

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER.**

**CERTIFICATE OF RECORDING POA DOCUMENTS  
PURSUANT TO §202.006 TEXAS PROPERTY CODE**

**INSTRUMENTS ATTACHED FOR RECORDING OR PREVIOUSLY RECORDED:**

1. Articles of Incorporation of San Clemente Estates Owners Association, filed in the Office of the Secretary of State of Texas on December 19, 2003 (9 pages)
2. Amended and Restated Declarations of Covenants, Conditions and Restrictions, filed in the Real Property Records of El Paso County, Texas, under Clerk's File No. 20050022005 (26 pages)
3. Amendment to Declarations of Covenants, Conditions and Restrictions for San Clemente Estates, filed in the Real Property Records of El Paso County, Texas, under Clerk's File No. 20090076870 (3 pages)
4. San Clemente Estates Architectural Guidelines (36 pages)
5. Bylaws of San Clemente Estates Owners Association (29 pages)

**PROPERTY DESCRIPTION:** (include platted subdivision name & plat recording data)

San Clemente, as described on Exhibit "A" attached hereto.

**POPULAR NAME OF DEVELOPMENT:** (if different from platted subdivision name)

San Clemente

**DECLARATION TO WHICH SUBDIVISION IS SUBJECT:** (initial recording data)

Amended and Restated Declaration of Covenants, Conditions and Restrictions for San Clemente, recorded on October 22, 2009, under Clerk's File No. 20050022005, Real Property Records, El Paso County, Texas.

**NAME OF PROPERTY OWNERS ASSOCIATION:** (include legal and popular names, if more than one.)

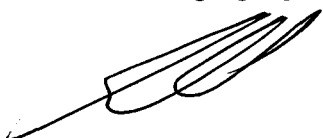
San Clemente, also known as San Clemente Estates Owners Association

**CERTIFICATION & EXECUTION**

I hereby certify that I have been instructed by the Board of Directors of San Clemente Estates Owners Association, a Texas property owners association, to execute this Certificate to effect the recording of the instruments attached hereto on behalf of the property owners association, for the purpose of complying with the requirements of Property Code Section 202.006.

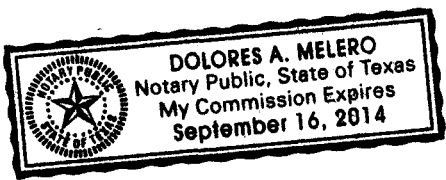
SAN CLEMENTE ESTATES OWNERS ASSOCIATION, a Texas property owners association

By: DANA Properties, Inc., a Delaware Corporation, its managing agent

By:   
Sheldon Wheeler, Association Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on this 4th day of April, 2012 by Sheldon Wheeler, Association Manager of DANA Properties, Inc., a Delaware Corporation, on behalf of the sole proprietorship in the capacity as managing agent of San Clemente Estates Owners Association, a Texas property owners association, on behalf of the association.



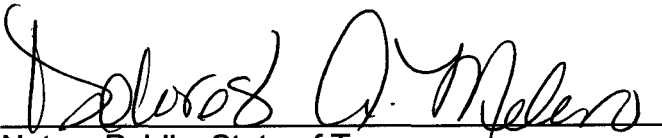
  
Notary Public, State of Texas

EXHIBIT "A"  
TO CERTIFICATE OF RECORDING POA DOCUMENTS  
PURSUANT TO §202.006 TEXAS PROPERTY CODE

DESCRIPTION OF SUBDIVISION

Being all of the real property that is subject to the Amended and Restated Declaration of Covenants, Conditions, and Restrictions, recorded under Clerk's File No. 20050022005, Real Property Records, El Paso County, Texas, including the property platted as follows:

Subdivision plat of San Clemente Estates filed in the Plat Records of El Paso County, Texas.

DEC 19 2003

Corporations Section

**ARTICLES OF INCORPORATION**

**OF**

**SAN CLEMENTE ESTATES OWNERS ASSOCIATION**

**ARTICLE ONE**

**NAME**

The name of the corporation is SAN CLEMENTE ESTATES OWNERS ASSOCIATION.

**ARTICLE TWO**

**NON-PROFIT CORPORATION**

The corporation is a non-profit corporation.

**ARTICLE THREE**

**DURATION**

The corporation will continue in perpetuity.

**ARTICLE FOUR**

**PURPOSES**

The purposes for organizing the corporation are to act as agent for the property owners of San Clemente Estate Owners Association, a development in the City of El Paso, El Paso County, Texas, established pursuant to that certain Declaration of Covenants, Conditions and Restrictions dated May 30, 2003, filed for record in Volume 4574, Page 854, Real Property Records of El Paso County, Texas, and that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions, dated December 15, 2003, filed for record in the Real Property Records of El Paso County, Texas (collectively the "Declaration") and for any and all other property which is accepted by this Corporation for similar purposes, those purposes being as follows:

- a. To exercise all of the power and privileges and perform all of the duties and obligations of the Corporation as set forth in the Declaration;
- b. To affix, levy, collect and enforce payment by any lawful means all charges or assessments pursuant to the terms of the Declaration; and, as agent, pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of this Corporation including all licenses, taxes or governmental charges levied or imposed against the property of this Corporation and to make disbursements, expenditures and payments on behalf of the said property owners as required by the Declaration and the By-Laws of the Corporation; and to hold as agent for said property owners reserves for periodic repairs and capital improvements to be made as directed by the property owners acting through the Board of Directors of the Corporation;
- c. To acquire by gift, purchase or otherwise, to own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or to otherwise dispose of real or personal property in connection with the affairs of this Corporation subject to the limitations set forth in the Declaration;
- d. To borrow money, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the limitations set forth in the Declaration;
- e. To provide general sanitation and cleanliness of the Common Areas and the Private Streets;

- f. To provide upkeep and maintenance of the Common Areas and the Private Streets as provided in the Declaration;
- g. To enter into and perform any contract and to exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the affairs of the corporation in accordance with the Declaration;
- h. To have and to exercise any and all powers, rights and privileges a corporation organized under the Non-Profit Corporation Law of the State of Texas, may now or hereafter exercise.

## **ARTICLE FIVE**

### **POWERS**

Except as these Articles otherwise provide, the corporation has all the powers provided in the Texas Non-Profit Corporation Act. Moreover, the corporation has all implied powers necessary and proper to carry out its expressed powers. The Corporation may reasonably compensate directors, officers or employees for services rendered to or for the corporation in furtherance of one or more of its purposes.

## **ARTICLE SIX**

### **RESTRICTIONS AND REQUIRMENTS**

The corporation may not pay dividends or other corporate income to its directors or officers or otherwise accrue distributable profits or permit the realization of private gain. The corporation may not take any action prohibited by Texas Non-Profit Corporation Act. The corporation may not engage in any activities except to an insubstantial degree, that do not further its purposes as set forth in these articles.

## ARTICLE SEVEN

### MEMBERSHIP

Each and every Owner of a Lot in San Clemente Estates shall automatically become, and must remain, a Member in good standing of the Corporation during such Owner's period of ownership of such Lot or portion thereof. Such membership shall be appurtenant to each Lot, and may not be severed from or held separately therefrom.

A member of the Corporation shall be considered to be a Member in good standing and eligible to vote if such Member:

- a. Has, not less than seven (7) days prior to the taking of any vote by the Corporation, fully paid all assessments or other charges levied by the Corporation then due and payable, as such assessments or charges are provided for in the Declaration;
- b. Does not have a lien filed by the Corporation against his Lot; and
- c. Has discharged other obligations to the Corporation as may be required of Members hereunder.

The Board of Directors shall have sole responsibility and authority for determining the good standing status of any Member at any time, and shall make such determination with respect to all Members prior to a vote being taken by the Corporation on any matter. The Board of Directors shall have the right and authority, in its sole discretion, to waive the seven (7) days prior payment requirement established herein and require only that such payment be made at any time before such vote is taken if the Board of Directors shall determine, in its own judgment, that extenuating circumstances exist which have prevented a particular Member from meeting any or all of the three requirements stated herein at or before seven (7) days in advance of any vote. Any Member not conforming with the provisions of this Article shall be declared by the Board of Directors to be not a Member in good standing and unless the time requirement required hereunder is specifically waived by the Board of Directors in writing prior to any particular vote being taken, shall be disqualified from voting on

matters before the Corporation until such time as Member in good standing status is attained and so declared by the Board of Directors.

The Corporation shall have two (2) classes of voting membership:

a. CLASS A. The Class A Members shall be all Owners with exception of the Declarant. After the Conversion Date, Declarant shall also become a Class A Member to the extent Declarant is the Owner of a Lot.

b. CLASS B. The Class B Member shall be the Declarant. The Class B membership of Declarant shall cease and become converted to Class A membership upon occurrence of the earlier of the following (the "Conversion Date"):

(i) When Declarant has sold or leased for a term in excess of forty (40) years its interest in all of the Lots to unrelated third parties except for eleven (11) Lots. A sale or a lease for such term to an unrelated third party shall include a sale or lease to joint ventures or partnerships that include Declarant as a co-venturer or partner;

(ii) At December 31, 2009; or

(iii) Such earlier date as may be established by Declarant in a Supplemental Declaration to be recorded by Declarant.

Until the Conversion Date, the Class A Members shall not be entitled to vote. From and after the Conversion Date, the Class A Members shall be entitled to one (1) vote for each Lot owned by such Class A Member. Until the Conversion Date, the Class B Member shall be entitled to one (1) vote for each Lot owned by such Class B Member. Where more than one person or entity holds such interest in any Lot, all such persons collectively shall be a single Member, and the vote for such Member shall be exercised as the several parties shall determine among themselves.

The membership of a person or entity in the Corporation shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Corporation or the



Declaration during the period of ownership nor impair any rights or remedies which the Corporation or any other Owner has with regard to such former Owner.

The membership of a person or entity in the Corporation shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Corporation or the Declaration during the period of ownership nor impair any rights or remedies which the Corporation or any other Owner has with regard to such former Owner.

## **ARTICLE EIGHT**

### **INITIAL REGISTERED OFFICE AND AGENT**

The street address of the corporation's initial registered office 5877 North Mesa, El Paso, Texas 79912. The name of the initial registered agent at this office is Richard Thomas.

## **ARTICLE NINE**

### **BOARD OF DIRECTORS**

The management of the corporation is vested in its Board of Directors and such Committees of the board that the board may, from time to time, establish. The by-laws will provide the qualifications, manner of selection, duties, terms and other matter relating to the Board of Directors.

The initial Board will consist to three persons. The initial Board will consist of the following persons at the following addresses:

Name	Address
Richard Thomas	5788 North Mesa El Paso, Texas 79912
Donald Ward, Jr.	1852 Dale Douglas, Suite E El Paso, Texas 79936
Walter G. Passero	5788 North Mesa El Paso, Texas 79912

The number of directors may be increased or decreased by amending the by-laws. The number of directors may not be decreased to fewer than three.

#### **ARTICLE TEN**

##### **LIMITATION OF LIABILITY OF DIRECTORS**

A director is liable to the corporation for monetary damages for an act or mission in the director's capacity as director except as otherwise provided by a Texas statute.

#### **ARTICLE ELEVEN**

##### **INDEMNIFICATION**

The corporation may indemnify a person who was, is, or is threatened to be, made a named Defendant or Respondent in the litigation or other proceedings because the person is or was a director or other person related to the corporation regardless of the provisions of the Texas Non-Profit Act governing indemnification. As the by-laws may provide, the Board of Directors may defined their requirements and limitations for the corporation to indemnify directors or other persons related to the corporation.

**ARTICLE TWELVE  
CONSTRUCTION**

All references in these Articles to statutes, regulation or other sources of legal authority refer to the authority cited, or its successors, as they may be amended from time to time. All capitalized words and phrases not defined herein shall have the meaning given in the Declaration of Covenants, Conditions, and Restrictions.

**ARTICLE THIRTEEN  
INCORPORATOR**

The name and street address of the Incorporator is:

NAME OF INCORPORATOR	ADDRESS
Richard Thomas	5587 North Mesa El Paso, Texas 79912

**ARTICLE FOURTEEN  
ACTION BY WRITTEN CONSENT**

Action may be taken by use of signed written consents by the number of directors or committee members whose vote would be necessary to take any action at a meeting at which all such persons entitled to vote were present and voted. Each written consent must bear the date of signature of each person signing it. A consent signed by fewer than all of the members, or committee members, is not effective to take the intended action unless consents, signed by the required number of persons, are delivered to the corporation within 60 days of the date of the earliest dated consent delivered to the corporation. Delivery must be made by hand, or by Certified or Registered Mail, Return Receipt Requested. The delivery may be made to the corporation's registered office, registered agent, personal place of business, or an officer or agent having custody of books in which the relevant proceedings are recorded. If such deliveries are made to the corporation's principal place of business the consent must be addressed to the Board of Directors.

The corporation will give prompt notice of the action taken to persons who do not sign consents. If the action requires documents to be filed with the Secretary of State, the filed documents will state that the written consent procedures have properly filed. A facsimile or similar transmission by a director or committee member of a signed writing is to be regarded as being signed by the director or committee member.

EXECUTED this 16 day of DEC. 2003.

  
\_\_\_\_\_  
RICHARD THOMAS, Incorporator

**HORIZONTAL/VERTICAL  
LINE THROUGH  
DOCUMENT**

**San Clemente Estates  
Architectural Guidelines**

# **HORIZONTAL/VERTICAL LINE THROUGH DOCUMENT**

## **San Clemente Estates Architectural Guidelines**

The Architectural Guidelines ("Guidelines") establish minimum standards as well as goals for building in San Clemente. This is intended to stimulate your creativity in designing your home, while protecting the environment. This document is structured for easy review and reference.

The San Clemente Architectural Guidelines are Exhibit B of the San Clemente Declaration of Covenants, Conditions and Restrictions as noted in Article V, Section 8 of the Declaration.

These Guidelines begin by introducing the objectives and the standards that must be met in site planning, architecture and landscape architecture for San Clemente. The Guidelines define the steps for review and approval of projects within the subdivision and presents the procedures to be followed during construction.

## **San Clemente Architectural Review Committee**

The San Clemente Architectural Review Committee (ARC) will review and approve all plans for new construction by owners and home builders and administer the Architectural Guidelines. The ARC acts under the authority of Article V, Architectural Review, of the San Clemente Declaration of Covenants, Conditions and Restrictions.

Each proposed building design shall be checked for compliance with these Guidelines. Any plans for remodeling or exterior modifications to homes after construction has been completed shall also be reviewed by the ARC in accordance with the Guidelines.

The Guidelines and procedures depicted here are the criteria that must be met in order to build in the subdivision. Compliance with these Guidelines in no way guarantees any particular construction result within San Clemente.

In addition, these Guidelines are not, and are not to be construed as, a recommendation of endorsement by Declarant, the San Clemente Homeowners Association, Inc. (Association), or by its Board of Directors (Board) or the Architectural Review Committee (ARC) of any particular plan, design, or building material which may be contained herein. Neither the Declarant, the Association, the Board, nor the ARC shall be held liable or bear any responsibility for any injury, damages, or loss arising out of the manner or quality of construction on any property within San Clemente or any modifications thereto.

## **San Clemente Homeowners Association**

The complete set of documents for the San Clemente Homeowners Association ("Association") include:

- Declaration of Covenants, Conditions and Restrictions (the "Declaration");
- Architectural Guidelines for San Clemente (the "Guidelines");
- Bylaws of the San Clemente Homeowners Association, Inc. (the "Bylaws");

- Articles of Incorporation of the San Clemente Homeowners Assoc., Inc. ("the Articles of Incorporation).

Please refer to these documents for more information on the operation of the Association.

### **Site Planning**

#### **Blending Development with the Natural Environment**

Site Planning in San Clemente is the combining of design and land planning principles that allow the vision for this exceptional neighborhood to become a reality. Commitment to conservation with preservation and enhancement of the natural environment is balanced with sensitivity to the economy and efficiency of contemporary building and construction. Respect for El Paso's building heritage is also included.

These Guidelines are meant to encourage creativity in planning and building.

Homesites have been configured to capitalize on the best features of the land. The homesites are situated so that each home can be located in a manner that allows the enjoyment of the scenic beauty, extraordinary views and natural environment.

#### **Building Envelope**

To ensure these qualities are protected, each homesite has a designated area within which building shall occur called the "Building Envelope." This boundary outlines the area of the homesite within which the proposed home must be built. There are standard set backs for the homesites. The set backs for each homesite are as follows: front - 20'; side - 10'; and back - 15', shown by the Building Envelope boundaries. City of El Paso setbacks are not applicable to these homesites and the home shall not be constructed outside of the Building Envelope.

During the pre-Design meeting the owner and/or architect/designer will discuss the homesite and its Building Envelope with a designated representative of the ARC. (See exhibit)

Variances to the Building Envelope may be requested. The Owner must show it is in the best interest of all Owners and/or that special conditions exist which prevent a reasonable use of the homesite without a variance to the Building Envelope. The ARC shall have the right to modify these boundaries after consultation with the adjacent homesite owners.

#### **Front Yard**

The Front Yard of each home shall be the area between the front property line (back of curb), the Native Side Yards and the front of the home. The driveway must enter the homesite in the Front Yard and not in the Native Side Yards, except on corner lots.

The 5' utility and parking easement is provided for onstreet parking and for the placement of utility connections. The following utility connections will be placed behind the curb and within the 5' easement:

- water meter near the middle of the easement;
- sewer tap at the low side of the easement and within the Front Yard

- electrical transformers at one end of the easement within the Front Yard.

The Declarant can provide the locations of the utility connections for each homesite.

#### **Native Side Yards**

Each homesite shall have 10' side yards along each side property line from the front to the rear of the homesite and a 15' rear yard that must remain as native landscaping. These areas are known as the Native Side Yards. This area is defined in the Exhibits as the shaded areas bordering each side of the homesite. Corner lots will have a 20' set back garage drive entry.

The Native Side Yards are designed for privacy and to create visual space between each home.

Where the Building Envelope borders the side yards and the home or improvements are situated against the Building Envelope line, a 5' strip in the Native Side Yard may be disturbed during construction. This 5' strip must be restored to its original state after construction is completed.

#### **Private Areas**

Private Areas are those outdoor living areas enclosed by privacy, view or low walls to separate the area from the Native Side Yards, Natural Areas and Front Yard. These include backyards, courtyards, game courts and pool areas. These areas may be created anywhere on the homesite except in the Native Side Yards and between the front property line and Building Envelope. Front courtyard walls cannot extend into the required Front Yard.

#### **Natural Areas**

Natural Areas shall be the areas of the homesite that the Owner chooses to leave undisturbed and in its natural state along with the required Native Side Yards. These areas are encouraged for aesthetic reasons and for water conservation. Natural Areas should not be disturbed during construction of the improvements to reduce the need for repair and revegetation of the natural landscape. These areas may be created anywhere on the homesite except the Front Yard.

#### **Construction Area & Temporary Protective Fencing**

The Construction Area shall be the area within the homesite that is required for construction of the home, garage, auto courts, driveway and private areas. The Contractor will establish this area and must erect temporary fencing to enclose the construction area prior to commencing foundation work. Fencing shall not be erected within the Native Side Yards except where the 5' strip along the Building Envelope is necessary for construction. The fencing is intended to protect the Natural Areas from damage during construction and reduce costs of restoring the desert.

#### **Combining Homesites**

Two commonly owned contiguous homesites may be combined into a single homesite with the consent of the ARC. The Owner shall submit any requested reconfiguration of the Building Envelope early in the design phase. Approval by the ARC must be received prior to plan submittals. A relocated Building Envelope may, at the Committee's discretion, span the common property line. However, it is possible that such a location could negatively impact existing homes and thereby be unacceptable. For purposes of these Guidelines, combined homesites shall be

**HORIZONTAL/VERTICAL  
LINE THROUGH  
DOCUMENT**



considered as one homesite. Side setbacks for a combined homesite will be a minimum of 20' feet. For purposes of the Association, the original votes, assessments and fees will apply.

**Grading Design Objectives:** To retain natural character of the site and eliminate the need for excessive retaining walls. (See exhibits)

The homesites are not graded to allow the Owner to choose the location of their home and the size of Private Areas that they need and choose to maintain. In designing the home and Private Areas the following measures must be taken to reduce excessive grading: - Building with internal steps and multiple levels - Low retaining walls and building stem walls - Berms and landscaping to blend cuts and fills

Consideration should be given to using parts of exterior walls of the home as retaining walls to blend the home into the site. Use of stem walls may be necessary to minimize grading and to preserve natural land form.

- Cuts and fills must be kept to a minimum to reduce visual impact. (Refer to Site Wall section for retaining wall requirements.)
- Slopes shall be stabilized with riprap or other erosion control methods.
- Each individual homesite owner is responsible for conducting a soils analysis for determining construction methods to implement.
- Areas to be filled with off-site material or site generated cut shall be within the Construction Area.
- Fill stockpiles shall be stored within the Construction Area. Stockpiles must be placed to avoid erosion problems and cannot remain after home completion.
- Planting of disturbed Natural Areas shall be completed normally within 30 days of final grading. However, consideration must be given to the best planting times for plant survival. If the planting will not be accomplished within 30 days, Owner or builder must submit a letter to the ARC for approval. The letter must confirm when planting will be completed.

#### **Drainage**

**Design Objective:** To provide safe and efficient drainage and minimize concentration of the natural runoff on the property to prevent erosion of slopes. To preserve the native vegetation of the canyons.

- The primary function of the natural canyons is to safely convey the upland storm water flows through the subdivision and to receive free discharge of storm water flows from homesites. Water flows must be managed on each homesite through water dispersion, harvesting and/or other techniques that prevent negative impacts. Techniques to assure

compliance with these provisions shall be defined in drainage plans for each homesite and be approved by the ARC prior to the start of construction.

- A certified professional engineer in compliance must prepare the drainage plan to City of EI Paso standards. The ARC and the City of EI Paso (if required) must approve drainage plans.
- Homeowners shall accept natural drainage from the undisturbed area of the upslope, adjacent homesite. Runoff from the street immediately in front of the homesite shall be conveyed onto the homesite.
- Drainage and grading shall provide for water harvesting, dispersal and/or conveyance of water to the rear of the lot and dispersed down slope.
- Storm water must be addressed in the landscaping plan. Incorporation of small retention ponds is encouraged.
- All drainage from walled areas to Natural Areas and Native Side Yards shall be dispersed from pipes through the Privacy or View Walls at no more than four (4) foot intervals. These openings shall be placed at the same elevation and be approximately 1-3 inches above the finish yard elevation. This will help prevent erosion of natural terrain below the walls and encourage absorption of rainwater.
- Care and attention must be given to the grading of driveways and drive pads to insure storm water run-off will not enter the garage or the house. Where concentrated flows collect on driveways and drive pads, retention ponding and/or dispersion techniques shall be provided to eliminate down-slope erosion in the Natural Areas.
- The owner and their architect/designer shall be responsible for foundation design and its relationship to drainage management techniques employed. Finish floor elevations should be set to conform to grading concepts previously discussed.

**Parking: Garages, Driveways, Auto Courts & Visitor Parking**

**Design Objective:** To allow each home adequate parking while minimizing the impact of the parking areas.

Garages:

- Each homesite shall contain a minimum two-car garage, either attached or detached from the home structure.
- Storage area for recreational vehicles, trailers, boats and other recreational equipment must be screened from view of streets, neighboring homesites and common areas. Enclosed storage is encouraged. Recreational vehicle garages using oversize doors shall not be visible from a street. Rear or screened side entrances, recessed floors and other techniques must be used to keep the residential scale.

### Driveways & Auto Courts

- Driveways must be located so as to minimize their visual impact on the home.
- Driveway widths and surface area should be minimized.
- Only one driveway with one curb cut is encouraged for each homesite. Circular drives shall be accomplished with minimal grading.
- Use of gravel, decomposed or crushed stone or other such materials is encouraged and acceptable for driveways with minimal slopes (The increased porous surface area will increase infiltration of rain water.)
- For driveway slopes that would produce erosion problems, asphalt or other hard surface materials approved by the ARC must be used.
- With the approval of the ARC, freestanding walls, planters or gateposts may be allowed at the driveway entrances to the street with appropriate setbacks and clearances. These shall not be built within the utility easement. No driveway entrance shall be designed as a "drive under" using beams or arches spanning the driveway entrance.

### Visitor Parking:

A minimum of two (2) additional parking spaces must be provided on the site to accommodate guest parking. Onstreet parking shall not be counted in satisfying this requirement.

**Game Courts Design Objective:** To create game courts that provide for family entertainment and do not interfere with views.

Grading needed to create a level playing surface shall be achieved with a balance of cut and fill.

Solid walls and/or nylon containment fencing is recommended. The ARC must approve color and type of fencing. The height of nylon containment fencing shall not exceed 10'. The height of other types of perimeter protection may be limited if, in the opinion of the ARC, such devices would be unattractive. Galvanized fencing shall not be allowed.

Additional landscaping with indigenous trees may be required to mitigate the court's visibility from nearby streets, homes and Common Area.

Ramadas, cabanas, storage rooms, and connecting walkways must be visually integrated with the main house and surrounding landscape.

Game court lighting shall comply with lighting standards of these Guidelines.

**HORIZONTAL/VERTICAL  
LINE THROUGH  
DOCUMENT**

## Site Planning

The following Site Planning Details apply to homes in San Clemente.

## Site Walls

**Design Objective:** El Paso has a tradition of using walls to enclose outdoor spaces and to extend building masses and living areas into the landscape. San Clemente seeks to apply this tradition without creating the harsh maze found in many area developments. Where possible, view walls and low walls are preferred to promote an open and inviting residential community and help preserve enjoyment of the natural environment. The following are site walls to be used. (See exhibit)

**Retaining Walls:** Walls that structurally create transitions between grade changes, integrate grade changes, integrate buildings with their site and which minimize the impact of grading. Privacy and view walls may be constructed on top of retaining walls.

**Privacy:** Walls placed to provide privacy between homes, to provide screening or enclose an area such as a front courtyard and rear yards. Privacy walls enclose private space and often are attached to buildings.

**View Walls:** Walls that provide security but allow views through to vistas and open space with the use of wrought iron or other materials.

- Privacy and View walls shall be as low as possible with a maximum height of six (6') feet.
- The average height of retaining walls shall not exceed six (6') feet. Retaining walls may be as high as twelve (12') feet in height for small sections as long as the average height for the retaining wall does not exceed six (6') feet.
- Grade changes that require retaining walls exceeding the average six (6') feet must instead be terraced with a minimum three (3') feet horizontal separation between each wall. The ARC shall have authority to grant variances as long as the design retains the natural character of the site.
- Buttressed (slightly sloped exposed face) retaining walls are encouraged.
- Additionally every effort should be made to integrate walls into the natural landscape by use of angles and comers. Walls shall not be built uniformly at maximum height.
- Wall materials that are permitted for use at San Clemente: Quarried rock of the same type as used on the retaining walls at San Clemente; Plaster or stucco finish or material integral in texture and color with the home; Granite; Stone tile; Pre-cast concrete balusters and rails Colored split-face concrete block; Ornamental iron or metal. Design and color must blend with architectural style of the home. The ARC must approve

ornamental iron design; Horizontal Pipe rail, 1 1/2" or larger, with color to blend with home and landscaping. Tube rail with color to blend with home and landscaping.

- These wall materials and designs shall not be used: Field Stone or Rubble Rock Siding or wood picket Chain link, with or without metal/fiberglass slates (other than temporary construction fencing) Other wire fencing Unfinished concrete block.
- Walls must be constructed of materials and colors that match or blend with the home's exterior.
- Quarried rock shall be laid to emphasize the color and texture of the rock. Heavily recessed mortar or "mortarless" techniques are preferred to create distinctive walls.

### **Lighting Standards**

Views of evening sunsets, the twinkling night lights of the area and the great southwestern night sky are among the most enjoyable features of living at San Clemente. Views can be ruined by excessive light from streetlights, game courts and homes. In order to protect these valued views, lighting standards focus on limiting the kind and quantity of light from these sources. Careful attention to the selection of fixtures that are shielded or filtered to minimize ambient light is essential to preserving night views.

Plans for lighting the yard areas and exterior of the home must be carefully studied during the planning stage using these Guidelines.

- Exterior fixtures not mounted on a building must be located and oriented to focus light inward to minimize light encroachment onto neighboring areas and homes.
- Building mounted exterior lighting must be directed downward and away from adjacent homes, streets and open spaces. The fixtures shall be mounted no higher than the line of the first story eave or, where no eave exists, no higher than 12 feet above finished grade.
- Outdoor lighting is permitted in Front Yards and Private Areas.
- Walkways from the street to the front door and around the driveway should be the minimum necessary for safe passage.
- Lighting of Plant Materials shall be achieved with hidden light sources. These can include surface mounted fixtures on the ground and lamps hidden by plant materials.
- Game court light fixtures must be fully shielded with sharp cut-off lighting, and comply with all other type and shielding requirements outlined in these Guidelines.
- Security lighting directed away from the home and activated by heat, movement, etc. are permissible but must not remain on constantly or be used as general lighting. Placement should be shown on the plans. Alternatives to floodlight type security lighting must be used.

- Warm white and natural lamps are preferred.

**Shielding and Filtering Requirements**

Proper shielding and filtering must be considered in the selection of light fixtures to reduce ambient light.

Definition: Fully Shielded: Exterior light fixtures shielded or constructed so that the installed fixture emits no light rays at angles above the horizontal plane.

Definition: Partially Shielded: Exterior light fixtures shielded or constructed so that the installed fixture emits no more than ten percent of the light rays at angles above the horizontal plane.

**Lamp Fixture Substitution**

- A change request must be submitted to substitute any outdoor light fixture or the type of light source, after approval as been issued by the ARC.

<u>Fixture Lamp Type</u>	<u>Shielding Required</u>
Low Pressure Sodium	Partially
High Pressure Sodium Fluorescent	Fully
Fluorescent	Fully
Incandescent greater than 160W	Fully
Incandescent 160W or less	Partially
Other sources	As approved on a case by case basis

**Other Site Design Features**

**Mailboxes**

- Postal service group mailboxes shall be located at the entrances or other location Declarant negotiates with the U.S. Postal Service.

**Basketball hoops and backboards**

- May be installed at any home. Locations must be Auto Courts on the side of the home, on a game court or in the backyard. Particular attention should be given to the privacy of adjacent homesites.

**Antennae**

- Antennae and satellite dishes must be shielded from view from Common Areas and streets.

**Service Yard**

- All garbage and trash containers, clotheslines, mechanical equipment, and other outdoor maintenance and service facilities must be screened by walls from other homes, Common Areas and streets.

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### **Signage**

- Each builder shall be allowed the following signs: one sign no larger than 2' x 2' mounted on posts in the front yard of the home being constructed;
  - one standard 18"x24" Realtor sign mounted on 4"x4" posts with an arm or within a rectangular frame in the front yard of the home.
  - During initial build-out, Declarant will provide a backdrop sign for each community. Builders and Realtors will be allowed to each post one 18"x24" sign on the backdrop for the community they are building in or representing.
  - Subcontractor information should be included on one of the two yard signs. Additional supplier or subcontractor signs shall not be allowed.
  - Signs must be properly mounted and installed. Signs should be able to withstand strong winds and should be replaced promptly if damaged.
- For resale of homes, real estate signs shall be limited to two 18"x24" standard real estate signs mounted on 4"x4" posts with an arm or within a rectangular frame. One sign may be placed in front of the home. The second may be placed along Stanton Street near the entrance.
- Signs placed along Stanton Street must be carefully placed where the sign does not block views of cars exiting the entrance, and will not damage plants or the irrigation system in the Stanton right-of-way.
- Signs must be properly mounted and installed. Signs should be able to withstand strong winds and must be replaced promptly if damaged.
- Owner should install address identification. Address numbers must be integrated into building walls or freestanding walls and must be of materials and colors that harmonize with the home design.

### **San Clemente Architecture**

The architectural goal is to establish the highest standard of quality for the design of San Clemente homes. The architectural character should reflect the casual elegance of southwestern living. Southwestern character is derived from a wide variety of historic, geographic, cultural, climatic and thematic influences including Spanish, Native American, Mexican and the American West Architecture.

At San Clemente, no residence should stand so apart in its design or construction as to detract from the visual harmony of the community. Builders and architects/designers are required to design homes to capture the qualities of Traditional and/or Contemporary Southwestern architecture.

### **Architectural Style**

At San Clemente, the following architectural styles are permitted:

- Pueblo Style is reminiscent of the low adobe, flat roofed dwellings of the northern New Mexico Pueblo Indians. It typically incorporates deep set doors and windows,

dramatically recessed portals or patios, rounded corners and edges, and is always finished in earth tone colors.

- Territorial Style is characterized by low, flat roofs with brick or tile copings on parapet caps, wood columns and decorative wood door and window casings.
- Spanish Mission Style with pitched tile roofs, stucco finishes, exposed beams and soffits and open porches. This style may be referred to as Santa Barbara style or California Mission.
- Spanish Colonial Revival Style is characterized by tile roofs, simple forms subtly embellished at doorways and ornamental ironwork. This style often incorporates interior courtyards similar to the classic western haciendas.
- Northern New Mexico Ranch Style characterized by pitched metal roofs, stucco finishes and decorative wood door and window casings.
- Italian Villa and Italianate Styles are characterized by shallow pitched tile roofs with broad overhangs decorated with exposed rafters, stucco walls with tall often arched windows and informal covered verandahs or porches. The Italian Villa frequently incorporates a rounded tower while Italianate incorporates a cupola on the roof. These styles may be referred to as Mediterranean.
- Prairie Style features open planning; shallow-pitched roofs with broad, sheltering overhangs, casement windows and a strong horizontal emphasis. Porte-cocheres and raised porches extending out from the main core of the house are typical of this style.
- Craftsman Style is characterized by textured natural building materials, broad overhangs with exposed rafter tails at the eaves and often extensive trellises over the porches. Lower portions of walls and columns are often battered or sloped near the ground.
- Wrightian homes use natural materials in a way that make the home an integral part of the site. These homes usually feature coursed stone or brick, tall French doors, flat or shallow-pitched roofs, often with a detailed fascia, and geometric shapes.
- Contemporary Southwestern Style refers to homes whose interpretive form shall be based on one historical or artistic style. Contemporary design embraces the modernist's exploration of technology and results in homes of lighter weight and often unusual or non classical geometry's. To make them compatible with other styles, contemporary homes shall incorporate set backs, overhangs, interesting use of windows, and use of natural finishes and colors.

The following styles are not permitted in San Clemente:

French Rural	Neo-French
Beaux-Arts	Georgian
Colonial (Dutch, English, French, New England, Neo-Colonial, Revival, Southern Williamsburg,)	Mansard
Deconstructionist	Nouveau Traditional
Elizabethan	Revival (Greek, Gothic)
Exotic Eclectic	Shingle, Neo-Shingle
Federal	Supermannerist
French Napoleon/Second Empire	Tudor, Neo-Tudor
	Victorian/Stick/Queen Anne



Definitions for these styles have been developed from the book "American House Styles, A Concise Guide" by John Milnes Baker, A.I.A. © 1994

### **Building Heights**

The topography and natural features of San Clemente are dramatically varied from the mesas to the canyons contributing immeasurably to the quality of the environment. Homes should be designed to minimize intrusion and impact on the views and visual beauty of the subdivision. (See exhibit)

- The maximum overall building height, as shown in the exhibit, shall not exceed:
  - A) 35'-0" measured from the lowest natural grade adjoining the living space to the highest point on the building (except chimneys). Pitched roofs are measured to the ridge.
  - B) 28'-0" maximum height of any wall measured from the highest natural grade adjoining each wall, to the highest point on each wall (except chimneys).
  - C) 16'-0" from the highest natural grade for walls set back from side property lines.
- If a walkout basement design is used, the maximum height allowed from the lowest natural grade adjoining the living space to the highest point on the building (except chimneys) shall be 38'-0". The City of El Paso Code defines a basement as a structure with 50% or more of the walls surrounded by earth. A walkout basement allows for an exit at basement grade. All other height restrictions remain as listed above.
- Residences are encouraged to be sited into the natural terrain which may place portions of the home partially below existing grade.
- The ARC shall have authority to grant variances to these height restrictions due to unusual natural terrain conditions and where design reflects sensitivity to the natural grade.

**Building Massing Dermition:** Building mass: A volume of space that visually appears as a rectilinear form consisting of a roof and at least 3 walls. (See exhibits)

Building Massing is important to ensure that the elevations of the homes will have visual interest from all views. Design elements must be carried through the elevation to avoid "store-front" or movie-set type elements.

- Each building must have at least 3 distinct masses visible from all elevations.
- Each building mass must be offset from adjacent masses by at least 2'-0" vertically and 2'-0" horizontally.
- Building masses should follow natural site contours as much as possible.

### **Accessory Living Quarters**

Accessory Living Quarters are permitted. Such structures may be attached or detached but shall be in the same architectural style as the residence, and should be visually related to it by walls, courtyards or landscape elements. Any accessory living quarters must comply with all zoning regulations.

### **Colors**

Southwest colors are warm, rich, desert hues with accents of complementary tones reflecting the landscape of the Southwest desert. Colors for exterior walls and roofs in San Clemente shall reflect the deeper shades of color of San Clemente's earth and vegetation. Accent colors to make an area or architectural feature more prominent shall not be used on more than ten percent (10%) of the exterior to avoid being visually distracting. These colors include the bright hues of desert flowers.

### **Materials**

Exterior surfaces must be materials that harmonize with the natural landscape as well as provide an outer skin to withstand El Paso's climate extremes.

These exterior materials are permitted for use:

- Stucco
- Wood
- Natural and/or man-made stone
- Adobe
- Split face block
- Stone or concrete columns
- Ceramic tile
- Glass Block
- Brick
- El Ornamental Iron (with approval of design)
- Other materials will be considered by the ARC

These exterior materials shall not be used: Exposed standard concrete block may not be used.

Accent materials should be specified on the plans submitted to the ARC.

### **Roofs**

Desert architecture is most commonly a "walled" architecture rather than the "roofed" architecture more common in other regions. San Clemente encourages the use of flat or parapet roofs, semi-flat or low pitched roof designs.

- Maximum slope of 3 inches in 12 inches. The ARC may grant variances for small accent roofs that meet other view considerations in these Guidelines.
- Roofs must have a non-reflective surface.
- Flat roofs must be painted to match the stucco or exterior wall color.

Roof mounted appurtenances (air conditioning/heating units, solar panels, vent pipes, etc) shall be totally screened from view as part of the architectural style of the building and not visible from the streets. Parapet copings shall be either integral stucco, brick, pre-cast concrete or stone.

- Gutters, down spouts, scuppers, overflows, canals and other water capture control devices must be an integral component of the building's design.

### **Permitted Roof Materials:**

- Concrete or clay roof tiles
- Built-up roofing (non-reflective) for flat roofs

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- Slate tile Extruded "S" shape tiles
- Metal (standing seam)
- Single ply membrane (non-reflective) for semi-flat roof only
- Copper
- Other materials may be reviewed by the ARC

These roofing materials shall not be used:

- Standard Grade Asphalt shingles      Corrugated Galvanized or unpainted metal

### **Chimneys**

Metal flue stacks must be hidden and the chimney details should match the architectural style of the home.

### **Columns and Arches**

Columns and arches should enhance the architectural theme by using contemporary lines within massive or monumental forms. Attention to detail must be given without appearing unnecessarily ornamental. Columns and arches should provide a feeling of strength, depth and interest at windows and entries. (See exhibits)

#### These columns are permitted for use:

Square Stucco/Plaster  
 Stone  
 Exposed wood  
 Others may be approved by the ARC

#### These columns shall not be used:

Ornate Corinthian  
 Siding covered  
 Ionic designs  
 Egyptian designs

### **Arches**

Arches at San Clemente should be simple and integrate with the architectural style.

#### These arches are appropriate for use:

- Massive
- Segmented
- Full Arch
- Other styles may be reviewed by the ARC

#### These arches may not be used:

- Gothic
- Ogee
- Trefoil

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### **Elevated Decks**

- Deck support columns must have visual mass and size to give the appearance of substance.
- Second story or elevated decks shall be of materials and colors integral to the home.
- Detail of the flashing and scuppers to handle drainage should blend with the rest of the home. Sheet metal must be coated with a non-reflective coating.
- If the undersides of the decks are visible, they should be detailed to blend with the architectural style of the home.
- Deck lighting shall comply with the lighting standards in these Guidelines.

### **Garage Doors**

- Design and materials must be integrated with those of the home.
- Side entry garages are preferred to those fronting the street.
- If the garage faces the street, no more than two vehicle entrances shall be in the same plane.
- Garage doors shall be recessed from the face of the main wall a minimum of 12 inches.

### **Landscaping**

The goals of the landscape design for San Clemente are:

- ensuring an aesthetically pleasing landscape that maintains the existing character of the site while minimizing water use for irrigation;
- increasing the habitat available to wildlife;
- creating refreshing views in this dry desert.

To achieve these goals, native plant materials are encouraged for use in all areas at San Clemente and are required for use in the Front Yards. To maintain the existing character of the site, native plants shall be drawn from the Chihuahuan and Sonoran desert plants found in the EI Paso area. This does not restrict landscaping to only sharp, prickly plants or junipers. Many leafy, blooming and woody native plants have now been cultivated and are available through different EI Paso and Las Cruces area nurseries. This planting concept will blend new construction gracefully into the existing landscape of the area.

### **Landscape Areas**

Each homesite has a number of landscape areas that must be treated differently.

#### **Front Yard**

The area in front of and to the sides of the home that must be landscaped with native and low-water use plants. The front yard is bordered by the Street, Native Side Yards, the home and the Privacy or View Walls enclosing the Private Areas. The Front Yard must extend back to the front of the home and then may end either with the walls for the Private Areas or with a gradual change back into Natural Areas.

Only native plants listed on the plant list shall be used in the Front Yards of all homes. The plants on the list are generally available through local nurseries. New cultivars or varieties of native plants are continually coming on the market as the demand for low-water plants increases.

The ARC may grant a variance to use other native and low-water-use plants as the availability of these plants changes. A green landscape can be achieved with these plants with as formal or informal a landscape design as desired.

Gravel mulch used in the Front Yard must be in colors that blend with the area. Possibilities include river rock and the many gravels quarried locally. No stark white or solid black gravel shall be used.

**Natural Areas & Native Yards:** The Natural Areas are any area of the homesite that the Owner chooses to leave undisturbed and in its natural state as a permanent feature of the landscape. These areas are encouraged to retain the native open landscape and reduce water needs. The Native Side Yards are the 10' strip along each side property line that must remain native. The Native Side Yards are to be left undisturbed and in a natural state as a permanent feature of the landscape.

**Care of All Natural Areas:**

- The Native Areas shall remain free from any improvements
- Any construction scars must be revegetated. Harvesting plants is recommended prior to grading to help with the revegetation process.
- Care must be taken to not over prune and clean plant material in this area to avoid damaging the natural plant cycle. For example, only soil that is disturbed will allow tumbleweeds to grow. Once the soil has been allowed to resettle after a number of years the tumbleweed problem will naturally disappear. Lechugilla cactus provide nourishment to their offspring and the soil during their dying process.
- Repair and maintenance of Native Areas are the responsibility of the homesite Owner.
- Limited enhancement of barren areas is allowed with indigenous plants marked with an \* in the following plant list.
- Permanent irrigation of these areas shall not be allowed. This desert grows with an average of 8" of rainfall each year. Overwatering will cause many plants to rot and die. If the Owner enhances barren areas, the plants must be watered only to help them get established.
- No gravel mulch shall be used in these areas.

**Private Areas**

Enclosed spaces within the Building Envelope and to the rear of the homesite. Private Areas may include enclosed backyards, courtyards, pool areas and sports courts.

Private Areas should be designed to suit the owner's preferences with non-indigenous plants and native plants as they like. Of course, native and other low-water use plants are encouraged. Private Areas have few restrictions on the plants, shrubs and trees that can be planted therein. Views of non-native materials from the street and adjacent properties should be minimized. Site wall requirements must be met to enclose the Private Areas.

**Final Landscape Plan Submittal**

The landscape plan must show the landscape design of the Front Yard and any supplemental plantings of the Natural Areas. The submittal must include: - List of all proposed plants - Site

plan that indicates the areas to be irrigated, and the locations and sizes of all proposed plants - Type of gravel mulch to be used in the Front Yard. If the Owner chooses to use plants not on the list, a written variance request must be submitted with these plans.

#### **Native Plant Information**

Several local nurseries specialize in Native and low-water plants. Information is also available from:

- Texas A&M Extension Service Horticulture Specialist & Research Center (859-9111)
- West Texas Urban Forestry Council (541-4171)
- Native Plant Society
- [www.plantadviser.com](http://www.plantadviser.com) (southwestern deserts edition)
- [www.garden.com](http://www.garden.com) by garden escape
- [www.hortmag.com](http://www.hortmag.com) (Horticulture magazine)

Many excellent books are available on southwest native plants as listed below. Some of these are available for loan from the Declarant. They are also available from most bookstores and UTEP's Centennial Museum gift shop. - "Desert Southwest Gardens" by Paula Panich and Nora Burba Trulsson © 1990 A Bantam Book - "How To Grow The Wildflowers (Plants for the Arid West)" by Eric A. Johnson and Scott Millard 1993 Millard Publishing Services

- "Natural by Design" by Judith Phillips © 1995 Museum of New Mexico Press
- "Native Gardens for Dry Climates" by Sally Wasowski © 1996
- "Native Plants for Southwestern Landscapes" by Judy Mielke © 1993 University of Texas Press
- "Native Texas Plants, Landscaping Region by Region" by Sally Wasowski with Andy Wasowski 1991 Gulf Publishing Company
- "Plants for Natural Gardens" by Judith Phillips © 1995 Museum of New Mexico Press
- "Southwestern Landscaping with Native Plants" by Judith Phillips © 1987 Museum of New Mexico Press -
- "Sunset Western Garden Book" © 1995 Sunset Publishing Corp.
- "Sunset Western Landscaping" © 1997 Sunset Publishing Corp.
- "Xeriscape Gardens Plants for the Desert Southwest" by National Xeriscape Council © 1991 Arizona Municipal Water Users Association

#### **Native Plant Demonstration Areas**

The following locations are excellent examples of plantings with native plants:

- UTEP Centennial Museum Demonstration Garden
- Texas A&M Research Center Demonstration Garden
- Wilderness Park Museum Nature Trails
- The Park at Chaparral medians (To reach The Park at Chaparral take Westwind and turn toward the mountains on La Cadena Dr. Follow La Cadena for two blocks to the entrance. La Cadena is three blocks north of Escondido)
- Several homes on El Paso's westside have excellent low-water native landscapes. Tours of these yards can be arranged through the ARC and the Native Plant Society.
- Sierra Vista Growers Demonstration Garden

- New Mexico State University Demonstration Garden

### **Planting Guidelines**

Care should be taken to protect all plants at San Clemente.

- It is recommended that reasonable efforts be made to transplant all significant and transplantable materials. Consult a local native plant professional prior to transplanting any natural material. Our desert plants are fragile and particular about how they are handled, but with proper techniques they can be transplanted successfully.
- The use of berms as landscape features is encouraged if continuous expanses of landform can be created to look natural as opposed to contrived or manmade. Small irregular hummock type landforms are not allowed. Architectural or structured berm (i.e. retaining walls, sculptural landform, etc.) may be allowed if they are an integral part of the architecture and landscape of a homesite.
- Homesites must be maintained in a neat and attractive condition. Minimum requirements include replacing dead or dying plant materials, watering and general clean up.

### **Prohibited Plants**

These are plants that will grow in the El Paso area, but due to inappropriate biological or visual characteristics, are prohibited from use anywhere on the site.

Elms-Ulmus Pumila

Mulberry-MorusAlba

Poplar Cottonwood-Populus Nigra

### **Water Conservation**

The economic and environmental health of the state and region is dependent upon the responsible use of our water resources. It is the goal of San Clemente to show that careful planning and thoughtful design can demonstrate that water conservation is possible without sacrificing lifestyle choices.

- A licensed landscaper should determine the most water efficient method for watering the different landscaped areas.
- Owners are encouraged to consider water harvesting techniques including capturing and utilizing rainfall and natural drainage for irrigating their yard areas.

### **Approved Native and Low-Water Plant List**

The ARC has deemed the plants included in the following list to be indigenous to and compatible with the environment and encourages their use. Plants from this list must be used in the Front Yards of all homes. Their use elsewhere in the yards is encouraged.

Please be sure to check the Botanical Name as common names vary, and as seen in this list, may be used for more than one plant. The plants have been divided into categories of trees, shrubs, accent plants, ground covers, vines, ornamental grasses and flowers. Many of the plants could have been listed in several categories, but are listed only once. The mature size and plant types are listed for your convenience and may vary depending on soil and water conditions.

If you have questions about plants not appearing on the list, please contact Declarant. Any species not on this list may not be planted or installed in Front Yards in San Clemente without written approval from the ARC.

Only plants that are marked with an asterisk (\*) shall be used to restore construction damage and supplement barren areas in the Natural Areas.

<u>Common Name</u>	<u>Botanical Name</u>	<u>Size</u>	<u>Spread</u>	<u>Plant Type</u> <u>Evergreen Or</u> <u>Deciduous</u>
<i>Trees</i>				
Mulga	Acacia aneura	20'	12'	Evergreen
Catclaw Acacia*	Acacia gregii*	18'	15'	Deciduous
Sweet Acacia	Acacia minuata (A. famesiana)	30'	25'	Deciduous
Blackbrush Acacia	Acacia rigidula	18'	10'	Deciduous
Twisted Acacia	Acacia schaffneri	18'	20'	Deciduous
Madrone	Arbutus xalapensis	25'	15'	Evergreen
Anacacho Orchid Tree	Bauhinia lunarioides (B. congesta)	20'	15'	Deciduous
Chitalpa	Catalpa x Chilopsis	25'	20'	Deciduous
Canyon Hackberry	Celtis veticulata	35'	30'	Deciduous
Blue Palo Verde	Cercidium floridum	20'	20'	Deciduous
Foothills Palo Verde	Cercidium microphyllum	20'	20'	Deciduous
Palo Verde 'Desert Museum'	Cercidium x Parkinsonia	20'	25'	Deciduous
Mexican Redbud	Cercis canadensis 'Mexicana'	20'	12'	Deciduous
Desert Willow	Chilopsis linearis	25'	15'	Deciduous
'Lucretia Hamilton'	Chilopsis linearis 'Lucretia Hamilton'	15'	15'	Deciduous
Arizona Cypress	Cupressus glabra	45'	30'	Evergreen
Compact Arizona Cypress	Cupressus glabra 'compact'	30'	15'	Evergreen
Thornless Honeylocust	Gleditsia triacanthos inermis	47'	37'	Deciduous
Imperial Honeylocust	G. triacanthos inermis 'Imperial'	35'	35'	Deciduous
Moraine Honeylocust	G. triacanthos inermis 'Moraine'	40'	35'	Deciduous
Rubylace Honeylocust	G. triacanthos inermis 'Ruby lace'	30'	30'	Deciduous
Shademaster Honeylocust	G. triacanthos inermis 'Shademaster'	35'	37'	Deciduous
Skyline Honeylocust	G. triacanthos inermis 'Skyline'	35'	25'	Deciduous
Golden Honeylocust	G. triacanthos inermis 'Sunburst'	47'	37'	Deciduous
Goldenball Leadtree	Leuceana retusa	20'	15'	Deciduous
Mexican Palo Verde	Parkinsonia aculeata	30'	30'	Deciduous
Afghan, Mondel Pine	Pinus elderica	70'	30'	Evergreen
Mt. Atlas Pistache	Pistacia atlantica	30'	20'	Deciduous
Texas Pistache	Pistacia mexicana (Pistacia texana)	20'	15'	Deciduous
Chilean Mesquite	Prosopis chilensis	30'	30'	Deciduous
Honey Mesquite*	Prosopis glandulosa*	25'	25'	Deciduous
Screwbean Mesquite	Prosopis pubescens	15'	15'	Deciduous
Mexican Plum	Primus mexicana	25'	25'	Deciduous
Arizona White Oak	Quercus arizonica	35'	30'	Evergreen
Emory Oak	Quercus emoryi	60'	40'	Evergreen
Escarpment Live Oak	Quercus fusiformis	40'	40'	Semi-Evergreen
Holly Oak	Quercus ilex	70'	70'	Evergreen
Burr Oak	Quercus macrocarpa	75'	30'	Deciduous
Chinkapin Oak	Quercus muhlenbergii	60'	40'	Deciduous
Mexican Blue Oak	Quercus oblongifolia	25'	20'	Deciduous



Cork Oak	<i>Quercus suber</i>	30'	20'	Evergreen
Flameleaf Sumac	<i>Rhus lanceolata</i>	20'	15'	Deciduous
Black Locust	<i>Robinia pseudoacacia</i>	50'	25'	Deciduous
Mexican Elder	<i>Sambucus mexicana</i>	35'	15'	Evergreen
Western Soapberry	<i>Sapindus saponaria v. drummondii</i>	30'	20'	Deciduous

### Shrubs

Whitethorn Acacia	<i>Acacia constricta</i>	12'	10'	Deciduous
Blackbrush Acacia	<i>Acacia rigidula</i>	18'	10'	Deciduous
Whitethorn Acacia	<i>Acacia constricta</i>	12'	10'	Deciduous
White Beebrush	<i>Aloysia gratissima</i>	8'	5'	Deciduous
Flame acanthus	<i>Anisacanthus qualrifidus</i>	5'	4'	Deciduous
Sand Sagebrush	<i>Artemisia filifolia</i>	6'	5'	Semi-Evergreen
Prairie Sagebrush	<i>Artemisia ludoviciana</i>	3'	1'	Semi-Evergreen
Bigleaf Sagebrush	<i>Artemisia tridentata</i>	6'	5'	Evergreen
Four-Wing Saltbush*	<i>Atriplex canesaens*</i>	6'	8'	Evergreen
Desert Broom	<i>Baccharis sarothroides</i>	10'	8'	Evergreen
Algerita/Agarito	<i>Berberis trifoliolata</i>	8'	6'	Evergreen
Barberry	<i>Berberis haematocarpa</i>	5'	5'	Evergreen
Mentor Barberry	<i>Berberis mentorensis</i>	7'	7'	Deciduous
Red Leaf Japanese Barberry	<i>Berberis thunbergii 'atropurpurea'</i>	2'	2'	Deciduous
Butterfly Bush	<i>Buddleja davidii</i>	6'	4'	Semi-Evergreen
Wooly Butterfly Bush	<i>Buddleja marrubifolia</i>	4'	4'	Semi-Evergreen
Yellow Bird-of-Paradise	<i>Caesalpinia gilliesii</i>	8'	6'	Deciduous
Red Bird-of-Paradise	<i>Caesalpinia pulcherrima</i>	6'	6'	Deciduous
Red Fairy Duster	<i>Calliandra californica</i>	3'	3'	Evergreen
Pink Fairy Duster	<i>Calliandra eriophylla</i>	4'	3'	Deciduous
Velvet-Leaf Senna	<i>Cassia lindheimeriana</i>	2'	2'	Deciduous
Desert Cassia	<i>Cassia nemophila, Senna nemophila</i>	6'	6'	Evergreen
Silvery Cassia	<i>Cassia phyllodenia</i>	3'	6'	Evergreen
Shrubby Senna	<i>Cassia wislizenii, Senna wislizenii</i>	7'	6'	Deciduous
Winterfat	<i>Ceratoides lanata</i>	3'	2'	Semi-Evergreen
Mountain Mahogany	<i>Cercocarpus montanus</i>	6'	6'	Evergreen
Desert Hackberry	<i>Celtis pallida</i>	8'	10'	Deciduous
Chamisa, Rabbitbrush	<i>Chrysothamnus nauseosus</i>	6'	6'	Evergreen
Littleleaf Cordia	<i>Cordia</i>	6'	8'	Evergreen
Rock Contoneaster	<i>Cotoneaster horizontalis</i>	1'	5'	Evergreen
Grey leafed Cotoneaster	<i>Cotoneaster glaucophyllus</i>	1'	5'	Evergreen
Silverleaf Cotoneaster	<i>Cotoneaster pannosus</i>	1'	5'	Evergreen
Red Clusterberry	<i>Cotoneaster lacteus 'parneyi'</i>	6'	8'	Evergreen
Cliff-rose	<i>Cowania mexicana</i>	12'	8'	Evergreen
Feather or Plume Dalea	<i>Dalea formosa</i>	3'	4'	Deciduous
Black Dalea*	<i>Dalea frutescens*</i>	3'	5'	Evergreen
Indigo Bush	<i>Dalea pulchra</i>	4'	5'	Evergreen
Brittle Bush, Inceinso	<i>Encelia farinosa</i>	5'	5'	Deciduous

Mormon Tea, Joint-Fir	<i>Ephedra</i> spp. *	5'	6'	Evergreen
Turpentine Bush*	<i>Ericameria larcifolia</i> *	3'	2'	Evergreen
Texas Kidneywood	<i>Eysenhardtia texana</i>	8'	8'	Deciduous
Apache Plume*	<i>Fallugia paradoxa</i> *	6'	5'	Evergreen
Cliff Fendlerbush	<i>Fendlera rupicola</i>	5'	5'	Deciduous
New Mexican Privet	<i>Forestiera pubescens neomexicana</i>	15'	10'	Evergreen
Wright's Silktassel	<i>Garrya wrightii</i>	8'	6'	Evergreen
Mexican honeysuckle	<i>Justica spicigera</i>	6'	4'	Deciduous
Creosote Bush*	<i>Larrea tridentata</i> *	5'	4'	Evergreen
Big Bend Silverleaf	<i>Leucophyllum candidum</i>	4'	4'	Evergreen
Silver Cloud Cenizo	<i>Leucophyllum candidum</i> 'Silver Cloud'	4'	4'	Evergreen
Thunder Cloud Cenizo	<i>Leucophyllum C.</i> 'Thunder Cloud'	4'	4'	Evergreen
Texas Sage, Cenizo	<i>Leucophyllum frutescens</i>	8'	5'	Evergreen
Compact Texas Sage	<i>L. frutescens</i> 'Compactum'	5'	3'	Evergreen
Green Cloud	<i>L. frutescens</i> 'Green Cloud'™	5'	3'	Evergreen
White Cloud	<i>L. frutescens</i> 'White Cloud'™	5'	3'	Evergreen
Chihuahuan Sage	<i>Leucophyllum laevigatum</i>	5'	5'	Deciduous
Sage/Cinizo	<i>Leucophyllum langmaniae</i> 'Rio Bravo'	5'	5'	Evergreen
Sage/Cenizo	<i>L. pruinatum</i> 'Sierra Bouquet'	5'	5'	Evergreen
Mountain Ranger/Sierra Sage	<i>Leucophyllum revoltum</i>	4'	4'	Evergreen
Blue Ranger	<i>Leucophyllum zygophyllum</i>	3'	3'	Evergreen
Scented Lippia	<i>Lippia graveolens</i>	6'	4'	Deciduous
Pale Wolfberry	<i>Lycium pallidum</i>	4'	5'	Deciduous
Regal Mist	<i>Muhlenbergia capillaris</i>	3'	2'	Perennial
Bamboo Muhley	<i>Muhlenbergia dumosa</i>	3'	2'	Perennial
Deer Grass	<i>Muhlenbergia rigens</i>	4'	4'	Perennial
Nashville Tm	<i>Muhlenbergia rigida</i>	2'	2'	Perennial
Mariola	<i>Parthenium incanum</i>	3'	4'	Evergreen
Rose Pavonia	<i>Pavonia lasiopetala</i>	3'	2'	Perennial
Russian Sage	<i>Perovskia atriplicifolia</i>	4'	3'	Perennial
Green Fountain Grass	<i>Pennisetum sataceum</i>	4'	4'	Deciduous
Dwarf Sumac	<i>Rhus aromatica</i>	5'	6'	Deciduous
Smooth Sumac	<i>Rhus glabra</i>	10'	10'	Deciduous
Dwarf Smooth Sumac	<i>Rhus glabra cismontana</i>	3'	3'	Deciduous
Littleleaf Sumac	<i>Rhus microphylla</i>	8'	10'	Deciduous
Prairie Flame	<i>Rhus trilobata</i>	5'	7'	Deciduous
Evergreen Sumac	<i>Rhus virens</i>	12'	8'	Evergreen
Wild Rose	<i>Rosa woodsh</i>	5'	8'	Deciduous
Chaparral Sage	<i>Salvia clevelandii</i>	4'	5'	Deciduous
Desert Sage	<i>Salvia dorrii</i> v <i>dorrii</i>	3'	3'	Deciduous
Cherry Sage	<i>Salvia grahamii</i>	3'	3'	Deciduous
Autumn Sage	<i>Salvia gregii</i>	3'	2'	Deciduous
Mexican Sage	<i>Salvia leucantha</i>	4'	4'	Deciduous
Cherry Sage	<i>Salvia microphylla</i>	3'	3'	Deciduous
Eve's Necklace	<i>Sophora affinis</i>	15'	10'	Deciduous
Texas Mountain Laurel	<i>Sophora secundiflora</i>	15'	10'	Evergreen

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Spanish Broom	<i>Spartium junceum</i>	8'	5'	Evergreen
Yellow Bells, Esperanza	<i>Tecoma stans</i>	6'	4'	Deciduous
Orange Jubilee	<i>Tecoma</i> spp. 'Orange Jubilee'	6'	4'	Deciduous
Mexican Buckeye	<i>Ungnadia speciosa</i>	15'	10'	Deciduous
Arizona Rosewood	<i>Vauquelinia californica</i>	15'	10'	Evergreen
Rosewood	<i>Vauquelinia corymbosa</i> v. <i>heterodon</i>	8'	4'	Evergreen
Vitex, Chaste Tree	<i>Vitex agnus-castus</i>	25'	20'	Deciduous

### Accents

Century Plant	<i>Agave americana</i>	15'	5'	Cactus
Lecheguilla*	<i>Agave lecheguilla</i> *	1'	18"	Cactus
Cat Claw	<i>Ancistrocactus uncinatus</i>	6"	6"	Cactus
Flabby Pincushion	<i>Coryphantha macromeris</i>	6"	18"	Cactus
Giant Pincushion	<i>Coryphantha scherri</i>	9"	5"	Cactus
Spiny Stars*	<i>Coryphantha vivipara</i> *	8"	4"	Cactus
Sotol*	<i>Dasyliion</i> sp. *	15'	4'	Cactus
Devil's Head, Blue Barrel	<i>Echinocactus horizontalonius</i>	1'	1'	Cactus
Fendler's Hedgehog*	<i>Echinocereus fendleri</i> *	10"	10"	Cactus
Texas Rainbow*	<i>Echinocereus dasyacantha</i> *	1"	1"	Cactus
Claret Cup*	<i>Echinocereus triglochidiatus</i> *	8"	6"	Cactus
Green-flowered Rainbow*	<i>Echinocereus viridiflorus</i> *	10'	12'	Cactus
White Stars*	<i>Escobaria tuberculosa</i> *	7"	30"	Cactus
White Stars	<i>Escobaria dasyacantha</i>	7"	30"	Cactus
Texas or Fishhook Barrel*	<i>Ferocactus</i> spp. *	1'	9"	Cactus
Eagle Claws*	<i>Echinocactus horizontalonius</i> *	12"	6"	Cactus
Ocotillo*	<i>Fouquieria splendens</i> *	15'	6'	Cactus
Yellow Yucca	<i>Hesperaloe parviflora</i>	5'	4'	Cactus
Red Yucca	<i>Hesperaloe parviflora</i>	5'	4'	Cactus
Lacy Pincushion*	<i>Mammillaria lasiacantha</i> *	2"	2"	Cactus
Fishhook*	<i>Mammillaria microcarpa</i> *	6"	1"	Cactus
Large-fruited Fishhook	<i>Mammillaria wrightii</i>	2"	3"	Cactus
Bear Grass	<i>Nolina texana</i>	8'	5'	Cactus
Sand Prickly Pear	<i>Opuntia arenaria</i>	4'	6'	Cactus
Prickly Pear*	<i>Opuntia engelmannii</i> *	4'	10'	Cactus
Cows Tongue	<i>Opuntia engelmannii</i> "Linguidomis"	5'	5'	Cactus
Cholla*	<i>Opuntia imbricata</i> *	8'	4'	Cactus
Texas Prickly Pear*	<i>Opuntia lindheimeri</i> *	5'	5'	Cactus
Purple Prickly Pear*	<i>Opuntia macrocentra</i> *	5'	5'	Cactus
Engelmann's Prickly Pear*	<i>Opuntia phaeacantha</i> *	3'	4'	Cactus
Sparrish Bayonet	<i>Yucca aloifolia</i>	10'	5'	Cactus
Banana Yucca*	<i>Yucca baccata</i>	3'	2'	Cactus
Soaptree Yucca	<i>Yucca elata</i>	12'	3'	Cactus
Faxon Yucca	<i>Yucca faxoniana</i>	25'	8'	Cactus
Pendula Yucca*	<i>Yucca recurvifolia</i>	5'	2'	Cactus

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### Ground Covers

Desert Carpet*	Acacia redo lens 'Desert Carpet'™	2'	15'	Deciduous
Artemisia sp.	Artemesia sp	3'	3'	Semi-Evergreen
Silvermound	Attemesia schmidtiana 'Silvermound'	2'	1'	Semi-evergreen
Centennial Coyote Bush	Baccharis p. var. centennial	4'	5'	Evergreen
Dwarf Coyote Bush	Baccharis pilularis	2'	5'	Evergreen
California Ice Plant	Carpobrotus chilensis	1'	5'	Deciduous
Common Ice Plant	Carpobrotus edulis	1'	5'	Evergreen
Sierra Gold	Dalea capitata 'Sierra Gold'™	1'	3'	Evergreen
Prostrate Indigo Bush	Dalea greggii	1'	3'	Deciduous
Gazania	Gazania rigens	1'	1'	Evergreen
Mexican Primrose	Oenothera berlandieri	1'	18"	Biennial
Canyon Sage	Salvia lycioides	1'	2'	Annual
Sedum spp.	Stonecrop	6"	2'	Evergreen
Germander	Teucrium chamaedrys	1'	2'	Evergreen
Prostrate Germander	Teucrium chamaedrys 'Prostratum'	6"	3'	Evergreen
Sandpaper Verbena	Verbena rigida	1'	4'	Perennial

### Vines

Coral Vine, Queen's Wreath	Antigonon leptopus	10'	4'	Deciduous
Western Virgin's Bower	Clematis lingusticifolia	20'	10'	Perennial
Giant Snapdragon Vine	Epixiphium wislizenii	8'	5'	Annual
Alamo Vine	Merrima dissecta	15'	8'	Perennial
Silver Lace Vine	Polygonum aubertii	10'	4'	Deciduous
Lady Bank's rose	Rosa banksiae	20'	10'	Deciduous

### Flowers

Heart's Delight	Abronia ameliae	18"	3'	Perennial
Sand Verbena	Abronia angustifolia	18"	3'	Annual
Fragrant Sand Verbena	Abronia fragrans	18"	3'	Perennial
Common Yarrow, Milfoil	Acchillea millefolium	2'	3'	Perennial
Fernleaf Yarrow	Acchillea filipendulina	4'	3'	Perennial
Yarrow	Achillea sp.	3'	2'	Perennial
Trailing Four O'Clock	Allionia incamata	5"	2'	Annual
Garlic Chives	Allium tuberosum	18"	6"	Perennial
Blue Star	Amsonia spp.	2'	1'	Perennial
Golden Columbine	Aquilegia chrysantha	2'	2'	Perennial
Prarie Aster*	Aster spp. *	3'	3'	Perennial
Desert Marigold*	Baileyi multiradiata*	18"	1"	Biennial
Chocolate Daisy	Berlandiera lyrata	2'	1'	Perennial
Wine Cups	Callirhoe involucrata	6"	2'	Perennial
Sun Drops	Calylophus hartwegii	8"	3'	Perennial
Chile Pequin	Capsicum annuum	2'	2'	Perennial
Indian Paintbrush	Castilleja integra	18"	1'	Perennial
Coreopsis	Coreopsis lanceolata	2'	1'	Evergreen
Bat-faced Cuphea	Cuphea llavea			Perennial

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Golden Fleece	Dyssodia tenuiloba	1'	1'	Annual
Purple Coneflower	Echinacea purpurea	3'	1'	Perennial
Mountain Aster	Erigeron formosissimus	2'	1'	Perennial
Wallflower	Erysimum	1.5'	1'	Perennial
Mexican Poppy*	Eschscholzia mexicana*	1'	2"	Annual
Euphorbia	Euphorbia biglandulosa	18"	3'	Perennial
Red Indian Blanket	Gaillardia amblyodon	1'	2'	Perennial
Indian Blanket	Gaillardia pulchella	1'	2'	Perennial
Bee Blossom	Guara lindheimeri	2'	2'	Perennial
Maxmillian's Sunflower	Helianthus maximilian	6'	3'	Perennial
Golden Aster	Heterotheca villosa (Chrysopsis villosa)	18"	18"	Perennial
Desert rose-Mallow	Hibiscus denudatus	2'	1'	Perennial
Angelita Daisy	Hymenoxys acaulis	1'	1'	Perennial
Blue Trumpets	Ipomopsis longiflora	18"	1'	Annual
Trailing Purple Lantana	Lantana spp.	1'	3'	Perennial
'New Gold' Lantana	Lantana spp.	1'	3'	Perennial
Trailing Yellow Lantana	Lantana spp.	1'	3'	Perennial
Gayfeather	Liatris punctata	3'	1'	Perennial
Gayfeather	Liatris spicata	3'	1'	Perennial
Blue Flax	Linum lewisii	2'	1'	Perennial
Flax	Linum perenne	2'	1'	Perennial
Big Bend Bluebonnet	Lupinus havardii	1'	1'	Perennial
Blackfoot Daisy	Melampodium leucanthum	1'	1'	Perennial
Desert Four O'Clock	Mirabilis multiflora	1'	3'	Perennial
Lemon Mint	Monarda citradora			Perennial
Bergamont	Monarda fistulosa			Perennial
Bee Balm	Monarda fistulosa v. methaefolia			Perennial
Bee Balm	Monarda pectinata			Perennial
Spotted Bee Balm	Monarda punctata			Perennial
White Evening Primrose	Oenothera caespitosa	8"	2'	Perennial
Baja Evening Primrose	Oenothera stubbei	6"	4'	Perennial
Phlox, Sand Penstemon	Penstemon ambiguus	4'	3'	Perennial
Rock Penstemon	Penstemon baccharifolius	18"	1'	Evergreen
Cardinal Penstemon	Penstemon cardinal is	3'	2'	Perennial
Sunset Penstemon	Penstemon clutei	3'	1'	Perennial
Firecracker Penstemon	Penstemon eatoni	3'	2'	Perennial
Harvard Penstemon	Penstemon havardii	3'	2'	Perennial
Palmer's Penstemon	Penstemon palmeri	3'	2'	Perennial
Wild Snapdragon, Parry's P.	Penstemon parryi	3'	2'	Perennial
Desert Beardtongue	Penstemon pseudospectabilis	3'	2'	Perennial
Superb Penstemon	Penstemon superbus	2'	2'	Perennial
Thurber's Penstemon	Penstemon thurberii	3'	3'	Perennial
Wright's Penstemon	Penstemon wrightii	3'	2'	Perennial
White Milkwort	Polygala alba	1'	6"	Perennial
Paperflower*	Psilostrophe tagetina*	18"	1'	Perennial
Mexican Hat	Ratibida columnaris	3'	1'	Perennial

Browneyed Susan	Rudbeckie hirta	2'	1'	Perennial
Mealy Cup Sage	Salvia farinaceae	2"	2'	Deciduous
Cedar Sage	Salvia roemeriana	3'	3'	Deciduous
Green Santolina. Lav. Cotton	Santolina virens	1'	3'	Evergreen
Grey Santolina. Lav. Cotton	Santolina chamaecyparissus	1'	3'	Evergreen
Threadleaf Groundsel	Senecio flaccida	2'	2'	Perennial
Globe Mallow *	Sphaeralcea spp. *	3'	5'	Perennial
Prince's Plume	Stanleya pinnata	3'	2'	Perennial
Sweet Scented Marigold	Tagetes lucida	18"	2'	Perennial
Dakota Verbena	Verbena bipinnatifida	1'	4'	Deciduous
Verbena Species	Verbena ciliata	1'	4'	Deciduous
Desert Verbena	Verbena goodingii	1'	3'	Deciduous
Peruvian Verbena	Verbena peruviana	8"	3'	Deciduous
Rock Verbena	Verbena pulchella	8"	3'	Deciduous
Verbena Species	Verbena rigida	2'	3'	Deciduous
Moss Verbena	Verbena tenuisecta	1'	4'	Deciduous
Sweet William	Verbena wrightii	1'	4'	Deciduous
Skeleton leaf Goldeneye*	Viguiera stenoloba*	4'	3'	Semi-evergrn.
White Rain Lily	Zephyranthes candida	1'	1'	Evergreen
Pink Rain Lily	Zephyranthes grandiflora	1'	1'	Evergreen
Yellow Rain Lily	Zephyranthes sulphurea	1'	1'	Evergreen
Alamo, Zephyr Flower	Zephyranthes hybrids	1'	1'	Evergreen
Desert Zinnia	Zinnia acerosa	6"	1'	Perennial
Plains Zinnia	Zinnia grandiflora	6"	1'	Perennial

### Design Review Procedures

The Design Review Process provides the Owner checkpoints to confirm that their home is designed to meet these Architectural Guidelines. Each step is intended to minimize costs, time and delays.

Each Owner is responsible for complying with the Guidelines and all other applicable provisions of the Declaration, as well as all the rules and regulations of the City of El Paso, in order to bring the design review process to a speedy and satisfactory conclusion.

Until otherwise notified, all Owners or their Architects/Designers shall submit plans and specifications to the Architectural Review Committee at San Clemente, c/o Richard Thomas, 5788 North Mesa Street, El Paso, Texas 79912.

The design and building review process is divided into five phases with two steps suggested:

1. The Pre-Design Meeting (suggested)
2. Conceptual Plan Review (suggested)
3. The Final Plan Review (required)
4. Front Yard Landscape Plan Review (required)
5. Post Construction Submittal (required)

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### **1. Pre-Design Meeting (suggested)**

A member of the ARC is available to meet with the Owner and Architect Designer at the homesite prior to preparing any drawings for the home. The purpose of this meeting is to:

- discuss ideas, concepts and goals for the proposed home in relation to actual site conditions;
- resolve any questions about interpretation of these Guidelines;
- clarify the design review process;
- explore and resolve any questions regarding the construction process and requirements.

This informal review is intended to facilitate an efficient planning and design process and to offer guidance prior to the initiation of preliminary design. The Owner or Architect Designer can call the Declarant's office for an appointment for the Pre-Design Meeting.

### **2. Conceptual Plan Review Submittal (suggested)**

If the Owner and Architect Designer choose, the ARC will review conceptual plans for their conformance to these Guidelines. The owner may choose to schedule a conference to review the conceptual plans or submit them for review.

Two sets of the following plans should be submitted for conceptual review:

- Site Plans
- Floor plans including floor plans of any accessory improvements
- Elevations: Show both existing and proposed grade lines and indicate heights of all parapets and roof ridgelines.

This review is preliminary. ARC comments will be more thorough the more information that is supplied.

### **3. Final Plan Review Submittal (required)**

- The following must be submitted to the ARC for final approval prior to any grading or construction: Construction Documents: All information as submitted for the City of El Paso Building Permit and necessary to show compliance with these Guidelines. Any requested variances for the residence must be submitted in writing with these documents. (2 sets)
- Final grading and drainage plan: These must be designed by a registered civil engineer.
- Samples: Samples of all exterior finish materials and colors and information on exterior lighting must be submitted. These should be mounted on a manageable size board(s) and indicate the Owner's name and homesite number.
- Preliminary landscape plan: This preliminary plan shall show a general plan defining the Front Yard, Private Areas and Natural Areas. This plan must also show retaining walls, terracing, game courts and decorative features such as pools. Specific plants need not be identified at this time. A final front yard landscape plan must be submitted to the ARC prior to the start of irrigation and planting.

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## **Checklist for Final Plan Review Submittal**

Complete construction documents (2 sets)  
Sample Boards  
Final grading and drainage plan  
Preliminary landscape plan

**Non-Waiver** Any approval by the ARC of drawings, specifications or work done or proposed, or in connection with other matters requiring approval under these Guidelines or the Declaration, including a variance by the ARC, shall not be deemed to constitute a waiver of the right to withhold subsequent approval. For example, the ARC may disapprove an item shown on the Final Plan Submittal even though it may have been evident and could have been, but was not, disapproved at the Conceptual Plan Review. An oversight by the ARC of non-compliance at anytime during the review process, construction process or during its final inspection does not relieve the Owner from compliance with these Guidelines and all other applicable codes, ordinances and laws.

### **Building Permit**

If the City mandates any changes for issuance of the Building Permit, the ARC shall be informed of the changes and shall check for any conflicts with these Guidelines. If the changes conflict with the Guidelines, the ARC will work with the Owner on a mutually satisfactory solution.

All construction shall be in accordance with the approved plans and all applicable governmental rules and regulations.

### **Re-submittal of Drawings**

In the event of ARC disapproval of the Final Plan Submittals, the resubmission must adequately demonstrate that items not previously in compliance have been adequately addressed.

### **Additional Construction and/or Exterior Changes**

All changes to the site plan or exterior of the building made before or during construction must first be submitted for approval by the ARC.

### **Onsite Review**

A representative of the ARC will review the construction when retaining walls are being built and during framing for conformance with these Guidelines and the approved building, grading and drainage plans. The Owner will be notified of any discrepancies.

### **4. Landscape Plan Review Submittal (required)**

A final landscape plan must be submitted to the ARC prior to the start of landscaping. The ARC suggests this be submitted shortly after flatwork is in place when it is easier to visualize landscaping for the Owner, Landscape designer and the ARC. The plans must show the landscape treatment of the Front Yard and any supplemental plantings of the Natural Areas. A landscape plan for the Private Areas is not needed.

The landscape plan for the Front Yard and supplemental planting of Natural Areas shall be the same or larger scale as the site plan. The plan shall indicate: 1) areas to be irrigated (Front Yard



only); 2) list of all proposed plants; 3) locations and sizes of all proposed plants; 4) type of gravel mulch (Front Yard only).

The ARC shall review the submitted Landscape Plan for conformance with these Guidelines and provide a written response to the Owner indicating either approval or the items not in compliance with the Guidelines.

#### **5. Post Construction Submittal**

The following items must be submitted before closing or move-in, whichever occurs first after construction is complete:

1 Copy of the final survey.

1 Copy of signed-off City of El Paso Building Card or Certificate of Occupancy

1 Certification from a professional engineer certifying that grading and drainage construction was completed in accordance with City and ARC approved plans.

#### **Construction Regulations**

*To assure that the intent of these Guidelines are incorporated into the building process and that the natural landscape is not unduly damaged during construction, the following*

*Construction Regulations shall be a part of the contract documents. San Clemente will conduct a monitoring program during the course of construction to assure that building is proceeding in accordance with the Guidelines. Owners will be notified of any inconsistencies.*

#### **Pre-construction Conference**

The Builder and/or Owner must meet with a representative of the ARC prior to any grading or construction activity to review procedures and clarify logistics. Builders may be asked to submit a list of subcontractors who will be participating on their project.

Access, parking, trash control and preservation of the environment will be the major topics for discussion.

#### **Debris and Trash Removal**

- Trash and debris shall be stored in a container on each construction site and be removed at appropriate times. Special care must be taken to avoid trash blowing to other homesites, yards or into the canyons. Contractors shall pick-up and remove any trash that blows into the canyons promptly.
- Materials shall not be stored on neighboring homesites without written permission of that Owner.
- Lightweight materials, packaging and other items subject to blowing shall be weighted down or stored in a container to prevent their being blown out of the construction area.
- Builders, their subcontractors and suppliers are prohibited from dumping, burying or burning trash anywhere in San Clemente.

- Concrete equipment cleanup must be done so as not to affect the Natural Areas of a homesite or allow run-off to flow into Natural Areas.
- Removal of accumulated mud or debris on the streets must be done promptly and is the responsibility of the Builder.

#### **Vehicles and Parking Areas**

- Private and construction vehicles and machinery shall be parked in the construction area and must not disturb the Natural Areas.
- All vehicles shall be operated and parked so as not to inhibit traffic.

#### **Conservation of Landscape Materials**

Builders are advised that the homesites and open spaces contain valuable native plants and other natural features that should be absolutely protected during construction.

#### **Excavation Materials**

- Excess excavation materials must be hauled away from San Clemente.
- Fill material must be spread and compacted when generated by excavation or deposited to avoid the appearance of a dump site, with the following exception. The creation of stockpiles of excavated material from foundations or footings pending use as backfill for retaining walls is permitted. Stockpiles may be on the homesite, or another homesite if written approval is received from that homesite owner. Upon backfilling of the wall, surplus material must be removed and the area returned to clean and level condition. This must be accomplished along with the completion of the home.

#### **Restoration or Repair of Property Damages**

Any damage and scarring to any property, open space or other homesite, including, but not limited to streets, driveways, concrete curbs, gutters, utilities, vegetation and/or other improvements, resulting from construction operations must be repaired and/or restored promptly. Any expenses are those of the Builder, and in the event of default by the Builder in meeting these obligations, the Owner who has retained the Builder shall be responsible.

#### **Miscellaneous and General Practices**

All Owners will be responsible for the conduct and behavior of their agents, representative, builders, contractors, and subcontractors while on the premises of San Clemente. The following practices are prohibited:

- Allowing concrete suppliers or any subcontractors to clean their equipment anywhere but on their homesite. Natural Areas must not be damaged.
- Removing any rocks, plant material, topsoil, or similar items from any other property, including other construction sites without written permission of that property owner.

#### **Construction Access**

Standard procedures and operation of the entrance gate may be changed from time to time. Each builder working within the area shall be notified in advance so builders have access.

### **Construction Signage**

- Each builder shall be allowed the following signs: one sign no larger than 2'x2' mounted on posts in the front yard of the home being constructed; one standard 18"x24" Realtor sign mounted on 4"x4" posts with an arm or within a rectangular frame in the front yard of the home.
- During initial build-out, Declarant will provide a backdrop sign for each community. Builders and Realtors shall be allowed to each post one 18"x24" sign on the backdrop for the community they are building in or representing.
- Subcontractor information should be included on one of the two yard signs. Additional supplier or subcontractor signs shall not be allowed.
- Signs must be properly mounted and installed. Signs should be able to withstand strong winds and must be replaced promptly if damaged.

### **Architectural Review Committee Reviews**

- All changes to the site plan or exterior of the building made before or during construction must first be submitted for approval by the ARC.
- A representative of the ARC shall review the construction when retaining walls are being built and during framing for conformance with these Guidelines and the approved plans.
- Upon completion of the home, the professional engineer for the Owner must certify that grading and drainage construction was completed in accordance with City and ARC approved plans. The Owner's Certification of Compliance must be in writing and approved by the ARC prior to move in.

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**EXHIBITS**

**FOR**

**San Clemente Estates**

**Architectural Guidelines**

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DOCUMENT**

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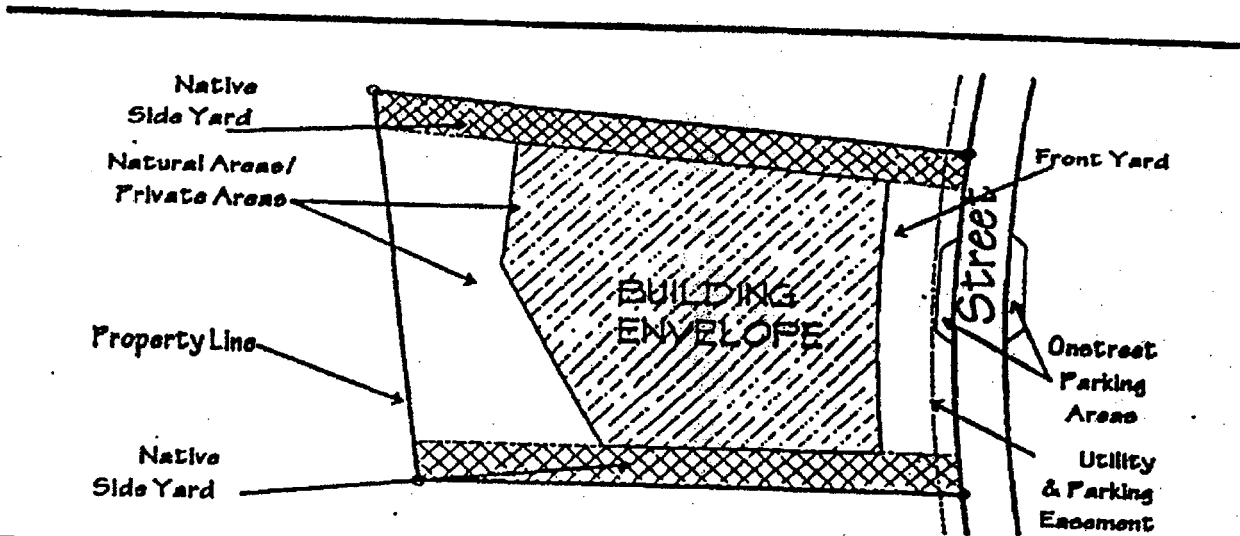


Exhibit : Building Envelope and other designated areas

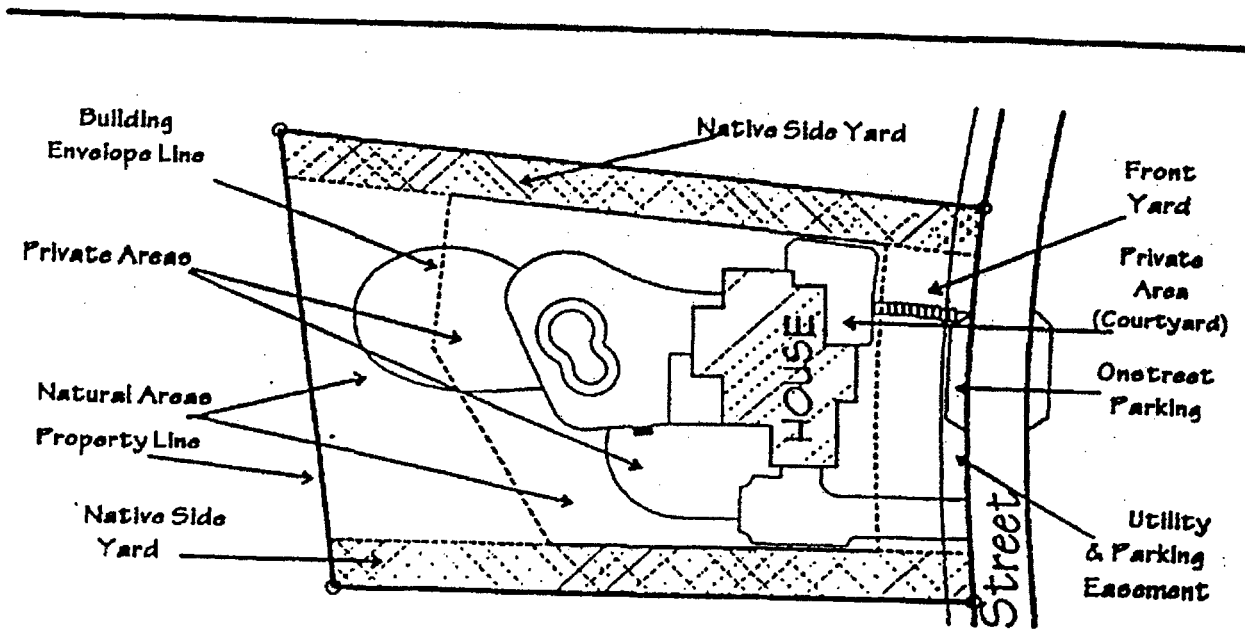
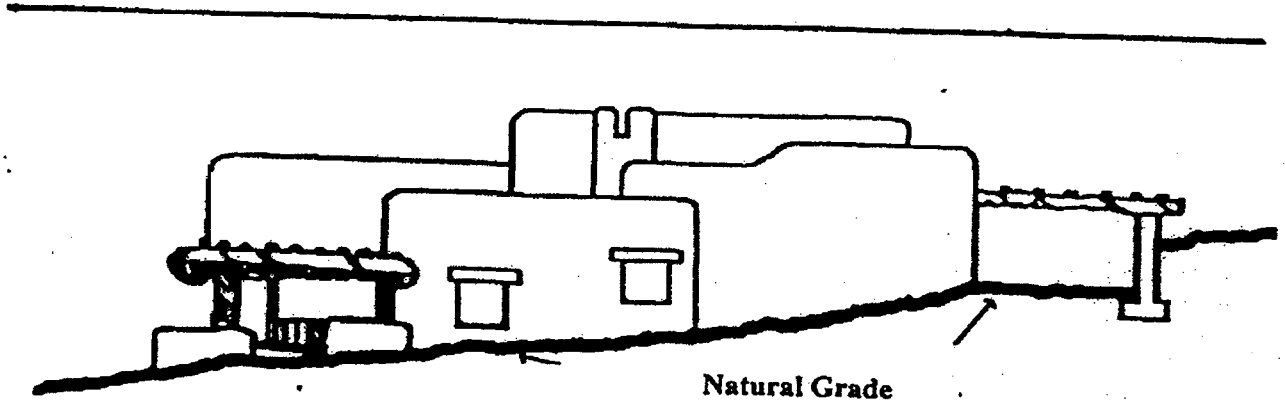
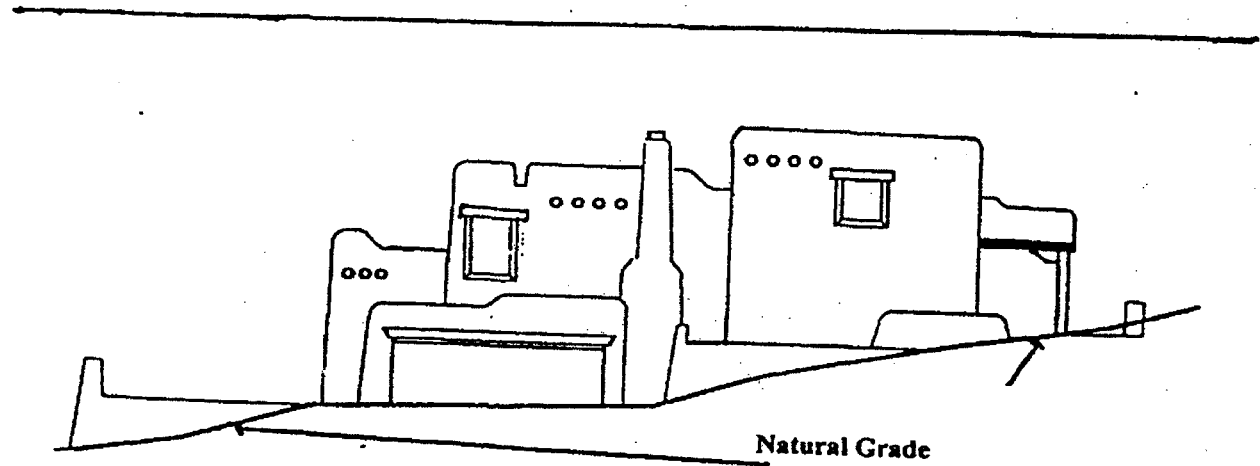


Exhibit : Possible site plan.

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**Exhibit : Elevation of 1-story home sited partially into natural grade**



**Exhibit : Elevation of 2-story home with lower level sited into natural grade**

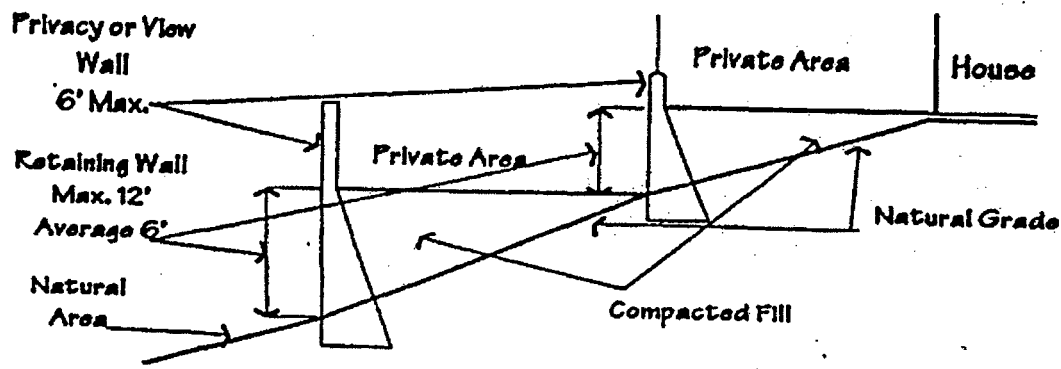


Exhibit : Wall heights and types

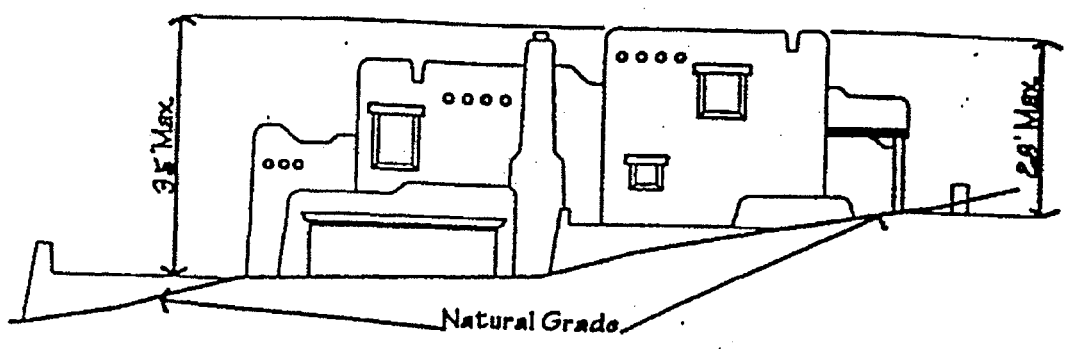


Exhibit : Measurement of heights

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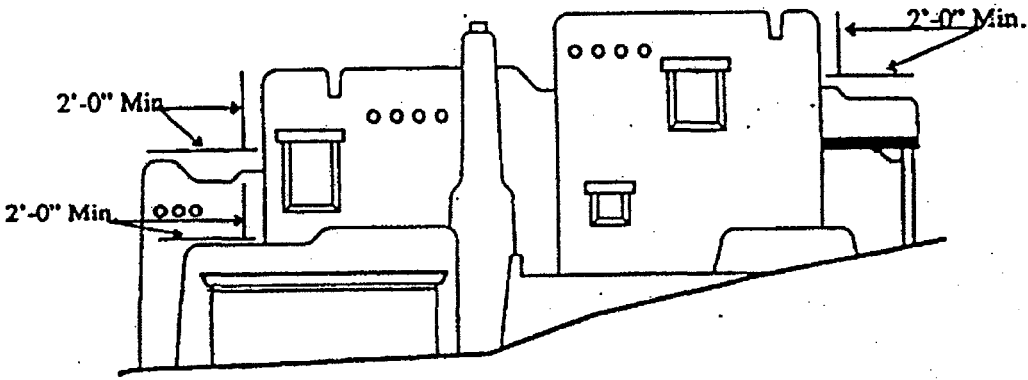


Exhibit : Building Massing example

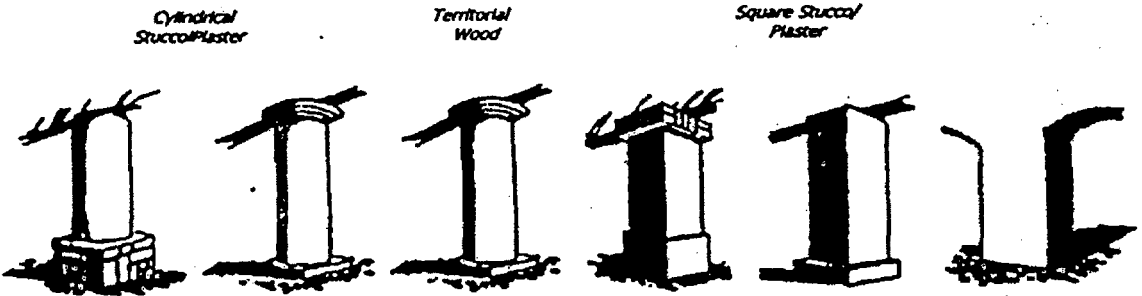


Exhibit : Appropriate Column Styles

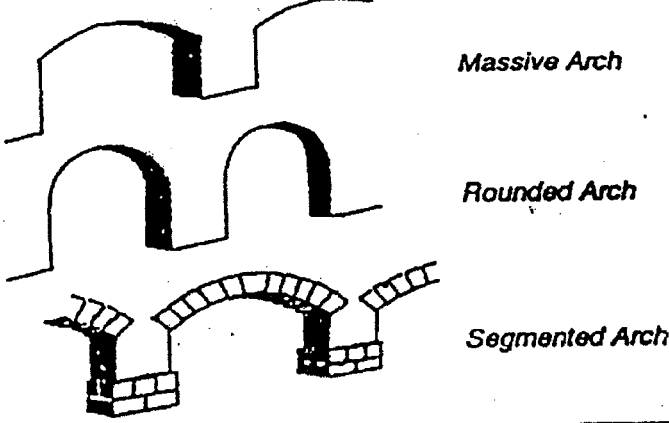


Exhibit : Appropriate Arch Styles



BYLAWS OF  
SAN CLEMENTE ESTATES  
OWNERS ASSOCIATION  
(A Texas Non-Profit Corporation)

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BYLAWS OF  
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BYLAWS OF  
SAN CLEMENTE ESTATES OWNERS ASSOCIATION

(A Texas Non-Profit Corporation)

ARTICLE I

1.01 Definitions. The words defined in the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for recorded in the Real Property Records of El Paso County, Texas, (collectively referred to herein as the "Declaration"), shall have the same meaning in these Bylaws.

ARTICLE II

NAME

2.01 Name. The name of this Corporation shall be SAN CLEMENTE ESTATES OWNERS ASSOCIATION (hereinafter called the "Association").

ARTICLE III

OFFICES

3.01 Registered Office. The registered office of the Association shall be as designated with the Secretary of State of the State of Texas, as it may be changed from time to time.

3.02 Other Offices. The Association may also have offices at such other -places both within and without the State of Texas as the Board of Directors may from time to time determine or the business of the Association may require.

ARTICLE IV

PURPOSES AND PARTIES

4.01 Purposes. The purpose or purposes for which the Association is organized are to act as agent for the owners of SAN CLEMENTE ESTATES and for any and all other property which is accepted by this Association for similar purposes, those purposes being as follows:

- (a) To exercise all of the power and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration;

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(b) To affix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; and, as agent, pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of this Association including all licenses, taxes or governmental charges levied or imposed against the property of this Association and to make disbursements, expenditures and payments on behalf of the Owners as required by the Declaration and the Bylaws of the Association; and to hold as agent for the Owners reserves for periodic repairs and capital improvements to be made as directed by the Owners acting through the Board of Directors of the Association;

(c) To acquire by gift, purchase or otherwise to own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or to otherwise dispose of real or personal property in connection with the affairs of this Association subject to the limitations, if any, set forth in the Declaration;

(d) To borrow money, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the limitations, if any, set forth in the Declaration;

(e) To provide general sanitation and cleanliness of Common Area and Private Streets;

(f) To provide upkeep and maintenance of Common Area and Private Streets as provided in the Declaration;

(g) To enter into and perform any contract and to exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the affairs of SAN CLEMENTE ESTATES in accordance with the Declaration; and

(h) To have and to exercise any and all powers, rights and privileges a corporation organized under the Non-Profit Corporation Law of the State of Texas, may now or hereafter exercise.

4.02 Parties. All present or future Owners, tenants, future tenants of any Lot, or any other person who might use in any manner the Common Area and Private Streets are subject to the provision and any regulations set forth in these Bylaws. The mere acquisition, lease or rental of all or any portion of a Lot or the mere act of occupancy of all or any portion of a Lot will signify that these Bylaws are accepted, approved, ratified, and will be complied with.

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## ARTICLE V

### MEMBERSHIP, MEMBER IN GOOD STANDING, VOTING RIGHTS, VOTING, CUMULATIVE VOTING, QUORUM, PROXIES

5.01 Membership. Each and every Owner of a Lot, or a subdivided portion thereof, shall automatically become, and must remain, a Member in good standing of the Association during such Owner's period of ownership of such Lot or portion thereof. Such membership shall be appurtenant to each Lot, or portion thereof, and may not be severed from or held separately therefrom. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or the Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

5.02 Member in Good Standing. A Member of the Association shall be considered to be a Member in good standing and eligible to vote (if otherwise entitled to vote under these Bylaws) if such Member:

- (a) Has, not less than seven (7) days prior to the taking of any vote by the Association fully paid all assessments or other charges levied by the Association then due and payable, as such assessments or charges are provided for hereunder;
- (b) Does not have a lien filed by the Association against its Lot;
- (c) Has discharged other obligations to the Association as may be required of Members hereunder; and
- (d) Has met the proof of ownership requirement, if any, provided for in Section 12.01 of these Bylaws.

The Board shall have sole responsibility and authority for determining the good standing status of any Member at any time, and shall make such determination with respect to all Members prior to a vote being taken by the Association on any matter.

The Board shall have the right and authority, in its sole discretion, to waive the seven (7) days prior payment requirement established herein and require only that such payment be made at any time before such vote is taken if the Board shall determine, in its own judgment, that extenuating circumstances exist which have prevented a particular Member from meeting any or all of the four requirements stated herein at or before seven (7) days in advance of any vote. Any Member not conforming with the provisions of this

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Section shall be declared to be not a Member in good standing and unless the time requirement required hereunder is specifically waived by the Board in writing prior to any particular vote being taken shall be disqualified from voting on matters before the Association until such time as Member in good standing status is attained and so declared by the Board.

5.03 Voting Rights in the Association. The Association shall have two classes of voting membership. The Dissociation shall have two (2) classes of voting membership:

a. CLASS A. The Class A Members shall be all Owners with exception of the Declarant. After the Conversion Date, Declarant shall also become a Class A Member to the extent Declarant is the Owner of a Lot.

b. CLASS B. The Class B Member shall be the Declarant. The Class B membership of Declarant shall cease and become converted to Class A membership upon occurrence of the earlier of the following (the "Conversion Date"):

(i) When Declarant has sold or leased for a term in excess of forty (40) years its interest in all of the Lots to unrelated third parties except for eleven (11) Lots. A sale or a lease for such term to an unrelated third party shall include a sale or lease to joint ventures or partnerships that include Declarant as a co-venturer or partner;

(ii) At December 31, 2009; or

(iii) Such earlier date as may be established by Declarant in a Supplemental Declaration to be recorded by Declarant.

Until the Conversion Date, the Class A Members shall not be entitled to vote. From and after the Conversion Date, the Class A Members shall be entitled to one (1) vote for each Lot owned by such Class A Member. Until the Conversion Date, the Class B Member shall be entitled to one (1) vote for each Lot owned by such Class B Member. Where more than one person or entity holds such interest in any Lot, all such persons collectively shall be a single Member, and the vote for such Member shall be exercised as the several parties shall determine among themselves. Each Member shall be entitled to one (1) vote for each Lot in which it holds the interest in a Lot required for Association membership. Where more than one person or entity holds such interest in any Lot or subdivided portion thereof, all such persons collectively shall be a single Member, and the vote for such Member shall be exercised as the several parties shall determine among themselves, provided, however, that in aggregate no more than one (1) vote shall be cast with respect to each Lot.

The Association shall not be a voting member of the Association by virtue of its ownership of any Lot, or subdivided portion thereof.

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5.04 Voting. Only Members in good standing shall be entitled to vote, and voting membership shall be decreased by the number of Members who are not Members in good standing to determine the votes entitled to be cast for the purpose of establishing a quorum, such determination of the total number of Members in good standing to be as of the date of which a vote is taken. The vote of the majority of those votes entitled to be cast by the Membership in good standing present or voting by legitimate proxy at a duly called meeting at which a quorum of Members are represented shall be sufficient for the transaction of any business, unless otherwise provided by law and except for an amendment to the Declaration by the Members as provided in Article IX, Section 9.01 of the Declaration.

5.05 Cumulative Voting. At all meetings of the Association voting shall be cumulative.

5.06 Majority. As used in these Bylaws, the term "Majority of Owners" or Majority of "Members" shall mean those voting Members holding fifty-one percent (51%) of the votes of the Association.

5.07 Quorum. Members holding one-half (1/2) of the votes entitled to be cast, shall constitute a quorum for voting on matters brought before the Association at meetings of Members called by the Board. In the event a quorum is not present, then the meeting for the same purposes within two (2) to four (4) weeks shall be sent by mail, at which meeting the number of Members in good standing represented in person or by proxy shall be sufficient to constitute a quorum. The Members in good standing present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members in good standing to leave less than a quorum. An affirmative vote of a majority of the Owners so present and entitled to vote, either in person or proxy, shall be required to transact the business of the meeting.

5.08 Proxies. Votes may be cast in person or by written proxy. No proxy shall be valid after eleven (11) months from the date of its execution unless specifically provided in the proxy. All proxies must be filed with the Secretary or Assistant Secretary of the Association before the appointed time of each meeting.

## ARTICLE VI

### ASSOCIATION RESPONSIBILITIES AND MEETINGS OF MEMBERS

6.01 Association Responsibilities. The Members will constitute the Association which will have the responsibility of administering and enforcing the covenants, conditions and restrictions contained in the Declaration, including the collection and disbursement of charges and assessments created therein, through the Board of Directors. In the event of any dispute or disagreement between any Members relating to the Properties, or any questions of interpretation or application of the provisions of the Declaration, Articles of Incorporation or these Bylaws, such dispute or

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disagreement shall be submitted to the Board. The determination of such dispute or disagreement by the Board shall be binding on each and all such Members, subject to the right of Members to seek other remedies provided by law after such determination by the Board.

6.02 Place of Meeting. Meetings of the Association shall be held at such suitable place, convenient to the Members, as the Board of Directors may determine.

6.03 Annual Meetings. The first meeting of the Association shall be held within thirty (30) days from the date of execution of these Bylaws, or sooner at the option of Declarant. Thereafter, the annual meetings of the Association shall be held on or before forty-five (45) days after the expiration of the prior fiscal year. At such meetings there shall be elected by ballot of the Members a Board of Directors in accordance with the requirements of Paragraph 7.05 of Article VII of these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

6.04 Special Meetings. It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a petition signed by a majority of Members entitled to vote and having been presented to the Secretary or Assistant Secretary of the Association. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business except as stated in the notice shall be transacted at a special meeting. Any such meetings shall be held after the first annual meeting and shall be held within thirty (30) days after receipt by the President of such resolution or petition.

6.05 Notice of Meetings. It shall be the duty of the Secretary or Assistant Secretary of the Association to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place it is to be held, to each Member entitled to vote at such meeting, at least ten (10) days, but not more than thirty (30) days prior to such meeting. The mailing of a notice in the manner provided in this paragraph shall be considered notice served.

6.06 Order of Business. The order of business at all meetings of the Members shall be as follows:

- (a) Roll call and certifying proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading and disposal of unapproved minutes;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Election of trustees;

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- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

## ARTICLE VII

### BOARD OF DIRECTORS

7.01 Number and Qualification. Until the first meeting of the Association, the affairs of this Association shall be governed by a Board of Directors consisting of the three (3) persons designated in the Articles of Incorporation of the Association. At such first meeting, there shall be elected any three (3) Members in good standing of the Association to the Board of Directors who shall thereafter govern the affairs of this Association until their successors have been duly elected and qualified.

7.02 Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Properties in keeping with the character and quality of the area in which it is located. The Board of Directors may do all such acts and things except as by law or by these Bylaws or by the Declaration may not be delegated to the Board of Directors.

7.03 Other Powers and Duties. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following, all of which shall be done solely for the benefit of the Properties and for the mutual and reciprocal benefit of Members:

(a) To set, collect and disburse Regular Assessments in any fiscal year or portion thereof for the following purposes:

- (i) The employment of personnel or independent contractors;
- (ii) The employment of legal, accounting, engineering, architectural or other independent professional services, including any services required to provide architectural review for any building or other development plans proposed for a Lot;
- (iii) The purchase of a policy or Policies of insurance insuring the Association against any liability to the public, Owners, or Occupants incidental to operation of the Association, as provided for in the Declaration;

(iv) The purchase of fidelity bonds as provided for in the Declaration; and

(v) Anything which the Board deems appropriate and proper in fulfilling its obligations and responsibilities under the terms of the declaration or by law or which, in its reasonable opinion, shall be necessary or proper for the operation or protection of the Association or for the enforcement of the Declaration;

(b) To enter into agreements or contracts with insurance companies with respect to insurance Coverage for the Common Areas and Private Streets and improvements thereon and other property of the Association;

(c) To enter into contracts with utility companies with respect to utility installation, consumption and services matters;

(d) To borrow funds to pay any costs of operation, secured by assignment or pledge of rights against Owners for current, delinquent or future assessments, as the Board may determine in its sole discretion to be necessary and appropriate;

(e) To enter into contracts for goods and services or other Association purposes, provide services it deems proper, maintain one or more bank accounts, and generally to have all the powers necessary or incidental as may be required for prudent operation and management of the Association;

(f) To sue or to defend in any court of law on behalf of the Association;

(g) To provide for and accumulate reserve funds to be used for repairs, replacement and/or maintenance, in such amounts and for such purposes as may reasonably be determined by the Board to be necessary and appropriate.

(h) To make, or cause to be made, any tax returns, reports, or other filings required by Federal, State, or local governmental authorities;

(i) To make reasonable rules and regulations for the use of the Properties, including, but not limited to, the Common Areas and Private Streets, as the Board deems necessary and appropriate and create a high level of environmental and aesthetic quality within the Properties;

(j) To make available to each Owner within ninety (90) days after the end of any Association fiscal year a written annual report on financial affairs of the Association for the year preceding, and, upon written request of at least one-third (1/3) of the Members in good standing and entitled to vote, to have such report audited by an independent certified public accountant selected by the

Board, which audited report, if required, shall be completed and made available to each Member no later than ninety (90) days after such request is received by the Board. The cost of preparing and distributing such audit shall be said by the Association from Regular Annual Assessments;

(k) adjust the amount, collect and use any insurance proceeds to repair or replace any damaged or lost property, or to reimburse persons or entities entitled to receive reimbursement for injury, damage or losses, and, if said insurance proceeds are insufficient to provide full reimbursement as may be required, the Board may act to obtain the funds required in such manner as prescribed in the Declaration;

(l) To enforce the provisions of the Declaration, and to seek damages and/or equitable relief or other remedial action from any Owner for violation of this Declaration or any of its individual provisions; and

(m) To contract with any Owner(s), including, without limitation, the Declarant, for performance of services which the Association is otherwise obligated or permitted to perform, such contracts to be at competitive rates then prevailing for such services and upon such terms and conditions, and for such considerations, as the Board may deem advisable and in the best interest of the Association. The Board also shall have full power and authority, but not an obligation, to contract with any Owner(s) to provide maintenance, repair or replacement service, or any combination thereof, through the Association for an individual Lot.

7.04 No Waiver of Rights. The omission or failure of the Association or any Member to enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations or other provision of the Declaration, the Bylaws or the rules and regulations adopted pursuant thereto, shall not constitute or be deemed a waiver modification or release thereof, and the Board of Directors shall have the right to enforce the same thereafter.

7.05 Election and Term of Office. At the first meeting of the Association the term of office of two (2) Directors shall be fixed at two (2) years; and the term of office of one (1) Directors shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of two (2) years. The Directors shall hold office until their successors have been elected and hold their first meeting, except as is otherwise provided.

7.06 Vacancies. Vacancies in the Board of Directors caused by death, resignation or disqualification, i.e., by any reason other than the removal of a Director by vote of the Association, shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

7.07 Removal of Directors. At any regular or special meeting duly called, anyone or more of the Directors may be removed with or without cause by a majority of Members entitled to vote, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

7.08 Organization Meeting. The first meeting of a newly elected Board of Directors following the annual meeting of the Members shall be held within ten (10) days thereafter at such place as shall be fixed by the Directors at the meeting at which such Directors were elected and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

7.09 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time by a majority of the Directors but at least one such meeting shall be held during each calendar quarter. Notice of regular meetings of the Board of Directors shall be given to each Director personally or by mail, telephone or telegraph, at least five (5) days prior to the day named for such meeting.

7.10 Special Meetings. Special meetings of the Board of Directors may be called by the President on five (5) days notice to each Director given personally, or by mail, telephone or telegraph, which notice shall state the time, place (as herein above provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary or Assistant Secretary of the Association in like manner and on like notice on the written request of one or more Director.

7.11 Waiver of Notice. Before or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

7.12 Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

7.13 Compensation. No member of the Board of Directors shall receive any compensation for acting as such.

## ARTICLE VIII

### FISCAL MANAGEMENT

8.01 Accounts. The funds and expenditures of the Members by and through the Association shall be credited and charged to accounts under the following classifications as shall be appropriate:

(a) Normal operating expense, which shall include all funds and expenditures within the year for which the funds are budgeted, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves and to additional improvements.

(b) Reserve for maintenance, repair and/or replacement relating to the Common Areas and Private Streets or Lots which shall include funds for maintenance, repair or replacement required because of damage, wear or obsolescence.

8.02 Separate Accounts. Separate accounts may be established in order to better demonstrate that the amounts deposited therein are capital contributions and not income to the Association.

8.03 Fiscal Year. The fiscal year for the Association shall be the calendar year.

## ARTICLE IX

### OFFICERS

9.01 Designation. The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors, and such assistant officers as the Board of Directors shall, from time to time; elect. Such officers need not be members of the Board of Directors. The office of President and Treasurer may be held by the same person, and the office of Vice President and Secretary or Assistant Secretary may be held by the same person.

9.02 Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office subject to the continuing approval of the Board.

9.03 Resignation and Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at



any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.04 Vacancies. A vacancy in any office because of the death, resignation, removal, disqualification or otherwise of the officer previous filling such office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.05 President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the Members from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board or by the Members of the Association at any regular or special meetings.

9.06 Vice President. The Vice President shall have all the powers and authority and perform all the functions and duties of the President, in the absence of the President, or his inability for any reason to exercise such powers and functions or perform such duties, and also perform any duties he is directed to perform by the President.

9.07 Secretary. The Secretary shall keep all the minutes of the meeting of the Board of Directors and the minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary and as is provided in the Declaration and the Bylaws.

The Secretary shall compile and keep up to date at the principal office of the Association a complete list of the members and their last known addresses as shown on the records of the Association. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

9.08 Assistant Secretary. The Assistant Secretary, if any, shall have all the powers and authority to perform all the functions and duties of the Secretary in the absence of the Secretary or in the event of the Secretary's inability for any reason to exercise such powers and functions or to perform such duties, and also to perform any duties he is directed to perform by the Secretary.

9.09 Treasurer. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Trustees.

## ARTICLE X

### INDEMNIFICATION OF OFFICERS AND DIRECTORS

10.01 Indemnification. The Association shall have the power to indemnify any Officer or Director thereof and the Declarant, who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (whether or not by or in the right of the Association) by reason of the fact that such person is or was a Director or Officer of the Association, against all loss, expenses (including but not limited to attorneys' fees and cost of the proceeding), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with or in defense of such action, suit or proceeding if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Association; provided, that with respect to: (1) any criminal action or proceeding, such person had no reasonable cause to believe that his conduct was unlawful; or (2) any civil claim, issue or matter, such person shall not be guilty of gross negligence or willful misconduct in the performance of his duties to the Association. Termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person had reasonable cause to believe that his conduct was unlawful, that such person did not act in good faith or in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, or that such person is guilty of gross negligence or willful misconduct in the performance of his duties to the Association, all such matters being determined solely and exclusively for the purpose of indemnification as herein provided.

Indemnification under the preceding paragraph shall be made by the Association only as authorized in each specific case upon the determination that indemnification of such person is proper in the circumstances because he has met the applicable standards of conduct forth herein. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding; or (2) if such a quorum is not obtainable, by (a) independent legal counsel in a written opinion, or (b) the Members in good standing of the Association and no Member shall be disqualified from voting because he is or was party to any such action, suit or proceeding. Indemnification so determined may be paid, in part, before the termination of such action, suit or proceeding upon the receipt by the Association of an undertaking by or on behalf of the person claiming such indemnification to repay all sums so advanced if it is subsequently determined that he is not entitled thereto as provided in this Article.

To the extent that a Director or Officer of the Association has been successful on the merits or otherwise in the defense of any action, suit or proceeding, whether civil or criminal, such person shall be indemnified against such expenses (including costs and attorneys' fees) actually and reasonably incurred by him in connection therewith.

Indemnification provided herein shall be exclusive of any and all other rights and claims to which those indemnified may be entitled as against the Association, and every Director, Officer or employee thereof under any Bylaw, resolution, agreement or law and any request for payment hereunder shall be deemed a waiver of all such other rights, claims or demands as against the Association and each Director, Officer and employee thereof. The indemnification provided herein shall inure to the benefit of the heirs, executors, administrators and successors of any person entitled thereto under the provision of this Article.

The Association shall purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee or agent of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provision of this Article.

All liability, loss, damage, cost and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as an expense; provided, however, that nothing in this Article X contained shall be deemed to obligate the Association to indemnify any Member or Owner who is or has been a director or officer of the Association with respect to any duties or obligations assumed or liability incurred by him under and by virtue of the Declaration and these Bylaws that were assumed or incurred outside of his conduct specifically related to the fulfillment of his duties as an Officer or Director of the Association.

10.02 Other: The Members, Board of Directors, Officers or representatives of the Association shall enter into contracts or other commitments as agents for the Association, and they shall have no personal liability for any such contract or commitment (except such liability as may be ascribed to them in their capacity as Owners).

## ARTICLE XI

### AMENDMENTS TO BYLAWS

11.01 Amendments to Bylaws. These Bylaws may be amended in writing by the majority of Members in good standing and entitled to vote; provided, however, that such authority may be delegated by the majority of such Members to the Board as allowed by the Texas Non-Profit Corporation Act.

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## ARTICLE XII

### EVIDENCE OF OWNERSHIP, REGISTRATION OF MAILING ADDRESS AND DESIGNATION OF VOTING REPRESENTATIVE

12.01 Proof of Ownership. Except for those Owners who purchase a Lot from Declarant, any person, on becoming an Owner of a Lot, shall furnish to the Board of Directors a true and correct copy of the original or a certified copy of the recorded instrument vesting that person with an interest or ownership in the Lot, which copy shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor shall he be entitled to vote at any annual or special meeting of Members unless this requirement is first met.

12.02 Registration of Mailing Address. The Owner or several Owners of a Lot shall have one and the same registered mailing address to be used by the Association for mailing of monthly statements, notices, demands and all other communications, and such registered address shall be the only mailing address of a person or persons to be used by the Association. Such registered address of an Owner or Owners shall be deemed to be the mailing address of the Lot or subdivided part thereof owned by said Owner or Owners unless a different registered address is furnished by such Owner(s) to the Board of Directors within fifteen (15) days after transfer of title, or after a change of address; and such registration shall be in written form and signed by all of the Owners of the Lot or the particular subdivided part thereof or by such persons as are authorized by law to represent the interest of (all of) the Owner(s) thereof.

## ARTICLE XIII

### ASSESSMENTS AND LIENS

13.01 Purpose of Assessments. The assessments levied hereunder by the Association shall be used exclusively for the purpose of protecting and promoting the comfort, collective mutual enjoyment, health, safety and welfare of the Owners of the Property, including, but not limited to, the following:

- (a) The maintenance, repair or replacement of the Common Areas and Private Streets, including, but not limited to, those located on or adjacent to property not covered by this Declaration, along with the cost of any associated management or supervisory services, fees, labor, equipment, and materials;
- (b) The special maintenance, repair or replacement of improvements located in or on the Common Areas and Private Streets or on Lots;
- (c) The design, purchase and installation of any Common Areas and Private Streets improvements;

(d) The purchase of insurance coverage relating to the Common Areas and Private Streets and any improvements thereon, and other property of the Association;

(e) The carrying out of duties of the Board of Directors as provided herein and in the Declaration and Articles of Incorporation of the Association;

(f) The carrying out of purposes of the Association as stated herein and in its Declaration and Articles of Incorporation; and

(g) The carrying out of all other matters set forth or contemplated in the Declaration.

13.02 Annual Budget and Regular Assessments. Each fiscal year while the Declaration is in force, the Board shall adopt an annual budget and set the amount of the Regular Annual Assessment to be levied for the next year, taking into consideration Association operating costs for the then current year, expected normal increases in such costs over the next year, and additional future needs of the Association, including the establishment and maintenance of an Association reserve fund as provided for herein. The annual budget shall be adopted by the Board not later than fifteen (15) days prior to the commencement of each fiscal year. Notwithstanding the above, in the event the Board fails for any reason to adopt an annual budget covering the Succeeding fiscal year, then and until such time as an annual budget shall have been adopted for such succeeding fiscal year, the annual budget currently in effect shall continue and the Regular Annual Assessment shall be deemed the same as for the current year.

The Regular Annual Assessment for each fiscal year shall be determined by the Board upon its adoption of the annual budget for such fiscal year in the following manner:

(a) The Regular Annual Assessment with respect to any fiscal year shall equal the total amount of the annual budget approved by the Board with respect to such fiscal year; and

(b) Each Lot's pro rata share of the Regular Annual Assessment shall be determined by multiplying the Regular Annual Assessment by a fraction, the numerator of which is one and the denominator of which is the total number of Lots subject to such assessment. The Board in its discretion may adjust the annual budget and pro rata shares to provide for lesser assessments for unimproved lots.

Should any surplus exist at the end of any year, the Board may, at its own discretion, reduce the amount required for the next Regular Annual Assessment by an amount not more than said surplus, provided, however, that reserve fund requirements are first met.

13.03 Payment of Regular Assessments. The Regular Annual Assessments provided for herein shall commence on a date fixed by the Board and thereafter be due in quarterly installments, in advance, on the first day of the first month in each quarter of the fiscal year; provided, however, that if the commencement date of the initial Regular Annual Assessment for the Association shall not be the same as the first day of the first month of a quarter in the fiscal year, then the initial quarterly assessment installment shall be from the date of commencement to the first day of the next quarter, and payment shall be prorated for the number of days remaining in the quarter.

13.04 Enforcement and Personal Obligation of Owners For Payment of Assessments. The Regular Annual Assessments, provided for therein shall be the personal and individual debt of the Owner of a Lot, or subdivided portion thereof, covered by such assessments. No Owner may, for any reason, exempt itself from liability for such assessments levied in accordance with the provisions of the Declaration and these Bylaws. In the event that any assessment or installment thereof is not paid when due, and remains unpaid for a period of thirty (30) days thereafter, then the unpaid amount of any such assessment or installment thereof shall become delinquent and shall, together with interest thereon as herein provided and costs of collection thereof, become a continuing personal obligation and debt of the non-paying Owner secured by a self-executing lien (and may include vendor's lien retained by Declarant) on the Lot or subdivided portion thereof, including all improvements thereon, to which such assessment or installment thereof pertains. The Association shall have the right to reject any partial payment of any assessment or installment thereof and demand full payment thereof, or the Association may, in its sole discretion elect to accept any such partial payment on account only, without in so doing waiving any rights established hereunder with respect to any remaining balance due.

The obligation of any Owner to pay any assessment imposed on a Lot during such Owner's period of ownership shall remain its personal obligation, and a sale or other transfer of title to such Lot shall not release such former owner from said liability by the purchaser or transferee. The lien for any unpaid assessments shall be unaffected by any sale or transfer of full or partial ownership interest in a Lot, or subdivided portion thereof, and shall continue in full force and effect. In the event of full or partial sale or transfer of an ownership interest in a Lot, it shall be the sole obligation of the Owner selling or transferring such interest (and not the Association) to disclose to any buyer or transferee that an unpaid assessment and associated lien against the ownership interest exist prior to that date at which such sale or transfer is to be consummated. A copy of such notice shall be sent to the Association at the same time. Upon written request, the Association shall provide an Owner with a statement reflecting the amount of any unpaid or delinquent assessments with respect to a Lot owned by said Owner.

The unpaid amount of an assessment shall bear interest from its due date at eighteen percent (18%) per annum or the maximum legal rate of interest then prevailing, whichever is lesser. In addition, the Board may elect to retain the services of an attorney of its choice or the purposes of collecting any unpaid assessment and interest charges thereon, and/or to foreclose the lien against the property subject thereto and/or to pursue

any other legal or equitable remedy which the Association may have and there shall be added to the amount of unpaid assessment and interest charges thereon, any and all collection costs incurred by the Association, whether judicial or non-judicial, and including, but not limited to, reasonable attorney's fees and costs of legal suit.

13.05 Lien and Foreclosure. Upon delinquency, all sums assessed in the manner provided in these Bylaws, together with all interest costs as herein provided shall be secured by the lien provided for under Section 13.04 above. As further evidence and notice of such assessment lien, the Association may prepare a written notice of such lien setting forth the amount of delinquent indebtedness, the name of the Owner of property covered by such lien, and a description of the property. Such notice shall be signed by a duly authorized Officer of the Association and shall be recorded in the office of the County Clerk of El Paso County, Texas, or such other place as may be required by law for the recording of liens affecting real property at such time as such notice is recorded. Such lien for payment of assessments shall attach from the date such payment becomes delinquent and may be enforced after recording said notice through (i) foreclosure of such lien on the Lot, or subdivided portion thereof and any improvements thereon in like manner as a mortgage on real property, (ii) suit against the Owner personally obligated to pay the assessment, and/or (iii) foreclosure of the aforesaid lien judicially. In any foreclosure proceeding whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on the property being foreclosed.

13.6 Lien Subordination. Any lien established as provided for in the Bylaws and the Declaration, shall be subordinate and inferior to any mortgage or deed of trust in favor of any bank, savings and loan association, insurance company, pension fund, or other similar financial institution or other lender approved by the Board; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a foreclosure sale (whether public or private) of any such Lot pursuant to the terms and conditions of any such mortgage or deed of trust. Such foreclosure sale shall not relieve any new Owner taking title at such sale from liability for the amount of any assessments thereafter becoming due or from a lien arising from any such subsequent assessment.

At the time any mortgage financing or refinancing is obtained for any Lot which will as provided above be superior to any existing or future assessment lien of the Association, the Owner of such Lot shall within thirty (30) days prior to the consummation of any such mortgage or financing deliver to the Association written notice identifying the lender making such mortgage loan in terms of its full legal name, its current address and telephone number, and the name of an officer or other person within the entity who is responsible for that particular loan account. Upon the written request of any such lender holding a superior lien on any Lot as provided herein, the Association shall report to such lender any unsaid assessments which are delinquent as herein defined. The Association may from time to time, at its own initiative, elect to report delinquent assessments to such mortgage lenders.

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13.7 Notice of Lien or Suit. Any Owner shall at the request of the Association give notice to the Association of every lien or encumbrance upon his Lot or subdivided portion thereon, other than for taxes and Assessments, and notice of every suit or other proceeding which may affect the title to his Lot or subdivided portion thereon, and such notice shall be given within five (5) days after the Owner has knowledge thereof.

13.8 Mechanic's Lien. Each Owner agrees to indemnify and to hold each of the other Owners harmless from any and all claims of mechanic's liens filed against other owner's property for labor, materials, services or other products incorporated in the Owner's improvements on his Lot.

13.9 Collection and Enforcement. Each Member, by his assertion of title or claim of ownership or by his acceptance of a deed to a Lot, whether or not it shall be so recited in such deed, shall be conclusively deemed to have expressly vested in the Association, and in its officers and agents, the right, power and authority to take all action which the Association shall deem proper for the collection of assessments and/or for the enforcement and foreclosure of the liens securing the same, including the right to delegate collection and enforcement responsibilities to the City of El Paso subject to the approval and consent of the City.

#### ARTICLE XIV

##### ABATEMENT AND ENJOINMENT OF VIOLATIONS BY OWNERS

14.01 Abatement and Enjoinment. The violation of any rule or regulation, or the breach of any Bylaw, or the breach of any provision of the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth in the Declaration or herein, (i) to enter the Lot in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any person, structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions thereof, and the Board of Directors shall not be deemed guilty in any manner of trespass; and to expel, remove and put out, using such force as may be necessary in so doing, without being liable to prosecution or any damages therefor; and (ii) to enjoin abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

#### ARTICLE XV

##### COMMITTEES

15.01 Architectural Review Committee. Until such time as the duties, rights, powers and authority of the Architectural Review Committee are reassigned to the Board of Directors pursuant to section 7.03 of the Declaration, the Members shall have no power or authority: (a) to appoint or remove the members of the Architectural Review Committee; or (b) to approve, modify, amend, alter or in any way effect the powers, responsibilities, rights and authority of the Architectural Review Committee as set forth



in the Declaration. From and after the date the duties, rights, powers and authority of the Architectural Control Committee are assigned to the Board of Directors pursuant to section 7.03 of the Declaration, the Board may either sit as the Architectural Review Committee or maintain a separate Architectural Control Committee which shall have not fewer than three (3) persons or more than five (5) persons appointed by the Board. Members of the Board may also be members of the Architectural Review Committee.

(a) Function of Committee. No improvements shall be erected, constructed, placed, altered, removed, maintained, or permitted to remain on any portion of the Properties until plans and specifications, in such form and detail as the Architectural Review Committee (subject to the requirements of the Declaration) may deem necessary, shall have been submitted to the Architectural Review Committee and approved by it in writing as to:

- (i) Architectural character;
- (ii) Compatibility with the development guidelines, as well as with other existing or proposed Lot developments located within the Properties;
- (iii) Extent and quality of landscaped areas proposed for a particular Lot;
- (iv) Exterior signing and lighting; and
- (v) Compliance with any the other requirement for Properties or individual Lots pursuant to this Declaration.

The Architectural Review Committee shall have the authority to select and employ professional consultants to assist it in discharging its duties, the cost of such consultants to be paid by the Owner of any Lot for which plans and specifications have been submitted for approval. The Owner of any such Lot shall be responsible for paying the full costs of each and every review when due, whether or not submitted plans and specifications are approved by the Architectural Review Committee. Any decision of the Architectural Review Committee shall be final, conclusive and binding upon an applicant. The Architectural Review Committee shall establish administrative procedures including, but not limited to, designating a person and place to receive formal submissions.

(b) Interpretation. Approval of plans and specifications for any improvements shall be based upon a determination by the Architectural Review Committee as to whether or not in its judgment such plans and specifications adequately meet objectives established for SAN CLEMENTE ESTATES with regard to environmental and aesthetic excellence, as well as meeting certain functional and other requirements created by the Declaration, these Bylaws and the development guidelines. Further, in reaching such decision, the Architectural

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Review Committee shall consider not only the appropriateness of specific improvements proposed on a particular Lot, but also how said Lot, if developed in the manner intended, would likely relate to and affect those improvements either existing on or intended for other Lots, and conformity to both the specific and general intentions of the Covenants. The Architectural Review Committee shall have full power and authority to make any such subjective Judgments and to interpret the intent and provisions of the Declaration and these Bylaws and the development guidelines in such manner and with such results as such Architectural Review Committee may, in its sole discretion, deem appropriate. In dealing with matters and decisions which the Architectural Review Committee may determine, in its sole discretion, require special consideration, it may employ the services of a qualified Consultant or consultants for the purpose of advising the Architectural Review Committee with regard to a particular decision, such consultant to be selected by the Architectural Review Committee. Any recommendations made by any such consultant shall be reasonably considered by the Architectural Review Committee in arriving at a decision, or action to which such consultant recommendations directly relate, but shall not be binding on such committee.

(c) Development Standards. The Architectural Review Committee shall have full power to enforce the development guidelines governing project standards, including but not limited to, site development architecture, construction, lighting, signage, and landscaping. In this connection, the Architectural Review Committee shall have the power to enforce strict compliance with the development guidelines by any or all Owners.

(d) Failure of Committee to Act. Should the Architectural Review Committee fail to either approve or disapprove such plans and specifications, or to reject them as being incomplete or otherwise inadequate, within thirty (30) days after receipt thereof, it shall be conclusively presumed that such committee has approved such plans and specifications. If any plans and/or specifications are submitted in a form which is not sufficiently complete or are otherwise determined inadequate the Architectural Review Committee may reject such plans and/or specifications, or may approve or disapprove portions thereof either conditionally or unconditionally, and reject the balance.

(e) Limitation of Liability. The Declarant, the Association, the Board or any of its members, and the Architectural Review Committee or any of its members shall not, individually or in combination, be liable for damages or otherwise to anyone submitting plans or specifications for approval or to any Owner of a Lot or any other person affected by an action taken with respect to such a submission by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications submitted

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15.02 Other Committees. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate one or more other committees. Except as otherwise provided in such resolution, members of such committee or committees shall be Members of the Association, and the President of the Association shall appoint the members thereof.

15.03 Term of Office. Each member of a committee shall continue as such until the next annual meeting of the Members of the Association or until his successor is appointed unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof, subject to the provisions of Section 15.01 of these Bylaws concerning the Architectural Review Committee.

15.04 Chairman. One member of each committee shall be appointed chairman by the President of the Association.

15.05 Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments, subject to the provisions of Section 15.01 of these Bylaws concerning the Architectural Review Committee.

15.06 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

15.07 Rules. Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

## ARTICLE XVI

### NON-PROFIT ASSOCIATION

16.01 Non-Profit Association. This Association is not organized for profit. No Member, member of the Board of Directors, officer or person from whom the Association may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to or inure to the benefit of any member of the Board of Directors, officer or Member; provided, however, always (1) that reasonable compensation may be paid to any Member, director or officer while acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association, and (2) that any Member, director or officer may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

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ARTICLE XVII

EXECUTION OF DOCUMENTS

17.01 Execution of Documents. The persons who shall be authorized to execute any and all contracts, documents, instruments or conveyance or encumbrances, including promissory notes, shall be two; one of each of the President or any Vice President, and the Secretary or any Assistant Secretary of the Association.

ARTICLE XVIII

PROXY TO TRUST

18.01 Proxy to Trust. Owners shall have the right to irrevocably constitute and appoint their Mortgagees their true and lawful attorney to vote their Lot membership in this Association at any and all meetings of the Association and to vest in such beneficiary or his nominees any and all rights, privileges, and powers that they have as owners under the Bylaws of this Association or by virtue of the Declaration. Such proxy shall become effective upon then filing of a notice by the beneficiary with the Secretary or Assistant Secretary of the Association at such time or times as the beneficiary shall deem its security in jeopardy by reason of the failure, neglect, or refusal of the Association or the Owners to carry out their duties as set forth in the Declaration. Such proxy shall be valid until such time as a release of the beneficiary's deed of trust is executed and a copy thereof delivered to the Secretary or Assistant Secretary of the Association, which shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve Owners or to impose upon the beneficiary of the Deed of Trust the duties and obligations of an Owner.

ARTICLE XIX

CONFLICTING OR INVALID PROVISIONS

19.01 Conflicting or Invalid Provisions. Notwithstanding anything contained herein to the contrary, should all or part of any Article of these Bylaws be in conflict with the Provisions of the Texas Non-Profit Corporation Act Or any other Texas law, such Act or law shall control; and should any part of these Bylaws be invalid or inoperative for any reason, the remaining parts, so far as is possible and is reasonable shall be valid and operative.

ARTICLE XX

NOTICES

20.01 Notices. All notices to Members of the Association shall be given by delivering the same to each Owner in person or by depositing the notices in the U.S. Mail, postage prepaid, addressed to each Owner at the address last given by each Owner

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Doc# 20120025113  
#Pages 77 #NFPages 1  
4/5/2012 9:04:53 AM  
Filed & Recorded in  
Official Records of  
El Paso County  
Delia Briones  
County Clerk  
Fees \$320.00

78 RC

I hereby certify that this instrument was filed on the date and time stamped  
hereon by me and was duly recorded by document number in the Official  
Public Records of Real Property in El Paso County.



EL PASO COUNTY, TEXAS

*Delia Briones*

APR 5 2012 9:04 AM  
EL PASO COUNTY CLERK