



Sacramento County
Donna Allred, Clerk/Recorder

Doc # **202404041091** Fees \$185.00
4/4/2024 2:10:33 PM Taxes \$0.00
BML Electronic PCOR \$0.00
Titles 1
Pages 31 Paid \$185.00

**RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:**

SPROUL TROST LLP
Attn: Kyle C. Sproul, Esq.
3300 Douglas Blvd., Suite 280
Roseville, California 95661

(Space Above For Recorder's Use)

**AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
NERRADSCALI SUBDIVISION**

TABLE OF CONTENTS

	Page
RECITALS	2
ARTICLE I DEFINITIONS	3
Section 1.01. "ADU" and "JADU\.....	3
Section 1.02. "Conditions of Approval.....	3
Section 1.03. "City	3
Section 1.04. "County	3
Section 1.05. "Declarant	3
Section 1.06. "Declaration	4
Section 1.07. "Detached Residence	4
Section 1.08. "Governing Documents.....	4
Section 1.09. "Half-Plex	4
Section 1.10. "Improvement	4
Section 1.11. "Lot	4
Section 1.12. "Mortgage	4
Section 1.13. "Owner	4
Section 1.14. "Owner of Record	5
Section 1.15. "Party Wall.....	5
Section 1.16. "Record	5
Section 1.17. "Residence	5
Section 1.18. "Single Family Residential Use	5
Section 1.19. "Subdivision.....	5
Section 1.20. "Subdivision Map	5
ARTICLE II PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS.....	5
Section 2.01. Declaration Regarding the Real Property Comprising the Nerradscal Subdivision	5
Section 2.02. Delegation of Use of Residences and Lots	6
Section 2.03. Obligations of Owners	6
ARTICLE III DESIGN REVIEW AND APPROVAL OF IMPROVEMENT PROJECTS.....	7
ARTICLE IV MINIMUM IMPROVEMENT STANDARDS.....	7
Section 4.01. Minimum Residence Construction Standards.....	7
Section 4.02. Outdoor Lighting	8
Section 4.03. No Temporary Structures.....	8
Section 4.04. Roofing Materials	8
Section 4.05. Antennas, Aerials and Satellite Dishes	8
Section 4.06. Permitted Window Coverings	8
Section 4.07. Fences Walls, and Landscape Dimensions	9
Section 4.08. Driveway Dimensions.....	9
Section 4.09. SMUD Neighborhood SolarShares Program	9

TABLE OF CONTENTS
 (continued)

	Page
ARTICLE V MAINTENANCE RESPONSIBILITIES OF PROPERTY OWNERS.....	10
Section 5.01. Shared Maintenance and Repair Responsibilities.....	10
Section 5.02. Owner Maintenance and Repair Responsibilities	12
Section 5.03. Drainage Structures, Ditches and Swales	13
ARTICLE VI USE OF PROPERTY WITHIN THE SUBDIVISION AND RESTRICTIONS	13
Section 6.01. Use of Lots.....	14
Section 6.02. Business Activities.....	14
Section 6.03. Parking and Vehicle Restrictions.....	14
Section 6.04. Household Pets.....	15
Section 6.05. Garbage/Trash Maintenance and Disposal	15
Section 6.06. Signs.....	16
Section 6.07. Prohibition of Noxious Activities	16
Section 6.08. Storage	16
Section 6.09. Clotheslines.....	16
Section 6.10. Burning	16
Section 6.11. Sports Apparatus.....	16
Section 6.12. Machinery and Equipment.....	17
Section 6.13. Diseases and Pests.....	17
Section 6.14. Restriction on Further Subdivision and Severability	17
Section 6.15. Enforcement of Property Use Restrictions	17
ARTICLE VII EASEMENTS.....	17
Section 7.01. Street Easements	17
Section 7.02. Blanket Utility Easement	17
Section 7.03. Easements for Drainage	18
Section 7.04. Easements for Sales Activities of the Declarant	18
Section 7.05. Other Easements	18
Section 7.06. Priority of Easements.....	18
ARTICLE VIII INSURANCE.....	18
Section 8.01. Policies Obtained by the Declarant.....	18
Section 8.02. Obligation of Owners to Insure Their Residences, Lots, and Personal Property	18
ARTICLE IX DAMAGE OR DESTRUCTION OF RESIDENCES AND SPEARATE INTERESTS.....	19
Section 9.01. Obligation to Rebuild or Clear Damaged Structures	19
Section 9.02. Time Limitation for Reconstruction or Removal.....	19

TABLE OF CONTENTS
(continued)

	Page
ARTICLE X BREACH AND DEFAULT.....	19
Section 10.01. Remedy at Law Inadequate.....	19
Section 10.02. Nuisance.....	19
Section 10.03. Attorneys' Fees.....	19
Section 10.04. Cumulative Remedies; Adoption of Fine Schedule.....	19
Section 10.05. Failure Not a Waiver.....	20
Section 10.06. Legal Principles Applicable to Enforcement	20
Section 10.07. Due Process Requirements for Disciplinary Proceedings	20
Section 10.08. Enforcement by the City	21
ARTICLE XI DECLARANT PRIVILEGES AND EXEMPTIONS	22
Section 11.01. Interest of the Declarant; Material Actions Requiring Declarant Approval	22
Section 11.02. Exemptions from Restrictions Otherwise Applicable.....	22
Section 11.03. Amendment of Plans.....	22
Section 11.04. Right to Enforce Design Review and Approval Requirements	22
Section 11.05. Termination of Any Responsibility of Declarant.....	23
Section 11.06. No Amendment or Repeal	23
ARTICLE XII NOTICES.....	23
Section 12.01. Mailing Addresses	23
Section 12.02. Personal Service Upon Co-Owners and Others	23
Section 12.03. Deposit in United States Mails	23
ARTICLE XIII AMENDMENT OF THIS DECLARATION	23
Section 13.01. Amendment Before Close of First Sale	24
Section 13.02. Amendment After Close of First Sale.....	24
Section 13.03. Restatements	24
Section 13.04. Form of Restatement.....	24
Section 13.05. Effective Date of Amendment	24
Section 13.06. Reliance on Amendments	25
ARTICLE XIV GENERAL PROVISIONS.....	25
Section 14.01. Term.....	25
Section 14.02. Termination of Any Responsibility of the Declarant.....	25
Section 14.03. Statutory References	25
Section 14.04. Construction.....	25
EXHIBIT "A" LEGAL DESCRIPTION OF THE PROPERTY	28

**AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
NERRADSCALI SUBDIVISION**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Nerradscali Subdivision is made by Nerradscali Corporation, a California corporation (the "DECLARANT").

RECITALS

A. The Declarant is the owner of that certain real property located in the City of Sacramento, County of Sacramento, State of California, more particularly described in Exhibit "A" (the "PROPERTY"). The Declarant intends to sell and convey the Property as a subdivision comprised of eight (8) Lots, one of which contains an existing Residence, and the remaining seven (7) of which are being sold as vacant Lots that will be improved by Owners (other than the Declarant) with either a Half-Plex or a Detached Residence thereon, as provided herein.(the "SUBDIVISION"). The Subdivision will be commonly known as "NERRADSCALI SUBDIVISION".

B. The Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, reservations, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of Nerradscali Subdivision as residential standard subdivision. These covenants, easements, restrictions, conditions, and reservations: (i) create a general plan and scheme for the Subdivision, sale and use of the Subdivision; (ii) are for the benefit and protection of the Subdivision and for the protection and enhancement of the desirability, value and attractiveness of all Lots located therein; (iii) run with the Subdivision and bind all parties having or acquiring any right, title or interest in the real property comprising any portion of the Subdivision; and (iv) inure to the benefit of the successors and assigns of each Owner of any real property constituting a portion of the Subdivision.

C. Notwithstanding the anticipated development of Nerradscali Subdivision in accordance with the plan of Subdivision contemplated by this Declaration and the Conditions of Approval, nothing in this Declaration shall be construed or interpreted to commit the Declarant to market and sell any portion of the Property in accordance with any present planning. Accordingly, nothing contained herein shall obligate either the Declarant to refrain from the further subdivision or re-subdivision of the lands comprising the Property owned by either entity, and the Declarant shall be free to so further subdivide or re-subdivide, so long as the modified plans and consistent with the Conditions of Approval.

D. This Declaration creates equitable servitudes and covenants running with the land in accordance with Civil Code section 1468 imposed upon the Subdivision as a standard subdivision and are binding upon all persons having any right, title, or interest in any portion of the Subdivision, and may be enforced by any Owner. **THE SUBDIVISION IS NOT A COMMON**

INTEREST DEVELOPMENT AS DEFINED IN CIVIL CODE SECTION 4100 AND THEREFORE NOT SUBJECT TO THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT (CALIFORNIA CIVIL CODE SECTION 4000 ET SEQ.).

E. On February 28, 2024, Declarant inadvertently recorded that certain document entitled "Declaration of Covenants, Conditions and Restrictions for Nerradscal Subdivision" in the Official Records of Sacramento County, California as Document No. 202402280814 (the "**ORIGINAL DECLARATION**") which encumbered the Property. Section 13.01 of the Original Declaration permits the Declarant to unilaterally amend the Original Declaration prior to the first Close of Escrow in the sale of a Lot in the Subdivision pursuant to a Public Report issued by the California Department of Real Estate. As of the recording date of this Declaration, no Lot has closed escrow and, as such, Declarant is the owner of the entire Property. Accordingly, by Recording this Declaration, Declarant intends to entirely amend, supersede and replace the Original Declaration with this Declaration without, however, affecting or changing the priority of the Declaration in the chain of title to the Lots.

**ARTICLE I
DEFINITIONS**

Section 1.01. "**ADU**" and "**JADU**" shall mean and refer to an Accessory Dwelling Unit or Junior Accessory Dwelling Unit as defined in Civil Code section 4751 and Sections 65852.2 and 65852.22 of the California Government Code, respectively, and which meets the requirements of those Civil and Government Code sections and other applicable City or County ordinances.

Section 1.02. "**CONDITIONS OF APPROVAL**" shall mean and refer to that certain document entitled "Zoning Administrator & Design Director Record of Decision dated July 9, 2020 for Project Number P19-036, Exhibit "A" Conditions of Approval – Tentative Map."

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

Section 1.04. "**COUNTY**" means the County of Sacramento, State of California, and its various departments, divisions, employees and representatives.

Section 1.05. "**DECLARANT**" means Nerradscal Corporation, a California corporation. The term "Declarant" shall also refer to any successors and assigns of the named Declarant (a "**SUCCESSOR DECLARANT**"), if such successor or assign acquires all of Declarant's interest in the Subdivision, and the transferor Declarant (with the prior consent of any other Declarant) has expressly transferred or assigned to the Successor Declarant under a Recorded instrument its rights and duties as a Declarant to all of the Subdivision. A Successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all of the Subdivision, if the beneficiary has acquired such property by foreclosure, power of sale or deed in lieu of such foreclosure or sale.

In the event Declarant conveys or transfers all of its right, title and interest in the Half-Plex Lots to another person or entity, that party shall be deemed a "**CO-DECLARANT**" under this Declaration; provided, however, that in the case of multiple Declarants, references to "Declarant" hereunder shall include "Co-Declarant", but each Co-Declarant shall be a Declarant only with respect to those portions of the Subdivision owned by that Co-Declarant, with rights and obligations of the Co-Declarant be exercised as agreed among the Co-Declarants with the consent of the Department of Real Estate.

Section 1.06. "**DECLARATION**" means this instrument, as it may be amended and supplemented from time to time.

Section 1.07. "**DETACHED RESIDENCE**" shall mean and refer to each of the Residence constructed or to be constructed on Lot 2, and the existing Residence constructed on Lot 1, as such Lots are identified on the Subdivision Map.

Section 1.08. "**GOVERNING DOCUMENTS**" is a collective term that means and refers to this Declaration and to the Conditions of Approval.

Section 1.09. "**HALF-PLEX**" shall mean and refer to a single structure building containing two (2) Residences, each Residence of which is constructed or to be constructed on Lots 3 & 6, 4 & 5, and 7 & 8, respectively, as such Lots are identified on the Subdivision Map.

Section 1.10. "**IMPROVEMENT**" as used herein includes, without limitation any improvement or project undertaken or contemplated by an Owner (other than the Declarant) within any portion of the Subdivision involving the construction, installation, alteration or remodeling of the interior of any Residence, garages, walls, fences, landscaping, landscape structures, patio awnings, solar heating equipment, spas, antennas, television satellite reception equipment, utility lines or any other structure of any kind. Improvement projects may be subject to City design review and approval under Article III, below. In no event shall the term "Improvement" include any improvement, alteration or construction project located entirely within an existing Residence structure, unless the project will necessitate the storage or stockpiling of construction materials or debris on the Owner's Lot in areas that are visible from neighboring Lots or adjacent streets or periods in excess of six hours.

Section 1.11. "**LOT**" means any parcel of real property designated by a number on the Subdivision Map. When appropriate within the context of this Declaration, the term "Lot" shall also include the Residence and other Improvements constructed or to be constructed on a Lot.

Section 1.12. "**MORTGAGE**" means any security device encumbering all or any portion of the Subdivision, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

Section 1.13. "**OWNER**" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot. The term "Owner" shall include the Declarant for so long as the Declarant possesses any Lot within the Subdivision, and, except where the context otherwise requires, the family, guests, tenants and invitees of an Owner. If a Lot is transferred or conveyed to a trust, the Owner is the trustee or the co-trustees of such trust.

Section 1.14. "OWNER OF RECORD" means any person, firm, corporation or other entity in which title to a Lot is vested as shown by the official records of the Office of the County Recorder.

Section 1.15. "PARTY WALL" means any wall of a Half-Plex located on a boundary line dividing any two (2) Lots, which wall is commonly used by the Owners of such Lots.

Section 1.16. "RECORD" means, with respect to any document, the recordation or filing of such document in the Office of the County Recorder.

Section 1.17. "RESIDENCE" means a dwelling that is designed and intended for use and occupancy by a single family, including Half-Plexes and Detached Residences, constructed on an individual Lot in the Subdivision.

Section 1.18. "SINGLE FAMILY RESIDENTIAL USE" means occupation and use of a Residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

Section 1.19. "SUBDIVISION" means and refers to the residential real estate Subdivision that is being marketed and sold by the Declarant. At times the Subdivision is referred to herein by its common name for identification and marketing purposes which is "NERRADSCALI SUBDIVISION".

Section 1.20. "SUBDIVISION MAP" means the final subdivision map for the Subdivision, recorded in the Official Records of Sacramento County, California, on February 28, 2024, in Book 454 of Maps, at Page 2.

ARTICLE II PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

Section 2.01. Declaration Regarding the Real Property Comprising the Nerradscali Subdivision.

(a) Declaration Regarding the Property. The Declarant is subjecting the Subdivision to this Declaration for the purposes identified in Recital "B", above. The Declaration binds: (i) the Association; (ii) present and future Members and Owners and their successors in interest; (iii) present and future tenants, lessees, invitees, and occupants of Lots and Residences; and (iv) the Declarant if the Declarant holds an interest in any portion of the Subdivision.

(b) Binding Effect on Successors in Interest. Each conveyance, transfer, sale, assignment, lease or sublease made by the Declarant of any Lot in the Subdivision shall be deemed to incorporate by reference all of the provisions of this Declaration. All present and future Owners, tenants and occupants of Residences within the Subdivision shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same shall be amended from time to time unless a particular provision of the Governing Documents is

specifically restricted to one or more classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot, the execution of a lease, sublease or contract of sale with respect to any Lot or the entering into occupancy of any Residence shall make the provisions of this Declaration binding upon said persons and they shall thereafter be obligated to observe and comply with all Governing Documents.

(c) Special Obligations of Co-Declarant. A Co-Declarant acquiring all of Declarant's right, title and interest in the Half-Plex Lots shall be subject to the following:

(i) If Co-Declarant intends to sell and convey vacant Lots to the public, Co-Declarant shall sell and convey such Lots in pairs (e.g. Lots 3 & 6 or 4 & 5 or 7 & 8) to a single Owner for the purpose of constructing a single structure with two (2) Residences thereon; or

(ii) If Co-Declarant intends to construct a Half-Plex structure on the paired Lots (e.g. Lots 3 & 6 or 4 & 5 or 7 & 8) prior to conveyance of the Lots to the public, Co-Declarant may sell and convey each Lot and Residence separately to the same or different Owners.

Section 2.02. Delegation of Use of Residences and Lots..

(a) Delegation of Use and Leasing of Residences. Any Owner may delegate his or her rights to use and enjoy his or her Lot and Residence to his or her family members or tenants, lessees or contract purchasers who reside in the Owner's Residence.

(b) Requirements That Must Be Observed In All Residential Leases. The following specific limitations shall apply to all leases or tenancies of a Residence within the Subdivision: (i) the rental shall apply to not less than an entire Residence including its appurtenant rights; and (ii) any rental shall be evidenced by a written lease or rental agreement which shall provide that the tenancy is subject to the terms of the Governing Documents and that any failure of the tenant to comply with the terms of any Governing Document relating to residential leases or property use restrictions shall constitute a default under the lease or rental agreement and shall entitle the Owner to terminate the tenancy upon ninety (90) days written notice. The Owner-lessor's right to terminate a lease or rental agreement on account of the tenant's violation of the Governing Documents shall in no way restrict the right of the Declarant or any Owner to enforce the Governing Documents in accordance with Article X, below, when the Owner's tenant is violating the Governing Documents.

(c) Discipline of Lessees. Subject to subparagraph (d), below, in the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Declarant for so long as the Declarant owns at least one Lot in the Subdivision shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances in order to preserve the quiet enjoyment of other Owners and residents within the Subdivision.

Section 2.03. Obligations of Owners. Owners of Lots within the Subdivision shall be subject to the following obligations:

(a) Notification to Owners of Their Obligation to Provide the Governing Documents to Prospective Purchasers Regarding the Subdivision. As soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot, any Owner who is seeking to sell his or her Lot must give any prospective purchaser a copy of all the Governing Documents for Nerradscali Subdivision.

(b) Obligation to Provide Subsequent Purchasers with Information Relating to Declarant Repair Rights and Obligations and Residence Maintenance Standards. Civil Code section 912 requires home builders, such as the Declarant, to provide their initial home buyers with certain documents enumerated in that Code section, including (i) copies of all maintenance and preventative maintenance recommendations that pertain to the Owner's Lot; (ii) copies of all manufactured products maintenance, preventative maintenance, and limited warranty information relating to components of the Owner's Residence; (iii) copies of the builder's limited contractual warranties; (iv) a written copy of Civil Code sections 895 et seq.; and (iv) other documents provided by the builder to the initial buyer of a Lot in the Subdivision. Civil Code section 912(h) obligates the first purchaser of a Lot from the Declarant or a Merchant Builder to provide these documents to subsequent purchasers of the Lot.

(c) Joint Ownership of Lots. In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (c) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration.

ARTICLE III DESIGN REVIEW AND APPROVAL OF IMPROVEMENT PROJECTS

This Declaration does not provide for the formation of a private architectural or design review committee comprised of Lot Owners. Instead, the design and construction of Residences, ADUs and other Lot Improvements shall conform to the local ordinances and regulations of the City of Sacramento, including, without limitation, any building permit process, design permit process, or any other governmental requirements. The responsibility for ensuring compliance with local governmental regulations shall lie solely with the Lot Owner who desires to construct, install, or modify any Lot Improvement, and the Owner's architect and contractors. See particularly the City Permit Services which can be accessed at: <http://www.cityofsacramento.org/Community-Subdivision/Building/Permit-Services>.

ARTICLE IV MINIMUM IMPROVEMENT STANDARDS

The following minimum construction standards shall apply to Improvement projects within the Subdivision undertaken or proposed by Owners other than the Declarant:

Section 4.01. Minimum Residence Construction Standards. A Residence of Half-Plex design shall be constructed on Lots 3 & 6, 4 & 5, and 7 & 8, respectively. A Detached Residence shall be constructed on Lot 2.

Section 4.02. Outdoor Lighting. Fluorescent, mercury vapor, sodium or amber vapor lights, or standard outdoor lights of the type used for security shall be prohibited. Wherever possible, downward oriented cut-off type outdoor fixtures and shielding shall be used in order to prevent light spillage and glare impacts beyond the target of illumination. Further, energy efficient light fixtures using photocell operation shall be utilized. No lighting will be permitted which causes unreasonable glare or nuisance to neighboring Owners or Residences, such as flickering or "flame" type bulbs.

Section 4.03. No Temporary Structures. No recreational vehicle, trailer, mobile home, camper, tent, shack, used structures, structures of a temporary character, or other outbuildings (other than ADUs and JADUs) shall be used on any Lot at any time as a Residence.

Section 4.04. Roofing Materials. When Owners replace their roofs, they shall use the materials and colors consistent with the material and colors of other Residences constructed within the Subdivision, unless the City approves use of a different roofing material or a different color.

Section 4.05. Antennas, Aerials and Satellite Dishes. In order to ensure adequate aesthetic controls and to maintain the general attractive appearance of the Subdivision, no Owner, resident or lessee shall place or maintain any objects, such as masts, towers, poles, or radio or television antennas on the exterior of any building within the Subdivision unless first approved by the Declarant, and by the City in accordance with Article III, above; provided, however, that:

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

(b) in accordance with Federal law, antennas or satellite dishes with a diameter or diagonal measurement not greater than thirty-six inches (36") which are designed to receive direct broadcast satellite services, video programming services via multi-point distribution services, or television broadcast signals (collectively "**PERMITTED DEVICES**") may be erected, placed or installed on a Lot, provided that: any such Permitted Device is placed on the rooftop of the Residence in a location at which an acceptable quality signal can be received and is either not visible from neighboring property or is screened from the view from streets or any neighboring Lot.

Furthermore, no activity shall be conducted on any Lot which causes an unreasonable broadcast interference with television or radio reception on any neighboring Lot.

Section 4.06. Permitted Window Coverings. The windows in the Residences include drapes or other coverings installed by the Declarant. Any alteration in those window coverings must consist of drapes, shades or interior shutters of a material, design and color compatible with the exterior design and color themes within the Subdivision.

Section 4.07. Fences Walls, and Landscape Dimensions.¹ Owners placing any walls, fences, signs and landscaping near intersections and driveways shall allow a stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back three feet (3') behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited to 3.5' in height.

Section 4.08. Driveway Dimensions.² All driveways shall be at least five feet (5') away from the Lot line, and shall have a width of at least ten feet (10') and a depth of at least twenty feet (20') measured from the right of way line.

Section 4.09. SMUD Neighborhood SolarShares Program. The Declarant hereby elects to participate in Sacramento Municipal Utility District's ("SMUD") Neighborhood SolarShares program, as follows:

(a) Utilities – SolarShares.

(i) Obligation to Enroll. Each Owner and/or Tenant occupying a registered SolarShares home shall obtain electrical service by usual means of applying for SMUD service. The Owner and/or Tenant will automatically be enrolled in Neighborhood SolarShares with no additional effort on the Owner or Tenant's part. SMUD's Neighborhood SolarShares program shall be the exclusive provider of off-site electrical service for participating homes. Nothing in this Declaration shall be construed to effectively prohibit or unreasonably restrict the installation or use of a "behind-the-meter" solar energy system to serve the electricity demand of participating homes.

(ii) Term of Obligation. The Covenants, Conditions and Restrictions to enroll in SMUD's Neighborhood SolarShares program specified in subparagraph (i) shall be required for each participating home from the date electrical service is first established for that home. The Covenants, Conditions and Restrictions specified in subparagraph (i) shall be required for a period of twenty (20) years from the date electrical service is first established by a residential customer for each participating home and then automatically terminate.

(b) General Provisions.

(i) Enforcement. Any Owner or the Declarant shall have the rights to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now and hereafter imposed by the provisions of this Declaration. The Declarant shall have a non-discretionary duty to enforce the restrictions and covenants contained in subparagraph (a), above. SMUD shall have the right to enforce, by any proceeding at law or in equity, the restrictions, conditions and covenants contained in subparagraph (a), above. Any failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party in any legal action is

¹ See Condition of Approval No. A12.

² See Condition of Approval No. A53; City Municipal Code §§ 17.508.040.J & 17.508.050.A.

entitled to recover legal fees as provided in current California law and elsewhere in the Declaration.

(ii) Term of this Section and Amendment. The Covenants, Conditions and Restrictions of this Section 4.09 shall run with and bind the land. This Section 4.09 may be amended by approval of at least fifty-one percent (51%) of the Lot Owners; provided that the restrictions and covenants contained in subparagraph (a), above, are irrevocable and may not be amended in any way. Any amendment must be properly Recorded to be effective.

ARTICLE V **MAINTENANCE RESPONSIBILITIES OF PROPERTY OWNERS**

Declarant has elected, and the City has approved, in lieu of forming a separate, private homeowners association of Owners, a plan of Owner maintenance, repair and replacement of Subdivision improvements in accordance with the covenants, conditions and restrictions set forth in this Declaration and the Conditions of Approval.³ The foregoing Sections of this Article V prescribe the maintenance, repair and replacement responsibilities Owners shall have with respect to Lots, Residences, and shared and common spaces within the Subdivision.

Section 5.01. Shared Maintenance and Repair Responsibilities.

(a) Private Access Road. The Owners of Lots 3, 4, 5, 6, 7, and 8 as shown on the Subdivision Map shall collectively share in the expense and responsibility for all maintenance, repair, upkeep and replacement within the shared areas of the Subdivision, including:⁴

- (i) the interior private roadway providing access to those respective Lots in the Subdivision;
- (ii) assuring unrestricted use and access to the interior private roadway;
- (iii) posting and maintaining at the entrance to the Subdivision signs required by Vehicle Code Section 22658.2 to permit the towing of improperly parked vehicles as well as standard City "no parking" signs or designated as fire lanes and marked in accordance with the requirements of the Fire Department and the California Fire Code, enforceable by the Declarant, Owners or City;
- (iv) the removal of vegetation overgrowing the private road and infringing on the roadway to clear vertical height of 13'6" or width of 20';
- (v) assuring the legibility and permanent embossment of "NO PARKING – FIRE LANE" signage or striping;
- (vi) all vehicular and pedestrian access gates and opening systems, including any and all electrical components therein;

³ See Condition of Approval No. A34.

⁴ See Condition of Approval Nos. A11, A47.

- (vii) all fire protection systems, including but not limited to hydrants, fire alarm systems and fire sprinklers.

The Declarant declares Lots 1 and 2 and their Owners are exempt from sharing in the maintenance and expense obligations of this Section 5.01(a) because the interior private roadway does not service either Lot. Instead, Owners of Lots 1 and 2 access their Lot off public street "North Avenue."

(b) Landscaping. To the extent any landscaping is commonly shared among two (2) or more Lots, the subject Owners shall cooperate with one another and their respective agents and maintenance personnel in the prosecution of its regular watering, irrigating, and mowing of lawns, and removal or replacement of dead or dying shrubs and plants, including, when reasonably required, permitting access by the agents and contractors to the Owner's Lot or Residence to perform such landscaping repair and maintenance work.⁵

(c) Half-Plex Roofing and Painting. Each Owner of a Lot with a Half-Plex constructed thereon shall collectively share with their neighboring Lot Owner in the maintenance, repair, and replacement of the roof of the building enclosing their Half-Plex, and in the painting of the exterior surfaces of the Half-Plex. All expenses incurred to re-roof or paint the Half-Plex shall be borne equally by these Owners regardless of how much surface area of the roof or siding exists upon the Owner's Lot.

(d) Half-Plex Party Walls.

(i) General Rules of Law to Apply. To extent not inconsistent with the provisions of this subparagraph (b), the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions of Owners of Lots with a Half-Plex constructed thereon shall apply thereto. This subparagraph (d) shall not apply to any Owner of a Lot with a Detached Residence constructed thereon.

(ii) Sharing of Repair and Maintenance. The Owners of Lots with a Half-Plex constructed thereon who make proportional use of a Party Wall shall share equally in the cost of reasonable repair and maintenance of such Party Wall.

(iii) Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the Party Wall may restore it, and if the other Owner thereafter makes use of the Party Wall, they shall contribute to the cost of restoration thereof in equal proportion without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(iv) Weatherproofing. Notwithstanding any other provisions of this subparagraph (d), to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who, by their negligent or willful act, causes the Party Wall to be

⁵ See Condition of Approval No. A11.

exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(v) **Right to Contribution Runs With Land.** The right of any Owner of a Lot with a Half-Plex constructed thereon to contribution from their neighboring Lot Owner under this subparagraph (d) shall be appurtenant to the land and shall pass to such Owner's successors in title.

(vi) **Arbitration.** In the event of any dispute between Owners of Lots with a Half-Plex constructed thereon concerning a Party Wall, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and resolution of the dispute shall be decided by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the other party shall select an arbitrator for the refusing party. The designated arbitrators shall render a decision within thirty (30) days after appointment.

(vii) **Wall Easements.** In all cases where a structural wall constituting a portion of a Half-Plex, or a structural wall constituting a Party Wall for a Half-Plex is located upon the dividing line between adjacent Lots, the Owner of the adjoining Lot shall have reciprocal mutual nonexclusive easements for, drainage, encroachment, the maintenance or reconstruction of such Party Wall in the event of the partial or total destruction of the same. The Owner of a Lot having a Party Wall shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining Lot, and the Owner of the adjoining Lot upon which such a Party Wall is situated shall not attach anything to the outside of such Party Wall without the consent and permission of the Owner of the adjoining Lot upon which the Half-Plex of which such Party Wall is a part is situated.

Section 5.02. Owner Maintenance and Repair Responsibilities.

(a) **Lot and Residence.** Except as otherwise provided in Section 5.01(a), each Owner shall be responsible for the maintenance and repair of his or her Residence and Lot in a first-class condition consistent with the maintenance standards prevailing in the Subdivision. Without limiting the generality of the foregoing, each Owner's repair and maintenance obligations shall extend to and include:

- (i) Except as otherwise provided in Section 5.01(c), above, painting, repairing, replacing and caring for roofs, fences, exterior building surfaces, exterior glass surfaces, exterior doors, and to maintaining all yard areas;
- (ii) Maintaining the portion of the Conc Walk located upon the Owner's Lot, if any.

- (iii) Except as otherwise provided in Section 5.01(b), above, maintaining and repairing all landscaping, such as weekly mowing, watering, trimming, edging of lawns and other ground cover, removal and replacement of dead

or dying plants and weeds, located within the Lot lines of the Owner's Lot as shown on the Subdivision Map, including any front- and rear-yard landscaping and all exterior landscape lighting;⁶ and

- (iv) Maintenance of drainage facilities, utilities and improvements, if any, on the Owner's Lot.

(b) **Good Neighbor Fencing.** For any fence or wall existing along a common Lot line with another Owner in the Subdivision, each Owner shall share equally in the expense of maintaining the "good neighbor" wall or fence.⁷

(c) **Enforcement.** In the event that an Owner is not maintaining his or her Lot and Residence in a manner that is consistent with the prevailing standards in the neighborhood, the Declarant, City or other Owners may initiate dispute resolution procedures in accordance with Section 10.07, below.

Section 5.03. Drainage Structures, Ditches and Swales.⁸

(a) Each Owner is responsible for the maintenance, repair, replacement, upkeep and monitoring of all above-ground and underground water, sewer, and storm drainage facilities located within the Lot lines of the Owner's Lot as shown on the Subdivision Map. If an Owner is not maintaining his or her Lot in a manner that is consistent with this Section, the Declarant, City or other Owners may initiate dispute resolution procedures in accordance with Section 10.07, below.

(b) Each Owner shall keep drainage courses, ditches and swales on his or her Lot free and clear of all obstructions and shall, in cooperation with contiguous property Owners (including the Declarant as to any contiguous Lots owned by them), maintain all such drainage ditches, swales and culverts common to their Lots in good order, and without causing conditions that could lead to unnecessary soil erosion.

(c) No Owner or resident shall alter or obstruct a natural drainage course, cause water to drain or cross Lot lines, or materially add to the natural water volume of said drainage course, without making adequate provisions with respect to neighboring Lots.

(d) Public water, sewer and drainage mains are prohibited within and shall not be constructed within the interior private roadway.⁹

ARTICLE VI USE OF PROPERTY WITHIN THE SUBDIVISION AND RESTRICTIONS

⁶ See Condition of Approval No. A11.

⁷ See Civil Code § 841.

⁸ See Condition of Approval No. A34.

⁹ See Condition of Approval A28.

In addition to the restrictions established by law, the following restrictions are hereby imposed upon the use of Lots within the Subdivision:

Section 6.01. Use of Lots.

(a) All Residences within the Subdivision shall be occupied solely for Single Family Residential Use. In no event shall a Residence be occupied by more individuals than permitted by applicable law, zoning or other local governmental regulation.

(b) Notwithstanding the foregoing, Declarant and its successors or assigns shall be entitled to use Lots owned by Declarant, and the Residences located thereon, as models, sales offices or headquarters for the purpose of marketing and selling Lots within the Subdivision until all Lots owned by Declarant are sold.

(c) Each Lot shall be conveyed as a separately designated and legally described fee simple estate, subject to this Declaration. All Lots and the Residences and other Improvements erected or placed thereon (including, without limitation, landscaping) shall at all times be maintained in such a manner as to prevent their becoming unsightly.

(d) The vegetation and landscaping on any Lot shall be planted or maintained by the Owner or resident in such a manner as to reduce the risk of fire, prevent or retard shifting or erosion of soils, encourage the growth of indigenous ground cover and to cause the proper diversion of water into streets and natural drainage channels. Maintenance of Lots and residences shall be in accordance with Section 5.02, above.

Section 6.02. Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Residence, garage or out building, or in any portion of any Lot; provided, however, the foregoing restriction shall not apply to the activities, signs or activities of the Declarant's activities in connection with the Subdivision, sale and marketing of Nerradscali Subdivision. Furthermore, no restrictions contained herein shall be construed in such a manner so as to prohibit any Owner from: (a) maintaining his or her personal library in his or her Residence; (b) keeping his or her personal business records or accounts therein; (c) handling his or her personal or professional telephone calls or correspondence therefrom; (d) engaging in other activities related to the resident's business profession that can be conducted from a Residence using computers and other technology so long as the home or business activities generate no traffic, noise, or involve other employees or contractors in the Residence; (e) leasing or renting his or her Residence in accordance with Section 2.02, above; or (f) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization. The uses described in (a) through (f), above, are expressly declared to be customarily incidental to the principal residential use and not in violation of this Section 6.02.

Section 6.03. Parking and Vehicle Restrictions.

(a) All driveways and garages shall be maintained in a neat and orderly condition and garage doors shall be kept in a closed position except as necessary to permit ingress and egress of vehicles or to clean or work in the garage area. Garages are to be used for the parking of up to as many standard passenger vehicles as there are garage bays, including trucks not to exceed three-quarter tons in gross weight, boats or the storage of similar items of personal property. Furthermore, garages shall not be converted to living quarters or workshops which will preclude the parking of vehicles. Parking shall be permitted in any driveway servicing the Owner's Residence.

(b) No motor vehicle shall be constructed, reconstructed or repaired within the Subdivision and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored on any Lot within the Subdivision; provided, however, that the provisions of this subparagraph (b) shall not apply to emergency vehicle repairs. If a vehicle is being repaired in a garage, the garage door shall remain closed while the repairs are ongoing.

(c) Campers, boats, trailers, motorcycles, commercial vehicles and trucks in excess of three-quarter tons of gross carrying capacity are not to be parked in any garages or other parking areas within the Subdivision, except for the purpose of loading and unloading, unless the Owner has an appropriate location on his or her Lot where the type of vehicle or trailer listed in this subparagraph can be parked within the side- or rear-yard so as to be adequately screened from view from other neighboring Lots. For purposes of this restriction, a recreation vehicle shall include any van, bus, motor home or vehicle designed for off-road or recreational use which cannot be parked entirely within a garage so that the garage door can be returned to a fully-closed position or adequately screened from view at some other location on the Owner's Lot.

Section 6.04. Household Pets. The following restrictions regarding the care and maintenance of pets within the Subdivision shall be observed by each Owner and resident:

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

(b) Dogs shall only be allowed on the private street when they are leashed and otherwise under the supervision and restraint of their Owners.

(c) No household pet shall be left chained or otherwise tethered in front of a Lot or in the private street. Pet owners shall be responsible for the prompt removal and disposal of pet wastes deposited by their pets in the Subdivision.

(d) Each person bringing or keeping a pet within the Subdivision shall be solely responsible for the conduct of the owner's pets.

Section 6.05. Garbage/Trash Maintenance and Disposal. No rubbish, trash, or garbage shall be allowed to accumulate on Lots. Any trash that is accumulated by an Owner outside the interior walls of a Residence shall be stored entirely within appropriate covered disposal containers and facilities which shall be located in the residence or garage or at some other location on the resident's Lot that is screened from view from any street or neighboring Lot.

Trash bins shall be taken to the street curb for collection no earlier than the evening prior to the scheduled trash collection day and shall be returned to the bin's storage area no later than the evening of the scheduled trash collection day. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed from the Subdivision to a public dump or trash collection area by the Owner or tenant at his or her expense.

Section 6.06. Signs. No advertising signs or billboards shall be displayed on any Lot or posted within or upon any portion of the private street except that Owners may post on their Lots any signs required by legal proceedings and a single "For Rent," "For Lease" or "For Sale" sign of reasonable dimensions. Signs permitted hereunder shall not be nailed to the exterior of any Residence or staked in any lawn or green area in front of any Residence. This Section is not intended to restrict the right of the Declarant, its agents or designees to erect and maintain such signs and other advertising devices or structures as they deem necessary or proper in connection with the conduct of Declarant's operations for the Subdivision, improvement, subdivision and sale of Lots in the Subdivision.

Section 6.07. Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Lot nor shall anything be done within the Subdivision which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise including, but not limited to, barking dogs, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from an Owner's Lot or from activities within the private street which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the private street.

Section 6.08. Storage. Storage of personal property on any Lot shall be entirely within enclosed storage areas on the Lot or areas that are screened from view from adjacent streets or neighboring Lots. There shall be no woodpiles or storage piles accumulated on top or outside of any enclosed storage area.

Section 6.09. Clotheslines. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on any Lot in a manner which is visible from any neighboring Lot or the private street.

Section 6.10. Burning. There shall be no exterior fires whatsoever except barbecue fires located only upon Lots and contained within receptacles designed for such purpose. No Owner or resident shall permit any condition to exist on his or her Lot including, without limitation, trash piles or weeds which create a fire hazard or is in violation of local fire regulations.

Section 6.11. Sports Apparatus. No basketball standards or fixed sports apparatus shall be attached to any Residence or garage or erected on any Lot or within the private street, unless the location of the standard or other sports fixture is in the rear yard area of the Lot. It is the intent that this screening restriction also apply to portable basketball standards. When such standards are not in use, they shall either be stored out of view or, if located in the rear yard, retracted so as not to be visible over the rear yard fence.

Section 6.12. Machinery and Equipment. No power tools, machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private Residence or appurtenant structures within the Subdivision.

Section 6.13. Diseases and Pests. No Owner shall permit any thing or condition to exist upon his or her Lot which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

Section 6.14. Restriction on Further Subdivision and Severability. No Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof. No Lot shall be combined with any other Lot.

Section 6.15. Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that any Owner, the Declarant, or the City becomes aware of a property use infraction that does not necessitate immediate corrective action, the Owner or tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s) before either the Declarant, Owners or City institutes enforcement in accordance with Section 10.07, below.

ARTICLE VII EASEMENTS

Section 7.01. Street Easements. Each Owner of Lots 3 through 8, inclusive, as identified on the Subdivision Map, shall have and is hereby granted a nonexclusive easement for street, roadway and vehicular traffic purposes over and along the interior private roadway within the Subdivision, subject to termination of such easement and the rights and restrictions set forth in this Declaration. The nonexclusive easement granted hereby to each Owner is subject to the offer of dedication of such streets made upon the Subdivision Map and upon complete or partial acceptance of such offer by the City, said easement shall terminate and be of no further force or effect as to those streets or portions thereof accepted by the City.

Section 7.02. Blanket Utility Easement. There is hereby created a blanket easement upon, across, overhead and underground the shared areas for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system.¹⁰ By virtue of this easement, it shall be expressly permissible for the providing utility company (e.g. SMUD) to erect and maintain the necessary equipment and underground facilities within the Subdivision, including the electrical transmission tower erected on Lot 5.¹¹ Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated within any portion of the Subdivision except as initially designed and

¹⁰ See Condition of Approval Nos. A26 & A34.

¹¹ See Condition of Approval Nos. A22 & A23.

approved by the Declarant. The easements provided for in this section shall in no way affect any other Recorded easement affecting any other portion of the Subdivision.

Section 7.03. Easements for Drainage. Easements for installation and maintenance of drainage facilities may be shown on the Subdivision Map for the Subdivision, and no buildings, obstructions or encroachments by landfills are allowed within any such drainage easements. Additional nonexclusive easements appurtenant to each Lot in the Subdivision are hereby created and reserved for drainage according to the patterns for drainage created by the approved grading plans for the Subdivision, as well as according to the actual, natural and existing patterns for drainage.

Section 7.04. Easements for Sales Activities of the Declarant. The Declarant hereby reserves for itself and for the benefit of its successors and assigns easements over the Subdivision for access, ingress and egress on and over the Subdivision as necessary to market and sell Lots within the Subdivision, together with the right to grant and transfer the same to the Declarant's sales agents and representatives and prospective purchasers; provided, however, that such use by the Declarant and others shall not interfere with the reasonable use and enjoyment of a Residence by the Owner thereof, commencing at closing on his or her Lot.

Section 7.05. Other Easements. The Declarant, and each Lot and its Owner, is hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Subdivision and each Lot as shown on the Subdivision Map for any portion of the Subdivision including, without limitation, roadway and ditch drainage easements.

Section 7.06. Priority of Easements. Wherever easements granted to the County, or to a political subdivision thereof are, in whole or in part, coterminous with any other easements, the easements of the County shall have and are hereby granted priority over said other easements in all respects.

ARTICLE VIII INSURANCE

Section 8.01. Policies Obtained by the Declarant. It is contemplated that the Declarant may contract for the insurance coverage contemplated by this Article prior to or concurrently with obtaining financing for the Subdivision, and any such obligations or commitments for the payment of premiums or expenses with respect thereto remain obligations of the Declarant.

Section 8.02. Obligation of Owners to Insure Their Residences, Lots, and Personal Property. Each Owner of a Lot shall be responsible for obtaining his/her own policy of fire and casualty insurance with respect to such Lot and Residence. Further, in any event, each Owner shall be responsible for obtaining his/her own insurance to cover: (i) furnishings, fixtures and personal property within such Owner's Residence; and (ii) such Owner's personal liability for committing negligent or tortuous acts while within the Subdivision.

ARTICLE IX **DAMAGE OR DESTRUCTION OF RESIDENCES AND SPEARATE INTERESTS**

Section 9.01. Obligation to Rebuild or Clear Damaged Structures. If all or any portion of any Lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of that Lot to rebuild, repair or reconstruct the Lot in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty. If structural improvements other than a Residence, garage or fence are damaged or destroyed and the Owner prefers not to rebuild the improvement, the Owner shall clear his or her Lot of all damaged or destroyed materials and return the affected area to an attractive appearance.

Section 9.02. Time Limitation for Reconstruction or Removal. The Owner or Owners of any damaged Residence(s) shall be obligated to proceed with all due diligence hereunder to remove damaged structures (or portions thereof), prepare and process reconstruction plans and specifications and complete the repair and restoration work. At a minimum, reconstruction shall be completed within eighteen (18) months following the partially or destroyed residence.

ARTICLE X **BREACH AND DEFAULT**

Section 10.01. Remedy at Law Inadequate. The remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by Declarant, any Owner, the City, or by their respective successors in interest.

Section 10.02. Nuisance. Without limiting the generality of the foregoing Section 10.01, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 10.03. Attorneys' Fees. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any procedure to enforce the Governing Documents or a party's rights arising under the Governing Documents. Such enforcement procedure includes an action brought in any court having jurisdiction over any alternative dispute resolution procedure implemented pursuant to the Governing Documents. In any enforcement procedure, such as mediation or arbitration in which there is not an agreement between all of the parties that attorneys will represent them, recoverable costs are limited to attorneys' fees and costs incurred in providing the notices required under such statute.

Section 10.04. Cumulative Remedies; Adoption of Fine Schedule. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any

provision of this Declaration. The Declarant may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for illegally parked vehicles).

Section 10.05. Failure Not a Waiver. The failure of Declarant, any other Owner, the City, or any of their officers or agents, to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Declarant, City, or any of their officers or agents.

Section 10.06. Legal Principles Applicable to Enforcement. Although Nerradscali Subdivision is not subject to the Davis-Stirling Act, in any action to enforce this Declaration or any other Governing Documents, each Owner acknowledges and agrees to be bound by the legal principles and legal presumptions governing covenant enforcement in the context of common interest developments and the enforcement of equitable servitudes in such developments. As an example, and without limiting the foregoing, those legal principles and legal presumptions shall include the holdings and precedents of the following cases, unless and until any of the listed judicial decisions are overturned or modified by subsequent case law or statutory enactments:

- (a) *Nahrstedt v. Lakeside Village Condominium Association* (1994) 8 Cal 4th 361. (CC&Rs are presumed reasonable; burden is on the party challenging provision to show that provision is unreasonable).
- (b) *Villa De Las Palmas Homeowners Association v. Terifaj* (2004) 33 Cal 4th 73. (Amendments are as valid as the original Declaration, and duly adopted Rules are enforceable).
- (c) *Rancho Santa Fe Association v. Dolan-King* (2004) 115 Cal. App. 4th 28. (Design Guidelines and review by board are subject to requirements that decisions be made in good faith good faith judgments have been made,, the courts will not second guess the decisions of the board).
- (d) *La Jolla Shores Clubdominium Association v. Lamden* (1999) 21 Cal 4th 249. (Courts won't overrule board decisions, so long as decisions were made in good faith, in the best interest of the community, and based upon reasonable inquiry).

Section 10.07. Due Process Requirements for Disciplinary Proceedings. Disputes of the kind described in subparagraph (a), below, among the Declarant, City, Owners, or among Owners and other residents who are not Owners, shall be resolved as provided in this Section 10.07:

- (a) **Mediation or Other Informal Resolution of Disputes Among Owners.** If an Owner believes that another Owner or resident of the Subdivision is in violation of any covenant or restriction contained in this Declaration or any of the other Governing Documents, the Owner shall provide written notice (a "*Notice of Violation*") of the alleged violation to the other party (Owner or resident). The Notice of Violation shall contain a general description of the condition,

action or activity that the noticing Owner believes to be in violation of the Declaration/Governing Document and the notice shall cite the Section of the Declaration that is allegedly being violated. The Owner or Owners who are alleging that a violation of the Declaration/Governing Documents has occurred and the noticed parties shall be referred to collectively as the "Disputing Parties" and the alleged violation shall be referred to as the "Dispute."

Disputing Parties are encouraged to resolve the Dispute through clear communication and neighborly courtesy, if at all possible. Disputing Parties who are unable to resolve the Dispute through communication or other informal means may also agree among themselves to retain the services of a third-party mediator, with the scheduling and cost of those proceedings being determined by agreement among the Disputing Parties.

(b) Arbitration of Owner Disputes. If a Dispute cannot be resolved through informal means or mediation in accordance with subparagraph (a), above, all Disputing Parties shall resolve such Dispute by arbitration in accordance with this subparagraph (b). The Dispute between the Disputing Parties shall be resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") before an arbitrator(s) selected from the panels of the arbitrators of the AAA. Any fees or costs in initiating arbitration which must be paid prior to such arbitration shall be borne equally by the Disputing Parties; provided, however, that all such costs or fees and all other costs of the arbitration, including without limitation, reasonable attorneys' fees, shall be borne by the Disputing Parties in such amounts and such proportions as shall be determined by the arbitrator(s).

(c) Remedies Available for Resolving Disputes. In any proceedings conducted pursuant to this Section 10.07, the arbitrator or arbitrators shall be empowered to do any one or more of the following: (i) issue a ruling or decision interpreting the meaning and intent of this Declaration, as applied to the Dispute in question; (ii) awarding injunctive or other equitable relief to the prevailing party; (iii) awarding actual damages (but not punitive damages), including reasonable attorneys' fees and costs, to the prevailing party; (iv) ordering a suspension of membership voting privileges with respect to any Owner who is a Disputing Party; (v) imposing a fine against any Disputing Party so long as the Declarant has adopted and distributed to its Owners a schedule of fines that can be imposed for enumerated categories of Governing Document violations (and the awarded fine is in accordance with the written fine schedule); and (vi) making a determination as to which Disputing Party is the prevailing party in the Dispute.

(d) Effect of Arbitration. The decision of the Arbitration Panel or AAA arbitrator(s), as applicable, shall be binding upon all Disputing Parties (except where the Arbitration Panel fails to act in good faith or acts arbitrarily or capriciously) and may, as long as not otherwise prohibited by applicable law, be entered as a judgment or order in any court of competent jurisdiction. The cost for the entry of such judgment shall be borne by the Disputing Party or Disputing Parties that do not prevail in the arbitration.

Section 10.08. Enforcement by the City. The City shall be a third-party beneficiary to the duties and covenants imposed in this Declaration and shall be entitled to, without obligation, take appropriate legal action to enforce this Declaration and these duties and covenants contained

herein. If an action is commenced, the City shall be entitled to recover costs including reasonable attorneys' fees. The provisions of this Section 10.08 may not be amended or rescinded without the prior written consent of the City.

ARTICLE XI DECLARANT PRIVILEGES AND EXEMPTIONS

Section 11.01. Interest of the Declarant; Material Actions Requiring Declarant Approval.

Each Owner of a Lot in the Subdivision acknowledges, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest to be protected with regard to assuring compliance with and enforcement of the covenants, conditions, restrictions and reservations contained in this Declaration and any amendments thereto.

Section 11.02. Exemptions from Restrictions Otherwise Applicable. Nothing in the Governing Documents shall limit and no Owner shall do anything to interfere with the right of the Declarant, either directly or through their respective agents and representatives, to subdivide, re-subdivide, sell, resell, rent or re-rent any portion of Subdivision, or to alter the foregoing, so long as any Lot within Nerradscali Subdivision is owned by the Declarant.

The rights reserved to the Declarant pursuant to this Section 11.02 shall include, but shall not be limited to, carrying on by the Declarant and their respective agents and representatives of such grading work as may be approved by the County's Department of Public Works or other agency having jurisdiction, and erecting, and maintaining on Subdivision such structures (including, without limitation, temporary sales and construction offices or trailers, sales offices or model homes), signs and displays as may be reasonably necessary for the conduct of its business of completing the work and disposing of the same by sale, lease or otherwise.

Each Owner, by accepting a deed to a Lot, hereby acknowledges that any construction or installation by other Owners may impair the view of such Owner, and hereby consents to such impairment.

Section 11.03. Amendment of Plans. Subject to approval, as necessary, by the County, Declarant may, from time to time as it deems fit, amend its plans for the Nerradscali Subdivision, combine or split Lots and apply for changes in the entitlements for the Subdivision, changes in zoning, use and use permits for any property within the Subdivision.

Section 11.04. Right to Enforce Design Review and Approval Requirements. For so long as the Declarant owns any Lot in the Subdivision, the Declarant shall have the right to initiate action to correct or prevent any activity, condition or Improvement that is not in substantial compliance with the City's approved plans and specifications if: (a) the City has issued a Notice of Noncompliance; and (b) the City, after having a reasonable opportunity to do so, is unable or unwilling to initiate enforcement action. In the event that such action is initiated by the Declarant and it is later determined by an arbitrator or a court of competent jurisdiction that the Owner of the subject Lot was, in fact, proceeding in violation of the approved plans and specifications, any reasonable costs incurred by the Declarant in initiating enforcement action,

including reasonable attorney's fees, which are not the subject of an award of fees and/or costs against the offending Owner, may be charged to the offending Owner.

Section 11.05. Termination of Any Responsibility of Declarant. In the event the Declarant conveys all of its rights, title and interest to any partnership, limited liability company, individual or individuals, corporation or corporations, in and to the Subdivision, and the acquiring person or entity is designated as a successor Declarant as to all the property conveyed, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of Declarant. This Article shall not terminate any responsibility of the Declarant for acts or omissions occurring prior to the conveyance to such partnership, individual or individuals, corporation or corporations. However, this shall not limit Declarant's right to enter into a contract or agreement dealing with such acts or omissions, provided the contract or agreement is enforced by Declarant, if necessary.

Section 11.06. No Amendment or Repeal. So long as the Declarant owns any Lots within the Subdivision, the provisions of this Article may not be amended or repealed without the consent of the Declarant.

ARTICLE XII **NOTICES**

Section 12.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to Declarant: To Nerradscali Corporation, a California corporation at 3960 Kingsbarns Dr., Roseville, CA 95747; ATTN: Darren Brown.

If to any Owner: To the street address of his or her Lot or to such other address as he or she may from time to time designate in writing to the Declarant for purposes of notice.

Section 12.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the Co-Owners of any Lot, to any general partner of a partnership which is the Owner of Record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Lot, shall be deemed delivered to all such Co-Owners, to such partnership, or to such corporation, as the case may be.

Section 12.03. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four (4) days after deposit in the United States mail in the County.

ARTICLE XIII **AMENDMENT OF THIS DECLARATION**

Section 13.01. Amendment Before Close of First Sale. Before the close of escrow for the first sale of a Lot in the Subdivision to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect by the execution of an instrument amending or revoking the Declaration signed by Declarant. The amending or revoking instrument shall make appropriate reference to this Declaration and shall be Recorded in the County.

Section 13.02. Amendment After Close of First Sale. After the close of escrow for the first sale of a Lot in the Subdivision to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect upon compliance with the following provisions:

(a) **Owner Approval Requirements.** Any amendment shall be approved by the vote or assent by written ballot of the holders of not less than fifty-one percent (51%) of the Owners of Lots in the Subdivision. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

(b) **Additional Approvals for Amendments to Particular Provisions.**

(i) **Declarant Approvals.** The following provisions may only be amended with the prior written consent of the Declarant(s) for so long as the Declarant owns any Lots in the Subdivision: Sections 1.04, 1.10, 7.04, 8.01, 10.06, 10.07, Article XI, and this subparagraph (b)(i).

(ii) **Approval by the City of Sacramento.** The following provisions of this Declaration reflect conditions of approval for the Subdivision imposed by the City and may only be amended with the prior written consent of the City: Sections 1.03, 4.06, 4.07, 4.08, 5.01, 5.02(d), 5.03, 6.15, 7.02, 10.08, and this subparagraph (b)(ii).

Section 13.03. Restatements. This Section describes the methods for restating the Declaration after an amendment or amendments are duly approved.

Section 13.04. Form of Restatement. The restatement shall restate the entire text of the original document, with these exceptions: (i) changes incorporating all amendments approved by the Owners; (ii) changes made to rearrange or delete the text for consistency with the approved amendments; (iii) changes made to delete material no longer legally effective or legally required, such as the provisions described in the section entitled "Amendment of Declarant Benefit Provisions;" (iv) changes made to delete any provision declared illegal by constitutional or statutory enactment, by regulation, or by controlling judicial opinion; and (v) changes needed to distinguish the restatement from the original document, such as title, section, or subsection numbering changes.

Section 13.05. Effective Date of Amendment. The amendment will be effective upon the Recording of a Certificate of Amendment, duly executed and certified by the Declarant setting forth in full the amendment so approved and that the approval requirements of subsection (a) or (b), above, have been duly met. If the consent or approval of any governmental authority, Mortgagee, or other entity is required under this Declaration to amend or revoke any provision of

this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

Section 13.06. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

ARTICLE XIV GENERAL PROVISIONS

Section 14.01. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights of way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Lots as herein provided, and shall inure to the benefit of and be binding upon the Owners, Declarant and its officers and agents, and their respective successors in interest, for the term of thirty (30) years from the date of the recording of this Declaration. After the expiration of the initial term, the same shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial thirty (30) year term or any such ten (10) year extension period, a written instrument, approved by a majority of the Lot Owners in the Subdivision terminating the effectiveness of this Declaration, is Recorded.

Section 14.02. Termination of Any Responsibility of the Declarant. In the event Declarant shall convey all of its rights, title and interest in and to the Subdivision to any partnership, individual or individuals, corporation or corporations, the Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations shall be obligated to perform all such duties and obligations of the Declarant.

Section 14.03. Statutory References. In the event that any statute in this Declaration, whether stated by code and number, or named by body of law, is amended, repealed, renumbered, or renamed, all references to such statute or body of law shall refer to the amended, repealed, renumbered, or renamed statutory provisions.

Section 14.04. Construction.

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

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

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

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

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

(f) Incorporation by Reference. The Recitals and any footnotes are incorporated into and made a part of this Declaration by reference.

(g) References to State Statutes. Any references in this Declaration to California Statutes shall be to the referenced statute as in effect on the date that this Declaration is Recorded in the Official Records of Sacramento County. In the event that any referenced statute is subsequently amended or superseded, all such references shall thereupon mean and refer to the referenced statute as so amended, modified or superseded, so long as the amended statute continues to regulate or pertain to the same subject matter.

Dated: 3 / 27 /, 2024

NERRADSCALE CORPORATION,
a California corporation
By: _____
Darren Brown, President

ACKNOWLEDGMENT

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 to the truthfulness, accuracy, or validity of that document.

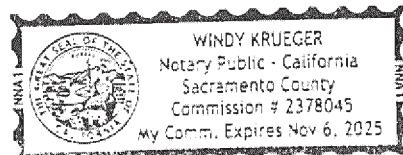
State of California
County of Sacramento)

On March 27, 2024 before me, Windy Krueger, notary public
(insert name and title of the officer)

personally appeared Darren Brown,
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 Windy Krueger (Seal)

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

All of the real property and improvements located in the County of Sacramento, more particularly described as follows:

Lots 1 through 8, inclusive, as shown on that certain final subdivision map for Nerradscal Subdivision, recorded in the Official Records of Sacramento County, California, on February 28, 224, in Book 454 of Maps, at Page 2.