

WHEN RECORDED RETURN TO:

Miller Starr Regalia  
1331 N. California Blvd., 5th FL  
Walnut Creek, CA 94596 Attn:  
Tara C. Narayanan, Esq.

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(Space Above This Line Reserved For Recorder's Use)

## MEMORANDUM OF AGREEMENT

**THIS MEMORANDUM OF AGREEMENT** (the "**MOA**") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between certain parties as the owners of certain property, all as described in **Exhibit A** hereto (collectively, the "**Developers**"), with reference to the facts set forth below:

### RECITALS

- A. Developers are a number of property owners who are constructing various projects within certain real property in Santa Clara, California, described in **Exhibit A**.
- B. The lots described in **Exhibit A** share the use of a paseo, identified as "Calle Del Sol" (the "**Paseo**") to be situated within four (4) lots described in **Exhibit B** (the "**Paseo Lots**"). The Paseo is intended to be used as an event space and is expected to include walkways, bicycle paths, outdoor restaurant seating, outdoor lounge areas, open space for events, markets, concerts, and similar amenities. Only one (1) of the four (4) Paseo Lots is owned by a current Developer.
- C. The maintenance of the Paseo and the dedication of a public access easement over the Paseo is a requirement of the City of Santa Clara, California ("**City**"), for the development of properties subject to the Tasman East Specific Plan (the "**Specific Plan**" and "**Specific Plan Area**"). The conditions of approval for the Specific Plan require that land developers either directly fund the costs of maintenance of the Paseo, or in the alternative, form and participate in a property owners association to cover such costs. To comply with this condition, the Developers have chosen to form a property owners association (the "**Association**") to manage, maintain and repair certain improvements within the Paseo, including the pedestrian and bicycle pathways, storm drainage systems, landscaping, decorative paving, pump station enclosure, and open spaces. In addition, the Developers have voluntarily agreed to operate public programs within the Paseo as described in the "Calle Del Sol Paseo Declaration of Restrictions (CC&Rs)" (the "**Declaration**"). Additional properties within the Specific Plan Area will potentially be annexed as property subject to the Declaration in the future.
- D. The Declaration grants easements over the Paseo for the maintenance of the Paseo and the improvements located thereon, imposes a duty on the Association to program events within the Paseo, and provides a mechanism for collecting funds for the Association to perform its management, programming, and maintenance duties. The Association will levy assessments against all properties subject to the Declaration in order to fund its performance of the maintenance and programming duties described herein.

- E. The City also proposes to establish a Community Facilities District (the “CFD”) that would assume certain of the Association’s responsibilities should the property owners vote to dissolve the Association or in the event the Association is otherwise terminated or determined invalid or otherwise of no force and effect. In this event, the assessments previously levied by the Association will be paid through special assessments levied by the CFD against the lots and parcels within the Specific Plan Area to fund the costs associated with the CFD’s maintenance and operation duties, which will be included in the property tax statements issued by the assessor’s office and due and payable at the same time as property taxes (the “CFD Special Tax”).
- F. The Specific Plan also requires the development and implementation of a transportation demand management (“TDM”) program supported by the properties within the Specific Plan Area to provide commute program support and to implement policies and systems to increase resident ride-sharing and decrease vehicle miles traveled within the Specific Plan Area. The TDM program is anticipated to require implementing and managing programs on a Specific Plan Area scale that could include information-providing and marketing, transit passes, bicycle and electrical scooter sharing, and monitoring and reporting functions.
- G. The management and funding of the TDM program is to be administered by the Tasman East Transportation Coordination Group (“TETCG”). The Developers that are party to this MOA will participate as members of the TETCG in conjunction with their participation with the Paseo.
- H. The Paseo has not yet been constructed and may not be built for a period of years. Consequently, the Association shall be formed and the Declaration recorded at a later time, as described in this MOA. The Developers hereto wish to record this MOA to give notice of the Developers’ intent and agreement to form an Association to maintain the Paseo and the improvements located thereon, program events within the Paseo as required by the City, collect funds for the Association to perform the management, programming, and maintenance duties of the Paseo in accordance with the Declaration, and participate in the TETCG to achieve the requirements of the City in connection with the TDM program.
- I. The pump station enclosure is expected to be constructed to enclose an operational pump station (which is to be maintained by the City) long before the formation of the Association. The funding of the pump station enclosure maintenance (the structure only) is anticipated to be arranged through a separate agreement between the Developers and the City. Thus, consistent with Recital H, above, the Developers that are party to this MOA agree in advance to execute an agreement yet to be drafted providing for the maintenance of the pump station structure until the Association is operational.
- J. Other lots exist within the Specific Plan Area that are not included in this MOA. It is anticipated they will be annexed at a later date to participate as members in the Association and comply with the Declaration and/or the CFD Special Tax. As additional properties within the Specific Plan Area participate in the Association, this MOA may be amended to include those lots until the Association is formed and this MOA is no longer relevant as described in **Section 11** below.

NOW, THEREFORE, in furtherance of the foregoing, and for good and valuable consideration, receipt of which is hereby acknowledged, the Developers hereto agree as follows:

1. Each Developer hereby agrees to become a member of the Calle Del Sol Paseo Property Owners Association, a California nonprofit mutual benefit corporation, upon its formation as described in **Section 4**, in accordance with and subject to the terms and conditions set forth in the Declaration described in **Section 2**.

2. Each Developer hereby agrees to permit the Developer's property (as described in **Exhibit A**) to be encumbered by the recorded Declaration. Upon recordation of the Declaration, each Developer agrees to be bound by and subject to the terms and conditions set forth in the Declaration.

3. All of the terms and conditions as set forth in the Declaration are incorporated herein by this reference as though fully set forth herein, but such terms and conditions will not be effective until the Association is formed and the Declaration is recorded. The Declaration to be recorded shall be substantially similar to the Declaration attached hereto as **Exhibit C**, which has been approved by the City as well as the Developers that are parties to this MOA.

4. The Association shall be formed and shall commence operations no later than acceptance by the City of the Public Access Easement (defined in the Declaration attached as **Exhibit C**), which shall occur only after: (i) the Declaration is recorded in the records of Santa Clara County, California; (ii) a minimum of three (3) Paseo Lots are made subject to the Declaration, and (iii) the Paseo's construction on the participating Paseo Lots is completed.

5. Each Developer hereby agrees to become a member of the TETCG described in Recitals G and H upon its formation in accordance with the terms and conditions of the TDM program, whenever created.

6. Each Developer acknowledges that, through its membership, it shall participate in the administration of the Tasman East TDM program and shall contribute financially on a proportionate basis as required by the TDM program.

7. Each Developer hereby agrees to execute an agreement between them and the City that provides for their maintenance of the pump station structure until the Association is operational and assumes such responsibility according to the terms of the Declaration.

8. This MOA shall constitute notice of each Developer's agreement to become a member of the Association and participate in the governance of the Paseo—including event programming and maintenance—through the Association, and pay the assessments allocated to the Developer's property, as set forth in the Declaration. In the event that a Developer fails to do any of the foregoing, the other Developers and/or the Association (if formed) shall have all of the rights and remedies available to them, including specific performance, monetary damages, and/or triggering the CFD to collect payments and/or assume the Association's responsibilities under the Declaration as to the defaulting Developer, at which point each Developer shall be obligated to pay the CFD Special Tax levied upon the Developer's property to fund the CFD's duties.

9. Nothing herein shall be interpreted to render invalid any deed of trust or mortgage on any portion of a Developer's property. No beneficiary under any such deed of trust, purchaser at a foreclosure sale of such deed of trust, or grantee of a deed in lieu of foreclosure shall be obligated to cure any default of the previous Owner unless such obligation is expressly assumed in writing, provided that the purchaser or grantee shall take title subject to this MOA and shall assume the obligations of the predecessor Developer accruing from and after the date the purchaser or grantee received title. This MOA shall be subordinated to any financing obtained by a Developer to finance the acquisition and/or construction of the initial improvements on the Developer's property.

10. This MOA is being recorded to give notice of the rights and obligations of the Developers pursuant to the Declaration and the terms and conditions contained therein. This MOA is not intended to modify or alter in any way the terms and conditions of the Declaration. If there is any inconsistency

between the provisions of this MOA and the provisions of the Declaration, the provisions of the Declaration shall control.

11. Upon the formation of the Association and the recording of the Declaration against each Developer's property in accordance with the terms and conditions of the Declaration, this MOA shall automatically terminate and be of no further force and effect, and Developers shall execute and deliver a termination to be recorded in the records of Santa Clara County, California, to extinguish the effect of this MOA of record. Upon termination of the Declaration or the Association for any reason other than breach or default, Developers shall execute and deliver quitclaim deeds, also to extinguish the effect of this MOA of record.

12. This MOA may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one agreement with the same effect as if all Developers had signed the same signature page. Any signature page of this MOA may be detached from any counterpart of this MOA and reattached to any other counterpart of this MOA identical in form hereto, but having attached to it one or more additional signature pages.

*[Signatures on following page]*



## SIGNATURE PAGES TO MEMORANDUM OF AGREEMENT

IN WITNESS WHEREOF, the Developers have executed this Memorandum as of the date and year first above written.

Date: August 18, 2020

**SHAC TASMAN CDM APARTMENTS LLC,**  
a Delaware limited liability company

By: SHAC Tasman CDM Apartments Ventures LLC,  
a Delaware limited liability company, its manager

By: SHAC Tasman CDM Apartments Manager LLC,  
a Delaware limited liability company, its manager

By: Summerhill Apartment Communities,  
a California corporation, its managing member



**Jason Biggs**  
Secretary

By: [Signature]  
Name: Elaine Breeze  
Its: Senior Vice President

Date: \_\_\_\_\_

**ST. ANTON TASMAN EAST, LP,**  
a California limited partnership

By: Tasman East Workforce Housing, LLC,  
a California limited liability company,  
its Administrative General Partner

By: Blue Bronco, LLC,  
a California limited liability company,  
its sole member and manager

By: \_\_\_\_\_  
Name: Peter H. Geremia  
Title: Manager

By: PacH Anton South Holdings, LLC,  
a California limited liability company,  
its Managing General Partner

By: Pacific Housing, Inc.,  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_  
Name: Mark A. Wiese  
Its: President

*[Additional Developer Signatures on Following Pages]*

**SIGNATURE PAGES TO MEMORANDUM OF AGREEMENT**

IN WITNESS WHEREOF, the Developers have executed this Memorandum as of the date and year first above written.

Date: \_\_\_\_\_

**SHAC TASMAN CDM APARTMENTS LLC,**  
a Delaware limited liability company

By: SHAC Tasman CDM Apartments Ventures LLC,  
a Delaware limited liability company, its manager

By: SHAC Tasman CDM Apartments Manager LLC,  
a Delaware limited liability company, its manager

By: Summerhill Apartment Communities,  
a California corporation, its managing member

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: AUGUST 17, 2020

**ST. ANTON TASMAN EAST, LP,**  
a California limited partnership

By: Tasman East Workforce Housing, LLC,  
a California limited liability company,  
its Administrative General Partner

By: Blue Bronco, LLC,  
a California limited liability company,  
its sole member and manager

By: \_\_\_\_\_

Name: Peter H. Geremia

Title: Manager

By: PacH Anton South Holdings, LLC,  
a California limited liability company,  
its Managing General Partner

By: Pacific Housing, Inc.,  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_

Name: Mark A. Wiese

Its: President

*[Additional Developer Signatures on Following Pages]*

Date: 8/19/2020

**TASMAN EAST URBAN HOUSING, LLC,**  
a Delaware limited liability company

By:   
Name: Nicholas Vanderboom  
Its: Vice-President

Date: 8/19/2020

**TASMAN EAST HOLDCO, LLC,**  
a Delaware limited liability company

By:   
Name: Nicholas Vanderboom  
Its: Vice-President

Date: \_\_\_\_\_

**2354 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaooff  
Its: Managing Member

Date: \_\_\_\_\_

**5185 LAFAYETTE STREET, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaooff  
Its: Managing Member

Date: \_\_\_\_\_

**TASMAN 2278 CALLE DE LUNA, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaooff  
Its: Managing Member

Date: \_\_\_\_\_

**2263 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaooff  
Its: Managing Member

*[Additional Developer Signatures on Following Pages]*

Date: \_\_\_\_\_

**TASMAN EAST URBAN HOUSING, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Nicholas Vanderboom  
Its: Vice-President

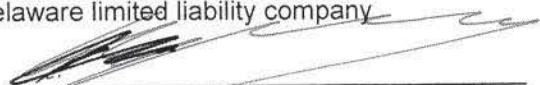
Date: \_\_\_\_\_

**TASMAN EAST HOLDCO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Nicholas Vanderboom  
Its: Vice-President

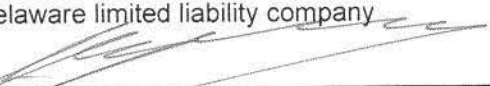
Date: August 17, 2020

**2354 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By:   
Name: Kambiz Babaoff  
Its: Managing Member


Date: August 17, 2020

**5185 LAFAYETTE STREET, LLC,**  
a Delaware limited liability company

By:   
Name: Kambiz Babaoff  
Its: Managing Member

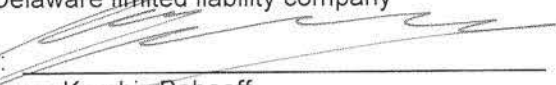
Date: August 17, 2020

**TASMAN 2278 CALLE DE LUNA, LLC,**  
a Delaware limited liability company

By:   
Name: Kambiz Babaoff  
Its: Managing Member

Date: August 17, 2020

**2263 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By:   
Name: Kambiz Babaoff  
Its: Managing Member

*[Additional Developer Signatures on Following Pages]*

Date: \_\_\_\_\_

**2302 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaooff  
Its: Managing Member

Date: \_\_\_\_\_

**TASMAN PROPERTIES, LLC,**  
a Delaware limited liability company


By: \_\_\_\_\_  
Name: Kambiz Babaooff  
Its: Managing Member

Date: 8/19/2020

**NASH – HOLLAND CALLE DE LUNA INVESTORS, LLC,**  
a Delaware limited liability company

By: HPG Calle De Luna, LLC,  
a Washington limited liability company,  
its Operating Member

By: Holland Partner Group Management, Inc.,  
a Delaware corporation,  
its Manager

By:  \_\_\_\_\_  
Name: John Wayland  
Its: Executive Managing Director of Development,  
Northern California

*[Final Signature Page]*



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

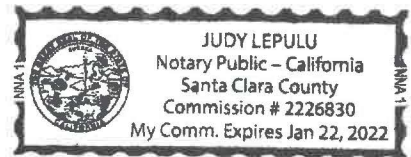
State of California )  
County of SANTA CLARA )

On 8/18/2020, before me, JUDY LEPULU, a Notary Public, personally appeared ELAINE BREEZE and JASON BIGGS, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who 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.

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WITNESS my hand and official seal.

Signature \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Sacramento )

On August 17, 2020 before me, Kellie Lyn Hamblin, Notary Public,  
Date Here Insert Name and Title of the Officer  
personally appeared Peter H. Geremia  
Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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STATE OF CALIFORNIA )

COUNTY OF Sacramento )

On August 17, 2020 before me, Cheyenne Pike, Notary Public,  
personally appeared Mark A. Wiese,

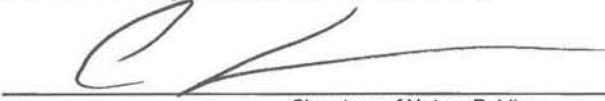
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

  
\_\_\_\_\_  
Signature of Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )

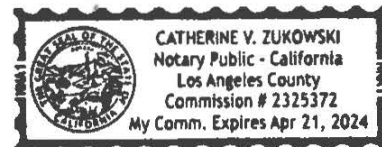
On August 19, 2020, before me, Catherine V. Zukowski, a Notary Public, personally appeared Nicholas Vanderboom, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Catherine V. Zukowski



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State of California )  
County of Los Angeles )

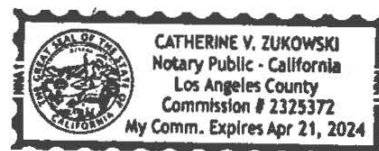
On August 19, 2020, before me, Catherine V. Zukowski, a Notary Public, personally appeared Nicholas Vanderboom, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same 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.

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WITNESS my hand and official seal.

Signature

Catherine V. Zukowski



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State of California )  
County of Los Angeles \_\_\_\_\_ )

On August 18, 2020, before me, Sharon K. Foster, a Notary Public, personally appeared Kambiz Babaoff, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

*Sharon K. Foster*



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State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who 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.

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WITNESS my hand and official seal.

Signature \_\_\_\_\_



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State of California )  
County of \_\_\_\_\_ )

On August 19, 2020, before me, Fanny Rodriguez, a Notary Public, personally appeared Song Wayland, who 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.

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County of \_\_\_\_\_ )

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WITNESS my hand and official seal.

Signature \_\_\_\_\_

EXHIBIT A – Developers

<u>Declarant</u>	<u>Property Owned by Declarant Within Tasman East Specific Plan Area</u>
2263 Calle del Mundo, LLC, a Delaware limited liability company	Parcel 5 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
2302 Calle del Mundo, LLC, a Delaware limited liability company	Parcel 9 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
2354 Calle del Mundo, LLC, a Delaware limited liability company	Parcel 12 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
5185 Lafayette Street, LLC, a Delaware limited liability company	Parcel 13 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman 2278 Calle de Luna, LLC, a Delaware limited liability company	Parcel 22 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman Properties, LLC, a Delaware limited liability company	Parcel 23 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
NASH - Holland Calle De Luna Investors, LLC, a Delaware limited liability company	Parcel 19 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman East Urban Housing, LLC, a Delaware limited liability company	Parcels 24, 25, 26 and 27 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman East Holdco, LLC	Parcels 20 and 21 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
St. Anton Tasman East, LP, a California limited partnership	Parcel 6 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
SHAC Tasman CDM Apartments LLC, a Delaware limited liability company	Parcels 1, 2 and 3 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.

EXHIBIT B – The Paseo Lots

2302 Calle del Mundo, LLC	Parcel 9 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman Company, LLC, a California limited liability company as to an undivided 1/2 interest and  The Family Trust of Harry Bruce Frumveller and Carolyn Ruth Frumveller, Harry Bruce Frumveller and Carolyn Ruth Frumveller, Trustees, Trust dated June 16, 2014 as to an undivided 1/2 interest	Parcel 16 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Berto Development, a California limited partnership	Parcel 17 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
True Solar USA Inc., a California corporation	Parcel 1 as shown on the Parcel Map filed on June 23, 1980, in Book 465 of Maps, at page 36, in the records of Santa Clara County, California.

RECORDED AT THE REQUEST OF AND WHEN  
RECORDED, RETURN TO:

Tara C. Narayanan  
MILLER STARR REGALIA  
1331 N. California Blvd., Fifth Floor  
Walnut Creek, CA 94596

**CALLE DEL SOL PASEO**

**DECLARATION**

**OF**

**RESTRICTIONS (CC&Rs)**

**If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income as defined in subdivision (p) of Section 12955, disability, veteran or military status, or genetic information, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**



**CALLE DEL SOL PASEO**  
**DECLARATION OF RESTRICTIONS (CC&Rs)**

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## CALLE DEL SOL PASEO

### DECLARATION OF RESTRICTIONS (CC&Rs)

**THIS DECLARATION OF RESTRICTIONS (CC&Rs)** ("Declaration") is executed by certain parties, as the owners of the property subject to this Declaration, described in **Exhibit A** hereto (collectively, the "Declarant") with reference to the following facts:

- A. Declarant is comprised of a number of property owners who are constructing various developments consisting of certain real property in Santa Clara, California, described on **Exhibit A**.
- B. The lots described in **Exhibit A** share the use of a paseo, identified as "Calle Del Sol" (the "Paseo"), situated within four (4) of the lots (the "Paseo Lots"). The Paseo Lots are described in **Exhibit B**. Additional lots (the "Annexable Property") within the area described in **Exhibit C** to this Declaration will potentially be annexed as property subject to this Declaration in the future. The Paseo is intended to be used as an event space and is expected to include walkways, bicycle paths, outdoor restaurant seating, outdoor lounge areas, and open space for events.
- C. The maintenance of the Paseo and the dedication of a public access easement over the Paseo is a requirement of the City of Santa Clara, California ("City"), for the development of properties subject to the Tasman East Specific Plan (generally, the "Specific Plan" and the properties are the "Tasman East Specific Plan Area" or "Specific Plan Area"). The conditions of approval for the Specific Plan require that land developers either directly fund the costs of maintenance of the Paseo, or in the alternative, form and participate in a property owners association to cover such costs. To comply with this condition, Declarants (as land developers) have chosen to form a property owners association ("Association") to manage, maintain and repair certain improvements within the Paseo, including the pedestrian and bicycle pathways, storm drainage systems, landscaping, decorative paving, pump station enclosure and screening, and open spaces. In addition, Declarants have voluntarily agreed to operate public programs within the Paseo. Properties within the Specific Plan Area other than Declarant's will be annexed and subject to this Declaration in the future as described in **Section 11.1**. The Association will levy assessments against the properties subject to this Declaration in order to fund its performance of the maintenance and programming duties described herein. Each owner of a lot or parcel described in **Exhibits A** and/or **C** that become members of the Association, including any lots or parcels resulting from the subdivision of any lot or parcel shown in **Exhibits A** or **C**, will be obligated to pay the lot's or parcel's allocable share of the assessments levied by the Association.
- D. The Specific Plan Area's conditions of approval require the establishment of a Community Facilities District (the "CFD") that would assume the Association's responsibilities should the property owners vote to dissolve the Association or in the event the Association is otherwise terminated or determined invalid or otherwise of no force and effect. In this event, the assessments previously levied by the Association will be paid through special assessments levied by the CFD against the lots and parcels within the Specific Plan Area to fund the costs associated with the CFD's maintenance and operation duties, which will be

included in the property tax statements issued by the assessor's office and due and payable at the same time as property taxes(the "CFD Special Tax").

- E. The Annexable Property described in **Exhibit C** may be annexed at a later date, and shall be bound upon such annexation by the terms of this Declaration, the Association's assessments, and/or the CFD Special Tax. Pursuant to the Tasman East Specific Plan, the existing and additional lots within the Specific Plan Area will benefit from the amenities offered with participation in the Paseo, and will likewise be bound to contribute to its maintenance.
- F. The purpose of this Declaration is to: (i) confirm and grant easements over the Paseo for the management and maintenance of the Paseo and the improvements located thereon; and (ii) provide a mechanism for collecting funds for the association to perform its management and maintenance duties.
- G. The property that is subject to this Declaration at the time of recording, and the Annexable Property described in **Exhibit C** will benefit and be bound by the provisions of **Sections 2.1, 2.2, 9.1 and 11.1** of this Declaration on the recordation of this Declaration. The other covenants, easements, restrictions, rights and duties described in this Declaration will benefit and bind the initial lots upon the recordation of this Declaration and will benefit and bind the Annexable Property on the recordation of a declaration of annexation annexing that portion of the Annexable Property and rendering the Annexable Property subject to this Declaration.

#### **DECLARANT DECLARES AS FOLLOWS:**

##### Article 1 **DEFINITIONS**

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

1.1 Annexable Property. The real property described in **Exhibit C** that may be annexed and become subject to this Declaration. Upon annexation of any portion of the Annexable Property and the commencement of assessments against that portion, the portion no longer shall be considered Annexable Property and shall be part of the Lots that are subject to this Declaration.

1.2 Applicable Laws. All federal, state and local laws, statutes, acts, ordinances, rules, regulations, permits, licenses and requirements of all governmental authorities (including any agency, authority, board, branch, division, department or similar unit of any federal, state, county, district or other governmental entity having jurisdiction over the Specific Plan Area) that now or hereafter during the term of this Declaration may be applicable to the Specific Plan Area.

1.3 Articles. The Articles of Incorporation of the Association and any amendments thereto.

1.4 Association. The Calle Del Sol Paseo Property Owners Association, a California nonprofit mutual benefit corporation.

1.5 Board. The Board of Directors of the Association.

1.6 Bylaws. The Bylaws of the Association and any amendments thereto.

1.7 CFD. The community facilities district formed by the City to manage, maintain and repair the Paseo in the event that the Association is dissolved, terminated, determined invalid or otherwise be of no force and effect.

1.8 City. The City of Santa Clara, California.

1.9 Declarant. The parties that own the properties subject to this Declaration that are described in **Exhibit A**, or any successor or assign that assumes in writing all or a portion of the rights and duties of the Declarant hereunder. There is more than one Declarant.

1.10 Declaration. This Declaration of Restrictions (CC&Rs) and any amendments, annexations or corrections thereto.

1.11 Exclusive Use Area. The portion or portions of the Paseo described in **Section 1.21** subject to rights for the exclusive use of an Occupant of a retail space within a Paseo Lot.

1.12 Governing Documents. This Declaration, the Articles of Incorporation, the Bylaws and the Rules.

1.13 Improvements. Any property in the Paseo constituting a fixture within the meaning of Civil Code section 660.

1.14 Lot or Lots. Any lot, parcel or other subdivision of real property subject to this Declaration.

1.15 Maintain, Maintained, Maintaining or Maintenance. Unless expressly stated otherwise, "maintain", "maintained", "maintaining" or "maintenance" as used in this Declaration includes inspection, cleaning, maintenance, repair, upgrading and/or replacement.

1.16 Member. A member of the Association.

1.17 Mortgage. A recorded mortgage or deed of trust against one or more Lots.

1.18 Mortgagee. A mortgagee under a Mortgage or a beneficiary under a deed of trust recorded against a Lot.

1.19 Occupant(s). Any Person entitled to use and occupy a Paseo Lot pursuant to an ownership right or any lease, license or other similar agreement with the Owner of the Lot. "Occupant" is limited to Occupants of any commercial or retail interest in a Lot, such as a café or a store, and shall not include a residential occupant such as the tenant of an apartment or renter of a residential condominium.

1.20 Owner. The owner or owners of the fee (perpetual) estate of a Lot in the Specific Plan Area. If any Lot is further subdivided into a common interest development such as a condominium or planned development, the owners association or equivalent shall be deemed to be the Owner of that Lot for all purposes of this Declaration and shall assume all the rights and duties of the Owner of the subject Lot hereunder.

1.21 Paseo. The portions of Parcels 21, 22, 23, 24 and/or 25 that are or shall be subject to the paseo easements described in **Sections 2.1 and 2.2** and that are annexed and subject to this Declaration. The term "Paseo" includes the Improvements, landscaping, and operation and management services, and including walkways, bicycle paths, outdoor restaurant seating, outdoor lounge areas, and open space for events. The Paseo includes the pump station screening enclosure, although the City is responsible for maintaining the pump station itself.

1.22 Paseo Lots. Parcels 21, 23, 24 and 25. Not all of the Paseo Lots may be subject to this Declaration at the time the Paseo becomes operational as described in **Section 4.1** and **Exhibit B**.



1.23 Permittee(s). All Owners and Occupants and their agents and invitees.

1.24 Person. Any natural person, partnership, trust, corporation, limited liability company, or other legal entity.

1.25 Rules. Rules or regulations adopted by the Board from time to time pursuant to the authority of **Section 4.6.2**.

1.26 Specific Plan Area. The properties subject to the Tasman East Specific Plan, on file with the City.

## Article 2 PROPERTY RIGHTS AND EASEMENTS

2.1 Establishment of Paseo. Declarant grants to the City an easement in gross, and to the Owner of each Lot and any Annexable Property that is made subject to this Declaration in favor of the Lot or Annexable Property as the dominant tenement, over the Paseo Lot(s) subject to this Declaration as the servient tenement, the following easements to establish the Paseo:

(i) The Paseo Lots that are subject to this Declaration are also subject to pedestrian and bicycle ingress and egress over the walkways and bicycle paths within the Paseo for the benefit of the public.

(ii) The Paseo Lots that are subject to this Declaration are subject to access to and use of (including the right to install or maintain) any utility lines, cables, wires, pipes, meters or other equipment installed within, on or over the Paseo that provides utility service to the dominant tenement, including water, electricity, gas, telecommunications, storm drainage and sanitary sewer services, pump station services, and life safety system, pursuant to the utility easement described in **Section 2.2.1**.

The easements described in this **Section 2.1** are granted to the City for purposes of public access and use of the servient tenement (the "Public Access Easement"). The Public Access Easement shall be established independent of this Declaration through separately-recorded instrument(s) and shall exist in perpetuity, subject to the terms of the separately-recorded instrument(s).

2.2 Paseo Easements. The Paseo Lots are (or shall be upon annexation) subject to the easements described in this **Section 2.2** and the general easement rights in **Section 2.3**. Declarant grants to the Owner of each Lot and any Annexable Property that is made subject to this Declaration, in favor of the Lot or Annexable Property as the dominant tenement over the Paseo Lots as the servient tenement, the following easements. The easements shall be effective upon acceptance of the completed Paseo Improvements by the City.

2.2.1 Paseo Utility and Storm Drainage Easement. The Paseo Lots are subject to easements for utilities, including: (i) rights for the Association to install, maintain, and retain utilities such as electricity, gas, water, and stormwater drainage systems that serve the Paseo; and (ii) public utilities such as joint trench, sewer, and storm drainage systems, including within the Public Access Easement, that serve the private portion(s) of the Paseo Lots. All private utilities serving the private portion(s) of the Paseo Lots shall be located within the portion(s) of the Paseo Lots outside of the Public Access Easement.

2.2.2 Paseo Maintenance and Signage Easement. The Paseo Lots are subject to easements for the right to maintain and/or upgrade the Paseo, including the structure screening and/or enclosing the pump station maintained by the City, and such access as may be reasonably necessary for the Association to perform its maintenance duties as described in **Section 3.1**, and for the right to install, retain, maintain, and/or upgrade signage that serves the Paseo located within the Paseo as may be approved by the Board, subject to any legal requirements for sign installation.



2.2.3 Other Paseo Easements. Each Paseo Lot is subject to such other easement(s), rights-of-way, or dedications as may be granted or reserved on any map, any deed, or any other appropriate recorded document.

2.3 General Easement Rights. Each easement described in **Section 2.1** is subject to, and construed in accordance with, the following provisions, except as otherwise expressly provided for elsewhere in this Declaration: (i) the easement is appurtenant to the dominant and servient tenements and any transfer of a dominant or servient tenement automatically transfers the easement appurtenant thereto regardless of whether the easement is described in the instrument of transfer; (ii) the easement is in perpetuity unless otherwise terminated by operation of law; (iii) all easement uses shall comply with the covenants, rights, duties and restrictions set forth in this Declaration, with all Applicable Laws and with any Rules adopted by the Board under the provisions of **Section 4.6.2**; (iv) each easement granted hereunder exists by virtue of this Declaration, without the necessity of confirmation by any other documents; (v) the easements are nonexclusive unless expressly provided otherwise; and (vi) the easements granted in **Section 2.1** are granted to the Owners of each Lot effective automatically on the date this Declaration and/or a declaration of annexation is recorded in the records of Santa Clara County, California.

2.4 Authority Over Paseo. The Public Access Easement described in **Section 2.1** shall be maintained at all times and no encroachment of the Public Access Easement shall take place without the express prior written authority of the City, pursuant to an easement encroachment agreement. Subject to the foregoing, the Board shall have the power and the right in the name of the Association and all of the Owners as their attorney-in-fact, to grant, convey or otherwise transfer to any Owner or any other Person easements, leasehold estates, exclusive use easements or rights, licenses, lot line adjustments, rights-of-way and/or dedications in, on, over or under the Paseo in order to: (i) construct, erect, operate, maintain or replace lines, cables, wires, conduits or other devices for electricity, cable television, internet services, fiber optics, and other telecommunications equipment, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any similar public or quasi-public Improvements or facilities; (ii) accommodate any encroachment that in the discretion of the Board or Declarant does not unreasonably interfere with the use and enjoyment of the Paseo or a Paseo Lot; or (iii) accomplish any other purpose that in the discretion of the Board is in the interest of the Association and its Members and does not unreasonably interfere with the use and enjoyment of the Paseo. Each Owner, by becoming a Member of the Association, expressly consents to such action and authorizes and appoints the Association as attorney-in-fact of such Owner to execute and deliver all documents and interests to accomplish the action, including, but not limited to, grant deeds, easements, subdivision maps, and lot-line adjustments. Notwithstanding anything herein to the contrary, in no event shall the Board take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of his or her Lot without the prior written consent of that Owner, or grant exclusive use of any portion of the Paseo to any Owner without the consent of a majority of the total voting power of the Association and such consent of the Mortgagees as may be required by **Article 8**.

2.5 Use of Exclusive Use Area. Certain portions of the Paseo may be set aside for the exclusive use of the Occupants of certain retail food and beverage spaces within the Paseo Lots and constitute Exclusive Use Area intended for such uses as restaurant, café and/or bar seating (the "Outdoor Dining Areas"). Outdoor Dining Areas within the Paseo shall be under the jurisdiction of the Association, including the designation thereof, subject to Applicable Laws. The Board may adopt Rules regulating the use of the Outdoor Dining Areas and may license the Outdoor Dining Areas to Occupants of retail food and beverage spaces within the Paseo Lots. Under no circumstances may the right to any Outdoor Dining Area be granted to any Person who is not an Occupant of a retail food and beverage space within a Paseo Lot unless otherwise authorized by the Board.

### Article 3

## MAINTENANCE, OPERATION, AND PROGRAMMING OBLIGATIONS

3.1 Association's Maintenance and Operation Responsibilities. The Association shall maintain the Paseo in good condition and repair at all times, including, but not limited to, drive aisles (if

any), bicycle pathways, walkways and sidewalks, event spaces and stages, artwork, the pump station screening enclosure, trash collection areas, recreational facilities, landscaping and irrigation systems within the Paseo, lighting fixtures and utilities within and serving the Paseo, storm drainage systems within the Paseo, and sanitary sewer systems serving the Paseo not maintained by a government agency or a regulated utility company. The Association shall be responsible for maintaining all parts of any solar energy systems installed within the Paseo, and shall maintain any part of the solar energy systems and Paseo impacted thereby. Maintenance shall be performed in compliance with the Inspection and Maintenance Standards and Guidelines described in **Section 3.3**. The pump station in or around Parcel 22 shown on **Exhibit D** (but not its enclosing structure) shall be the City's responsibility and, in any event, shall not be the responsibility of the Association.

The Association shall also be responsible for public event programming in the Paseo's gathering spaces. A summary of the guidelines and requirements for such programming is attached hereto as **Exhibit E**. The Board shall have the full right, power and authority to act on behalf of the Association and its Members to operate and manage programming in the Paseo and the consent of the Members shall not be required.

The Association's maintenance responsibilities described in this **Section 3.1** shall commence upon acceptance by the City of the Paseo and subject to the requirements of **Section 4.1**.

**3.2 Maintenance of Exclusive Use Area.** Each Occupant licensed to use an Exclusive Use Outdoor Dining Area (the "Dining Area Occupant") shall maintain the Outdoor Dining Area and all Improvements therein as described in this **Section 3.2** and in compliance with the standards and guidelines described in **Section 3.3**. The Outdoor Dining Area may be used for all commercial purposes permitted by Applicable Laws, subject to any Rules and/or restrictions imposed by the Board even if authorized under local zoning laws. No commercial uses may be conducted in an Outdoor Dining Area until the Dining Area Occupant complies with all permit, licensing, insurance and other Applicable Laws and Board Rules.

The Dining Area Occupant shall allow agents of the Association access to the Exclusive Use Area for purposes of performing any of the Association's maintenance obligations under this Declaration. If any Dining Area Occupant fails or refuses to provide access, the Owner of the Lot on which the Outdoor Dining Area exists shall be responsible for any maintenance and repair costs that could have been avoided if access had been provided, and the Association may levy a reimbursement assessment against the Lot to recover the additional costs.

If damage to any of the Improvements maintained by the Dining Area Occupant is covered by insurance maintained by the Association, the Association, on request from the Dining Area Occupant or subject Paseo Lot Owner, may, at the discretion of the Board, submit an appropriate claim if the claim exceeds the deductible and shall remit any available insurance proceeds to the Dining Area Occupant and/or Paseo Lot Owner on receipt of satisfactory evidence that the proceeds are or will be used for repair. Any deductible amount shall be borne by the Dining Area Occupant and/or Paseo Lot Owner. In lieu of filing a claim, the Board may elect to cover the amount that would have been paid through insurance through other funds available to the Association.

If any Dining Area Occupant fails to maintain his or her Outdoor Dining Area as required herein, the Association, after notice and hearing as described in the Bylaws, may, but is not obligated to, enter the Outdoor Dining Area and perform the necessary maintenance and repair. The Association may levy a reimbursement assessment against the Lot to recover the additional costs.

### **3.3 Inspection and Maintenance Standards and Guidelines.**

**3.3.1 Maintenance Standards.** All Improvements in the Paseo shall be maintained at all times: (i) in good condition and repair, ordinary wear and tear excepted; (ii) in a neat, clean and sanitary condition; and (iii) in proper operating condition. It is intended that the Improvements be maintained in a

like new condition similar to the condition on the completion of the original construction, reasonable wear and tear excepted. Maintenance of the Paseo shall include periodic inspections by a Person competent to conduct the inspection to confirm compliance with the required standards and the inspection and maintenance guidelines described in **Section 3.3.2**. Any maintenance, repair or replacement recommendations resulting from the inspection shall be performed as soon as is reasonably practical after the inspection. In addition, to the extent applicable, all Improvements and landscaping shall be maintained in compliance with the maintenance and inspection guidelines described in **Sections 3.3.1 and 3.3.2**, and commonly-accepted property owners' maintenance obligations.

Paseo maintenance shall include the maintenance of all paved surfaces and curbs in a smooth, level, and evenly covered condition with the type of material originally installed or material that is similar in quality, use and durability; installing, replacing, and keeping in good repair and operation of all necessary and appropriate lighting, signage, striping, curbs and gutters, and performing periodic sweeping and removal of debris.

Storm drainage systems shall be kept free and clear of litter, debris, obstruction, and stored materials at all times. No action shall be taken that would interfere with the operation of the storm drainage system in any manner, or modify any drainage or flow pattern, unless approved by the City and the Board, and in compliance with all Applicable Laws.

Landscaping shall be maintained in a healthy and weed-free condition. Dying or dead vegetation shall be immediately removed and replaced. Maintenance shall include regular fertilization, irrigation, pruning, elimination of pests or diseases, and other customary prudent landscaping practices. All lawns shall be kept neatly mown and trees neatly trimmed at all times. Appropriate steps shall be taken to maintain the irrigation of the landscaping and to prevent damage resulting from misdirected and/or excessive watering.

The pump station screening enclosure may include such Improvements as siding, gutters and/or downspouts, trellises, art, screen and architectural lighting, and other appurtenances. The pump station screening enclosure shall be maintained in good condition and repair at all times normal wear and tear excepted. The exterior surfaces shall be periodically repainted and/or restained, and the roof materials periodically replaced in accordance with a schedule that maintains substantially the same quality of appearance as existed at the time original construction was completed and no less frequently than the periodic repainting and re-roofing recommendations of the manufacturer and/or the Guidelines described in **Section 3.3.2**.

**3.3.2 Inspection and Maintenance Guidelines.** The Board shall adopt guidelines for the periodic inspection and maintenance of the Paseo, including, but not limited to, utility equipment and sanitary sewer and storm drainage facilities maintained by the Association, drive aisles (if any), walkways and sidewalks, bicycle pathways, event structures such as stages, the pump station enclosure, landscaping, and the irrigation system. The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines.

**3.4 Trash Removal.** The Association shall be responsible for the maintenance of the central trash collection points within the Paseo and for the periodic removal therefrom. The Association shall engage a trash removal service to remove trash periodically from these areas pursuant to a schedule that prevents the accumulation of trash in excess of the trash retaining capacity of the areas. All trash or refuse shall be kept only in sanitary containers, which containers shall be kept in the areas approved by the Board. The Association shall take reasonably appropriate, proper and required precautions to protect Persons and property from any injuries or damages from the trash or other refuse generated from the Paseo and shall comply with all laws and ordinances regarding the disposal of any hazardous materials. The Board may adopt rules regulating the trash collection areas.

**3.5 Cooperation and Access.** Each Owner and Occupant shall fully cooperate with the agents of the Association in the performance of the Association's maintenance obligations described in **Section 3.1** above. Such cooperation shall include, but is not limited to, immediate notification to the Board or its



managing agent of any maintenance problems for which the Association is responsible and access to the Owner's or Occupant's Lot as may be necessary to inspect and, if appropriate, to perform any necessary maintenance.

3.6 Reimbursement and Indemnification. If the Association incurs any maintenance costs because of the willful or negligent act or omission of any Owner or Occupant or their Permittees, the Association shall charge the cost to the Owner of the Lot responsible for the costs and may levy a reimbursement assessment as described in **Section 5.6**. The Owner immediately shall pay the charge or reimbursement assessment to the Association, together with interest thereon at the rate of twelve percent (12%) per annum, but not in excess of the maximum rate authorized by Applicable Laws. The Association shall not charge the Owner to the extent that the cost is met through insurance maintained by the Association, provided that any deductible amount and any costs in excess of such insurance coverage shall be paid by the Owner.

Furthermore, the Owner shall defend, indemnify and hold the Association harmless from any claim, demand, liability or cost, including attorneys' fees arising from such damage, except to the extent the demand, claim, cost or liability is covered by insurance maintained by the Association. The Owner shall pay the amount of any deductible and any amount in excess of insurance coverage.

#### Article 4 THE ASSOCIATION

4.1 Formation of the Association and Commencement of Operations. The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California. The Association shall commence operations no later than acceptance by the City of the Public Access Easement, which is expected to occur (i) when at least three (3) Paseo Lots have become subject to this Declaration, (ii) after the Paseo is completed on the initial three Paseo Lots, and (iii) this Declaration is recorded. Pending the commencement of the Association's operations, Declarant shall perform the duties and shall have the rights of the Association as described herein.

4.2 Governing Body. The governing body of the Association shall be the Board. It shall be the responsibility of the Board to ensure that the Association exercises its rights and performs its duties as described within this Declaration, the Articles, Bylaws and any amendments thereto.

The Board may retain a property manager to manage the Paseo. The Board shall be responsible for supervising the performance of the manager under any management contract entered into by the Association for the management, operation, and maintenance of the Paseo and related Improvements.

4.3 Membership. Each Owner shall automatically be a Member of the Association at the time voting rights vest as described in **Section 4.4**. If there is more than one (1) fee title Owner of a Lot, each Owner shall be a Member. The holder of a security interest in a Lot shall not be a Member of the Association except and until that holder obtains both the legal and equitable interest in the Lot. Membership shall be appurtenant to the Lot and may not be separated therefrom. Any transfer of an Owner's interest in a Lot (other than a security interest), by operation of law or otherwise, automatically transfers the membership to the Owner's successor in interest. No Owner may resign or revoke his or her membership for any reason.

As described in **Section 1.20**, if any Lot is further subdivided into a common interest development such as a condominium or planned development, the owners association or equivalent shall be deemed to be the Owner of that Lot for all purposes of this Declaration and shall assume all the rights and duties of the Owner of the subject Lot hereunder.

4.4 Voting Rights. Each Lot shall have the number of votes set forth in **Exhibit F** attached hereto. Declarant or, after formation, the Association, shall amend **Exhibit F** whenever more Annexable Property is annexed in order to update the voting allocations. Voting rights shall vest at the time that

assessments are levied against the Owner's Lot. Except as otherwise provided in this Declaration or the Bylaws, all matters requiring the approval of the Members shall be approved if: (i) approved by a majority of the votes cast either in person or by proxy at a duly-held regular or special meeting at which a quorum was present; (ii) approved by a majority of the written ballots cast in compliance with the requirements of Corporations Code section 7513 or any successor statute thereto; or (iii) approved by unanimous written consent of all the Members.

Notwithstanding the foregoing, approval by the Members shall be subject to each of the following:

(1) Greater Than a Majority. If, under the terms of this Declaration, a particular action requires approval by more than a majority, the action shall be approved by the Members only if the required percentage of votes approves the action.

(2) Amendments. Member approval requirements for any amendments to this Declaration, the Articles or Bylaws shall comply with the amendment requirements set forth in the respective document to be amended.

(3) Legal Requirements. If the voting requirements and/or procedures conflict with any Applicable Laws, the Applicable Laws shall control.

4.5 Joint Ownership Votes. The vote that is attributed to each Lot may not be cast on a fractional basis. If the Lot has more than one Owner and the Owners are unable to agree as to how the vote shall be cast, the vote shall be forfeited on the matter in question. Any vote cast by an Owner for any Lot is presumed conclusively to be the vote cast by all the Owners of that Lot. If more than one Owner casts a vote attributed to a Lot on any matter on which only one vote could be cast for that Lot, the votes cast by such Owners shall be counted as one vote if the votes are the same; if the votes are different, the vote cast by such Owners shall not be counted and shall be forfeited.

4.6 Powers of the Association. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the general nonprofit mutual benefit corporation laws of California, subject only to such limitations on the exercise of these powers as are set forth in the Articles, Bylaws and this Declaration. The Association shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the Bylaws and to do and perform any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation, each of the following:

4.6.1 Levying Assessments. The Board shall establish, fix and levy assessments against the Lots and collect and enforce payment of such assessments in accordance with the provisions of **Article 5** of this Declaration.

4.6.2 Adopting Rules. The Board may adopt, amend and repeal Rules as it considers appropriate, provided they are adopted, amended or repealed in accordance with all Applicable Laws. Rules shall apply generally to the management and operation of the Paseo and/or the conduct of the business and affairs of the Association and may regulate the use of utilities that are paid by the Association and such other matters as are authorized in this Declaration. If any provision of this Declaration, the Articles or the Bylaws is inconsistent with or materially alters any Rules, this Declaration, the Articles and the Bylaws shall control to the extent of any such inconsistencies.

Any Rules adopted by the Board shall apply to all Owners or Occupants in a uniform and nondiscriminatory manner. The Board may adopt a Rule as the result of an act or omission of any Owner or Occupant their employees, clients, customers, vendors or Permittees, or a Rule that does not directly affect all Owners or Occupants in the same manner, as long as the Rule applies to all Owners or Occupants.



**4.6.3 Imposing Disciplinary Action.** In addition to any other enforcement rights described in this Declaration and the Bylaws or as may be authorized by Applicable Laws and subject to the due process requirements imposed by this Declaration, the Bylaws or by Applicable Laws, the Board may take any of the following actions against any Person whose act or failure to act violates or threatens to violate any provisions of this Declaration, the Bylaws or Rules: (a) impose monetary penalties, including late charges and interest; and (b) commence any legal or equitable action for damages, injunctive relief or both. Subject to the provisions of **Section 10.8**, the determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Board. Any legal action may be brought in the name of the Association on its own behalf and on behalf of any Owner who consents and, except as otherwise provided herein, the prevailing party in such action shall be entitled to recover costs and reasonable attorneys' fees. The Board, in its sole discretion, may resolve or settle any dispute, including any legal action in which the Association is a party, under such terms and conditions as it considers appropriate.

(i) If the Board adopts a policy imposing monetary penalties, including any fee on any Member for a violation of the governing documents or the Rules, including any monetary penalty relating to the activity of a Member or Member's Permittee or the Member's Occupant or their Permittee, the Board shall adopt and distribute to each Member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed. The Board may change the schedule from time to time and shall distribute a notice of such changes to the Members in the same manner as the schedule of penalties.

(ii) The imposition of any disciplinary action, including, but not limited to, the imposition of monetary penalties or the suspension of use and/or voting privileges except as otherwise noted herein, shall be subject to the following procedures and requirements:

(a) **Notice of Hearing.** Prior to the time the Board meets to consider or impose discipline upon a Member, the Board shall notify the Member, by either personal delivery or first-class mail, at least fifteen (15) days prior to the meeting. The notice shall contain, at a minimum, the date, time and place of the meeting, the nature of the alleged violation for which the Member may be disciplined, and a statement that the Member has a right to attend and may address the Board at the meeting.

(b) **Hearing.** If requested by the Member, the Board shall conduct the disciplinary proceeding in executive session. The Member, the Member's legal counsel, and the Association's legal counsel shall be entitled to attend the executive session meeting. The Board may interview witnesses and other interested parties in executive session.

(c) **Notice of Action Taken.** If the Board elects to impose discipline on the Member, the Board shall notify the Member of the disciplinary action within ten (10) days following the election to impose the disciplinary action.

(d) **No Forfeiture.** Under no circumstances may the Association cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's Lot on account of the failure of the Owner to comply with the provisions of this Declaration, the Articles, Bylaws or Rules, except by judgment of a court or decision of an arbitrator or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessments duly levied by the Association.

(e) **Assessment Charges.** The provisions of this **Section 4.6.3** do not apply to charges imposed against a Member for reasonable late payment penalties or charges to reimburse the Association for loss of interest and for costs reasonably incurred (including attorneys' fees) in collecting delinquent assessments.

**4.6.4 Delegating Duties.** Except as may be limited by the Bylaws, the Board may delegate any of the Association's powers and duties to its employees, committees or agents, including a professional management agent.

4.6.5 Implementing Special Fees. The Board may implement special fees to reimburse the Association for special costs incurred as a result of actions taken by Owners. Fees not paid in a timely manner may be collected through a reimbursement assessment levied against the Owner's Lot.

4.7 Duties of the Association. In addition to the duties described in the Articles, Bylaws, or elsewhere in this Declaration, the Association shall have the duty to manage the Paseo programming, perform the maintenance and trash collection as described in **Article 3**, prepare, periodically update, and comply with the maintenance and inspection guidelines described in **Section 3.2**, prepare and distribute financial statements and reports as described in **Section 4.10**, levy and collect assessments as described in **Article 5**, and procure, maintain and review the insurance as described in **Article 6**. The Association shall perform such other acts as may be reasonably necessary to exercise its powers to perform its duties under any of the provisions of this Declaration, the Articles, Bylaws, Rules or Board resolutions.

4.8 Taxes and Assessments. The Association shall pay all personal property taxes and assessments levied against the Association or the personal property owned by the Association. If and only to the extent that taxes and/or assessments are levied against the Paseo separate from the remainder of the Paseo Lots, the Association shall pay such real property taxes and assessments. The Association shall not be responsible for payment of any taxes and/or assessments levied against a Paseo Lot beyond the Paseo. Taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

4.9 Utility Service to the Paseo. The Association shall acquire, provide and pay for water, trash collection, electrical, sewer, and other necessary utility services for the Paseo, including any recreational facilities therein.

4.10 Reporting Requirements. The Association shall prepare and distribute such financial statements and reports as may be required by the Board and by Applicable Laws.

## Article 5 ASSESSMENTS

5.1 Obligations to Pay Assessments. The Owner of each Lot is obligated to pay any assessments levied against that Owner's Lot on or before the due date of the assessment. If there is more than one Owner of the Lot, the obligation is joint and several. Each Owner on acceptance of a deed to a Lot automatically personally assumes the obligation to pay any assessments against the Owner's Lot (including, but not limited to, any portion of the annual regular assessment not yet due and payable). The Owner shall be liable for the full assessment levied against that Owner's Lot regardless of the Owner's possession or use of the Lot, the Paseo or any services rendered by the Association. The Owner has no right or power to commit or omit any act, such as waiving the right to use the Paseo Improvements, in an attempt to eliminate or reduce the assessments against that Owner's Lot. An assessment shall be both a personal obligation of the Owners of the Lot against which the assessment is levied and, upon the recordation of a judgment lien, a lien against the Lot. Any Owner who transfers a Lot shall remain personally liable for any unpaid assessments that accrued on or before the date of the transfer. No Owner shall be liable for any defaults of the Owner's predecessor in interest in the payment of any assessment that has accrued prior to the Owner taking title to the Lot unless that Owner expressly assumes the obligation to cure the delinquent assessments. Notwithstanding the foregoing, any Owner who takes title to a Lot on which a judgment lien has been established will take title subject to the lien and the Association's enforcement remedies as a result thereof unless the Owner takes title under a foreclosure or trustee sale resulting from a foreclosure or exercise of a power of sale under a Mortgage, deed of trust, or other lien recorded before the recordation of the judgment lien and except as provided in **Section 8.3**.

5.2 Obligations to Pay Assessments If Further Subdivision. If any Lot is further subdivided into additional lots and/or common interest developments (a "Subdivided Lot") and an owners association is formed to manage and maintain the Subdivided Lot, the association shall be deemed the Owner of that portion of the Subdivided Lot for purposes of this Declaration and the association's board of directors shall



have full right, power and authority to exercise all the rights and perform all the duties on behalf of the owners of the Subdivided Lots and the consent of these owners shall not be required. The association shall be obligated to collect the assessment attributable to the Subdivided Lot under this Declaration and remit payment to the Association in a timely manner. If the association fails to pay, the Association may bring an action against the association or against each Subdivided Lot for its allocable share and shall be eligible to recover late charges, interest, collection costs and attorneys' fees as described in **Section 5.10**.

5.3 Annual Regular Assessment. Prior to the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the annual regular assessment for the forthcoming fiscal year. At such meeting, the Board shall review the preliminary pro forma operating budget prepared for the forthcoming fiscal year, any written comments received from Members and Mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate the Board will establish an annual regular assessment for the forthcoming fiscal year. Each annual regular assessment may include a portion for reserves as described in **Section 5.4**.

If the Board for any reason fails to take the appropriate steps to establish the annual regular assessment for the next fiscal year, the annual regular assessment for the preceding fiscal year shall continue in effect subject to the Board's right at any time during the next fiscal year to adjust the assessment pursuant to the procedures described herein.

5.4 Reserves. Each annual regular assessment may include, at the discretion of the Board, a portion for reserves in such amount as the Board, in its discretion, considers appropriate to meet the cost of the future repair, replacement or additions to the capital Improvements that the Association is obligated to maintain. Reserve funds, if collected, shall be deposited in a separate account.

5.5 Special Assessments. The Board may levy a special assessment if the Board in its discretion determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including, but not limited to, expenses resulting from inadequate reserves, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital Improvements, inadequate insurance proceeds, or other unanticipated expenses. The Board may levy the entire special assessment immediately or levy it in installments over a period the Board considers appropriate.

5.6 Reimbursement Assessments. The Board shall have the authority to levy reimbursement assessments against one or more Lot Owners to reimburse the Association for any costs incurred or to be incurred by the Association as the result of any act or omission of any Owner or Occupant of any Lot or their Permittees. The levy shall not include any portion that is paid or will be paid by any insurer under a policy maintained by the Association. Payment of the deductible amount shall be the responsibility of the Owner and is subject to a reimbursement assessment. If the reimbursement assessment is levied and paid before all or any portion of the costs have been incurred by the Association and the amount paid exceeds the costs incurred, the Association promptly shall refund the excess to the Owner. If the costs exceed the amount, the Owner shall reimburse the Association within thirty (30) days thereafter. If payment is not made when due, the payment shall be considered a delinquent assessment and the Association may enforce the delinquent assessment as described in **Section 5.10**.

In addition to reimbursing the Association for costs necessary to repair the Paseo or other property that is maintained by the Association, the Association may seek reimbursement for any costs incurred by the Association, including attorneys' fees, to bring the Owner or Occupant or the Owner's Lot into compliance with this Declaration, the Articles, Bylaws or Rules.

5.7 Commencement of Regular Assessments. Annual regular assessments shall commence for all Lots that are subject to this Declaration no later than the date the Association commences operations as described in **Section 4.1**.

5.8 Due Dates of Assessments. Unless otherwise directed by the Board or unless accelerated as described herein, the annual regular assessment shall be collected in twelve (12) equal monthly installments and each installment shall be due and payable on the first (1st) day of each month. If any monthly installment is delinquent, the Board, at its election, may accelerate the remaining installment payments so that the entire remaining balance of the annual regular assessment is immediately due and payable. Special assessments shall be due on such date or dates as selected by the Board. Reimbursement assessments shall be due and payable ten (10) days after the Owner receives the notice of the reimbursement assessment. The notice shall be deemed received on the date described in **Section 10.11**.

Any annual regular assessment installment (including any accelerated installments), special assessment, or reimbursement assessment not paid within fifteen (15) days after the due date shall be delinquent, shall bear interest at the rate of ten percent (10%) per annum from thirty (30) days after the due date until paid, and shall incur a late penalty in an amount to be set by the Board from time to time, not to exceed the maximum amount permitted by Applicable Laws.

5.9 Allocation of Regular and Special Assessments. Regular and special assessments levied by the Board shall be allocated among the Lots in accordance with the allocation described as follows and set forth in **Exhibit F**. One component of the assessments shall be allocated, per grouped parcels, a percentage of the total cost for annual programming and pump station enclosure maintenance based on the square footage net rentable measurements of the grouped parcels shown on **Exhibit F** in relation to the other groups of parcels. The second component of the assessments shall be allocated, also per grouped parcel, so that the Paseo Lot(s) that are then members of the Association shall be allocated fifty percent (50%) of the total cost for annual Paseo maintenance, prorated based on the square footage net rentable measurements of the Paseo Lots, and the remaining grouped parcels that are members of the Association shall be allocated the remaining fifty percent (50%) of the total cost for annual Paseo maintenance, also prorated based on the square footage net rentable measurements of the remaining parcels.

Declarant or, after formation, the Association, shall amend **Exhibit F** whenever more Annexable Property is annexed in order to update the assessment allocations.

5.10 Enforcement of Delinquent Assessments. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the assessment and in such action shall be entitled to recover the delinquent assessment or assessments, accompanying late charges, interest, costs and reasonable attorneys' fees.

5.11 Estoppel Certificate. Within ten (10) days of the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (i) whether to the knowledge of the Association, the Owner or Occupant of the Owner's Lot is in violation of any of the provisions of this Declaration, the Articles, Bylaws or Rules; (ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year in which the request is received; and (iii) the amount of any assessments levied against the Owner's Lot that are unpaid as of the date of the statement, are or may be made a lien against the Owner's Lot as provided by this Declaration. The Association may charge a fee to provide this information provided the fee shall not exceed the Association's reasonable cost to prepare and reproduce the requested items.

## Article 6 INSURANCE

6.1 Association Liability Insurance. The Association shall obtain and maintain the following liability policies:

6.1.1 General Liability Policy. A general liability insurance policy insuring the Association, any manager, the Association's directors and officers, and the Owners (including Declarant as long as Declarant owns any Lots) against bodily injury or property damage from an accident or occurrence within the Paseo. The Association shall be the first named insured under the policy. The policy shall include, if obtainable, cross liability or severability of interest coverage. The limits of such insurance (including the commercial general liability and any excess liability coverage) shall not be less than \$3,000,000 covering all claims for bodily injury and property damage arising out of a single occurrence. The coverage may be a combination of primary and excess policies. The insurance shall contain coverage terms equivalent to or better than the terms provided by Insurance Services Offices ("ISO") form CG001 or any successor form thereto. Such insurance shall include coverage against liability for owned, non-owned and hired automobiles and other liability or risk customarily covered with respect to projects similar in construction, location and use. The policy shall be primary and noncontributing with any other liability policy covering the same liability. Any notice of cancellation or material changes to the policy shall be provided by the issuing insurance company in accordance with the notice requirements in the policy. If cancelled the Board shall replace the policy with a substantially equivalent policy.

6.1.2 Directors and Officers Liability Policy. A directors and officers liability policy containing such terms and conditions that are normally and customarily carried for directors and officers of a commercial association.

6.2 Association Property Insurance. The Association, in the sole discretion of the Board, may obtain and maintain a property insurance policy on the Improvements within the Paseo and Association personal property in such amounts and containing such terms and conditions as the Board from time to time may select.

6.3 Insurance Rating and Cancellation. The insurance company providing the Association's insurance under **Sections 6.1 and 6.2**, if applicable, shall have an A.M. Best rating of not less than A:VII if licensed to do business in the State of California and a rating of not less than A:X if not licensed to do business in the State of California. If the A.M. Best ratings are no longer available, the insurance ratings shall be based on equivalent ratings issued by an independent insurer company rating entity used by financial institutions for insurance rating purposes.

6.4 Board's Authority to Revise Insurance Coverage. The Board shall have the power and right to deviate from the insurance requirements contained in this **Article 6** in any manner that the Board, in its discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this **Article 6**, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction.

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Each Owner, by becoming a Member of the Association, irrevocably appoints the Association or the Insurance Trustee, described in **Section 6.6**, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

6.5 Periodic Insurance Review. The Board periodically (and not less than once every three (3) years) shall review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Board considers to be in the best interests of the Association. If applicable, the review shall include an appraisal by a qualified appraiser of the current replacement costs of all covered property under the Association's property insurance policy unless the Board is satisfied that the



current dollar limit of the property insurance policy, coupled with the amount of actual reserves on hand, is equal to or greater than the current replacement costs.

6.6 Insurance Trustee. All property insurance proceeds payable to the Association under any property insurance policy procured by the Association as described in **Section 6.2**, subject to the rights of Mortgagees under **Article 8**, may be paid to a trustee as designated by the Board to be held and expended for the benefit of the Owners and Mortgagees as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the county in which the Specific Plan Area is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Association will have the duty to contract for such work as provided for in this Declaration.

6.7 Other Insurance. In addition to the policies described in **Sections 6.1 and 6.2**, the Association may obtain and maintain the following insurance:

- (i) Workers Compensation Insurance to the extent required by Applicable Laws;
- (ii) fidelity bonds or insurance covering officers, directors and employees who have access to any Association funds; and
- (iii) such other insurance as the Board in its discretion considers necessary or advisable.

#### Article 7 DAMAGE AND DESTRUCTION

7.1 Repair or Reconstruction. If the Paseo or any Improvement within the Paseo is damaged or destroyed by fire or other casualty, the Association shall repair or reconstruct the Improvement substantially in accordance with the original as-built plans and specifications subject to such modifications as may be required by Applicable Laws.

7.2 Reconstruction Contract. If the Paseo and/or the Improvements within the Paseo (collectively, the "Paseo") are to be rebuilt or restored and the repair costs are in excess of \$50,000, the Board shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the Paseo in accordance with the original plans and specifications, subject to such changes as may be approved by the Board, the City's "Architectural Review Process", or required by Applicable Laws, and shall award the repair and reconstruction work to the lowest qualified bidder unless the Board in its reasonable judgment elects to select a higher bidder. The Association shall have the authority to enter into a written contract with the contractor or contractors for the repair and reconstruction, and the insurance proceeds held by the Association or insurance trustee shall be disbursed to the contractor according to the terms of the contract. It shall be the obligation of the Association to take all steps necessary to ensure the commencement and completion of authorized rebuilding at the earliest possible date.

7.3 Minor Repair and Reconstruction and Deductibles. The Association shall have the duty to repair and reconstruct the Paseo within the Specific Plan Area without the requirement of any consent of the Owners and irrespective of the amount of available insurance proceeds in all cases of partial destruction when the estimated cost of repair or reconstruction does not exceed \$20,000, which amount shall be increased three percent (3%) per annum on a compounded basis commencing on the anniversary date of the recordation of this Declaration and each anniversary date thereafter. The Association may levy a special assessment for the cost of repairing and reconstructing Improvements to the extent insurance proceeds are unavailable pursuant to the procedures described in **Article 5**.

7.4 Completion of Repair or Reconstruction. The repair or reconstruction of any Improvement shall commence no later than ninety (90) days after the date of such damage or destruction and shall be completed no later than one hundred eighty (180) days subject to extensions because of delays that are



beyond the control of the Association. The Association immediately shall take such steps as may be reasonably required to secure any hazardous condition resulting from the damage or destruction and to screen any unsightly views.

7.5 Condemnation. If any action for condemnation of all or any portion of the Paseo is proposed or threatened by any governmental agency having the right of eminent domain, then, after approval by vote or written consent of Members holding at least fifty-one percent (51%) of the total voting power of the Association and with the consent of the first mortgagees as may be required herein, the Paseo or a portion of it may be sold and conveyed to the condemning authority by the Association or its designees acting as the attorney-in-fact of all the Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Lot in the Specific Plan Area grants to the Board, and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. Proceeds of any such sale shall be allocated equally among the Lots and distributed to each Owner and their Mortgagees as their respective interests may appear. If the Paseo or any portion of it is not sold but is instead taken, the award shall be apportioned among the Owners and their respective Mortgagees by the terms of the judgment of condemnation; and if not so apportioned, then the award shall be allocated equally among the Lots and distributed equally to each Owner and their Mortgagees as their respective interests may appear.

Notwithstanding anything herein to the contrary, the Board may elect to retain all or any portion of any condemnation proceeds with the Association's funds in lieu of distribution.

## Article 8 RIGHTS OF MORTGAGEES

8.1 Lender Definitions. Unless the context indicates otherwise, the following terms as used in this **Article 8** shall have the definitions contained in this **Section 8.1**. A "first Mortgage" or "first Mortgagee" is one having a priority as to all other Mortgages encumbering the same Lot or other portions of the Specific Plan Area.

8.2 Encumbrance. Any Owner may encumber his or her Lot with a Mortgage or Mortgages.

8.3 Rights of Institutional Mortgagees. Any institutional Mortgagee who obtains title to a Lot pursuant to the remedies provided in the first Mortgage, including judicial foreclosure or nonjudicial foreclosure under a power of sale (but excluding voluntary conveyance to the first Mortgagee), shall take the Lot free of any obligation to pay any assessments that were delinquent as of the date the institutional Mortgagee acquired title to the Lot, including any interest, penalties or late charges in connection therewith. The institutional Mortgagee as Owner of the Lot shall be obligated to pay any assessments that were not delinquent as of the date the institutional Mortgagee took title to the Lot and all future assessments levied against the Lot as long as the institutional Mortgagee remains in title, including any special assessments levied by the Association to raise operating or reserve funds needed because of uncollected delinquent assessments, as long as the special assessment is allocated among all the Lots as provided in **Section 5.9**.

8.4 Breaches. No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith or for value, but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee sale or otherwise.

## Article 9 AMENDMENTS

9.1 Amendments. This Declaration may be amended or rescinded in any respect with the vote or written consent of not less than a majority of all votes of the Members, but no amendment or rescission shall be effective until such proposal has been submitted to the City Council of the City of Santa Clara, the City has conducted a public hearing on such proposal, and sixty (60) days have passed since

the hearing and the City Council has not vetoed the proposal. The City has the right and authority to veto any such proposed amendment or rescission that would adversely affect the long-term maintenance of the Paseo. If any provision of this Declaration requires a greater or lesser percentage of the voting rights of the Owners in order to take affirmative or negative action under such provision, the same percentage of such Owners shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee, Owner or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Notwithstanding anything herein to the contrary, any provision in this Declaration that specifically confers rights or benefits on Declarant as the Declarant and not on any other Owner may not be amended or rescinded without the prior written consent of Declarant. 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 officer designated in this Declaration or by the Association for that purpose (or, if no one has been designated, the President of the Association), and the amendment and certification have been recorded in Santa Clara County, California.

Notwithstanding anything herein to the contrary, the easements appurtenant to any Lot or Annexable Property as described in **Sections 2.1 and 2.2** may not be modified or terminated without the prior written consent of the Owner of the Lot or the owner of the Annexable Property, as applicable.

9.2 **Corrections.** Notwithstanding anything herein to the contrary, Declarant reserves the right as the attorney-in-fact for each Lot Owner to record an amendment or appropriate instrument of correction to correct any errors in this Declaration, any declarations of annexation, or any exhibits thereto, and the consent of neither the Association nor any Lot Owner shall be required provided that if the correction affects the size, location or access or use rights to any Lot, the consent of that Lot Owner shall be required. The amendment shall be effective when recorded in the records of Santa Clara County, California, signed by an authorized agent of Declarant.

9.3 **Mortgagee Reserved Amendment Rights.** Notwithstanding anything herein to the contrary, Declarant reserves the right to amend this Declaration as may be necessary or advisable in order to include provisions that satisfy the requirements of the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Federal Housing Administration (FHA) and/or the federal Department of Veterans Affairs (VA). The Association and each Owner shall fully cooperate in the delivery, execution and recordation of any documents necessary to effect the amendments.

## Article 10 MISCELLANEOUS PROVISIONS

10.1 **Headings.** With the exception of **Article 1**, 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.

10.2 **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 or any portion thereof shall not invalidate any other provision or any portion of the provisions not found invalid or unenforceable.

10.3 **Cumulative Remedies.** Each remedy provided for in this Declaration shall be cumulative and nonexclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

10.4 **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, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin,

ancestry, familial status, source of income as defined in Government Code section 12955(p), disability, veteran or military status, or genetic information.

10.5 Notification of Sale. No later than five (5) days after the closing of the sale of any Lot, the new Owner shall notify the Association of such sale. Such notification shall be in writing and shall set forth the name and address of the new Owner and the date of sale.

10.6 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.

10.7 Incorporation of Exhibits. All exhibits referred to herein and attached to this Declaration are incorporated herein by reference as fully set forth herein.

10.8 Enforcement Rights and Remedies. The covenants, restrictions, rights and duties contained in this Declaration constitute covenants running with the land and equitable servitudes that benefit and bind each annexed Lot in the Specific Plan Area, each Owner, and each successive Owner thereto, and may be enforced by the Association, the Declarant or any Owner in any legal or equitable action pursuant to the procedures described herein. Declarant may enforce any covenants, restrictions, and rights set forth in this Declaration that expressly benefit Declarant without regard to whether Declarant owns any Lots in the Specific Plan Area.

Each Owner acknowledges and agrees that if any Person breaches any of the obligations and/or restrictions contained herein, money damages may not be adequate compensation. As a result, each Owner agrees that in the event of a breach, the non-breaching party, in addition to any other remedy available at law or equity, shall be entitled to equitable relief, including, but not limited to, an order compelling the breaching party to perform an act which the party is required to perform under this Declaration or which is necessary to bring the breaching party or the breaching party's Lot into compliance with restrictions contained herein or prohibiting the breaching party from performing any act that violates the restrictions.

Notwithstanding anything herein to the contrary, the Association shall have the exclusive right to levy assessments and to take appropriate action to enforce delinquent assessments, including securing a judgment lien and the foreclosure of the lien. Furthermore, the Association shall have the primary responsibility for enforcing any restrictions contained herein. If any Owner or Occupant desires the Association to take any enforcement action, the Owner or Occupant shall notify the Association in writing of the alleged violation. On receipt, the Board shall review the matter and shall determine what action, if any, to take. Neither the Board nor the Association or any director, officer or agent thereof shall be liable if the Board in the exercise of its judgment elects not to take any action. To the extent applicable, the Board shall comply with the due process requirements described in this Declaration. If within ninety (90) days after receipt of the notice the Board has failed to take any corrective action and the alleged violation has not been cured and is continuing, any Owner may bring an action on the Owner's behalf for appropriate legal and/or equitable relief. In such action, the Owner shall bear his or her own costs and attorneys' fees, provided that the prevailing party in such action shall be entitled to recovery of such costs and fees.

10.9 Term of Declaration and Termination of Association. 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 records of the county in which the Specific Plan Area 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 (i) this Declaration is rescinded, and (ii) the Association is terminated, by the written consent of Owners holding a majority of the total voting power of the Association, and (iii) the City Council of the City of Santa Clara has provided written consent to such rescission. The rescission shall be effective on recordation of a notice of rescission in the records of Santa Clara County, California, and the rescission of the Declaration and termination of the Association shall only be effective with the prior written approval of the City.

10.10 Attorneys' Fees. In the event of any litigation or alternative dispute resolution procedure arbitration regarding the rights or duties under the Governing Documents of the Association or any Member, the prevailing party in such proceeding, in the discretion of the judge or decision-maker, shall be entitled to recover costs, including reasonable attorneys' fees.

10.11 Notices. Any notice permitted or required by this Declaration, the Articles, Bylaws or Rules 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, postage prepaid and addressed to the recipient at the address that the recipient has provided the Association for receipt of notice or, if no such address was provided, at the recipient's Lot address in the Specific Plan Area.

10.12 No Enforcement Waiver. Failure to enforce a restriction in the past in and of itself shall not constitute a defense to any action brought against any Owner for violation of any restriction contained herein. Each Owner, by becoming a Member of the Association, acknowledges that the enforcement of these restrictions may vary as a result of different Owners, Boards or Architectural Committees, changing conditions, or other reasons and agrees that the failure of any Owner, Board or Committee to enforce any particular restriction, even if such failure is for an extended period of time, shall not in any manner restrict or estop the right of any Owner, Board or Committee to enforce these restrictions at any future time.

10.13 Statutory Reference. Any reference to a governmental statute in this Declaration includes any amendments to the statute. If the statute is replaced by an equivalent statute, the equivalent statute shall be the applicable statute.

#### Article 11 ANNEXATION

11.1 Unilateral Annexation. The Annexable Property described in **Exhibit C** or any portion thereof may be annexed and made subject to this Declaration upon the election of the owner of the Annexable Property. Declarant makes no representations or warranty that any Annexable Property will be annexed and has no obligation to annex any Annexable Property.

Each annexation shall be accomplished by the recording of a 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 subject the property to the terms of this Declaration. Any declaration of annexation recorded in accordance with the terms of this section shall be conclusively presumed valid 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 subject to the provisions of this Declaration and to the rights and powers of the Association pursuant to the terms of this Declaration, the Articles and the Bylaws and, thereafter, all Owners of Lots constituting a portion of the annexed real property shall automatically be Members of the Association with voting rights commencing on the date regular assessments commence. Regular and special assessments with respect to the annexed property shall commence at the time and to the extent described in **Section 5.7**.

A declaration of annexation may be rescinded in any respect with the vote or written consent of not less than a majority of all votes of the Members. If the consent or approval of any governmental authority, Mortgagee, Owner or other Person is required with respect to any such rescission, no rescission shall become effective unless such consent or approval is obtained. The rescission shall be effective on the date a notice of rescission is recorded in the records of Santa Clara County, California. From and after this rescission, the property described in the declaration of annexation shall no longer be subject to the covenants, rights, duties, benefits or burdens set forth in this Declaration except as otherwise provided in the notice of rescission. Any declaration of annexation may be amended or corrected in the manner described in **Article 9**.



11.2 Annexation by Approval. Except for the automatic annexation provision contained in **Section 11.1**, no additional real property shall be annexed without the approval of Members holding two-thirds (2/3) of the total voting power of the Association and such approval of Mortgagees as may be required herein.

*[DECLARANT SIGNATURE PAGES FOLLOW]*

Date: \_\_\_\_\_

**SHAC TASMAN CDM APARTMENTS LLC,**  
a Delaware limited liability company

By: SHAC Tasman CDM Apartments Ventures LLC,  
a Delaware limited liability company, its manager

By: SHAC Tasman CDM Apartments Manager LLC,  
a Delaware limited liability company, its manager

By: Summerhill Apartment Communities,  
a California corporation, its managing member

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**ST. ANTON TASMAN EAST, LP,**  
a California limited partnership

By: Tasman East Workforce Housing, LLC,  
a California limited liability company,  
its Administrative General Partner

By: Blue Bronco, LLC,  
a California limited liability company,  
its sole member and manager

By: \_\_\_\_\_

Name: Peter H. Geremia

Title: Manager

By: PacH Anton South Holdings, LLC,  
a California limited liability company,  
its Managing General Partner

By: Pacific Housing, Inc.,  
a California nonprofit public benefit corporation,  
its sole member and manager

By: \_\_\_\_\_

Name: Mark A. Wiese

Its: President

*[Additional Declarant Signatures on Following Pages]*

Date: \_\_\_\_\_

**TASMAN EAST URBAN HOUSING, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Nicholas Vanderboom

Its: Vice-President

Date: \_\_\_\_\_

**TASMAN EAST HOLDCO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Nicholas Vanderboom

Its: Vice-President

Date: \_\_\_\_\_

**2354 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Kambiz Babaoff

Its: Managing Member

Date: \_\_\_\_\_

**5185 LAFAYETTE STREET, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Kambiz Babaoff

Its: Managing Member

Date: \_\_\_\_\_

**TASMAN 2278 CALLE DE LUNA, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Kambiz Babaoff

Its: Managing Member

Date: \_\_\_\_\_

**2263 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Kambiz Babaoff

Its: Managing Member

*[Additional Declarant Signatures on Following Pages]*

Date: \_\_\_\_\_

**2302 CALLE DEL MUNDO, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaoff  
Its: Managing Member

Date: \_\_\_\_\_

**TASMAN PROPERTIES, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Kambiz Babaoff  
Its: Managing Member

Date: \_\_\_\_\_

**NASH – HOLLAND CALLE DE LUNA INVESTORS, LLC,**  
a Delaware limited liability company

By: HPG Calle De Luna, LLC,  
a Washington limited liability company,  
its Operating Member

By: Holland Partner Group Management, Inc.,  
a Delaware corporation,  
its Manager

By: \_\_\_\_\_  
Name: John Wayland  
Its: Executive Managing Director of Development, Northern  
California

Date: \_\_\_\_\_

**GREYSTAR GP II, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Troy Vernon  
Its: Development Director

*[Final Signature Page]*



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

EXHIBIT A – Declarants

<u>Declarant</u>	<u>Property Owned by Declarant Within Tasman East Specific Plan Area</u>
2263 Calle del Mundo, LLC, a Delaware limited liability company	Parcel 5 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
2302 Calle del Mundo, LLC, a Delaware limited liability company	Parcel 9 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
2354 Calle del Mundo, LLC, a Delaware limited liability company	Parcel 12 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
5185 Lafayette Street, LLC, a Delaware limited liability company	Parcel 13 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman 2278 Calle de Luna, LLC, a Delaware limited liability company	Parcel 22 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman Properties, LLC, a Delaware limited liability company	Parcel 23 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Greystar GP II, LLC, a Delaware limited liability company	Parcels 7 and 18 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Berto Development, a California limited partnership <i>[Include if this is one of the 3 Paseo Lots triggering commencement]</i>	Parcel 17 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
NASH - Holland Calle De Luna Investors, LLC, a Delaware limited liability company	Parcel 19 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman East Urban Housing, LLC, a Delaware limited liability company	Parcels 24, 25, 26 and 27 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman East Holdco, LLC	Parcels 20 and 21 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
St. Anton Tasman East, LP, a California limited partnership	Parcel 6 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.

<b><u>Declarant</u></b>	<b><u>Property Owned by Declarant Within Tasman East Specific Plan Area</u></b>
SHAC Tasman CDM Apartments LLC, a Delaware limited liability company	Parcels 1, 2 and 3 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman Company, LLC, a California limited liability company as to an undivided 1/2 interest and The Family Trust of Harry Bruce Frumveller and Carolyn Ruth Frumveller, Harry Bruce Frumveller and Carolyn Ruth Frumveller, Trustees, Trust dated June 16, 2014 as to an undivided 1/2 interest <i>[Include if this is one of the 3 Paseo Lots triggering commencement]</i>	Parcel 16 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
TGR Associates, LLC, a California limited liability company	Parcels G, H and I as shown on the Parcel Map filed on July 6, 1978, in Book 422 of Maps, at pages 2 and 3, in the records of Santa Clara County, California.
True Solar USA Inc., a California corporation	Parcel 1 as shown on the Parcel Map filed on June 23, 1980, in Book 465 of Maps, at page 36, in the records of Santa Clara County, California.

EXHIBIT B – The Paseo Lots

2302 Calle del Mundo, LLC	Parcel 9 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Tasman Company, LLC, a California limited liability company as to an undivided 1/2 interest and  The Family Trust of Harry Bruce Frumveller and Carolyn Ruth Frumveller, Harry Bruce Frumveller and Carolyn Ruth Frumveller, Trustees, Trust dated June 16, 2014 as to an undivided 1/2 interest	Parcel 16 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
Berto Development, a California limited partnership	Parcel 17 as shown on the Parcel Map filed on February 27, 1976, in Book 368 of Maps, at pages 14 and 15, in the records of Santa Clara County, California.
True Solar USA Inc., a California corporation	Parcel 1 as shown on the Parcel Map filed on June 23, 1980, in Book 465 of Maps, at page 36, in the records of Santa Clara County, California.



EXHIBIT C – Annexable Property

Any property within the Tasman East Specific Plan Area that may be subject to this Declaration by the requirements of the Tasman East Specific Plan (as amended from time to time) and/or by the requirements of any other governmental agency.

EXHIBIT D – Paseo Location

*[TO BE ATTACHED WHEN AVAILABLE]*

EXHIBIT E – Summary of City Guidelines and Requirements for Event Programming

1. Paseo events shall occur at least eight times per year, with a minimum of two events per quarter.
2. Paseo events shall be advertised to reasonably reach all City residents, including but not limited to utilizing the City of Santa Clara's Event Calendar, and to all Tasman East residents via property management both onsite and electronically.
3. Excepting unusual circumstances, Paseo events are intended to be available to all members of the public at no cost to the public.

EXHIBIT F – Vote and Assessment Allocation<sup>1</sup>

Parcel No.	Paseo Lot?	Net Rentable		Annual Paseo Maintenance %	Annual Program & Pump Station Enclosure %	Votes
		SF	%			
16-18 & 28	No	562,456	16.40%	8.42%	16.40%	16.4
56-57	No	776,700	22.65%	11.63%	22.65%	22.65
62-64	No	275,360	8.03%	4.12%	8.03%	8.03
58	No	453,417	13.22%	6.79%	13.22%	13.22
11	No	200,900	5.86%	3.01%	5.86%	5.86
19	No	230,650	6.73%	3.45%	6.73%	6.73
29	No	195,395	5.70%	2.93%	5.70%	5.70
60-61	No	231,570	6.75%	3.4%	6.75%	6.75
2	No	62,746	1.83%	0.94%	1.83%	1.83
24 <sup>2</sup>	Yes	91,140	2.66%	50.00% <sup>2</sup>	2.66%	2.66
59	No	91,750	2.68%	1.37%	2.68%	2.68
20827	No	257,287	7.50%	3.85%	7.50%	7.50
<b>Total</b>		<b>3,429,371</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100</b>

<sup>1</sup> Pursuant to **Sections 4.4 and 5.9**, this exhibit shall be amended to update the members of the Association and their billable assessments and votes.

<sup>2</sup> All Paseo Lots that are members of the Association shall share, prorated based on the square footage rentable measurements of the Paseo Lots that are members of the Association, fifty percent (50%) of all annual Paseo maintenance costs.