

section shall be conclusive in favor of all Persons who relied on it in good faith. In recording the Declaration of Annexation in accordance with the provisions of this Declaration, the real property described in the Declaration of Annexation shall be a part of the Development and subject to the provisions of this Declaration.

Any annexation pursuant to the provisions of this Article shall be effective immediately upon the date of closing of the first escrow to close for the sale of a Residential Lot which is part of the Annexation Property to a bona fide purchaser pursuant to a Final Subdivision Report issued by the California Department of Real Estate. The express desired intention of Declarant is to establish a cohesive plan of such covenants and servitudes to be uniformly applicable to the Development, including those portions added thereto by annexation.

8.3 Rights of Owners. After the required annexation procedures are fulfilled all Owners of Lots within the annexed phase shall automatically be subject to the same duties and entitled to the same rights as the Owners of Lots in any previously annexed phases.

IN WITNESS WHEREOF, the undersigned hereto executed this Declaration on the date and year above written.

"DECLARANT"


FOUNTAINGROVE VIEW PARTNERS, L.P.,
a California limited partnership
formerly known as Dividend Fountaingrove Partners,
a California limited partnership

By: **NAKANO FOUNTAINGROVE, INC.,**
a California corporation,
its General Partner

By: 
Kenji Shimada, President

TUSCANY AT FOUNTAINGROVE,
a California limited partnership

By: **CHRISTOPHERSON HOMES, INC.,**
a California corporation,
its General Partner

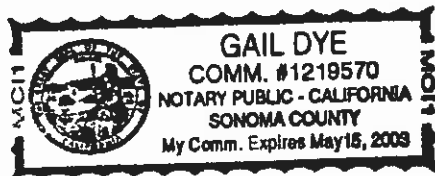
By: 
Robert W. Ragle, Jr., Vice-President

ACKNOWLEDGMENTS

STATE OF CALIFORNIA)
)ss.
COUNTY OF SONOMA)

On October 29, 1999, before me, Gail Dye
_____, personally appeared Robert W. Ragle, Jr., personally known
to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the
same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.

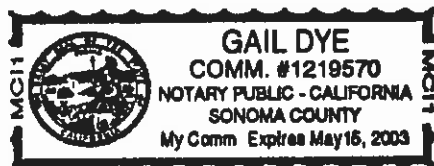


Signature

STATE OF CALIFORNIA)
)ss.
COUNTY OF SONOMA)

On November 2, 1999, before me, Gail Dye
 personally appeared Kenji Shimada, personally known
to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)
is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the
same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

WITNESS my hand and official seal.



Signature

EXHIBIT "A"

(Legal Description of Property Owned by Fountaingrove)

Lots 1 through 11 as shown upon the Map of Fountaingrove II West, Unit 1 filed in the Office of the County Recorder of Sonoma County on June 18, 1998 in Book 581 of Maps, at pages 1 through 10, Sonoma County Records.

(Legal Description Continued on Next Page)

PARCEL ONE:

The Southwest 1/4 of the Southwest 1/4 of Section 36, Township 8 north, Range 8 West, Mount Diablo Base & Meridian.

Excepting therefrom that portion described in the Deed from Robert H. Walter to the Roman Catholic Bishop of Santa Rosa, a corporation sole, recorded December 29, 1982 in the Office of the County Recorder of Sonoma County under Document No. 82070623 of Official Records.

Also excepting that portion described in the Deed from Robert H. Walter and Robert H. Walter and Bank of America National Trust & Savings Association, as Executors of the Estate of Mary Ellen C. Walter, deceased, to The City of Santa Rosa, a municipal corporation, dated September 19, 1975 and recorded September 30, 1975 in Book 3002 of Official Records, page 754, Recorder's Serial No. P-84290, Sonoma County Records.

Also excepting therefrom that portion conveyed by Robert H. Walter to The City of Santa Rosa, a municipal corporation, by Deed dated April 29, 1983 and recorded May 6, 1983 under Document No. 83028637 of Official Records of Sonoma County.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California Limited Partnership to The City of Santa Rosa, a municipal corporation, dated May 25, 1993 and recorded July 22, 1993 under Document No. 1993 0091215 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Dividend Fountaingrove Partners, a California Limited Partnership, as said lands are described by Deed recorded under Document Number 1990-003906, Sonoma County Records, said portion being more particularly described as follows:

Commencing at a 3/4" iron pipe called BY-4 and having the City of Santa Rosa coordinates of North 301585.9718, East 1798561.5226 and from which another 3/4" iron pipe called BY-5 bears North 79° 45' 21" East, 419.30 feet; thence from the point of commencement North 22° 00' 09" East 44.64 feet to Westerly line of Section 36, Township 8 North Range 8 West, M.D.B. & M., and the True Point of Beginning; thence along the Northerly right of way line of Fountaingrove Parkway as said Parkway alignment was adopted by the City of Santa Rosa April 28, 1992, by Ordinance No. 2950, as amended and described in Santa Rosa City Council Resolution No. 20758, as adopted on April 21, 1992, North 81° 53' 29" East 185.73 feet; thence on a curve to the right with a radius of 700.00 feet, through a central angle of 26° 19' 44", for a length of 321.67 feet to the Westerly line of the lands deeded to The Roman Catholic Bishop of Santa Rosa, a corporation sole, by Deed recorded

under Document Number 82-070623, Sonoma County Records; thence along said Westerly line South 23° 23' 26" West 35.14 feet; thence South 12° 17' 43" West 65.36 feet; thence leaving said West line and along the South line of the said Fountaingrove Parkway right-of-way on a non-tangent curve to the left from a tangent which bears North 71° 26' 16" West, with a radius of 600.00 feet, through a central angle of 26° 40' 15", for a length of 279.30 feet; thence South 81° 53' 29" West 200.76 feet to the Westerly line of said lands of Dividend; thence along the West line of Section 36, Township 8 North, Range 8 West, North 00° 26' 22" East 101.12 feet to the True Point of Beginning.

Also excepting therefrom all that certain real property described in a Deed from Fountaingrove View Partners, L.P., a California limited partnership, acquired title as Dividend Fountaingrove Partners, a California limited partnership, to The Roman Catholic Bishop of Santa Rosa, a corporation sole, dated December 17, 1997, recorded January 15, 1998 under Document No. 1998 0003919 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being portions of the lands of Fountaingrove View Partners, as said lands are described by Deed recorded under Document Number 1994-0065288, Official Records of Sonoma County, said portions being more particularly described as follows:

Beginning at a point on the Southerly line of the lands of the Roman Catholic Bishop of Santa Rosa, as said lands are described by Deed recorded under Document Number 1993-0078800, Official Records of Sonoma, said point lying South 89° 30' 20" East 24.47 feet from the most Southwest corner of said lands of the Bishop; thence along the common line of Fountaingrove View Partners and the Roman Catholic Bishop, South 89° 30' 20" East 176.31 feet; thence leaving said common line South 35° 42' 44" West 62.19 feet; thence on a non-tangent curve to the left from a tangent which bears North 50° 25' 51" West, with a radius of 223.00 feet, through a central angle of 33° 50' 05", for a length of 131.69 feet; thence North 84° 15' 56" West 20.33 feet to the point of beginning, and

Beginning at a point on the Southerly line of the lands of the Roman Catholic Bishop of Santa Rosa, as said lands are described by Deed recorded under Document Number 1993-0078800, Official Records of Sonoma, said point lying South 89° 30' 20" East 468.08 feet from the Southwest corner of said land of the Roman Catholic Bishop; thence from the point of beginning and along the common line of said lands of Fountaingrove View Partners and the Roman Catholic Bishop, South 89° 30' 20" East 121.17 feet; thence on a curve to the left with a radius of 550.00 feet, through a central angle of 4° 16' 24", for a length of 41.02 feet; thence leaving said common line South 37° 42' 27" West, 87.71 feet; thence on a non-tangent curve to the left from a tangent which bears North 52° 17' 33" West, with a radius of 50.00 feet, through a central angle of 73° 18' 58", for a length of 63.98 feet; thence North 35° 36' 31" West 83.85 feet to the point of beginning

PARCEL TWO:

The Northwest Quarter of Section 1, Township 7 North, Range 8 West, Mount Diablo Base & Meridian.

Excepting therefrom the following: Deed from Errol MacBoyle and Glendolyn MacBoyle to Laurence Fred King and Charlotte Ann King, dated May, 1949 and recorded on May 27, 1949 in Book 883 of Official Records of Sonoma County, page 213.

Also excepting therefrom that portion conveyed by Robert H. Walter to The City of Santa Rosa, a municipal corporation, by Deed dated April 29, 1983 and recorded May 6, 1983 under Document No. 83028635 of Official Records of Sonoma County.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership, to Fountaingrove, Inc., a California corporation, dated April 28, 1993 and recorded July 20, 1993 under Document No. 1993 0089936 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Dividend Fountaingrove Partners as said lands are described by Deed recorded under Document 1990-003906, Sonoma County Records, said portion being more particularly described as follows:

Commencing at 2" iron pipe marking the 1/4 corner between Section 36, T8N, R8W and Section 1, T7N, R8W, M.D.M. and as said 2" iron pipe is shown on that Parcel Map No. 6671 on file in Book 289 of Maps, page 4, Sonoma County Records, and running thence along the 1/4 Section line of said Section 1, South 00° 19' 17" West, 495.08 feet to the True Point of Beginning; thence from said point and leaving said 1/4 Section line, South 57° 04' 14" West, 75.19 feet; thence South 10° 55' 54" East, 182.44 feet; thence South 44° 23' 31" East, 38.77 feet to said 1/4 Section line; thence along said 1/4 Section line, North 00° 19' 17" East, 247.71 feet to the True Point of Beginning.

Also excepting therefrom all that certain real property described in a Quitclaim Deed from Dividend Fountaingrove Partners, a California limited partnership to Fountaingrove, Inc., a California corporation, dated May 4, 1994 and recorded May 18, 1994 under Document No. 1994 0065276 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Dividend Fountaingrove Partners, a California limited partnership, as said lands are described by Deed recorded under Document Number 1990-003906, Official Records of Sonoma County, said portion being described as follows:

Being the lands of Dividend Fountaingrove Partners lying Southeasterly of and adjoining the line described as "thence North 57° 04' 14" East 74.55 feet to said West line;" in the Deed from Sonoma Title Guaranty Company, a California corporation, to Fountaingrove, Inc., a California corporation, recorded July 20, 1993 under Document No. 1993-0089942, Official Records of Sonoma County.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership to Willard Austin Carle III and Nancy Lee Carle, dated June 30, 1993 and recorded May 18, 1994 under Document No. 1994 0065277 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Dividend Fountaingrove Partners, as said lands are described by Deed recorded under Document Number 90-003906, Official Records of Sonoma County, said portion being described as follows:

Beginning at the Northeasterly corner of said lands of Dividend, said corner also being the Southeast corner of Parcel 2 as said parcel is shown on that map entitled "Parcel Map No. 6671" on file in Book 289 of Maps, page 4, Sonoma County Records, and running thence along the East line of Dividend, South 00° 19' 17" West 66.79 feet; thence leaving said East line, South 84° 32' 17" West 298.42 feet; thence North 04° 29' 23" East 97.77 feet to the Northerly line of Dividend; thence along said Northerly line South 89° 33' 00" East 289.79 feet to the point of beginning.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership to Gary R. Harwell and Judith F. Harwell, dated June 30, 1993 and recorded May 18, 1994 under Document No. 1994 0065284 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Dividend Fountaingrove Partners as said lands are described by Deed recorded under Document Number 90-003906, Official Records of Sonoma County, said portion being more particularly described as follows:

Beginning at the Southwest corner of Lot 3 as said Lot is shown on that map entitled "Parcel Map No. 5278" on file in Book 255 of Maps, page 20, Sonoma County Records and running thence along the Southerly line of said Lot 3, said Southerly line being the Northerly line of Dividend, South 89° 33' 00" East 195.83 feet; thence leaving said line South 04° 29' 23" West 97.77 feet; thence South 61° 57' 11" West 142.35 feet; thence North 27° 26' 25" West 187.19 feet to the Northerly line of Dividend; thence along said Northerly line, South 89° 33' 00" East 23.73 feet to the point of beginning.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership to Tony Bonansea, dated June 30, 1993 and recorded May 18, 1994 under Document No. 1994 0065289 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Dividend Fountaingrove Partners as said lands are described by Deed recorded under Document Number 1990-003906, Sonoma County Records, said portion being more particularly described as follows:

Commencing at a 1 1/4" iron pipe on the Northeasterly line of said lands of Dividend Partners, said pipe marking the Southwest corner of the lands of Bonansea as said lands are described by Deed recorded under Document Number 1991-018537, Sonoma County Records, and running thence along the common line of said lands of Dividend and Bonansea, North 00° 23' 18" East 145.23 feet to the true point of beginning; thence from said point and along said common line North 00° 23' 18" East 284.56 feet to a point of cusp; thence leaving said common line on a non-tangent curve to the left from a tangent which bears South 18° 34' 58" West with a radius of 500.000 feet, through a central angle of 18° 11' 42", for a length of 158.78 feet; thence South 00° 23' 17" West 118.68 feet; thence on a non-tangent curve to the right from a tangent which bears South 83° 52' 08" East, with a radius of 50.00 feet, through a central angle of 31° 07' 41", for a length of 27.16 feet to the true point of beginning.

PARCEL THREE:

All that certain real property described in a Quitclaim Deed from the City of Santa Rosa to Dividend Fountaingrove Partners, a California Limited Partnership, dated June 22, 1993 and recorded July 22, 1993 under Document No. 1993 0091211 of Official Records of Sonoma County, and being more particularly described as follows:

Parcel A: Being any portion of the Fountaingrove Parkway alignment described as Parcel I, in that Deed from Robert H. Walter, et al, to the City of Santa Rosa, recorded September 30, 1975 in Book 3002, Page 754, Official Records of Sonoma County, lying between the West line of Section 36, Township 8 North, Range 8 West, M.D.B. and M., and the Westerly line of the lands of The Roman Catholic Bishop of Santa Rosa, as said lands are described by Deed recorded under Document Number 82-070623, Sonoma County Records.

Parcel B: All that portion of Fountaingrove Parkway as described by Deed recorded Document Number 83-028637, Sonoma County Records.

PARCEL FOUR:

All that certain real property described in a Quitclaim Deed from Sonoma Title Guaranty Company, a California corporation to Dividend Fountaingrove Partners, a California limited partnership, dated April 21, 1994 and recorded May 18, 1994 under Document No. 1994 0065275 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being any portion of the lands of Sonoma Title Guaranty Company, a California corporation as described by Deed recorded under Document Number 1993-0089939, Official Records of Sonoma County, said portion being described as follows:

Being any lands of Sonoma Title guaranty Company lying Easterly of and adjoining the lands of Dividend Fountaingrove Partners, a California limited partnership as described by Deed recorded under Document Number 1993-0089936, Official Records of Sonoma County, and Westerly of and adjoining the lands deeded from Sonoma Title Guaranty Company to Fountaingrove Inc., a California corporation as described by Deed recorded under Document No. 1993-089942, Official Records of Sonoma County.

PARCEL FIVE:

All that certain real property described in a Deed from Stanley E. Bauman and Ellen L. Bauman, as Trustees under Trust Agreement dated November 16, 1978 to Dividend Fountaingrove Partners, a California limited partnership, dated May 7, 1994 and recorded May 18, 1994 under Document No. 1994 0065286, Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Stanley E. Bauman and Ellen L. Bauman, as Trustees, under Trust Agreement recorded under Document Number 80-019990, Official Records of Sonoma County, said portion being more particularly described as follows:

Beginning at the Southwest corner of said lands of Bauman and running thence along the West line of Bauman, North 00° 21' 36" East 11.77 feet; thence on a non-tangent curve to the left from a tangent which bears South 81° 22' 24" East, with a radius of 20.00 feet, through a central angle of 09° 59' 36", for a length of 3.49 feet; thence North 88° 38' 00" East 20.00 feet; thence South 01° 22' 00" East 12.21 feet to the South line of said lands; thence along said South line, North 89° 33' 00" West 23.84 feet to the point of beginning.

PARCEL SIX:

All that certain real property described in a Deed from Tony Bonansea to Dividend Fountaingrove Partners, a California limited partnership, dated May 13, 1994 and recorded May 18, 1994 under Document No. 1994 0065287 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Tony Bonansea as described by Deeds recorded under Document Number 1991-018537, Official Records of Sonoma County, said portion being more particularly described as follows:

Beginning at the east Southeast corner of said lands and running thence along the South line thereof North 89° 33' 00" West 99.07 feet; thence leaving said South line, North 75° 57' 55" East 20.19 feet; thence on a tangent curve to the right with a radius of 200.00 feet, through a central angle of 07° 15' 58", for a length of 25.36 feet; thence on a curve to the left with a radius of 20.00 feet, through a central angle of 84° 35' 52", for a length of 29.53 feet; thence North 01° 22' 00" West 19.17 feet; thence North 88° 38' 00" East 20.00 feet; thence South 01° 22' 00" East 19.17 feet; thence on a curve to the left with a radius of 20.00 feet, through a central angle of 80° 00' 24", for a length of 27.93 feet to the East line of Bonansea; thence along said East line, South 00° 21' 36" West 11.77 feet to the point of beginning.

PARCEL SEVEN:

All that certain real property described in a Deed from Tony Bonansea to Dividend Fountaingrove Partners, a California limited partnership, dated May 13, 1994 and recorded May 18, 1994 under Document No. 1994 0065288 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Tony Bonansea as said lands are described by Deed recorded under Document Number 1991-018537, Sonoma County Records, said portion being more particularly described as follows:

Beginning at a 1 1/4" iron pipe and cap stamped L.S. 2757 marking the Southwest corner of said lands of Bonansea and running thence along the West line thereof North 00° 23' 18" East 145.23 feet; thence leaving said West line on a non-tangent curve to the right from a tangent which bears South 52° 44' 27" East, with a radius of 50.00 feet, through a central angle of 53° 07' 44", for a length of 46.36 feet; thence South 00° 23' 17" West 105.26 feet to the South line of said lands of Bonansea; thence along said South line, North 89° 33' 00" West 20.00 feet to the point of beginning.

PARCEL EIGHT:

All that certain real property described in a Deed from the Roman Catholic Bishop of Santa Rosa, a corporation sole, to Fountaingrove View Partners, L.P., a California limited partnership, dated December 12, 1997, recorded January 15, 1998 under Document No. 1998 0003918, and being more particularly described as follows:

Lying within the city of Santa Rosa, County of Sonoma, State of California, and being portions of the lands of the Roman Catholic Bishop of Santa Rosa as said lands are described by Deed recorded under Document Number 1993-0078800, Official Records of Sonoma County, said portions being more particularly described as follows:

Beginning at the most Southwest corner of said lands of the Roman Catholic Bishop; thence along the South line thereof South 89° 30' 20" East 24.47 feet; thence leaving said South line North 84° 15' 56" West 11.07 feet; thence North 39° 09' 59" West 19.74 feet to the West line of said lands; thence along said West line South 03° 30' 04" West 16.23 feet to the point of beginning, and

Beginning at a point in the East line of said lands of the Roman Catholic Bishop of Santa Rosa, said point being North 00° 22' 30" East 11.42 feet from the Southeast corner of said lands; thence from said point South 00° 22' 30" West 11.42 feet to the Southeast corner of said lands; thence along the Southerly line thereof on a non-tangent curve to the right from a tangent which bears South 59° 06' 10" West, with a radius of 550.00 feet, through a central angle of 27° 07' 06", for a length of 260.32 feet; thence North 37° 42' 27" East 63.40 feet; thence on a non-tangent curve to the left from a tangent which bears South 87° 53' 56" East, with a radius of 730.00 feet, through a central angle of 16° 36' 52", for a length of 211.68 feet to the point of beginning.

EXCEPTING FROM THE HEREIN DESCRIBED PARCEL ONE THROUGH PARCEL EIGHT, the following described property:

Lots 12 through 54, Parcels J, M, N and R, and Manor Park Place, Wedgewood Way, Stanhope Court and that portion of Parker Hill Road, all as shown and designated on the Map of Fountaingrove II West - Unit No. 1 filed for record in the Office of the County Recorder of Sonoma County on June 18, 1998 in Book 581 of Maps, at pages 1 through 10, Sonoma County Records.

EXHIBIT "B"

(Legal Description of Property Owned by Tuscanly)

Lots 12 through 54 as shown upon the Map of Fountaingrove II West, Unit 1 filed in the Office of the County Recorder of Sonoma County on June 18, 1998 in Book 581 of Maps, at pages 1 through 10, Sonoma County Records.

EXHIBIT "C"

(Legal Description of the Initial Property)

Lots 1 through 11 as shown upon the Map of Fountaingrove II West, Unit 1 filed in the Office of the County Recorder of Sonoma County on June 18, 1998 in Book 581 of Maps, at pages 1 through 10, Sonoma County Records.

EXHIBIT "D"

(Legal Description of the Annexation Property)

Lots 12 through 54 as shown upon the Map of Fountaingrove II West, Unit 1 filed in the Office of the County Recorder of Sonoma County on June 18, 1998 in Book 581 of Maps, at pages 1 through 10, Sonoma County Records.

(Legal Description Continued on Next Page)

PARCEL ONE:

The Southwest 1/4 of the Southwest 1/4 of Section 36, Township 8 north, Range 8 West, Mount Diablo Base & Meridian.

Excepting therefrom that portion described in the Deed from Robert H. Walter to the Roman Catholic Bishop of Santa Rosa, a corporation sole, recorded December 29, 1982 in the Office of the County Recorder of Sonoma County under Document No. 82070623 of Official Records.

Also excepting that portion described in the Deed from Robert H. Walter and Robert H. Walter and Bank of America National Trust & Savings Association, as Executors of the Estate of Mary Ellen C. Walter, deceased, to The City of Santa Rosa, a municipal corporation, dated September 19, 1975 and recorded September 30, 1975 in Book 3002 of Official Records, page 754, Recorder's Serial No. P-84290, Sonoma County Records.

Also excepting therefrom that portion conveyed by Robert H. Walter to The City of Santa Rosa, a municipal corporation, by Deed dated April 29, 1983 and recorded May 6, 1983 under Document No. 83028637 of Official Records of Sonoma County.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California Limited Partnership to The City of Santa Rosa, a municipal corporation, dated May 25, 1993 and recorded July 22, 1993 under Document No. 1993 0091215 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Dividend Fountaingrove Partners, a California Limited Partnership, as said lands are described by Deed recorded under Document Number 1990-003906, Sonoma County Records, said portion being more particularly described as follows:

Commencing at a 3/4" iron pipe called BY-4 and having the City of Santa Rosa coordinates of North 301585.9718, East 1798561.5226 and from which another 3/4" iron pipe called BY-5 bears North 79° 45' 21" East, 419.30 feet; thence from the point of commencement North 22° 00' 09" East 44.64 feet to Westerly line of Section 36, Township 8 North Range 8 West, M.D.B. & M., and the True Point of Beginning; thence along the Northerly right of way line of Fountaingrove Parkway as said Parkway alignment was adopted by the City of Santa Rosa April 28, 1992, by Ordinance No. 2950, as amended and described in Santa Rosa City Council Resolution No. 20758, as adopted on April 21, 1992, North 81° 53' 29" East 185.73 feet; thence on a curve to the right with a radius of 700.00 feet, through a central angle of 26° 19' 44", for a length of 321.67 feet to the Westerly line of the lands deeded to The Roman Catholic Bishop of Santa Rosa, a corporation sole, by Deed recorded

under Document Number 82-070623, Sonoma County Records; thence along said Westerly line South 23° 23' 26" West 35.14 feet; thence South 12° 17' 43" West 65.36 feet; thence leaving said West line and along the South line of the said Fountaingrove Parkway right-of-way on a non-tangent curve to the left from a tangent which bears North 71° 26' 16" West, with a radius of 600.00 feet, through a central angle of 26° 40' 15", for a length of 279.30 feet; thence South 81° 53' 29" West 200.76 feet to the Westerly line of said lands of Dividend; thence along the West line of Section 36, Township 8 North, Range 8 West, North 00° 26' 22" East 101.12 feet to the True Point of Beginning.

Also excepting therefrom all that certain real property described in a Deed from Fountaingrove View Partners, L.P., a California limited partnership, acquired title as Dividend Fountaingrove Partners, a California limited partnership, to The Roman Catholic Bishop of Santa Rosa, a corporation sole, dated December 17, 1997, recorded January 15, 1998 under Document No. 1998 0003919 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being portions of the lands of Fountaingrove View Partners, as said lands are described by Deed recorded under Document Number 1994-0065288, Official Records of Sonoma County, said portions being more particularly described as follows:

Beginning at a point on the Southerly line of the lands of the Roman Catholic Bishop of Santa Rosa, as said lands are described by Deed recorded under Document Number 1993-0078800, Official Records of Sonoma, said point lying South 89° 30' 20" East 24.47 feet from the most Southwest corner of said lands of the Bishop; thence along the common line of Fountaingrove View Partners and the Roman Catholic Bishop, South 89° 30' 20" East 176.31 feet; thence leaving said common line South 35° 42' 44" West 62.19 feet; thence on a non-tangent curve to the left from a tangent which bears North 50° 25' 51" West, with a radius of 223.00 feet, through a central angle of 33° 50' 05", for a length of 131.69 feet; thence North 84° 15' 56" West 20.33 feet to the point of beginning, and

Beginning at a point on the Southerly line of the lands of the Roman Catholic Bishop of Santa Rosa, as said lands are described by Deed recorded under Document Number 1993-0078800, Official Records of Sonoma, said point lying South 89° 30' 20" East 468.08 feet from the Southwest corner of said land of the Roman Catholic Bishop; thence from the point of beginning and along the common line of said lands of Fountaingrove View Partners and the Roman Catholic Bishop, South 89° 30' 20" East 121.17 feet; thence on a curve to the left with a radius of 550.00 feet, through a central angle of 4° 16' 24", for a length of 41.02 feet; thence leaving said common line South 37° 42' 27" West, 87.71 feet; thence on a non-tangent curve to the left from a tangent which bears North 52° 17' 33" West, with a radius of 50.00 feet, through a central angle of 73° 19' 58", for a length of 63.98 feet; thence North 35° 36' 31" West 83.85 feet to the point of beginning

PARCEL TWO:

The Northwest Quarter of Section 1, Township 7 North, Range 8 West, Mount Diablo Base & Meridian.

Excepting therefrom the following: Deed from Errol MacBoyle and Glendolyn MacBoyle to Lawrence Fred King and Charlotte Ann King, dated May, 1949 and recorded on May 27, 1949 in Book 883 of Official Records of Sonoma County, page 213.

Also excepting therefrom that portion conveyed by Robert H. Walter to The City of Santa Rosa, a municipal corporation, by Deed dated April 29, 1983 and recorded May 6, 1983 under Document No. 83028635 of Official Records of Sonoma County.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership, to Fountaingrove, Inc., a California corporation, dated April 28, 1993 and recorded July 20, 1993 under Document No. 1993 0089936 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Dividend Fountaingrove Partners as said lands are described by Deed recorded under Document 1990-003906, Sonoma County Records, said portion being more particularly described as follows:

Commencing at 2" Iron pipe marking the 1/4 corner between Section 36, T8N, R8W and Section 1, T7N, R8W, M.D.M. and as said 2" iron pipe is shown on that Parcel Map No. 6671 on file in Book 289 of Maps, page 4, Sonoma County Records, and running thence along the 1/4 Section line of said Section 1, South 00° 19' 17" West, 495.08 feet to the True Point of Beginning; thence from said point and leaving said 1/4 Section line, South 57° 04' 14" West, 75.19 feet; thence South 10° 55' 54" East, 182.44 feet; thence South 44° 23' 31" East, 38.77 feet to said 1/4 Section line; thence along said 1/4 Section line, North 00° 19' 17" East, 247.71 feet to the True Point of Beginning.

Also excepting therefrom all that certain real property described in a Quitclaim Deed from Dividend Fountaingrove Partners, a California limited partnership to Fountaingrove, Inc., a California corporation, dated May 4, 1994 and recorded May 18, 1994 under Document No. 1994 0065276 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Dividend Fountaingrove Partners, a California limited partnership, as said lands are described by Deed recorded under Document Number 1990-003906, Official Records of Sonoma County, said portion being described as follows:

Being the lands of Dividend Fountaingrove Partners lying Southeasterly of and adjoining the line described as "thence North 57° 04' 14" East 74.55 feet to said West line;" in the Deed from Sonoma Title Guaranty Company, a California corporation, to Fountaingrove, Inc., a California corporation, recorded July 20, 1993 under Document No. 1993-0089942, Official Records of Sonoma County.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership to Willard Austin Carle III and Nancy Lee Carle, dated June 30, 1993 and recorded May 18, 1994 under Document No. 1994 0065277 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Dividend Fountaingrove Partners, as said lands are described by Deed recorded under Document Number 90-003906, Official Records of Sonoma County, said portion being described as follows:

Beginning at the Northeasterly corner of said lands of Dividend, said corner also being the Southeast corner of Parcel 2 as said parcel is shown on that map entitled "Parcel Map No. 6671" on file in Book 289 of Maps, page 4, Sonoma County Records, and running thence along the East line of Dividend, South 00° 19' 17" West 66.79 feet; thence leaving said East line, South 84° 32' 17" West 298.42 feet; thence North 04° 29' 23" East 97.77 feet to the Northerly line of Dividend; thence along said Northerly line South 89° 33' 00" East 289.79 feet to the point of beginning.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership to Gary R. Harwell and Judith F. Harwell, dated June 30, 1993 and recorded May 18, 1994 under Document No. 1994 0065284 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Dividend Fountaingrove Partners as said lands are described by Deed recorded under Document Number 90-003906, Official Records of Sonoma County, said portion being more particularly described as follows:

Beginning at the Southwest corner of Lot 3 as said Lot is shown on that map entitled "Parcel Map No. 5278" on file in Book 255 of Maps, page 20, Sonoma County Records and running thence along the Southerly line of said Lot 3, said Southerly line being the Northerly line of Dividend, South 89° 33' 00" East 195.83 feet; thence leaving said line South 04° 29' 23" West 97.77 feet; thence South 61° 57' 11" West 142.35 feet; thence North 27° 26' 25" West 187.19 feet to the Northerly line of Dividend; thence along said Northerly line, South 89° 33' 00" East 23.73 feet to the point of beginning.

Also excepting therefrom all that certain real property described in a Deed from Dividend Fountaingrove Partners, a California limited partnership to Tony Bonansea, dated June 30, 1993 and recorded May 18, 1994 under Document No. 1994 0065289 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Dividend Fountaingrove Partners as said lands are described by Deed recorded under Document Number 1990-003906, Sonoma County Records, said portion being more particularly described as follows:

Commencing at a 1 1/4" iron pipe on the Northeasterly line of said lands of Dividend Partners, said pipe marking the Southwest corner of the lands of Bonansea as said lands are described by Deed recorded under Document Number 1991-018537, Sonoma County Records, and running thence along the common line of said lands of Dividend and Bonansea, North 00° 23' 18" East 145.23 feet to the true point of beginning; thence from said point and along said common line North 00° 23' 18" East 284.56 feet to a point of cusp; thence leaving said common line on a non-tangent curve to the left from a tangent which bears South 18° 34' 58" West with a radius of 500.000 feet, through a central angle of 18° 11' 42", for a length of 158.78 feet; thence South 00° 23' 17" West 118.68 feet; thence on a non-tangent curve to the right from a tangent which bears South 83° 52' 08" East, with a radius of 50.00 feet, through a central angle of 31° 07' 41", for a length of 27.16 feet to the true point of beginning.

PARCEL THREE:

All that certain real property described in a Quitclaim Deed from the City of Santa Rosa to Dividend Fountaingrove Partners, a California Limited Partnership, dated June 22, 1993 and recorded July 22, 1993 under Document No. 1993 0091211 of Official Records of Sonoma County, and being more particularly described as follows:

Parcel A: Being any portion of the Fountaingrove Parkway alignment described as Parcel I, in that Deed from Robert H. Walter, et al, to the City of Santa Rosa, recorded September 30, 1975 in Book 3002, Page 754, Official Records of Sonoma County, lying between the West line of Section 36, Township 8 North, Range 8 West, M.D.B. and M., and the Westerly line of the lands of The Roman Catholic Bishop of Santa Rosa, as said lands are described by Deed recorded under Document Number 82-070623, Sonoma County Records.

Parcel B: All that portion of Fountaingrove Parkway as described by Deed recorded Document Number 83-028637, Sonoma County Records.

PARCEL FOUR:

All that certain real property described in a Quitclaim Deed from Sonoma Title Guaranty Company, a California corporation to Dividend Fountaingrove Partners, a California limited partnership, dated April 21, 1994 and recorded May 18, 1994 under Document No. 1994 0065275 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being any portion of the lands of Sonoma Title Guaranty Company, a California corporation as described by Deed recorded under Document Number 1993-0089939, Official Records of Sonoma County, said portion being described as follows:

Being any lands of Sonoma Title guaranty Company lying Easterly of and adjoining the lands of Dividend Fountaingrove Partners, a California limited partnership as described by Deed recorded under Document Number 1993-0089936, Official Records of Sonoma County, and Westerly of and adjoining the lands deeded from Sonoma Title Guaranty Company to Fountaingrove Inc., a California corporation as described by Deed recorded under Document No. 1993-089942, Official Records of Sonoma County.

PARCEL FIVE:

All that certain real property described in a Deed from Stanley E. Bauman and Ellen L. Bauman, as Trustees under Trust Agreement dated November 16, 1978 to Dividend Fountaingrove Partners, a California limited partnership, dated May 7, 1994 and recorded May 18, 1994 under Document No. 1994 0065286, Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California and being a portion of the lands of Stanley E. Bauman and Ellen L. Bauman, as Trustees, under Trust Agreement recorded under Document Number 80-019990, Official Records of Sonoma County, said portion being more particularly described as follows:

Beginning at the Southwest corner of said lands of Bauman and running thence along the West line of Bauman, North 00° 21' 36" East 11.77 feet; thence on a non-tangent curve to the left from a tangent which bears South 81° 22' 24" East, with a radius of 20.00 feet, through a central angle of 09° 59' 36", for a length of 3.49 feet; thence North 88° 38' 00" East 20.00 feet; thence South 01° 22' 00" East 12.21 feet to the South line of said lands; thence along said South line, North 89° 33' 00" West 23.84 feet to the point of beginning.

PARCEL SIX:

All that certain real property described in a Deed from Tony Bonansea to Dividend Fountaingrove Partners, a California limited partnership, dated May 13, 1994 and recorded May 18, 1994 under Document No. 1994 0065287 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Tony Bonansea as described by Deeds recorded under Document Number 1991-018537, Official Records of Sonoma County, said portion being more particularly described as follows:

Beginning at the east Southeast corner of said lands and running thence along the South line thereof North 89° 33' 00" West 99.07 feet; thence leaving said South line, North 75° 57' 55" East 20.19 feet; thence on a tangent curve to the right with a radius of 200.00 feet, through a central angle of 07° 15' 58", for a length of 25.36 feet; thence on a curve to the left with a radius of 20.00 feet, through a central angle of 84° 35' 52", for a length of 29.53 feet; thence North 01° 22' 00" West 19.17 feet; thence North 88° 38' 00" East 20.00 feet; thence South 01° 22' 00" East 19.17 feet; thence on a curve to the left with a radius of 20.00 feet, through a central angle of 80° 00' 24", for a length of 27.93 feet to the East line of Bonansea; thence along said East line, South 00° 21' 36" West 11.77 feet to the point of beginning.

PARCEL SEVEN:

All that certain real property described in a Deed from Tony Bonansea to Dividend Fountaingrove Partners, a California limited partnership, dated May 13, 1994 and recorded May 18, 1994 under Document No. 1994 0065288 of Official Records of Sonoma County, and being more particularly described as follows:

Lying within the City of Santa Rosa, County of Sonoma, State of California, and being a portion of the lands of Tony Bonansea as said lands are described by Deed recorded under Document Number 1991-018537, Sonoma County Records, said portion being more particularly described as follows:

Beginning at a 1 1/4" iron pipe and cap stamped L.S. 2757 marking the Southwest corner of said lands of Bonansea and running thence along the West line thereof North 00° 23' 18" East 145.23 feet; thence leaving said West line on a non-tangent curve to the right from a tangent which bears South 52° 44' 27" East, with a radius of 50.00 feet, through a central angle of 53° 07' 44", for a length of 46.36 feet; thence South 00° 23' 17" West 105.26 feet to the South line of said lands of Bonansea; thence along said South line, North 89° 33' 00" West 20.00 feet to the point of beginning.

PARCEL EIGHT:

All that certain real property described in a Deed from the Roman Catholic Bishop of Santa Rosa, a corporation sole, to Fountaingrove View Partners, L.P., a California limited partnership, dated December 12, 1997, recorded January 15, 1998 under Document No. 1998 0003918, and being more particularly described as follows:

Lying within the city of Santa Rosa, County of Sonoma, State of California, and being portions of the lands of the Roman Catholic Bishop of Santa Rosa as said lands are described by Deed recorded under Document Number 1993-0078800, Official Records of Sonoma County, said portions being more particularly described as follows:

Beginning at the most Southwest corner of said lands of the Roman Catholic Bishop; thence along the South line thereof South 89° 30' 20" East 24.47 feet; thence leaving said South line North 84° 15' 56" West 11.07 feet; thence North 39° 09' 59" West 19.74 feet to the West line of said lands; thence along said West line South 03° 30' 04" West 16.23 feet to the point of beginning, and

Beginning at a point in the East line of said lands of the Roman Catholic Bishop of Santa Rosa, said point being North 00° 22' 30" East 11.42 feet from the Southeast corner of said lands; thence from said point South 00° 22' 30" West 11.42 feet to the Southeast corner of said lands; thence along the Southerly line thereof on a non-tangent curve to the right from a tangent which bears South 59° 06' 10" West, with a radius of 550.00 feet, through a central angle of 27° 07' 06", for a length of 260.32 feet; thence North 37° 42' 27" East 63.40 feet; thence on a non-tangent curve to the left from a tangent which bears South 87° 53' 56" East, with a radius of 730.00 feet, through a central angle of 16° 36' 52", for a length of 211.68 feet to the point of beginning.

EXCEPTING THEREFROM THE DESCRIBED PARCEL ONE THROUGH PARCEL EIGHT, the following described property:

Lots 1 through 11, Parcels J, M, N and E, and Manor Park Place, Wedgewood Way, Stanhope Court, and that portion of Parker Hill Road as shown and designated on the Map of Fountaingrove II West - Unit No. 1 filed for record in the Office of the County Recorder of Sonoma County on June 18, 1998 in Book 581 of Maps, at pages 1 through 10, Sonoma County Records.