

#11

JULIE RODEWALD
San Luis Obispo County - Clerk/Recorder
Recorded at the request of
Cuesta Title Company

MEL
11/28/2002
8:00 AM

Recording requested by:
Cuesta Title Company

When recorded return to:

STEPHEN N. COOL
Attorney at Law
1577 El Camino Real
Arroyo Grande, California 93420

DOC#: 2002103057



Title: 1 Pages: 30

Fee	84.00
Taxes	0.00
Others	0.00
PAID	84.00

SPACE ABOVE FOR RECORDERS USE

APN:

**DECLARATION OF COVENANTS, CONDITIONS, RECIPROCAL
EASEMENTS AND RESTRICTIONS**

RANCHO DE PARAISO

Phases II and III

Tract No. 2396

Book 21 Pages 16-20 of MAPS

THIS DECLARATION, MADE ON THE DATE HEREINAFTER SET FORTH, BY
RANCHO DE PARAISO LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AS
"DECLARANT", IS MADE WITH REFERENCE TO THE FOLLOWING FACTS:

A. Declarant RANCHO DE PARAISO LLC is the owner of certain parcels of land
located in the City of Atascadero, County of San Luis Obispo, State of California, more
particularly depicted as the numbered lots on the diagram attached hereto as Exhibit "A"
("the Property");

B. Declarant intends by this document to impose upon the Property mutually beneficial covenants, conditions and restrictions and to establish certain reciprocal easements, under a general plan of improvement for the benefit of all of the said lots described herein and the owners thereof.

C. Now therefore, Declarant hereby declares that the Property, and each separate lot thereof, shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved, subject to the following declarations, limitations, covenants, conditions, easements, and restrictions, all of which are imposed as equitable servitude pursuant to a general plan for the development of the Property for the purpose of enhancing and protecting the value and attractiveness of the properties, and every part thereof. All of the limitations, covenants, conditions, easements, and restrictions shall constitute covenants which shall run with the land and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the real property herein described.

SECTION 1. DEFINITIONS

- 1.1 "Architctural Control Commilttee," shall mean the committee established under Section 4.2 of this Declaration.
- 1.2 "City," shall mean and refer to the City of Atascadero, a municipal corporation.
- 1.3 "Declarant," shall mean and refer to RANCHO DE PARAISO LLC, a California Limited Liability Company, or any successors or assigns that expressly assume

the rights and duties of Declarant hereunder, individually or collectively, in a recorded written document.

1.4 "Declaration," shall mean and refer to this Declaration of Covenants, Conditions, Reciprocal Easements and Restrictions, as amended or supplemented from time to time.

1.5 "Dwelling," shall mean and refer to a single family structure designed for human habitation, exclusive of a manufactured home as defined in California Health and Safety Code Section 18007.

1.6 "First Lender," shall mean any person, entity, bank savings and loan association, insurance company, or financial institution holding a recorded first mortgage on any lot in the Project.

1.7 "Lot," shall mean and refer to each lot which is described in Exhibit "A" and covered by this Declaration. "Lot" shall include all lots resulting from the division of any Lot in the Property, and also to any land that becomes part of a Lot in the Property as the result of a lot line adjustment.

1.8 "Majority of Owners," shall mean and refer to fifty-one percent (51%) of the votes attributable to all of the lots in the Property, or, as to the road maintenance provisions, all of the lots in that Section. Each such Lot shall have one vote which shall be cast as all of the Owners of a Lot agree among themselves. If all of the Owners of a particular Lot cannot mutually agree for casting a vote attributable of the Lot, then the

vote attributable to the lot shall not be included in computing the majority of Owners for the matter being determined.

1.9 "Mortgage," shall include a deed of trust as well as a mortgage.

1.10 "Mortgagee," shall include a beneficiary or a holder of a deed of trust as well as mortgagee.

1.11 "Mortgagor," shall include the trustor of a deed of trust as well as mortgagor.

1.12 "Owner" or "Owners," shall mean and refer to the record holders of title, if more than one, of any Lot in the Property which is covered by this Declaration. This shall include any person having a fee simple title to any such Lot and shall include contract sellers, but shall exclude persons or entities having any interest merely as security for the performance of an obligation.

1.13 "Project," shall mean and refer to all of the lots described in Exhibit "A", together with all Related Road Improvements serving the lots.

1.14 "Related Road Improvements," shall mean and refer to street signs, traffic delineation devices, warning and regulatory signs, guardrails, barricades, gates, electric or otherwise, and other similar devices existing upon completion of the initial construction of the Road, or otherwise as required from time to time by the Director of Public Works for the City.

1.15 "Road," shall mean and refer to the roadways within the Project Related Roadway Improvements, and pedestrian travel ways constructed within the Road rights-of-way.

1.16 "Section" shall refer to each numbered group of lots which is depicted and highlighted on each of the Exhibits "A-1", "A-2", and "A-3", attached hereto, and to the highlighted roadways depicted and highlighted on each Exhibit which are to be maintained by those Lots in each Section.

SECTION 2. CREATION OF EASEMENTS

2.1 **Creation of Mutual and Reciprocal Easements.** Each of the Lots are granted and shall have appurtenant to it an easement in, under or over each of the roads for ingress, egress, maintenance, fire protection and access, and rights of way, and any other use and enjoyment for the purpose for which it is intended.

2.2 **Easements to Accompany Conveyance of Lot.** The Easements herein referenced that benefit or burden any lot shall be appurtenant to that Lot and shall automatically accompany the conveyance of any Lot, even though the description in the instrument of conveyance may refer only to the fee title to the Lot.

SECTION 3. OWNERS' RIGHTS AND DUTIES REGARDING THE ROADS.

Without limiting the rights created under Section 2, the rights and duties of the owners of Lots with respect to the Roads and Related Road Improvements shall be subject to the following:

3.1 The Owners of the Lots in each Section shown on Exhibits "A-1", "A-2", and "A-3" shall equally share the costs of maintaining and repairing the Roads (as defined in Section 1.16), and the Related Road Improvements (as defined in Section 1.15) in that Section, only, in a good and safe condition, notwithstanding the proportional use thereof by the Owners.

3.2 The Owners in each Section shall mutually maintain the Roads and Related Road Improvements to the appropriate standard as referenced in Section 3.1, and make repairs and replacements to the extent and at the times as a majority of such Owners agree. In the event that a majority of Owners are unable to agree on the time, extent and the cost for maintenance or repair within thirty (30) days after the written request of one Owner to the other Owners setting forth a proposed time for and extent of the repair or maintenance, then, upon written request any one (1) Owner addressed to the Owners, the matter shall be submitted to binding arbitration with sixty (60) days pursuant to Section 5.8.

3.3 Any such repair or maintenance of the Roads herein required shall be based upon an opinion or plans and specifications prepared by a properly licensed professional and performed in a workmanlike manner based upon generally accepted construction standards. The cost of such repair and maintenance shall be determined by the lowest of at least two (2) construction bids provided by contractors properly licensed in the State of California.

3.4 In the event that any Owner, or agent, servant, invitee or guest of any Owner, causes damage to or deterioration of a Road, or any of the Related Road Improvements, including utilities facilities, then that Owner, at its sole cost and expense, shall repair such damage or deterioration no later than thirty (30) days after written demand therefore is made by any Owner. However, in the event that such repair cannot be completed within said thirty (30) day period, then the Owner shall have a reasonable period of time to complete the repair provided that it is commenced within the thirty (30) day period after the demand.

3.5 It is the intent of the Declarant that the provisions of this Declaration, and this Section 3 in particular, shall constitute the agreement between easement owners in each Section for maintaining the easements herein described in repair pursuant to California Civil Code §845(b).

3.6 The duty of the Owners to maintain the roads in their respective Sections shall not include maintenance of those improvements shown on the exhibits as private driveways; such driveways shall be maintained only by the owners of the lots served by them.

SECTION 4. ARCHITECTURAL CONTROL AND USE RESTRICTIONS.

4.1 **Development of Project.** These restrictions have neither the intent nor purpose to in any way minimize any applicable standards which have been established by the City as a condition for the construction of dwellings on the Lots in the Project. The Owners shall have the sole responsibility for and control of developing, engineering and

executing the construction of the dwellings. It will be the Owners' responsibility to coordinate and meet any City requirements for the project attributable to the Owners.

4.2 Architectural Control.

(a) No building, fence, wall, pool, spa, obstruction, improvement, or structure of any kind shall be commenced, installed, erected, or maintained on a Lot, nor shall any alteration of improvements of any kind be made thereto, until the same has been approved in writing by the Architectural Control Committee, (the "Committee"), as hereafter described.

(b) Plans and specifications showing the nature, kind, shape, size, materials, and location of any proposed improvements, or alterations to existing improvements, shall be submitted to the Committee for approval as to quality or workmanship and harmony of the external design and construction with existing structures, and as to location, in relation to surrounding structures, topography, and finish grade elevations. No permission or approval shall be required to repair or replace any item in accordance plans and specifications originally approved by the Committee.

(c) Landscaping plans shall be submitted to the Committee with the plans and specifications for the initial construction of a dwelling on a Lot in the project and must be approved in writing before the start of any construction on the Lot. Within thirty (30) days after the completion of any dwelling permanent landscaping must be installed on the Lot in accordance with the approved plans. Thereafter, the landscaping must be

maintained in a neat and orderly condition at all times so that it presents a pleasing appearance to the owners and occupants of the Lots.

(d) The Committee shall consist of three (3) members. Declarant shall appoint all of the original members of the Committee and all replacements until the earlier of, (I) one (1) year from the recording of this Declaration, or (ii) upon the sale of more than fifty percent (50%) of the lots in the project. After this date, a majority of owners shall have the power to appoint all members to the Committee. Members appointed to the Committee need not be owners. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the successor shall be appointed or elected by the remaining member. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. In the event the Committee fails to approve or disapprove plans and specifications in writing within ninety (90) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been satisfied.

(e) Approval of plans by the Committee shall in no way make the Committee or its members responsible or liable for the improvements built after approval of the plans, and the Owner whose plans are approved shall defend, indemnify, and hold the Committee and the members thereof harmless from any and all liability arising out of such approval.

(f) The work of constructing and erecting any building or structure, or the installation of landscaping, must be prosecuted diligently and continuously from the start thereof until it is completed. No out buildings may be completed before the completion of the dwelling, except that temporary office and storage building may be erected for workers engaged in building a dwelling on a lot in the project. Any temporary buildings must be removed as soon as the dwelling is completed. The construction schedule must be submitted to the Committee as a part of the plans and specifications and is subject to approval by the Committee. A licensed general building contractor is required and must be responsible for all construction activities.

(g) The Committee shall have the right and power to issue and serve on an Owner a notice of non-compliance specifying the non-compliance of such owner with the provisions of this Section 4 of the Declaration. If the Owner fails to bring its conduct within compliance of the provisions of this Declaration within 15 days, or such other reasonable time as determined by the Committee, the Committee may record with the County Recorder of San Luis Obispo County, California a notice of non-compliance and thereafter file a proceeding in equity to restrain said non-compliance or any attempted non-compliance.

4.3 Size Requirements; Exposed Foundations; Low Flow Plumbing Devices. No dwelling shall be erected on any Lot having a total floor area of the main structure (exclusive of open porches, garages, patios, exterior stairways and landing), of less than 1900 square feet. All dwellings and supporting structures maintaining plumbing

facilities and improvements shall be equipped with low-flow water conservation devices on all toilets, sinks and showers, including, but not necessarily limited to faucets and shower heads.

4.4 New Materials and New Structures Only. No second-hand material shall be used in the construction of any buildings or dwellings without the prior written consent of the Committee. Unless otherwise required by law, all dwellings and structures to be frame construction and shall not be modular or prefabricated homes.

No building of any kind shall be moved from any other place to any Lot or from one subject lot to any other without the prior written consent of the Committee.

4.5 Roof Design, Pitch and Materials. The roofing materials for any dwelling or other structure shall be mission tile, clay fired flat tile, or concrete flat tile products, unless otherwise disallowed by the Committee; provided, however, that metal materials may be used if the Committee determines that the materials and appearance of the materials are of the quality allowed under this Declaration. The Committee is authorized to allow flat roofs only if it is determined that the structure or dwelling of which the roof is a part is compatible with the quality and appearance for any structure or dwelling required to be approved under this Declaration.

4.6 Utilities and Utility Trenches. All utility installations leading from a point which is the responsibility of any utility provider to a dwelling or other structure shall be underground. Plans submitted to the Committee shall indicate the locations of all utility trenches.

4.7 **Garages; Driveways.** No dwelling shall be constructed or maintained on any Lot in the project without a garage large enough to contain two standard sized automobiles. Driveways from street to garage shall be asphalt or concrete.

4.8 **HVAC Equipment.** All exterior heating and/or air conditioning equipment must be screened from streets and side and rear Lot lines of Lots in the project so as to avoid any view from those locations.

4.9 **Changing Grades, Slopes and Drainage.** No changes in the existing grade or elevation of any lot or change in the existing slope or ratio of any cuts and fills, which alters existing drainage patterns or which affect the stabilization of surrounding soils, shall be permitted without the prior written consent of the Committee and with the approval of the City. For the purposes of this provision, established drainage patterns are defined as all natural or man-made drainage patterns existing as of the date of this Declaration, or as otherwise approved by the City and the Committee. The Committee shall have the right to establish rules and regulations as it determines in its discretion, or otherwise specified by the City, to prevent or otherwise regulate excessive grading, as that term is to be defined by the Committee, and as approved by the City.

Each Owner of a Lot covenants to permit free access by the Declarant or any owner of an adjacent Lot to slopes or drainage ways located within the Project when such access is required for the maintenance or permanent stabilization of such slopes, the maintenance of drainage facilities, or for the protection and use of property other than the Lot on which the slope or drainage way is located.

4.10 Use of Lots. No dwelling, building or structure may be erected, constructed, altered, or maintained on any Lot other than a dwelling with customary and suitable outbuildings as permitted by law and the Committee. Home occupations shall be permitted as long as they comply with City permit requirements and regulations.

No tent, shack, trailer, basement, garage or outbuilding shall at any time be used on any Lot in the Project as a dwelling, either temporary or permanently. No manufactured home as defined in California Health and Safety Code §18007 shall be placed or erected on any Lot.

No health care facilities operating as a business or charity and serving the sick, elderly, disabled, handicapped or retarded shall be permitted in the Project, except to the extent that such uses by statute may not be prohibited.

No family day care center for children shall be permitted except as specifically authorized by California Health and Safety Code §1597.40 and other applicable state statutes. The owner/operator of any such day care facility shall comply with all local and State laws regarding the licensing and operating of a day care center and, in addition, shall:

- A. Name the owners in the project as additional insureds on the liability insurance policy or bond carried by the owner/operator of the day care center;
- B. Defend, indemnify and hold the owners harmless from any liability arising out of the existence and operation of the day care center;

C. Supervise and be completely responsible for children at all times while they are within the project.

4.11 **Upkeep of Lots.** Each owner shall keep, maintain, water, plant and replant all areas, slopes, banks, rights of ways, and set-back areas located on his or her Lot so as to prevent erosion and to present an attractive, clean, sightly and wholesome appearance at all times. Natural vegetation area of all Lots shall be cleaned and grubbed as necessary to maintain safe fire conditions, the standards of which shall be established by the Committee with the advice of any governmental agency having jurisdiction over fire control for the project. Each Owner shall further keep and maintain all structures and fences located on a lot in an attractive, clean, sightly and wholesome appearance at all times and shall paint all structures with such frequency to avoid flaking and scaling paint.

4.12 **Storage of Materials, Junk, Trash and Manure.** The storage of or accumulation of junk, trash, manure and other offensive or noxious materials is specifically prohibited. No burning shall be permitted except in fireplaces or barbecues.

4.13. **Nuisances.** No noxious, illegal, or seriously offensive activities shall be carried on upon any Lot in the project, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of any of the owners.

4.14 **Storage of Cars, Trailers, Campers, Boats, Parking etc.** No recreational vehicle or non-operative vehicle of any type shall be parked on any street within the Project either temporarily or permanently. Recreational vehicles, boats,

campers and similar items belonging to the owner or occupants of a Lot may be parked or stored on a Lot provided it is within an enclosed fence being a minimum of six feet in height, located to the rear of the front face of the residence. Motor vehicles shall not be parked on any street within the project nor shall any motor vehicle be parked in the front setback area of a Lot for a period greater than 24 hours. No painting, repairing or mechanic work shall be done on any lot in the Project except in enclosed areas approved by the Committee in writing, which areas shall be sufficiently screened from the street and the side and rear lot lines to eliminate any possibility of a nuisance being created by storage or such items or activities involving such items.

4.15 **Commercial Activity.** No business, professional, or commercial activity of any kind shall be conducted on any lot in the project except as provided in Section 4.1.

4.16 **Signs.** No signs shall be displayed to the public view on any Lot. "For Sale" or "For Rent" or "For Exchange" signs shall be allowed and the Owners may display on (1) sign advertising directions to another Owner's lot which is for sale, rent, or exchange, provided the design, dimensions and locations are reasonable. Only one (1) such sign shall be permitted on any Lot in the Project. The sign shall not be attached to the outside of the house or fence. It may be displayed in the window, or staked in the yard.

4.17 **Animals.** Animals kept on any Lot shall be limited to (a) no more than four (4) dogs or cats, (b) no more than three (3) livestock (limited to horses, cows, sheep and goats), and (c) poultry. All livestock and poultry shall at all times be confined to an area

no less than 50 feet from any residential structure on an adjoining lot. No commercial breeding or housing of any animals shall be permitted. All keeping of animals, and construction and use of animal housing areas, shall be done in strict conformance with all applicable City ordinances.

4.18 Garbage & Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, and shall be screened from view of neighboring lots and streets. No toxic or hazardous materials shall be disposed of within the project by dumping in garbage containers or down the drains, or otherwise. Each owner shall be responsible for removal of garbage from his lot.

4.19 Poles, Masts and Antennas. No poles, masts, or antennas of any type, size or height shall be constructed on any lot, or on or above the roof of any dwelling or structure. One satellite dish, painted brown or green with unleaded paint, may be placed on a Lot but no satellite dish may be located within a site distance from any street or side and rear lot line unless it is adequately screened to the reasonable satisfaction of the Committee.

4.20 Drying Yards. No utility area or drying yard shall be constructed or maintained on any Lot unless a plan therefor shall be first submitted to the Committee,

who shall determine in writing that such plan appropriately provides for screening the area or yard from exterior view.

4.21 **Wells, Derricks and Mines.** No wells for the production of, or from which there is produced, oil, gas or water may be operated on any lot, nor may any machinery, appliance, or structure be placed, operated, or maintained on any Lot for use in connection with any trading, manufacturing, or repairing business, or any business whatsoever. No mining or quarrying operations of any kind will be permitted on or in any Lot nor will oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any such Lot.

SECTION 5. GENERAL PROVISIONS

5.1 **Enforcement.** Any Owner or the Committee shall have the right (but not the obligation) to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, and in such action shall be entitled to recover reasonable attorney's fees as are ordered by the Court. Failure by any Owner of the Committee to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

5.2 **Invalidity of Any Provisions.** Should any provision of this Declaration or portion thereof be declared invalid or in conflict with any law of the jurisdiction where this Project is situated, the validity of all other provisions and portions thereof shall remain unaffected and in full force and effect.

5.3 **Term.** The covenants and restrictions of this Declaration shall run with and bind the Project, and shall inure to the benefit of and shall be enforceable by the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns. The provisions of this Declaration as they relate to the maintenance and repair of the Road and Related Road Improvements shall immediately cease and become ineffective upon the acceptance of any dedication to a governmental entity having jurisdiction thereof, and who assumes the responsibility for repair, maintenance and reconstruction thereof.

Notwithstanding the above to the contrary, the easements described in Section 2 shall be permanent in nature and shall run with and bind the project, and shall inure to the benefit of and shall be enforceable by the Owner of any property subject to this Declaration in perpetuity.

5.4 **Amendments.** This Declaration may be amended only by the affirmative vote or written consent of a majority of Owners approving the amendment and recorded. No amendment shall adversely affect the rights of the holder of any mortgage of record prior to the recordation of such amendment.

5.5 **Notice.** Any notice permitted or required by this Declaration may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the assessed

owner of the lot to whom notice is to be given as appearing in the assessment records of the San Luis Obispo County Assessor at the time of the mailing.

5.6 Waiver of Liability and Indemnification. Except as otherwise provided herein, each Owner, on his or her own behalf, and on behalf of that Owner's respective guest, invitees and licensees, releases each other Owner and that Owner's guests, invitees and licensees, from liability arising from or relating to the use of the Road by an Owner or any Owner's respective guests, invitees and licensees, arising out of any active or passive negligence relating to the maintenance, repair or condition of the Road.

Subject to the provisions of the above release, each Owner agrees to indemnify and hold harmless each other Owner from any and all liability, claims, loss, damages, or expenses arising by reason of death or injury of any person, including an Owner or an Owner's agents, and guests, invitees, licensees and employees, or by reason of damage to or destruction of any property, including property owned by an Owner, an Owner's guests, invitees, licensees, and employees, caused by (1) any cause whatsoever which is connected with the use of the Road, (2) some condition thereof or any improvement thereon, including the repair or lack of repair thereof, (3) some act or omission on or within the Road by an Owner, an Owner's agents, guests, invitees, licensees and employees, or (4) any matter connected with an Owners occupancy and use thereof.

5.7 Liability Insurance. Each Owner shall maintain adequate insurance coverage for all risks of personal injury or death, as well as any liability for damage to property, arising out of or connected with the improvements, repairs, or maintenance, or

lack thereof, of the easements established by this Declaration. Each Owner hereby grants to each other Owner, on behalf of any insurer providing insurance required by this Section, a waiver of any right of subrogation that any such insurer of one Owner may acquire against another Owner by virtue of payment of any loss under that insurance.

3.8 Arbitration of Disputes. Any controversy or claim arising out of or relating to any issue which may arise under Section 3.2 of this Declaration or the breach thereof shall be settled by binding arbitration in accordance with the rules of the Judicial Arbitration Rules of the California Code of Civil Procedure.

5.9 Rights of First Lender. No breach of any of the provisions herein contained or the enforcement of any obligation imposed upon a Lot owner shall render invalid the lien of any first mortgage on any Lot made in good faith and for value, but all of the said covenants, conditions, and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

5.10 Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of residential subdivisions and incidental improvements upon the project. The completion of that work and the sale of said lots is essential to the establishment and welfare of the project as a residential community. In order that said work may be completed and said project be established as a fully occupied residential community as rapidly as possible nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, or its contractors, or subcontractors from doing on the project or any Lot, whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintain on the Project (except upon lots owned by others), such structures as may be reasonable and necessary for developing said project as a residential community and disposing of the same by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on the project (except upon Lots owned by others) the business of completing said work and of establishing a plan of residential ownership and of disposing of Lots by sale or otherwise; or

(d) Prevent Declarant from maintaining such signs or flag(s) on the Project (except upon lots owned by others) as may be necessary for the sale, lease or disposition thereof;

The foregoing rights of Declarant shall terminate upon sale of Declarant's entire interest in the project.

Except as otherwise set forth, so long as Declarant, owns one (1) or more of the Lots described herein, Declarant shall be subject to the provisions of this Declaration.

Declarant shall make reasonable efforts to avoid disturbing the use and enjoyment of the Lots by their owners while completing any work necessary to said lots.

5.11 **Termination of any Responsibility of Declarants.** In the event Declarant shall convey all of its rights, title and interest in and to the Project to any person, then

Declarant shall be relieved from the performance of any further duty or obligation hereunder, and the new owner shall be obligated to perform all such duties and obligations of the Declarant.

5.12 Annexation of Contiguous Property. Any real property contiguous to the property may be annexed to the project and made subject to this Declaration at the written election of the Declarant (or by the successors in title to such real property) made at any time and from time to time within three (3) years following the original issuance of a final subdivision public report by the California Commissioner of Real Estate for the most recent phase of the project. Such election shall be made by the recording of a declaration of annexation, which shall describe the real property to be annexed, shall state that it is being effected pursuant to the terms of this Declaration for the purpose of annexing the property described to the Declaration. Any Declaration recorded in accordance with the terms of this Section shall be conclusive in favor of all persons who relied on it in good faith. Upon recording the declaration of annexation in accordance with the provisions of this Declaration, the real property described therein shall be part of the project and subject to the provisions of this Declaration. Regular assessments with respect to the annexed real property shall commence at the time of recording.

Declarant in such supplement shall expressly reserve for the benefit of all property that may from time to time be covered by this Declaration reciprocal easements of use, enjoyment, access, ingress and egress. Such easements may be used by Declarant, its successors, purchasers, and all owners of Lots, their guests, tenants and invitees, for

sidewalks, walkways, vehicular access, and such other purposes reasonably necessary to the use and enjoyment of all Lots in the project. The supplement may contain complementary additions, amendments, and modifications to this Declaration necessary to reflect the different character, if any, of the real property being annexed, which are not inconsistent with the general scheme of this Declaration or which are required by any institutional first mortgagee to make lots in the project eligible for mortgage purchase, guaranty, or insurance. Notwithstanding the foregoing, no annexation may (i) cause a substantial increase in the costs and expenses then being borne by owners in that Section that was not disclosed in the Final Subdivision Public Report for the phase of the project in which an owner purchased his lot; or (ii) otherwise materially adversely affect the rights of owners without the prior affirmative vote or written consent of at least sixty-six and two-thirds percent (66-2/3%) of each class of Owners entitled to vote and their mortgagees.

The declaration of annexation shall specifically state which Section the annexed property is to be part of, or if it constitutes a new Section.

5.13 **Right of Entry.** The City and the Atascadero Mutual Water Company, or any of its authorized agents shall have the reasonable right, but not the obligation, of entry over and upon the project for; (i) operation, maintenance, repair and reconstruction of sewer mains, water mains, storm drains and appurtenant facilities; (ii) maintenance of the road and related improvements in the event that the maintenance by the owners or any other person charged therewith creates a nuisance; (iii) in the event of an emergency,

taking necessary actions to ensure adequate emergency vehicle access, including, but not limited to removal of any non-vehicular barriers that might be installed or occur, or removal of any vehicles from any portion of the project as necessary to maintain access for emergency vehicles; and (iv) for any and all purposes relating to public safety, including inspection upon the showing of probable cause. Such rights shall not be deemed to give any person or entity or the general public any right of entry thereon.

5.14 Attorney's Fees. Should any Owner of a lot subject to this Declaration institute legal proceedings against any other owner or the Declarant, to interpret or enforce any provision, right to remedy under this Declaration, the court shall include all or any part of the prevailing party's attorneys' fees as a recoverable cost against the losing party. To so recover, it is not necessary that the prevailing party prevail in each and every claim. Rather, the amount of the award of attorneys' fees shall, in the Court's discretion, reflect the degree to which the prevailing party has prevailed in some of its claims. For the purpose of this Section 5.16, the term Court shall include the term arbitrators or arbitrator and the term legal proceedings shall include arbitration.

5.15 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the creation and operation of a quality residential development, and any violation of this Declaration shall be deemed to be a nuisance. The Article and Section headings, titles and captions have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has
executed this Declaration this 9th day of July, 2002.

DECLARANT:

RANCHO DE PARAISO LLC

By: Harry B. Larsen
Harry B. Larsen, Manager

Yolanda V. Larsen
Yolanda V. Larsen, Manager

Darlene Kroger
Darlene Kroger, Manager