

When recorded return to:
Security Title Agency
3620 N. 3rd Ave.
Phoenix, Arizona
Attn.: Connie Sinclair

87 350941

RECORDED IN OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA	
JUN 3 '87 - 3 00 KEITH POLETTS, County Recorder	
FEE 310	PGS 27 R.D.

PROP RSTR (RS)

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS

THIS DECLARATION is made as of the date set forth hereinafter by U.S. DEVELOPMENT CORP., an Arizona Corporation, the owner of and with respect to the following described real property (the "Property") situated within the County of Maricopa, State of Arizona, and more particularly described in Exhibit "A" attached hereto (the "Property").

Declarant desires to establish the nature of the use and enjoyment of the Property. Therefore, Declarant declares the Property to be subject to the following covenants, conditions, stipulations and restrictions (collectively termed "Restrictions"), as to the use and enjoyment of the Property. All of the Restrictions are to be construed as covenants running with the title to and possession of the Property and with each and every part and parcel thereof. All of the Lots (as defined hereinafter) shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used and improved subject to the Restrictions.

I. DEFINITIONS

As used herein, unless the context otherwise requires:

A. Assessments shall mean the charges against Owners (as defined hereinafter) to defray the Common Expenses (as defined hereinafter) as well as miscellaneous special Assessments, special Assessments for capital improvements, and special Assessments for the purpose of restoring and reconstructing the Common Elements (as defined hereinafter) in the event of casualty, all as provided in this Declaration.

B. Association shall refer to the BERRYESSA HOMEOWNERS ASSOCIATION, INC., whose membership shall include each Owner (as defined hereinafter) of a Lot (as defined hereinafter), and whose function shall be to manage the Common Elements (as defined hereinafter) as more specifically provided hereinafter. The Association will be incorporated under the name of BERRYESSA HOMEOWNERS ASSOCIATION, INC., an Arizona non-profit corporation, prior to the conveyance of a Lot (as defined hereinafter) by Declarant.

C. Association Rules shall mean and refer to the rules and regulations adopted by the Board pursuant to this Declaration and in furtherance of the Bylaws.

D. Board shall mean the Board of Directors of the Association elected pursuant to the Bylaws and serving as the governing body of the Association.

E. Bylaws shall mean the Bylaws adopted by the Board for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.

F. Committee shall mean the Architectural Control Committee to which reference is made in Section VII, Paragraph B herein.

G. Common Elements shall mean the entire Property, excluding the Lots, specifically shown as "Tract A," "Tract B" and "Tract C" on the Plat (as defined hereinafter) and any and all improvements located on said Tract A, Tract B or Tract C. Common Elements also shall include the sign or signs to be located at the entrance to the Property indentifying the Property. In the event that the City of Scottsdale fails to accept the dedication of (or if said dedication is accepted and the City of Scottsdale fails to maintain) that portion of the Property between 91st Street and the wall to be located along 91st Street, or if the City of Scottsdale fails to maintain the exterior portion of said wall facing 91st Street, the Common Elements also shall include said portion of the Property and said exterior portion of said wall for purposes of the Owners' common maintenance obligations as more specifically provided hereinafter.

H. Common Expenses shall mean the actual and estimated costs for: (i) maintenance, management, operation, repair and replacement of the Common Elements which are maintained by the Association; (ii) maintenance, repair and replacement of the Landscaping (as defined hereinafter) and the irrigation system of the Residential Front Yard Area (as defined hereinafter) of all Lots, and the water supplied to said Residential Front Yard Area of all Lots for irrigation purposes; (iii) deficiencies arising by reason of unpaid Assessments; (iv) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; (v) utilities [other than separately metered utilities for the Lots (as defined hereinafter)], trash pickup and disposal, gardening, pool service, and other related services; (vi) insurance and bonds required by this Declaration or any additional insurance and bonds obtained by the Board in its discretion; (vii) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion (as provided in Section III herein); (viii) any real or personal property taxes assessed against the Common Elements; and (ix) other miscellaneous charges incurred by the Association or the Board pursuant to this Declaration, the Bylaws, or Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association.

I. Committee shall mean the architectural committee established in Section VII herein.

J. Declarant shall mean, jointly and severally:

1. U.S. DEVELOPMENT CORP., an Arizona corporation; and,
2. Any successor or assign of U.S. DEVELOPMENT CORP. as developer of the entire undeveloped portion of the Property.

K. Dwelling shall mean a single family residential dwelling.

L. Lender shall mean an institutional holder of a first mortgage or first deed of trust against a Lot which is a bank, savings and loan association, insurance company, established mortgage company, or other entity chartered under state or federal law.

M. Landscaping shall include without limitation the natural landscaping, all subsequent changes thereon and additions thereto, all soil, gravel, rocks, boulders and plant life.

N. Lot shall mean each of the individual lots, as distinguished from Tracts, comprising the Property, as shown on the Plat (as defined hereinafter).

O. Owner shall mean, as to a given Lot, all of the record owners thereof, but shall not include lienholders or other persons who hold their interest solely as security.

P. Plat shall mean the plat of the Property, a copy of which is attached hereto as Exhibit B, and which has been recorded or will be recorded concurrently herewith.

Q. Property shall mean the Property described in Exhibit "A" attached hereto including each and every part and parcel thereof. The Property shall be known as "Berryessa."

R. Residential Front Yard Area shall mean the area between the front of the dwelling and related structures and the street. It shall also mean the area between the side of a dwelling and an abutting street. In that instance the side yard area shall be considered to be a separate Residential Front Yard Area.

II. DESCRIPTION OF LOTS AND COMMON ELEMENTS

A. Description of Lots. A description of the area of each Lot and its location within the Property is as set forth on the Plat.

B. Description of Common Elements. The Common Elements shall consist of the entire Property, excluding the Lots, specifically shown as "Tract A," and "Tract B" and "Tract C" on the

Plat. Common Elements also shall include the sign or signs to be located at the entrance to the Property indentifying the Property. In the event that the City of Scottsdale fails to accept the dedication of (or if said dedication is accepted and the City of Scottsdale fails to maintain) that portion of the Property between 91st Street and the wall to be located along 91st Street, or if the City of Scottsdale fails to maintain the exterior portion of said wall facing 91st Street, the Common Elements also shall include said portion of the Property and said exterior portion of said wall for purposes of the Owners' common maintenance obligations as more specifically provided hereinafter.

C. Interest of Each Lot In Common Elements. Ownership of a Lot shall include an undivided 1/120th interest in the Common Elements and such undivided interest shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the fee title of said Lot.

D. Maintenance By Owners. Except as otherwise provided herein, each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs, and replacements to his own Lot and the improvements located thereon.

E. Utilities. Except as otherwise provided herein, all utilities (including water, sewer, electric, gas and telephone) for each Lot will be metered separately to each Lot and such utility charges shall be the responsibility of the respective Owners.

F. Residential Front Yard Area Irrigation. The Residential Front Yard Area of all Lots shall contain an irrigation system to be installed by Declarant. Water for irrigating the landscaping in the Residential Front Yard Area of each Lot shall be supplied through said irrigation system by the Association, and the cost of said water shall be a Common Expense. Neither Declarant or the Association shall be required to add to, up grade or change said irrigation system as originally installed by Declarant.

III. MANAGEMENT

A. Association. The Association will be formed to serve as the governing body for all Owners and shall make provision (in its sole and absolute discretion) for the maintenance, repair, replacement, administration and operation of the Common Elements, the maintenance, repair and replacement of the Landscaping and the irrigation system of the Residential Front Yard Area of all Lots, assessment of expenses, payment of losses, division of profits, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in this Declaration and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received

by the Association shall be held and applied by it for the Owners in accordance with this Declaration and the Bylaws.

B. Membership. Each Owner shall be a member of the Association so long as he shall be an Owner and such membership shall automatically terminate when he ceases to be an Owner, and upon the transfer of the ownership interest, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

C. Voting. The aggregate number of votes for all Owners shall be one hundred and twenty (120) and each Owner shall have one (1) vote for each Lot owned by such Owner. The Association shall have two (2) classes of voting membership.

Class A. Class A Members shall be all Owners other than Declarant. As long as Class B membership is in existence, Class B membership shall be solely entitled to elect members of the Board. When more than one person owns an interest in a Lot, each such person shall be a member of the Association but the vote for such Lot shall be exercised as the co-Owners themselves determine, but in no event shall more than one vote be cast with respect to any Lot. The Association shall not be required to recognize the vote or written assent of any such co-Owner except the vote or written assent of the co-Owner designated in a writing executed by all of such co-Owners and delivered to the Association.

Class B. The Class B Member shall be Declarant. As long as Class B membership exists, the Class B member alone shall elect all members of the Board. The Class B Membership shall cease not later than 120 days after the happening of whichever of the following is first in time:

(i) when ninety percent (90%) or more of the aggregate number of Lots have been conveyed by Declarant to Owners; or,

(ii) on the third anniversary of the first conveyance of a Lot by Declarant to an Owner.

Upon the termination of the voting rights of the Class B Member pursuant to either (i) or (ii) above, the voting rights of the Class B member shall automatically be converted to the voting rights of a Class A Member.

D. Board of Directors. The governing body of the Association shall be the Board of Directors elected pursuant to the Bylaws. The Board shall consist of not less than three (3) members nor more than five (5) members. The Board may act to fill vacancies in its membership for the unexpired portion of any term. Except as otherwise provided in this Declaration, the Bylaws, or Association Rules, the Board may act in all instances on

behalf of the Association. The Board shall adopt the Bylaws and Association Rules.

E. Qualification of Directors. Except for Board members designated by Declarant, each Director shall be an Owner or the spouse of an Owner (of if an Owner is a corporation, partnership, or trust, a Director may be an officer, partner, trustee or beneficiary of such Owner). If a Director shall cease to meet such qualifications during his term, he will thereupon cease to be a Director and his place on the Board shall be deemed vacant.

F. Independent Manager. The Board may employ a responsible person or entity as manager to manage, operate, and maintain the Common Elements and the Landscaping and the irrigation system of the Residential Front Yard Area of all Lots, with all of the administrative functions and such other powers and duties as the Board may delegate from time to time and for such fees as the Board may establish consistent with other provisions of this Declaration. Any agreement for management of the Property shall be in writing and shall provide for termination by either the Association or the management agent for cause and without payment of a termination fee upon written notice of not less than thirty (30) days, and the term of such agreement shall not exceed one (1) year, renewable by written agreement of the parties for successive periods of one (1) year.

G. Action By Owners. The Board may not act on behalf of the Association to amend or terminate this Declaration. The Owners, acting by a majority of the voting power of the Association at a general or special meeting, may reject any act of the Board in fixing the annual budget, general Assessments, or special Assessments; provided such veto is exercised within thirty (30) days after the Board action.

H. Annual Meeting. The first meeting of the Association shall be held not later than one year after the first conveyance of a Lot from Declarant to an Owner is recorded or one hundred twenty (120) days after the cessation of the Class B Membership (whichever occurs earlier). Thereafter, the annual meeting shall be held as provided in the Bylaws.

I. Reserve Fund. Following the cessation of the Class B Membership, the Association shall maintain an adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis, and such reserve shall be funded as part of monthly Assessments. In order to establish said reserve initially, each Owner acquiring title to a Lot directly from Developer shall pay to the Association an amount equal to two (2) monthly payments of the Regular Assessments (as provided in Paragraph C of Section IV herein). Such payment shall not result in a reduction or an abatement of the obligation to pay said Regular Assessments. Declarant shall have no obligation to establish or contribute to such reserve.

J. Authority of Board. The Board shall have the authority to enforce compliance with the Declaration, to establish penalties for noncompliance with this Declaration, and to take appropriate action to secure compliance of this Declaration by any non-complying Owner and to charge said Owner for the cost of said action.

K. Association Rules. The Board shall adopt Association Rules in furtherance of the Bylaws for the regulation and operation of the Property, including recreational facilities. The Board shall have the right to exclude from the use of the recreational facilities by, and/or suspend maintenance of the Landscaping of the Residential Front Yard Area of any Owner who is delinquent in the payment of any Assessment levied in accordance with this Declaration.

IV. COVENANT FOR ASSESSMENTS

A. Creation of Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection as hereinafter provided, shall be a continuing lien against the Lot against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time the Assessment becomes due. The personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor.

B. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety and welfare of the Owners, the management, maintenance, care, preservation, and protection of the Common Elements, the maintenance, repair and replacement of the Landscaping and the irrigation system of the Residential Front Yard Area of all Lots, or in furtherance of any other duty or power of the Association.

C. Regular Assessments. Not later than thirty (30) days prior to the beginning of each fiscal year, the Board shall distribute to each Owner a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things estimate the total Common Expenses to be incurred for such fiscal year. The Board shall at that time determine the amount of the regular Assessment to be paid by each Owner. Each Owner shall thereafter pay to the Association his regular Assessment in equal monthly installments on the first day of each month. In the

event the Board shall determine that the estimate of total charges for the current year is, or will become, inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of the regular Assessment against each Owner, and the date or dates when due.

D. Capital Improvement Assessments. In addition to regular Assessments, the Board may levy in any fiscal year a capital improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Elements, including the necessary fixtures and personal property related thereto. The Board shall not impose a capital improvement Assessment exceeding twenty-five percent (25%) of the then estimated annual Common Expenses without the approval of a majority of the voting power of the Association. All amounts collected as capital improvement Assessments may only be used for capital improvements and shall be deposited by the Board in a separate account to be held in trust for such purposes and said funds shall not be commingled with any other funds of the Association.

E. Rate of Assessment. All Assessments shall be fixed in an equal amount for each Lot.

F. Certificate of Payment. The Association shall, within thirty (30) days after receipt of written demand, furnish to any Owner liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Lot have been paid and the amount of delinquency, if any. A reasonable charge may be collected by the Board for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

G. Date of Commencement of Assessments. Regular and capital improvement Assessments as to Lots shall commence as to all Lots not owned by Declarant on the first day of the month following the conveyance of the first Lot by Declarant to an Owner. Until such time as Declarant has sold all of the Lots, Declarant shall pay all Common Expenses of the Property not satisfied by the Assessments paid by the Owners of Lots not owned by Declarant. Declarant shall not be liable for Assessments on any Lot upon which a Dwelling has not been constructed and is not ready for occupancy.

H. Reduction or Abatement of Regular Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the regular Assessments or may abate collection of regular Assessments as it deems appropriate.

I. No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation: (i) a claim that the Association is not properly exercising its duties and powers as provided in this Declaration; or, (ii) an Owner has made or elects to make no use of the Common Elements or any recreational facilities.

J. Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Arizona now in effect, or in effect from time to time hereafter.

V. EFFECT OF NON-PAYMENT OF ASSESSMENTS AND REMEDIES

A. Delinquency. Any Assessment which is not paid when due is delinquent. Whenever an Assessment is delinquent, the Board may at its option invoke any or all of the sanctions provided for herein.

B. Late Charge. If any Assessment is not paid within five (5) days after it becomes due and payable, the Owner shall be obligated to pay a late charge then provided for in the Association Rules. The amount of such late charge until paid shall constitute part of the Assessment lien as provided for in this Declaration.

C. Interest. If any Assessment is not paid within five (5) days after it becomes due and payable, in addition to any late charge, interest at the rate then provided for in the Association Rules may be assessed on the amount owing from the date due until such time as it is paid. Such interest until paid shall constitute part of the Assessment lien as provided for in this Declaration.

D. Action at Law. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay same or, upon compliance with the notice provisions herein, to foreclose the Assessment lien; provided, however, that the Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise the other. The costs of preparing and filing the complaint shall be assessed against the delinquent Owner and his Lot and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest and/or late charges, if appropriate) in the event that a judgment is obtained by the Association. Each Owner vests in the Association or its assigns the right and power to bring actions at law and/or lien foreclosures against such Owner for the collection of delinquent Assessments.

E. Notice of Lien. No action shall be brought to foreclose an Assessment lien at a time less than thirty (30) days after the date that a certified or registered notice of claim of lien is deposited in the United States Mail, postage prepaid, to the Owner of the applicable Lot and a copy thereof is recorded by the Association in the office of the County Recorder of Maricopa County, Arizona.

F. Foreclosure Sale. Any foreclosure sale provided for in this Declaration is to be conducted in accordance with applicable provisions relating to the foreclosure of realty mortgages in the State of Arizona. The Association, upon approval by a majority vote of the Owners, may through its duly authorized agents have and exercise the power to bid on the Lot at the foreclosure sale and to acquire, hold, lease, mortgage and convey such Lot.

G. Suspension of Votes. The Board shall suspend for the entire period during which an Assessment remains delinquent the obligated Owner's right to vote on any matter at regular or special meetings of the Association. This Section shall not apply to Declarant, or any successor and assign of Declarant who is not a Lot purchaser in the ordinary course of business.

H. Suspension of Recreational Privileges. The Board is authorized to suspend for the entire period during which an Assessment remains delinquent the obligated Owner's right to the use of the recreational facilities located on the Common Elements.

VI. EASEMENTS

A. General Easements to Common Elements. Subject to this Declaration and the Association Rules, non-exclusive reciprocal easements are hereby reserved and created for the purpose of ingress and egress, access, use and enjoyment in favor of each Owner, upon, across, over, under and through the Common Elements, which easements shall be appurtenant to each Lot.

B. Public Utilities. Easements and rights over the Common Elements for the installation and maintenance of electricity lines, telephone lines, cable television, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Property are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use of the Common Elements and the Lots by the Owners.

C. Easements to Residential Front Yard Area. Easements and rights over the Residential Front Yard Area of all Lots for the installation and maintenance of an irrigation system, and for the maintenance of Landscaping, are hereby reserved and created in favor of the Association.

VII. USE RESTRICTIONS

The Property is hereby restricted as follows:

A. Dwellings

1. No building or structure shall be erected on any Lot for use other than as a Dwelling.

2. No dwelling shall be used for the purpose of conducting a trade or business activity of any kind whatsoever. Lease or rental by an Owner for use as a dwelling subject to this Declaration is not precluded; provided, however, such Owner shall be responsible for taking those actions necessary to ensure that tenants comply with this Declaration.

3. Not more than one single family dwelling shall be constructed on any one Lot.

4. All buildings and structures erected on the Property shall be of new construction. No building or structure, included, but not limited to, trailers, mobile homes, boats or motor homes may be moved on or maintained on the Property.

5. No trailer, tent, shack, garage, barn, or temporary buildings or structures of any nature or kind shall be used at any time for residence on the Property, either temporarily or permanently.

6. No dwelling or any part thereof shall be used for living purposes until the entire structure is complete, including, without limitation, the installation of water flush toilets, washbowls, showers and/or bathtubs and other sanitary devices. All such sanitary devices shall be located inside the dwelling and connected to a sewer and water system.

7. No individual water supply system or sewage disposal system shall be permitted on any Lot unless such system is designated, located and constructed in accordance with the requirements, standards and recommendations of all applicable Health Department laws and regulations, including, but not limited to, those of the Water Quality Environmental Agency of the State Health Department and the County and/or City Health Departments.

8. No temporary buildings whether used for storage or any other purpose, shall be permitted to remain on the Property. Notwithstanding the provisions of this Paragraph 8 and of Paragraph 4 herein, Declarant may, during the course of construction of improvements on the Property, move onto and maintain on the Property one or more temporary buildings or structures, provided that they are reasonably necessary and are appropriate to the construction, and provided further, that upon completion of construction, they shall be immediately removed.

9. The construction or erection of any carport or garage shall not be permitted until construction of the dwelling has commenced. No carport or garage shall exceed one (1) story in height nor be large enough to accommodate more than three (3) standard size cars or two standard size cars and one motorhome.

10. No dwelling shall exceed two (2) stories in height.

11. No dwelling shall contain less than 800 gross square feet of ground floor area, exclusive of any portion used for a garage, porch, patio or storage shed, whether attached or not.

12. All buildings and structures upon the Property shall at all times be kept in good condition and repair and adequately painted, maintained or otherwise finished.

13. Nothing herein contained shall prohibit the construction of a swimming pool on any Lot, together with such appurtenances consistent with these restrictions as may be reasonably necessary for the use and enjoyment thereof.

14. All construction shall be subject to the applicable zoning ordinances and amendments thereto.

15. In addition to any approvals or consents required by the Committee, as set forth elsewhere in these Conditions, Covenants and Restrictions, any subsequent addition to a dwelling shall be consistent with the exterior appearance of such dwelling, including but not limited to, height, window treatment, exterior finishes, roof coverings, etc.

16. No freestanding structure of any nature shall be permitted on any Lot.

B. Sales Offices and Model Homes. Nothing contained in this Declaration shall be deemed to preclude or prohibit Declarant from installing, operating or maintaining any number of sales offices (whether of temporary or permanent construction) or model homes for the purpose of the sale of Lots and the Dwellings thereon.

C. Tract C. Tract C will contain approximately six (6) spaces for vehicle parking. No vehicle shall park in any of such parking spaces for a period of longer than fifteen (15) minutes at any one time.

D. Architectural Control

1. No building, fence, wall, sign, exterior light or other structure or apparatus, either permanent or temporary, shall be commenced, erected, placed or maintained upon the Property, nor shall any exterior addition thereto, change therein or

alteration, excavation, subdivision or resubdivision thereof, including without limitation, additions to or of, changes in or alterations of grade, landscaping, roadways, signs, exterior lights, awnings, walls or fences, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location and other material attributes of the same in relation to surrounding structures and topography, and in relation to the plan for the Property, as the same be hereafter amended or supplemented, shall have been submitted for approval as described in Paragraph D(2) below.

2. The submission shall be in the form required by the Committee and shall be to and the approval shall be by the Committee. The Committee shall be composed of three (3) or more representatives. Until such time as all of the Lots have been sold by Declarant, each of the representatives comprising the committee and their replacements shall be appointed by the Declarant. Thereafter, the representatives and their replacements may be appointed by the Board. Members of the Committee shall serve until replaced by the Board, or thirty (30) days following delivery to the Board of written notice of resignation. The initial members of the Committee shall be:

Name: Michael Nicholas
Address: 9390 North 95th Street

City, State, Zip: Scottsdale, Arizona 85258

Name: Paul O. Gross
Address: 9390 North 95th Street

City, State, Zip: Scottsdale, Arizona 85258

Name: Larry Kozel
Address: 9390 North 95th Street

City, State, Zip: Scottsdale, Arizona 85258

3. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and this requirement will be deemed to have been fully complied with. ←

4. In the event of a vacancy on the Committee and until that vacancy is filled, the remaining members of the Committee may function as the Committee. During such period of time, if any, as there are no members of the Committee, the Board shall constitute the Committee.

E. Setback Lines. The setback requirements of all structures including walls, dwelling houses and garages shall conform to all applicable zoning laws and ordinances.

F. Fences

1. No solid wall or fence over three (3) feet high shall be constructed or maintained within the area of the minimum front or side street setback lines.

2. No side or rear wall (other than the wall of the building itself) constructed on any Lot shall be more than six (6) feet in height.

E. Resubdivision. None of the Lots shall be resubdivided into smaller Lots nor conveyed or encumbered in less than the full original dimension of such Lot as shown on the plat, except for public utilities. This restriction shall not prevent the conveyance or encumbrance of adjoining or contiguous Lots or parts in such a manner as to create parcels of land in a common ownership having the same or a greater street frontage or a greater area than is shown on the plat for any one of the Lots. Thereafter such parts of adjoining or contiguous Lots in such common ownership shall, for the purpose of these restrictions be considered as one Lot. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for public utilities, in which event the remaining portion of any such Lot shall, for the purposes of this provision, be treated as a whole Lot.

G. Easement Area. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the flow of water through drainage channels in the easements.

H. Offensive Noise and Activities

1. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purpose, shall be located, used or placed on any Lot.

I. Vehicles

1. No vehicle of any type which is abandoned or inoperable shall be stored or kept on any Lot in such a manner as to be seen from any other Lot or from any streets or alleyways within the Property.

2. ~~No boat, mobile home, motor home, bus, motorcycle, truck larger than 3/4 ton, trailer of any kind, truck-camper, or permanent tent or similar apparatus, structure or vehicle shall be kept, placed~~ (except during the course of making deliveries or for purposes of loading or unloading and for not more than forty-eight (48) hours at any given time), maintained, constructed, reconstructed or repaired upon any Lot or street (public or private) ~~within the Property in such a manner as will be visible from any other Lot.~~ The provisions of this Paragraph 2 shall not apply to emergency vehicles, or equipment repairs which are completed the same day they are commenced or to temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any approved improvement.

3. Notwithstanding the foregoing, bona fide temporary household visitors will be permitted to park recreation vehicles or boats on a residential driveway for a period not to exceed forty-eight (48) hours. No vehicle, including without limitation, any boat or trailer of any kind, shall be allowed to park overnight on any street within the Property.

4. No vehicle, including but not limited to those parked in the rear yard of any Lot, shall be provided electric power, water supply, sanitary sewer or similar connections. No such vehicle shall be used for living purposes.

J. Garbage

1. No garbage, trash or debris of any kind shall be placed, kept or permitted to accumulate on any Lot except in sanitary containers. In no event shall such containers be placed or maintained so as to be visible from any other Lot except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection.

2. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon or elsewhere on the Property.

3. No odors shall be permitted to arise from any Lot so as to render any Lot or portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot in the vicinity thereof or to its occupants.

4. No incinerators for burning trash or garbage shall be placed, kept or maintained on any Lot nor shall garbage or trash be permitted to be burned or buried on any Lot at any time.

K. Signs. No sign of any kind shall be displayed to the public view on any Lot except a professional sign of not more than one (1) square foot for residential identification, one sign of not more than five (5) square feet advertising the property for sale or rent, and signs used by Declarant to advertise the

property during the construction and sales period; and entry signs to be placed by Declarant at an entrance to the Property, shall be permitted.

L. Animals. No animals, horses, birds, fowl, poultry, or livestock other than a reasonable number of generally recognized house or yard pets shall be maintained on any Lot and then only if they are kept solely as domestic pets and not for commercial purposes. No breeding of such animals shall be allowed. No domestic pets shall be allowed on any portion of the Property other than the Lot of its Owner unless confined to a leash. The Owner of such domestic pet shall clean up and dispose of said pet's waste immediately.

M. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. The provisions of this Paragraph L shall be subject to all matters that may appear of record.

N. Landscaping

1. The installation of all trees, shrubs, hedges, grass, plantings and landscaping of every kind and nature in reference to the Residential Front Yard Area of a Lot shall commence within sixty (60) days and be completed within six (6) months from the date of occupancy of such Lot.

a. Lawn areas must be ready to receive grass seed within six (6) months of occupancy or at Declarant's option desert landscaping may be substituted. No Landscaping with rock or gravel and landscaping commonly known as "desert landscaping," shall be permitted in the Residential Front Yard Area of any Lot, or in the side or rear portions of any Lot which is visible from any other Lot only in conformance with approved plans. All yards visible from any street within the Property shall be covered with a growing ground cover which is standard for the metropolitan Phoenix, Arizona, area, which ground cover shall be regularly trimmed and maintained.

b. All lawns must meet the then current FHA/VA requirements.

2. All Lots shall be landscaped and open areas not covered by patios, swimming pools, porches, driveways and flower beds and other normal and customary improvements shall be planted in grass, or other ground cover approved by the Committee. Dead vegetation and dead trees shall be removed within thirty (30) days.

3. Each owner of a Lot shall keep all landscaping of the Lot, including setback areas, planted areas between adjacent sidewalks and the street curb, if any, and any other area located between the boundary line of such owner's property and the street or other property (public or private) on which such owner's property abuts, free of all weeds and debris.

O. Antennas and Radios. Except if erected by Declarant, no antenna, dish or other device for the transmission or reproduction of TV or radio signals or any other form of electromagnetic radiation including without limitation, citizens band or ham radio signals, shall be erected, used or maintained outdoors on any Lot, either attached to a building or otherwise, in such a manner that the antenna or other such device exceeds eight (8) feet in height above the crest of the roof of the dwelling unit on the Lot. No ham or citizens band radio transmitters shall be operated on any Lot.

P. Clothes Lines. Outside clothes lines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot unless they are erected, placed and maintained exclusively within a fixed service yard, or otherwise concealed, and shall not be visible from any other Lot.

Q. Sign Distance at Intersections. Except with respect to entry signs to be placed by Declarant at an entrance to the Property, no fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways, shall be permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

R. Reflective Material. Prior to the installation of any reflective materials for use on the windows or any portion of the dwellings, approval must be obtained from the Committee; provided such approval shall not be required for any such installations of reflective materials by the Declarant.

S. Solar Collectors. Solar collectors may be installed on the roof of any dwelling, provided that prior written approval is obtained from the Committee, provided that said solar collectors are installed only on the rear portion of any roof and so as not to be visible from 91st Street.

VIII. INSURANCE

A. Authority to Purchase. Commencing not later than the date a Lot is conveyed to a person other than Declarant, the Board shall have the authority to and shall obtain the insurance provided for in this Article VIII.

B. Hazard Insurance. The Board shall obtain insurance on the Common Elements (excluding land) insuring the Common Elements against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and against loss or damage by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage. Such policy of insurance shall be in a total amount of insurance equal to 100% of the current replacement cost, exclusive of land, excavations, foundations and other items normally excluded from such property policies. Such policy of insurance shall contain an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement, together with such endorsements as may be satisfactory to any Lender. Each hazard insurance policy must be written by an insurance carrier classified in a financial category of "Class VI" or better, as designated by Best's Key Rating Guide. If more than one Lender exists, such policy and endorsements shall meet the highest maximum standards of all such Lenders.

C. Comprehensive Public Liability Insurance. The Board shall obtain comprehensive general liability insurance insuring the Association, the Declarant, the agents and employees of the Association and the Declarant, the Owners and the respective family members, guests and invitees of Owners, against liability incident to the ownership or use of the Common Elements. The limits of such insurance shall not be less than \$1,000,000 covering all claims for death of or injury to any one person and/or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner. Such insurance shall also include protection against water damage liability, liability for nonowned and hired automobiles, and liability for the property of others. Such insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the approval of the Association.

D. Workmen's Compensation Insurance. The Board shall purchase and maintain in effect workmen's compensation insurance for all employees of the Association to the extent that such insurance is required by law.

E. Fidelity Insurance. The Board shall obtain fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible

for handling the funds of the Association. Such fidelity bonds shall name the Association as obligee and shall be written in an amount equal to a two (2) months portion of the estimated current annual Common Expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

F. Premiums. Premiums upon insurance policies purchased by the Board on behalf of the Association shall be paid by the Association as part of the Common Expenses.

G. Policy Provisions. (i) Any insurer that has issued an insurance policy to the Association under this Article VIII shall also issue a certificate or memoranda of insurance to the Association and, upon request, to any Owner or Lender. (ii) The named insured under any policy of insurance shall be the Association, as trustee for the Owners, or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be referred to as the "Insurance Trustee" who shall have exclusive authority to negotiate losses under the policies. (iii) Insurance coverage may not be brought into contribution with insurance purchased by the Owners. (iv) Coverage must not be limited by: (a) any act or neglect by Owners or Occupants which is not within control of the Association; or, (b) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control. (v) Coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premiums) without at least thirty (30) days prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued. (vi) All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, Owners and their respective agents and employees, and any defenses based on co-insurance or on invalidity arising from acts of the insured.

H. Supplemental Insurance. The Board may obtain such other policies of insurance in the name of the Association as the Board deems appropriate to protect the Association and Owners, including, without limitation, errors and omissions insurance for officers and directors of the Association.

IX. RIGHTS OF LENDERS

A. Notices of Lenders. A Lender shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Lenders unless and until such Lender, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Lender is the holder of a loan encumbering a Lot within the Property. Notwithstanding the foregoing, if any right of a Lender under this Declaration is

conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Paragraph A, a Lender must also make such request in writing delivered to the Association. Except as provided in this Section, a Lender's rights pursuant to this Declaration, including, without limitation, the priority of any mortgage lien over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice or request to the Board.

B. Priority of Lenders. No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Lot, but all of said Restrictions shall be binding upon and effective against any Owner whose title to a Lot is derived through foreclosure or trustee's sale, or otherwise.

C. Relationship with Assessment Liens.

1. The lien provided for in Article IV for the payment of Assessments shall be subordinate to the lien of any Lender which was recorded prior to the date any such Assessment becomes due.

2. If any Lot which is subject to a monetary lien created by this Declaration is also subject to the lien of a Lender, then: (i) the foreclosure of any lien created by this Declaration shall not operate to affect or impair the lien of such Lender; and, (ii) the foreclosure of the lien of a Lender or the sale under a power of sale included in a mortgage or deed of trust shall not operate to affect or impair the lien hereof, except that any person who obtains an interest thereafter shall take title free of any lien created by this Declaration or any personal obligation for said charges as shall have accrued up to the time of any foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to such foreclosure.

3. Nothing in this Paragraph C shall be construed as releasing any person from his personal obligation to pay for any Assessments levied pursuant to this Declaration during the period such person is an Owner.

E. Required Lender Approval. Except upon the prior written approval of seventy-five percent (75%) of all Lenders (based on one vote for each mortgage or deed of trust owned), neither the Association nor the Board shall be entitled by action or inaction to do any of the following:

1. Amend a material provision of this Declaration or the Bylaws or the Articles, including, without limitation, any change of an Owner's percentage interest in the Common Elements;

2. Partition or subdivide a Lot or the Common Elements; or,

3. Terminate professional management of the Common Elements and assume self management.

D. Other Rights of Lenders. Any Lender shall, upon written request to the Association, be entitled:

1. To inspect the books and records of the Association during normal business hours;

2. To receive an annual audited financial statement of the Association within ninety (90) days following the end of the Association's fiscal year;

3. To receive written notice of all annual and special meetings of the Association or of the Board, and Lenders shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Paragraph D shall give a Lender the right to call a meeting of the Board or of the Association for any purpose or to vote at any such meeting; and,

4. To receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration, Bylaws or Association Rules by the Owner whose Lot is encumbered by a Lender, which default has not been cured within thirty (30) days; provided, however, the Association shall only be obligated to provide such notice to Lenders who have delivered a written request therefor to the Association specifying the Lot to which such request relates.

X. LIMITATIONS UPON PARTITION AND SEVERANCE

A. No Partition. The right to partition the Property is hereby suspended; provided, however, nothing contained in this Paragraph shall be construed as limiting partition by joint Owners, upon the prior written approval of an applicable Lender, of one or more Lots as to individual ownership of such Lots.

B. No Severance. An Owner's rights appurtenant to the ownership of a Lot, including the interest in the Common Elements, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Lot and such appurtenances. Any conveyance made in contravention of this Paragraph B shall be void.

C. Proceeds of Partition Sale. If an action is brought for the partition of the Common Elements by sale, whether upon the occurrence of an event of destruction and a decision not to

reconstruct or the taking of all or a portion of the Common Elements by eminent domain, Owners shall share equally in the proceeds of such sale on the basis of the number of Lots owned by each Owner, but in such event, the liens and provisions of all Lenders or Assessment liens encumbering Lots shall extend to each applicable Owner's interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment of any Assessment lien or lien of a Lender encumbering such proceeds.

XI. GENERAL PROVISIONS

A. Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Restrictions and other provisions now or hereafter imposed by this Declaration, or any amendments thereto, including the right to prevent the violation of any such Restrictions, and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and Association Rules and any respective amendments thereto.

B. No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

C. Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or the Lenders under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Lenders shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

D. Severability. Invalidation of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the Bylaws or Association Rules by judgment or court order shall in no way affect any other Restrictions or provisions contained herein or therein which shall remain in full force and effect.

E. Covenants to Run With the Land; Term. The Restrictions and other provisions of this Declaration shall run with and bind the Property as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the Restrictions and other provisions shall be

automatically extended for successive periods of ten (10) years, unless Owners representing not less than seventy-five percent (75%) of the Lots, and their Lenders, agree, within one (1) year prior to the end of any such period, to amend or revoke the Restrictions and other provisions of this Declaration in whole or in part.

F. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a planned residential development and for the maintenance of the Property. The Article and Paragraph headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

G. Gender and Number. Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

H. Nuisance. The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

I. Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Bylaws, or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of suit.

J. Notices. Any notice to be given to an Owner, a Lender, or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

1. Notice to an Owner shall be delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Board for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.

2. Notice to a Lender shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Board for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender in Maricopa County, Arizona, or if no such office is located in Maricopa County, to any office of such Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

3. The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, or to any Lender or Lenders, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

4. Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed as follows:

President
Berryessa Homeowners Association, Inc.
9390 North 95th Street
Scottsdale, Arizona 85258

Any notice so deposited in the mail shall be deemed delivered upon the date of receipt.

K. Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the By-laws or Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

L. Nonliability of Officials. To the fullest extent permitted by law, neither the Board nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence if such Board member or officer acted in good faith within the scope of his duties.

M. Conflicting Provisions. In the case of any conflict between this Declaration and the Bylaws, or Association Rules, this Declaration shall control.

N. Amendments. Subject to the other provisions of this Declaration, including, without limitation, the rights of Lenders, this Declaration may be revoked or amended as follows:

1. Prior to the conveyance of the first Lot to an Owner other than a Declarant, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking the same.

2. Subsequent to the conveyance of the first Lot to an Owner other than Declarant, this Declaration may be amended by any group of Owners representing not less than seventy-five percent (75%) of the Lots.

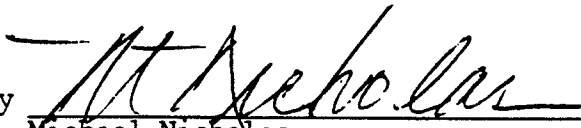
3. An amendment or revocation which only requires the execution of an instrument by Declarant as hereinabove provided shall be effective when executed by Declarant and when recorded in the office of the County Recorder of Maricopa County, Arizona. An amendment which requires the affirmative written assent or vote of the Owners as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved, and when the amendment has been recorded in the office of the County Recorder of Maricopa County, Arizona.

4. Notwithstanding the foregoing, any provision of this Declaration, the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage of the voting power of the Association or Lenders for action to be taken under said provision can be amended only with the affirmative written assent or vote of not less than the same percentage of the voting power of the Association and/or Lenders.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 19th day of May, 1987

U.S. DEVELOPMENT CORP.,
an Arizona corporation

By


Michael Nicholas
Its President

87 350941

STATE OF ARIZONA)
) ss.
County of Maricopa)

On the 19TH day of MAY, 1987, before me, the under-
signed, a Notary Public in and for said state, personally ap-
peared Michael Nicholas known to me (or proved to me on the
basis of satisfactory evidence) to be the President of
U.S. DEVELOPMENT CORP. the corporation that executed the
same.

WITNESS my hand and official seal.

Susan Sawyer
Notary Public

My Commission Expires:
May 21, 1988

87 350941

EXHIBIT "A"

Lots 1 thru 6 incl., 8, 12 thru 17, incl., 19 thru 23 incl., 25 thru 31 incl., 52, 54, 56, 59, 60, 61, 62, 63, 70, 71, 73, 74, 80, 81, 85, 90, 92, 94 thru 98, incl., 100, 101, 103, 104, 107, 108, 111, 113, 114, 115 thru 120, incl., BERRYESSA, according to the plat of record in the office of the Maricopa County Recorder, in Book 272 of Maps, page 7.