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c/o Great Western Homes
3850 East Baseline Road, Suite 107
Phoenix, Arizona 85206

SECURITY TITLE COMPANY

**DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS & EASEMENTS**

OF

SOUTHERN CROSSING HOMEOWNERS' ASSOCIATION

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("the Declaration") is made this 19th day of JANUARY, 2001 by Great Western Communities, Inc., an Arizona corporation, d/b/a Great Western Homes ("Declarant").

RECITALS

A. Declarant is the owner and developer of certain real property in the City of Phoenix, County of Maricopa, State of Arizona, which is more particularly described as follows:

Lots 1 through 84 inclusive, along with common areas A, B, C AND D, of Southern Crossing, more particularly described in the records of Maricopa County, Arizona, Book 552, of Maps, Page 31 ("the Property").

B. Declarant desires that a nonprofit corporation, Southern Crossing Homeowners' Association, be formed for the purpose of the efficient preservation of the values and amenities of Southern Crossing and to which will be delegated certain powers of administering and maintaining the Common Area, enforcing this Declaration, and collecting and disbursing the Assessment(s) created herein.

C. Declarant desires to establish for their own benefit and for the mutual benefit of all future owners, or other holders of interests in any portion of Southern Crossing, certain mutually beneficial covenants, conditions, restrictions and obligations with respect to the proper development, use and maintenance of Southern Crossing.

D. Declarant desires and intends that the Owners, mortgagees, beneficiaries, trustees and other persons who may acquire any interest in Southern Crossing, shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the value, desirability and attractiveness of Southern Crossing

E. IN ORDER TO PROMOTE THE QUALITY AND CONSISTENCY OF MANAGEMENT AND MAINTENANCE OF ALL COMMON AREAS, THIS DECLARATION PROVIDES THAT DECLARANT SHALL MAINTAIN ABSOLUTE CONTROL OF THE ASSOCIATION UNTIL THE ASSOCIATION IS TURNED OVER TO THE HOMEOWNERS', INCLUDING, WITHOUT LIMITATION, THE RIGHT AND POWER TO AMEND THE ARTICLES, APPOINT THE OFFICERS, SELECT THE MEMBERS OF THE BOARD AND IF IT DESIRES TO HAVE AN ARCHITECTURAL COMMITTEE, APPOINT THE MEMBERS THEREOF.

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I DEFINITIONS

Section 1.1 "Architectural Committee" shall mean the committee created pursuant to Article VII hereof.

Section 1.2 "Architectural Committee Rules" shall mean the rules, if any, adopted by the Architectural Committee.

Section 1.3 "Articles" shall mean the Articles of Incorporation of the Association, as such may be amended from time to time.

Section 1.4 "Assessment or Assessments" shall mean Annual Assessments, Special Assessments, Maintenance Charges, Special Use Fees, Security Fees, or any other fees, fines or charges assessed hereunder.

Section 1.5 "Association" shall mean and refer to SOUTHERN CROSSING HOMEOWNERS' ASSOCIATION, an Arizona non-profit corporation, its successors and assigns.

Section 1.6 "Association Land" shall mean the Common Areas, along with any other part or parts of Southern Crossing, together with any buildings, structures and improvements thereon and other real property, that is held by Declarant or by a trustee for conveyance to the Association as may be provided for herein, or that the Association now or hereafter owns in fee or in which the Association now or hereafter has a leasehold or easement interest, for as long as the Association is the owner of the fee, leasehold or easement interest or such property is so held by Declarant for

conveyance to the Association. Except as otherwise provided in this Declaration, all Association Land shall be maintained by the Association for the benefit of all of the Owners. From time to time Declarant may convey easements, leaseholds or other property within Southern Crossing to the Association and such property shall automatically be deemed accepted by the Association.

Section 1.7 "Board" shall mean the Board of Directors of the Association.

Section 1.8 "Bylaws" shall mean the Bylaws of the Association, as such may be amended from time to time.

Section 1.9 "Common Area" and "Common Areas" shall mean all areas (including the improvements thereon) owned or to be owned by the Association for the common use and enjoyment of Owners and/or residents of Southern Crossing. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows: Tracts A, B, C AND D.

Section 1.10 "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

Section 1.11 "Declarant" shall mean Great Western Communities, Inc., an Arizona corporation, or any successor or assignee thereof, but only to the extent designated by Declarant, in writing, as a successor or assignee and an assignment of Declarant's Rights is recorded.

Section 1.12 "Declaration" shall mean the covenants, conditions, & restrictions and easements set forth in this document, as such may be amended from time to time.

Section 1.13 "Dwelling Unit" shall mean any building or portion of a building situated upon a Lot or Parcel, which building or portion of a building is designed and intended for use and occupancy as a residence by a Single Family.

Section 1.14 "Exempt Property" shall mean the following parts of Southern Crossing.

(a) All land and improvements owned by or dedicated to and accepted by the United States, the State of Arizona, Maricopa County, or any other municipality, or any political subdivision thereof, for as long as any such governmental entity or political subdivision is the owner thereof or for so long as such dedication remains effective; provided, however, that any such land shall be Exempt Property only while it is being used by the governmental entity owner for governmental or public purposes.

(b) All Association Land, for as long as the Association is the owner thereof (or of the interest therein that makes such land Association Land).

(c) Any Lot or property within Southern Crossing owned by Declarant or its affiliates, except for property owned by Declarant that is subject to a "contract" (as defined in Arizona Revised Statutes Section 33-741) under which Declarant is the Seller.

(d) Each portion of any and all Residential Areas designated in a recorded subdivision plat, deed, Tract Declaration, or other declaration as an area to be used in common by the Owners and Residents of such subdivision.

All Exempt Property shall be exempted from Assessments and Membership in the Association and its associated privileges and responsibilities, but shall nevertheless be subject to all other provisions of this Declaration of the applicable Lot. The Board may restrict or prohibit the use of the Common Areas (except any easements, rights-of-way, utility improvements and landscaping, drainage and flood control areas) by the Owners of Exempt Property, except for Declarant, its affiliates, subcontractors, employees, agents, guests and invitees. This subsection may not be amended without the approval of any and all Owners of Exempt Property affected by the amendment.

Section 1.15 "Southern Crossing" shall mean such portions of the Property as are from time to time subjected to the purview of this Declaration.

Section 1.16 "Lot" shall mean any numbered parcel of real property shown upon any recorded plat of the Property together with any improvements constructed thereon, with the exception of the areas designated as lettered tracts and areas dedicated to the public. Each Lot shall be a separate freehold estate.

Section 1.17 "Maintenance Charge" shall mean any and all costs assessed pursuant to Article IV of this Declaration.

Section 1.18 "Maximum Annual Assessment" shall mean the charge levied and assessed against each Lot, Dwelling Unit and Owner pursuant to Article VI, Section 6.3, of this Declaration.

Section 1.19 "Member" shall mean any person, corporation, partnership, joint venture or other legal entity that is a member of the Association.

Section 1.20 "Membership" shall mean a membership in the Association and the rights granted to the Owner's of Lots pursuant to Article V to participate in the Association.

Section 1.21 "Occupant" shall mean any person or entity in actual possession of any Lot.

Section 1.22 "Owner(s)" shall mean the record owner, whether one or more persons or entities, of equitable or beneficial title in fee simple (or legal title if same have merged) of any Lot. "Owner" shall include the purchaser under a recorded agreement for sale of any Lot. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise herein "Owner" shall not include a lessee or tenant of a Lot. "Owner" shall include Declarant so long as Declarant owns any Lot within the Property.

Section 1.23 "Party Walls and Fences" shall mean a wall and/or fence constructed on or immediately adjacent to the common boundary of Lots, Parcels, Common Areas or other areas in Southern Crossing.

Section 1.24 "Property" or "Properties" shall mean the real, personal, or mixed property described or located on recital A above which is subject to this Declaration.

Section 1.25 "Recorder", "Recordation" and/or "Recording" shall mean placing or the placement of an instrument of public record in the office of the county Recorder of Maricopa county, Arizona, as applicable.

Section 1.26 "Resident" shall mean:

(a) Each buyer under a recorded contract (as defined in Arizona Revised Statutes Section 33-741) covering any part of the Assessable Property, and each Owner, tenant or lessee on any part of the Assessable Property; and

(b) Members of the immediate family of each Owner, lessee, tenant and of each buyer referred to in subparagraph (a) actually living in the same household with such Owner, lessee, tenant or buyer on any part of the Assessable Property.

Subject to such rules and regulations as the Association may hereafter specify (including the imposition of special nonresident fees for the use of Association Land if the Association shall so direct), the term "Resident" also shall include the onsite employees, guests or invitees of any Owner, lessee, buyer or tenant, if and to the extend the Board in its absolute discretion by resolution so directs.

Section 1.27 "Rules" and/or "Association Rules" shall mean the rules and regulations adopted by the Board, if any, as such may be amended from time to time, as further described in Section 4.4.

Section 1.28 "Single Family" shall mean an individual living alone, or a group of two or more persons each related to the other by blood, marriage or legal adoption who maintain a common household in a Dwelling Unit.

Section 1.29 "Special Assessment" shall mean any assessment levied and assessed pursuant to Article VI, Section 6.4.

Section 1.30 "Special Use Fees" shall mean special fees authorized by this Declaration which an Owner, Resident or any other person is obligated to pay to the Association over, above and in addition to any Annual and Special Assessments imposed or payable hereunder. The amount of any Special Use Fee shall be determined in the Board's sole discretion, provided all such fees must be fair and reasonable.

Section 1.31 "Supplemental Declaration" shall mean any Declaration of additional covenants or provisions applicable to the Property which are consistent with this Declaration and which have been approved in writing by Declarant.

Section 1.32 "Visible from Neighboring Property" shall mean, with respect to any given object, visible to a person six feet tall, standing on any part of neighboring property at an elevation no greater than ground level where the object is located (assuming the ground level where the person is standing is at the same height as the ground level where the object is located).

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 2.1 General Declaration Declarant hereby declares that all of Southern Crossing (except any portion which is hereafter excluded or abandoned pursuant to the provisions of this Declaration) is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration. Declarant intends to develop Southern Crossing by subdivision into various Lots and other areas and to sell and convey such Lots. Nothing in this Declaration shall be construed to prevent Declarant from modifying the Development Plan or any portions thereof regarding any property owned by Declarant, provided Declarant obtains the consent of the Owner of the Property that is the subject of the modification.

Section 2.2 Association Bound. Upon acceptance by the Arizona Corporation Commission of Articles of Incorporation of the Association, this Declaration shall be binding upon and shall benefit the Association.

ARTICLE III PROPERTY RIGHTS

Section 3.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational or storage facilities or areas situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any Assessment(s) against his Lot remains unpaid;
- (c) the right of the Association to impose a monetary penalty, not to exceed two hundred dollars (\$200), for any unsatisfied, unresolved, or non-complied with infraction of the CC&R'S, and/or suspend the right to use the Common Area for a period not to exceed sixty (60) days for any infraction of the Association Rules and consecutive thirty (30) day periods for so long as the infraction continues;

- (d) The right of the Association to limit the number of guests of members using the Common Areas;
- (e) the right of the Association to change and regulate the use of Common Areas in accordance with Section 4.6;
- (f) The right of the Association to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas in accordance with Section 4.7 hereof; and
- (g) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and facilities, and in aid thereof, to mortgage said property in accordance with Section 8.2 (e) hereof. The rights of such mortgagee in said property shall be subordinate to the rights of the Owners hereunder.

Section 3.2 Easements and Encroachments. Each Lot and Parcel, the Common Areas, and all other areas in Southern Crossing shall be subject to an easement of not more than five feet for encroachments of walls, ledges, roofs, air conditioners and other structures created by construction, settling and overhangs as originally or subsequently designed and constructed by Declarant or its affiliates and contractors. If any such improvement on the Common Areas encroaches upon any Lot, Parcel or other area, or if any such improvement on any Lot, Parcel or other area encroaches upon any portion of the Common Areas, or if any such improvement on any Lot, Parcel or other area encroaches upon another Lot, Parcel or other area, a valid easement for said encroachments and for the maintenance thereof shall exist. In the event any structure on any Lot, Parcel, Common Area or other area is repaired, altered or reconstructed in accordance with the original plans and specifications or subsequent plans and specifications of Declarant or its affiliates, similar encroachments shall be permitted and a valid easement for said encroachments and for the maintenance thereof shall exist.

Section 3.3. Rights of Ingress and Egress. Every Owner shall have an unrestricted right of ingress and egress to their Lot(s) and/or Parcel(s) which right shall be perpetual and shall be appurtenant to and shall pass with title to such Lot(s) or Parcel(s) over the following areas:

(a) for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the Common Areas and which are designated as for ingress and egress to such Owner's Lot or Parcel; and

(b) for pedestrian traffic over, through and across the Common Area streets and roadways, if any, which are designated and paved for such purpose.

Any Owner may, in accordance with and subject to this Declaration and the Southern Crossing community Rules and the limitations contained therein, delegate their right of ingress and egress to the members of its family, its guests and its tenants (including its tenants family and guests).

Section 3.4 Delegation of Use. Any Owner may delegate, in accordance with and subject to any restrictions contained in the Bylaws, his right of enjoyment to the Common Area and improvements thereon to his tenants, or occupants of his Lot, or guests.

Section 3.5 Title to Common Area. Declarant covenants that it will convey fee simple title to the Common Area to the Association, free of all encumbrances except current real and personal property taxes and other easements, conditions, reservations and restrictions then of record. The conveyance shall be made to the Association prior to the conveyance of the first Lot from the Declarant to any purchaser.

ARTICLE IV PROPERTY SUBJECT TO THIS DECLARATION

Section 4.1 General Declaration. Because it is intended that the Property as presently subdivided shall be sold and conveyed to purchasers subject to this Declaration, Declarant hereby declares that the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended from time to time; provided, however, property which is not part of a Lot and which is dedicated or transferred to a public authority or utility pursuant to Section 4.7 shall not be subject to this Declaration while owned by the public authority or utility. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property. This Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, Members and their respective successors in interest.

Section 4.2 Annexation of Additional Property. The Property defined in Recital A and hereby subject to the Declaration may constitute only a portion of the real property owned by Declarant and intended to be developed by Declarant as "Southern Crossing." Declarant may, but is under no obligation to, add Additional Property to the Property and subject it to this Declaration. Therefore, Declarant may, without obligation to do so, annex Additional Property into Southern Crossing and subject it to the terms and conditions of this Declaration, by recording one or more Supplemental Declarations which may incorporate this Declaration and establish such additional covenants, conditions, restriction, Assessment(s), charges, servitudes, liens, reservations and easements with respect to such real property as Declarant may from time to time deem appropriate.

ARTICLE V THE ASSOCIATION

Section 5.1 The Association. The Association is an Arizona non-profit corporation

charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise modified or interpreted so as to be inconsistent with this Declaration.

Section 5.2 The Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Board may elect or appoint, in accordance with the Articles and Bylaws.

Section 5.3 Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth herein and in the Articles and Bylaws.

Section 5.4 Rules. By action of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "Rules". The Rules may restrict and govern the use of the Property provided, however, that the Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. The Rules shall have the same force and effect as if they were set forth herein and were a part of the Declaration and may be recorded.

Section 5.5 Personal Liability. The Articles shall specify such limitations on the personal liability of members of the board as shall be applicable.

Section 5.6 Procedure for Change of Use of Common Area. Upon (a) adoption of a resolution by the Board stating that the then current use of a specified part of the Common Area is no longer in the best interests of the Owners and Members, and (b) the approval of such resolution by a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith to take whatever actions are required to accommodate the new use), provided such new use: (i) also shall be for the common benefit of the Owners and Members, and (ii) shall be consistent with any recorded tract declaration, deed restrictions or zoning regulations. Alternatively, the Board upon satisfaction of Subsection (a) above may, in lieu of calling a meeting, notify in writing all Members of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Memberships eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

Section 5.7 Procedure for Transfers of Common Area. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any public authority or utility (i) if the transfer or dedication does not have a substantial adverse effect on the enjoyment of the Common Areas by the Members or the Residents, or (ii) if required by a recorded subdivision plat, a zoning stipulation or an agreement with the City of Phoenix, effective prior to the date hereof. Except as authorized in (i) or (ii) above, no such dedication or transfer shall be effective without the approval of a majority of the vote of each class of Members, voting in person or by proxy at a meeting called for

such purpose. The Association shall have the right to change the size, shape or location of the Common Areas, to exchange the Common Areas for other property or interests which become Common Areas, and to abandon or otherwise transfer Common Areas (to a non-public authority) upon (x) the adoption of a resolution by the Board stating that ownership and/or use of the relevant Common Area is no longer in the best interests of the Owner and Members, and that the change desired shall be for their benefit and shall not substantially adversely affect them, and (y) the approval of such resolution by a majority of the votes of each class of Members, voting in person or by proxy, at a meeting called for such purpose. Alternatively, the Board upon satisfaction of Subsection (x) above, notify in writing all Members of the proposed transaction and of their right to object thereto and, if no more than ten percent (10%) of the Class A Members eligible to vote object in writing within thirty (30) days after receipt of such notice, the proposed transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary.

Section 5.8 Easements. In addition to the easements specifically granted or reserved herein, the Association is authorized and empowered to grant upon, across or under Association Land such permits, licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private purposes, security lines, roadways or other purposes as may be reasonably necessary and appropriate, as determined by the Board.

ARTICLE VI MEMBERSHIP AND VOTING RIGHTS

Section 6.1 Membership. Every Owner of a Lot, which is subject to Assessment(s), shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment(s).

Section 6.2 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant. Each Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as such Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A on the happening of either the following events, whichever first occurs:

(a) When the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B membership, or

(b) The 1st day of January, 2003.

**ARTICLE VII
COVENANT FOR MAINTENANCE ASSESSMENT(S)**

Section 7.1 Creation of the Lien and Personal Obligation of Assessment(s)s.

The Declarant covenants for each Lot, and each Owner of any Lot by acceptance of a deed therefore (whether or not is shall be so expressed in such deed) is deemed to covenant and agree to pay to the Association: (1) s and (2) special Assessment(s)s for capital improvements, such Assessment(s)s to be established and collected as hereinafter provided. A Lot owned by the Association, pursuant to Section 6.8 or otherwise, shall not be subject to Assessment(s).

The annual and special Assessment(s)s, together with interest costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien thereon as well as the personal obligation of the person who was the Lot Owner at the time when the Assessment(s) fell due. The personal obligation for delinquent Assessment(s)s shall not pass to the Lot Owner's successors in title, unless expressly assumed.

Section 7.2 Purpose of Assessment(s). In order to promote civic and social betterment for the common good of the Members of the Association, the Assessment(s)s levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents and Owners of the Property and for the improvement and maintenance of the Common Area.

Section 7.3 Maximum Annual Assessment. Until January 1, 2001, the Maximum Annual Assessment shall be \$37.00 per Lot. The Assessment shall be payable monthly. .

- (a) From and after January 1, 2002, the Maximum Annual Assessment shall automatically increase each year, commencing on January 1. The Maximum Annual Assessment shall increase, without a vote of the members, by an amount which is equal to the greater of: (i) ten percent (10%) of the maximum Assessment(s) for the previous year; or (ii) a percentage equal to the average rate of change of the Consumer Price Index (the "CPI") for the most recent past twelve (12) months. For the purposes hereof CPI shall mean the Monthly Labor Review by the United States Department of Labor Statistics, designated "Consumer Price Index--U.S. City Average for Urban Wage Earners and Clerical Workers, 1982-84 Equals 100, All Items." The Maximum automatically increase each year even if the actual Assessment(s) does not increase. The foregoing notwithstanding, the Board has no obligation to increase the Maximum Annual Assessment
- (b) In addition to Section 6.3 (a) above, the maximum during each fiscal year of the Association shall be automatically increased by the amounts of any increases in water or other utility charges or any increases to insurance rates charged to the Association; and

- (c) From and after 2002, the maximum may be increased above the amount indicated in (a) above by a vote of two-thirds of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose;
- (d) The Board of Directors may fix the rate at an amount not in excess of the maximum.

Section 7.4 Special Assessment(s) for Capital Improvements. In addition to the assessments authorized above, the Association may levy in any Assessment(s) year a special Assessment(s) applicable to that year for the exclusive purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided, however, that any such Assessment(s) shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

Section 7.5 Notice and Quorum for an Action Authorized Under Sections 6.3 and 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.3 and 6.4 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7.6 Uniform Rate of Assessment(s). Except as provided herein, the Annual Assessment must be fixed at a uniform rate for all Lots and may be collected on a quarterly basis, as designated by the Board. Declarant shall pay twenty-five percent (25%) of the assessment for each Lot which Declarant owns in equal monthly installments in the same manner established for payment of the amount by other Lot Owners, except that Declarant shall pay and be liable for the full Assessment(s) amount for any Lots owned by Declarant which are being used by Declarant as Model Homes or otherwise being used and occupied for residential purposes (but not sooner than the closing of the first Lot to a residential homebuyer). Notwithstanding the above, any homebuilder in the business of constructing residential improvements on Lots and who buys Lots from Declarant for such purpose shall pay one hundred percent (100%) of the for each Lot which such builder owns or leases and which is not being occupied for residential purposes. Any owner renting or leasing a Lot to Declarant, which is not being occupied for residential purposes, shall pay one hundred percent (100%) of the Maximum Annual Assessment for such Lot.

Section 7.7 Date of Commencement of Annual Assessment(s): Due Date. The Annual Assessment(s) provided for herein shall commence as of the date of conveyance of the first Lot. The first Annual Assessment(s) shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Annual Assessment(s) against each

Lot at least thirty (30) days in advance of each Assessment(s) period. Written notice of the Annual Assessment(s) shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessment(s) on a specified Lot have been paid. A properly executed certificate from the Association as to the status of any Assessment(s) on a Lot is binding upon the Association as to the matters described therein.

Section 7.8 Effect of Non-Payment of Assessment(s): Remedies of the Association.

Any Assessment(s) not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum or such lower rate that is equivalent to the maximum rate allowed by law. No Owner may waive or otherwise escape liability for the Assessment(s) provided for herein by non-use of the Common Area or abandonment of his Lot.

- (a) Enforcement by Suit. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner to enforce each such Assessment(s) obligation. Any judgment rendered in any such action shall include the amount of the delinquency together with interest thereon at the rate of twelve percent (12%) per annum or such lower rate that is equivalent to the maximum rate allowed by law, from the date of delinquency, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner.
- (b) Enforcement by Lien. There is hereby created a claim of lien on each and every Lot within the Property to secure payment to the Association of any and all Assessment(s) levied against any and all Owners of Lots covered by the Declaration, together with interest thereon at the rate of twelve percent (12%) per annum or such lower rate that is equivalent to the maximum rate allowed by law, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of any such Assessment(s), the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner on behalf of the Association. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or even without such a written demand being made, the Association may elect to file such claim of lien on behalf of the Association against the Lot of the defaulting Owner. Such claim of lien shall contain substantially the following information: (1) the name of the delinquent Owner; (2) the legal description and street address of the Lot against which the claim of lien is made; (3) the attorneys' fees (with any proper offset allowed); (4) a statement that the claim of lien is made by the Association pursuant to the Declaration, and (5) a statement that a lien is claimed against such Lot in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such claim of lien, and mailing a copy thereof to the defaulting Owner, the lien claimed shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment(s) was levied. Such lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien, except only tax liens for real property taxes and liens, which are specifically described in Section 6.9. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a realty mortgage or by the exercise of a power of sale in the manner provided by law under a trust deed, as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association shall have the power to bid in at any foreclosure or trustee's sale and to purchase, acquire, hold, lease, mortgage, and convey any such Lot. In the event of such foreclosure or trustee's sale, reasonable attorneys' fees, court costs, trustee's fees, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

Section 7.9 Subordination of the Lien to First Mortgages. The lien of the Assessment(s) provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment(s) lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, foreclosure or trustee's sale, or any proceeding in lieu thereof, shall extinguish the lien of such Assessment(s) as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any Assessment(s) thereafter becoming due or from the lien thereof.

ARTICLE VIII (ARCHITECTURAL CONTROL)

Section 8.1 Organization, Power of Appointment and Removal of Members.

At a time deemed appropriate by the Board, the Board may, but is not under an obligation to, appoint an Architectural Committee (the "Committee"), which, if appointed, shall be organized as follows:

- (a) Committee Composition. The Committee shall consist of such persons as are selected by the Board from time to time or which may consist of the entire Board. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.
- (b) Terms of Office. Members of the Committee shall serve until they resign, are removed, or are replaced.
- (c) Death, Resignation and Removal. In the event of the death, disability or resignation of any member of the Committee, the Board shall have full authority to designate a successor or successors. The members of the Committee shall serve at the

pleasure of the Board and may be removed with or without cause by the Board.

- (d) Vacancies. Vacancies on the Committee, however caused, shall be filled by the Board.

Section 8.2 Duties. It shall be the duty of the Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Committee Rules and procedures for appeal to the Board of Directors, and to carry out all other duties imposed upon it by this Declaration. In doing so, the Committee may appoint and designate, by a majority vote of the Committee, a representative (who need not be a Lot Owner) who shall have the authority to exercise those rights and powers and who shall have those duties and liabilities, on behalf of the Committee, until the Committee, by a majority vote, shall revoke his appointment and designation.

Section 8.3 Meetings and Compensation. The Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to Section 7.1 (b), the vote or written consent of any two (2) regular members, at a meeting or otherwise, shall constitute the act of the Committee, unless the unanimous decision of the Committee is otherwise required by this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Committee shall not be entitled to compensation for their services.

Section 8.4 Committee Rules. The Committee may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "Architectural Committee Rules". Such Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property.

Section 8.5 Waiver. The approval by the Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

Section 8.6 Time for Approval. In the event the Committee fails to approve or disapprove the plans and specifications, such will be deemed approved within sixty (60) days after their submission.

Section 8.7 Liability. Neither the Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, and the Association hereby indemnifies and holds harmless the Committee and all members thereof, for, from and against any and all damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or similar documents whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the overall development of the Property, or (d) the execution and filing of any Estoppel Certificate, whether or

not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by such member, and without willful or intentional misconduct, as would be applicable under local law, and except for those circumstances under which a member of the Board would have liability under Section 4.5. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may, but is not required to, consult with or listen to the views of the Association or any Owner with respect to any proposal submitted to the Committee.

ARTICLE IX USE RESTRICTIONS

Section 9.1 Permitted Uses and Restrictions - Residential. The permitted uses, easements, and restrictions for all Property covered by this Declaration shall be as follows:

- (a) Single Family Residential Use. All Lots shall be used, improved and devoted exclusively to single-family residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted thereon. Nothing herein shall be deemed to prevent the leasing of any Lot with the improvements thereon to a single family from time to time by the Owner thereof, subject to all of the provisions of the Declaration. No structure whatever shall be erected, placed or permitted to remain on any Lot without the express written approval of the Architectural Committee, provided, however, the Architectural Committee will consider requests for construction of a detached garage, gazebo, guest quarters and other such structures. However, written approval by the Architectural Committee of such structures is essential to construction of such structures must comply with the guidelines established for such structures either in this Declaration or in any rules established by the Architectural Committee and/or the City of Phoenix. Lots owned by Declarant or its designee or assignee may be used as model homes for the sales and construction offices for the purpose of enabling Declarant or its designee or assignee to sell Lots within the Property until such time as all of the Lots owned by Declarant or its designee or assignee have been sold or leased to purchasers or tenants.
- (b) Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained so as to be Visible from Neighboring Property, unless approved by the Architectural Committee. Satellite dishes must be installed below the fence line, so as not to be Visible From Neighboring Property.
- (c) Utility Service. All lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Architectural Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Committee are permitted.

- (d) Improvements and Alterations. No improvements, alteration, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon from its natural or improved state existing on the date such Property was first conveyed by Declarant to a home buyer shall be made without the prior approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Architectural Committee or any subcommittee thereof. Pursuant to its rule making power, the Architectural Committee shall establish a procedure for the preparation, submission and determination of applications for any such alteration or improvement. The Architectural Committee shall have the right, in its sole discretion, to refuse to approve any plans, specifications or grading plans, which are not suitable or desirable, for aesthetic or other reasons, and in so passing upon such plans, specifications and grading plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the outlook from adjacent or neighboring Property. No changes or deviation in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. Basketball standards, whether temporary or permanent, are strictly prohibited and shall not be constructed, erected or placed in a location that is Visible From Neighboring Property.
- (e) Maintenance of Lawns and Plantings. Homeowner will choose a front yard landscape from those offered by Declarant and that Front yard landscape will be installed by the Declarant. Homeowner may not make any alterations to the front yard landscape chosen by Homeowner and installed by Declarant. Front yards shall be maintained by the Homeowner free of weeds and debris. All lawns shall be neatly mowed and trimmed; bushes shall be trimmed; and dead plants, dead trees and dead grass shall be removed and replaced by the Homeowner.
- (f) Repair of Buildings. No improvement upon any Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished.
- (g) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Property except in covered sanitary containers. In no event shall such containers be maintained so as to be Visible From Neighboring Property except on days of collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot.

- (h) Overhangs. No tree, shrub, or planting of any kind on any Property shall be allowed to overhang or otherwise to encroach upon any Common Area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.
- (I) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Property except usual and customary equipment and machinery used in connection with the use, maintenance or construction of permitted improvements, and except that which Declarant or the Association may require for the operation and maintenance of the Common Area. Slides, playground equipment, basketball poles and hoops, outdoor decks, gazebos and other such equipment or structures shall be allowed provided they are approved by the Architectural Committee.
- (j) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner, without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No application for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration.
- (k) Signs. No sign of any nature (other than a name address sign, not exceeding 9"x 30" in size) shall be permitted on any Lot; provided, however, that one sign of not more than three square feet may be temporarily erected or placed on a Lot for the purpose of advertising the Lot for sale or rent; and provided further the Declarant or its designee or assignee may erect any signs during construction. These restrictions shall not apply to the Association in furtherance of its powers and purposes herein set forth.
- (l) Utility Easements. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewer, gas, telephone, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment, and to affix and maintain wires, circuits and conduits on, in and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities or service lines may be

installed or relocated except as initially developed and approved by the Declarant or thereafter approved by the Board. This easement shall in no way affect any other recorded easements. This easement shall be limited to improvements as originally constructed and no common utility shall be permitted to pass over any improvements on the Lots and no connection line shall be permitted to pass over any improvement on the Lot other than the one it serves.

- (m) Animals. No animal or fowl, other than a reasonable number of generally recognized house or yard pets, shall be (i) maintained on any Lot covered by this Declaration and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes; or (ii) be permitted to make an unreasonable amount of noise, or create a nuisance. No structure for the care, housing or confinement or any animal or fowl, shall be maintained so as to be Visible From Neighboring Property.
- (n) Temporary Occupancy. No temporary building, structure or vehicle of any kind shall be used as a residence, either temporary or permanent. Temporary buildings or structures used during construction periods shall be removed immediately after completion of such construction.
- (o) Trailers, Boats, Aircraft, and Motor Vehicles. No motor vehicle classified by manufacturer rating as exceeding one (1) ton, mobile home, trailer, camper shell, boat, boat trailer or hang glider or other similar equipment or vehicle may be parked, stored, maintained, constructed, reconstructed, or repaired on any Lot, street, or Common Area, Visible From Neighboring Property within the Property, provided, however, the provisions of this section do not preclude the parking in garages or on driveways of (i) pickup trucks of not more than one (1) ton capacity (with or without camper shells) providing the height of such pickup truck and camper shall not exceed seven (7) feet, or (ii) mini motor homes or other recreation vehicles which do not exceed seven (7) feet in height or eighteen (18) feet in length, if those vehicles described in (i) and (ii) are used on a regular and recurring basis for basic transportation. No automobile, motorcycle, motor bike, motorized hang glider, or other motor vehicle shall be constructed, reconstructed or repaired on any Lot, street, or Common Area within the Property and no inoperable vehicle may be stored or parked so as to be Visible From Neighboring Property, except in the event of an emergency.
- (p) Nuisances/Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to a Lot and no odors or loud noises shall be permitted to arise or emit therefrom, so as to create a nuisance, render any such Property or any portion thereof or activity thereon unsanitary, unsightly, offensive or detrimental to the Lot or person in the vicinity thereof. Without limiting the generality of any of the foregoing provisions, no speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes,

shall be located, used, or placed on any such Property. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Property. The Board in its sole discretion shall have the right to determine the existence of any violation of this Section and its determination shall be final and enforceable as provided herein. Normal construction activities shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods. Supplies or building materials and construction equipment shall be stored only in such areas and in such manner as may be approved by the Architectural Committee or the Declarant.

- (q) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property unless they are erected, placed or maintained exclusively within a fenced service yard or otherwise not Visible From Neighboring Property.
- (r) Mineral Exploration. No Property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.
- (s) Diseases and Insects. No Owner or resident shall permit any thing or condition to exist upon the Property which shall induce, breed or harbor infectious plant diseases or noxious insects.
- (t) Party Walls and Fences. The rights and duties of Owner with respect to party walls or party fences shall be as follows:

(1) Owners of contiguous Lots who have a party wall or party fence shall both equally have the right to use such wall or fence, provided that such use does not interfere with the use and enjoyment thereof by the other Owner.

(2) In the event that any party wall or party fence is damaged or destroyed through the act of an Owner, his agents, guests, or family members, it shall be the obligation of such Owner to rebuild and repair the party wall or party fence without cost to the other adjoining Lot Owner or Owners. Any dispute over an Owner's liability shall be resolved as provided in subsection (5) below.

(3) In the event any party wall or party fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, his agents, guests or family member, it shall be the joint obligation of all Owners whose Lots adjoin such wall or fence to rebuild and repair such wall or fence, such expense to be divided among the Owners in accordance with frontage of their Lot on the party wall or party fence.

(4) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any party wall or party fence without the prior written consent of the Board.

(5) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a party wall or party fence or the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be final and enforceable.

(6) Each Owner shall permit the Owners of adjoining Lots, or their representatives, when reasonably required to enter his Lot for the purpose of repairing or maintaining a party wall or fence or for the purpose of performing installation, alterations or repairs to the Property of such adjoining Owners, provided that requests for entry are made in advance and that such entry is at a time reasonable convenient to the Owner. In case of an emergency, such right of entry shall be immediate. An adjoining Owner making entry pursuant to the terms of this paragraph shall not be deemed guilty of trespass by reason of such entry.

(7) Surfaces of party walls or party fences, which are generally accessible or viewable from only the adjoining Property, may be planted against, painted, maintained and used by the adjoining Owners. If such surfaces are viewable from public streets or the Common Area, the color scheme shall not be changed without the written consent of the Architectural Committee.

(8) Any Lot which has a wall adjacent to the Common Area and which wall separates the Lot from the Common Area shall be considered to have a party wall with the Association and the provisions of this Section 8.1(t) apply as though the Common Area were an adjacent Lot.

(9) The Owners with a wall adjacent to a street, or adjoining property, other than Lots or Common Area within the Property, shall be solely responsible for repair and maintenance of such walls, and if repair is necessary, the repaired wall must match the size, color, and texture of the existing adjacent walls within the Property.

- (u) Drainage Easement. There is hereby created a blanket easement for drainage of groundwater on, over and across the Common Area. No Owner shall obstruct, divert, alter or interfere with any portion of the Property. Each Owner shall at his own expense maintain the drainage ways and channels on his Lot in proper condition free from obstruction.
- (v) Parking. It is the intent of the Declarant to limit on-street parking as much as possible. Vehicles of all Owners, residents, guests and invitees are to be kept in garages, carports, residential driveways and other parking areas designated by the Association.

- (w) Right of Entry. During reasonable hours and upon reasonable notice to the Owner or resident of a Lot, any Member or authorized representative of the Architectural Committee or the Board shall have the right to enter upon and inspect any Lot or improvements thereon, except for the interior portions of any completed improvements, to determine if the improvements are in compliance with this Declaration. Any such persons shall not be deemed guilty of trespass by reason of such entry.
- (x) Health, Safety and Welfare. In the event uses, activities and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners or residents, the Board may make rules restricting or regulating their presence as part of the Association Rules or may direct the Architectural Committee to make rules governing their presence on Lots as part of the Architectural Committee Rules.

The Association will strive to maintain the residential areas of Southern Crossing as a safe residential environment. HOWEVER, NEITHER THE ASSOCIATION NOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT DECLARANT AND THE ASSOCIATION AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING ENTITIES ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO PERSONS, TO PROPERTY, TO LOTS, TO RESIDENCES AND TO THE CONTENTS OF LOTS AND RESIDENCES AND FURTHER ACKNOWLEDGES THAT DECLARANT HAS MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY MEASURES THAT MAY BE RECOMMENDED OR TAKEN.

(y) Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of improvements or signs necessary or convenient to the development or sale of Lots within the Property.

(z) Storage Sheds. Storage sheds shall not exceed 6' in height and shall not be visible from the street or adjoining property. The storage shed shall be the same color as the house body or a neutral beige or eggshell color.

(aa) Model Homes. The provisions of this Declaration which prohibit nonresidential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes, sales offices, administrative offices and parking areas incidental thereto by Declarant and their designees engaged in the construction or marketing of Dwelling Units in Southern Crossing.

(bb) Incidental Uses. Declarant may approve, regulate or restrict incidental uses of property within a Land Use Classification. By way of example and not of limitation, Declarant may permit private roadways, tennis courts, swimming pools, all of which may be intended primarily for the benefit of all or certain Owners and Residents

(cc) Leases. Any agreement for the lease of all or any portion of a Lot must be in writing and must be expressly subject to this Declaration. Any violation of this Declaration, shall be deemed a default under the Lease. An Owner of a Lot shall notify the Association regarding the existence of all Leases. The Lot Owner shall remain liable for compliance with the Declaration, Articles, Bylaws, and any other set of Rules and Regulations and guidelines relative to Southern Crossing and shall be responsible for any violations thereof by his tenant or his tenant's family and guests.

(dd) Construction. All Dwelling Units in Southern Crossing must be constructed by Declarant or its designees. Notwithstanding anything to the contrary in this Declaration, this subsection (dd) can be amended, changed, waived or terminated only by Declarant by executing an instrument in recordable form that is recorded in the proper office of record.

(ee) No Modification by Private Agreement. No private agreement of any Owner(s) shall modify or abrogate any of these Covenants or the obligations, rights and duties of the Owners hereunder.

Section 9.2 Permitted Uses and Restrictions - Common Area. The permitted uses and restrictions for the Common Area shall be as follows:

- (a) Permitted Uses. Except as otherwise provided herein, the Common Area shall be used in general for the exclusive benefit of the Owners, for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment to be derived from such reasonable and proper use, without hindering the exercise or of encroaching upon the right of any other Owner to utilize the Common Area, provided that no unlawful use shall be permitted.
- (b) Restricted Uses.
- (1) The Common Area shall not be used by Owners for storage of supplies, material or personal property of any kind.
 - (2) Except as otherwise provided herein, no activity shall be carried on nor condition maintained by any Owner upon the Common Area which spoils the appearance of the Property or hinders or encroaches upon the right of any other Owner to utilize the Common Area as reasonably intended.

- (c) Maintenance by Association. The Association has the right and may, at any time, as to Common Area conveyed, leased, or transferred to it, or area otherwise placed under its jurisdiction, in the discretion of the Board, without any approval of the Owners being required:

(1) Maintain the planting on all Common Areas. For this purpose, Declarant and the Association shall have the right, at any time, to plant, replace, maintain and cultivate landscaping, shrubs, trees, and plantings on any Common Area and on such easements over an Owner's Lot as may have been granted to Declarant or the Association, regardless of whether any Owner or the Association is responsible hereunder for maintenance of such areas. No Owner shall remove, alter, injure or interfere in any way with any landscaping, shrubs, trees, grass or plantings placed upon any Common Area or front yard without the prior written consent of Declarant or the Association. Declarant and the Association shall have the right to enter upon or cross over any Lot, at any reasonable time, for the purpose of planting, replacing, maintaining or cultivating such landscaping, shrubs, trees, grass or plantings and shall not be liable for trespass for so doing.

(2) Reconstruct, repair, replace or refinish any improvement or portion thereof upon the Common Area or the above described easement areas (to the extent that such work is not the responsibility of any governmental entity or public utility).

(3) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk, and parking area (to the extent that such work is not done by a governmental entity or utility, if any such entity is responsible for the maintenance and upkeep of such area);

(4) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary or advisable;

(5) Place and maintain upon the Common Area such signs, markers and lights as the Board may deem appropriate for the proper identification, use and regulation thereof, subject to the approval of the Architectural Committee;

(6) Remove all papers, debris, filth and refuse from the Common Area and wash or sweep paved areas as required; clean and re-lamp lighting fixtures as needed;

(7) Repaint striping, markers, directional signs, and similar identification or safety devices as necessary;

(8) Pay all real taxes and Assessment(s) on the Common Areas;

- (9) Pay all electrical, water, gas and other utility charges or fees for services furnished to the Common Area;
- (10) Pay for and keep in force at the Association's expense, adequate insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Area. Such insurance shall be with companies acceptable to the Association in amounts and with adequate limits of liability desired by the Owners or required of the Owners pursuant to any other recorded document affecting the Property, such insurance to name the Association or the Owners or both as named insured;
- (11) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration;
- (12) The Board shall be the sole judge as to the appropriate maintenance within the Common Area and individual front yards; and
- (13) Nothing herein shall be construed so as to preclude the Association from delegating its powers set forth above to a project manager or agent or to other persons, firms or corporations.
- (d) Damage or Destruction of Common Area by Owners. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, or agents, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall, to the extent required under local law, be paid by said Owner, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of Assessment(s), including Section 9.3 hereof.
- (e) Mortgage or Conveyance of Common Area. The Common Area shall not be mortgaged or conveyed without prior consent of Owners representing not less than two-thirds (2/3) of the authorized votes of each class of Members.

ARTICLE X INSURANCE

Section 10.1 Scope of Coverage. Commencing not later than the time of the first

conveyance of a Lot to a person other than the Declarant, the Association shall maintain adequate insurance for the Common Areas, including liability in an amount no less than one million dollars (\$1,000,000), as well as directors and officers liability. Each Owner shall be responsible for coverage on his Lot and any improvement thereon.

Section 10.2 Certificate of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgage or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner, and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 10.3 Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed to the Owners on the basis of an equal share for each Lot.

ARTICLE XI GENERAL PROVISIONS

Section 11.1 The Declaration. By acceptance of a deed or by acquiring any ownership interest in any portion of the Property, each Owner, his heirs, representatives, successors, transferees and assigns, binds himself, his heirs, representatives, successors, transferees and assigns, to restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each Owner by so doing hereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Property and thereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Owner fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various future Owners.

Section 11.2 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In the event any portion of any Lot is maintained so as to present a public or private nuisance,

or substantially detract from or affect the appearance or quality of any surrounding Lot, or is used in a manner which violated this Declaration or in the event the Owner or resident of any Lot is failing to perform its obligation under this Declaration or the Architectural Committee Rules, the Association or any Owner(s) may give notice to the Owner of such Lot that unless corrective action is taken within fourteen (14) days, the Association or such Owner may take, at such Owner's cost, whatever action is appropriate to complete compliance including, without limitation, appropriate legal action. Charges incurred by the Association or such Owner(s), as appropriate, on demand with interest at twelve percent (12%) per annum accruing from the date said charges are incurred until paid in full. Any sum not paid hereunder by the violating Owner shall be treated as an Assessment(s) and collected in accordance with the procedures provided in Article VI.

Section 11.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 11.4 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by Owners representing not less than seventy-five (75%) of the authorized votes of each class of Membership, and thereafter by an instrument signed by Owners representing not less than two-thirds (2/3) of the authorized votes of each class of Members; except that the Declarant may amend the Declaration as may be requested by the FHA, VA, FHLMC or FNMA, or any government agency which requests such amendment as a condition of approving the Declaration or any federally chartered lending institution which requests such amendment as a condition to lending funds upon the security of any Lot, or as may be appropriate in the event of any such requested amendment that deletes, diminishes or alters Declarant's control of the Association and its activities, to permit the Declarant to adopt other and different control provisions. Any amendment must be recorded.

Section 11.5 Notices. Notices provided for in these Restrictions shall be in writing and shall be addressed to the last known address of the Lot Owner in the files of the Southern Crossing Homeowners' Association. Notices shall be deemed delivered when mailed by United States First Class, Registered, or Certified Mail addressed to the Lot Owner at such address or when delivered in person to such Owner.

Section 11.6 Condemnation. Upon receipt of notice of intention or notice of proceedings whereby all or any part of the Property is to be taken by any governmental body by exercise of the power of condemnation or eminent domain, all Owners and first mortgagees shall be immediately notified by the Association thereof. The Association shall represent the Owners in any condemnation or eminent domain proceeding authority for acquisition of any part of the Common Area of the Property, and every Owner appoints the Association his/her attorney-in-fact for this purpose. The entire award made as compensation for such taking of Common Area, including but not limited to any amount awarded as severance damages, or the entire amount received and paid in anticipation and settlement for such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including but not limited to attorneys' fees, appraisers' fees and court

costs (which net amount shall hereinafter be referred to as the "Award"), shall be paid to the Association as trustee for the use and benefit of any Owners and their first mortgagees as their interests may appear. The Association shall, as it is practicable, cause the Award to be utilized for the purpose of repairing and restoring the Property, including, if the Association deems it necessary or desirable, the replacement of any improvements so taken or conveyed.

In the event of any taking of any Lot in the Property by eminent domain, the Owner of such Lot shall be entitled to receive the award for such taking, and after acceptance thereof Lot Owner and all of Lot Owners' mortgagees shall be divested of all interest in the Property if such Owner shall vacate Lot Owners' Lot as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Property or take other action. The remaining portion of the Property shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking. In the event of a taking by eminent domain of more than one Lot at the same time, the Association shall participate in the negotiations and shall propose the method of division of the proceeds of condemnation where Lots are not valued separately by the condemning authority or by the court. The Association should give careful consideration of the allocation of Common Interests in the Common Area in determining how to divide lump sum proceeds of condemnation. In the event any Lot Owner disagrees with the proposed allocation, Lot Owner may have the matter submitted to arbitration under the rules of the American Arbitration Association.

Section 11.7 Waiver; Remedies Cumulative. No failure or delay on the part of any person in exercising any right, power or privilege hereunder and no course of dealing between or among the persons subject hereto shall operate as a waiver of any provision hereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which any person subject hereto would otherwise have. No notice to or demand upon any person in any case shall entitle such person to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights to any other or further action in any circumstances.

Section 11.8 Topical Heading. The marginal or topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs of this Declaration.

Section 11.9 Prior Approval. As long as there is a Class B membership, then if this Declaration has previously been approved by the Federal Housing Administration or the Veterans Administration, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Area, and the amendment of this Declaration.

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IN WITNESS WHEREOF, GREAT WESTERN COMMUNITIES, INC., an Arizona corporation, d/b/a GREAT WESTERN HOMES, as Declarant, has caused its corporate name to be signed and its corporate seal to be affixed by the undersigned officer thereunto duly authorized this _____ day of _____, 2001.

DECLARANT:

GREAT WESTERN COMMUNITIES, INC.,
an Arizona corporation, d/b/a GREAT WESTERN
HOMES

By: _____
[Signature]

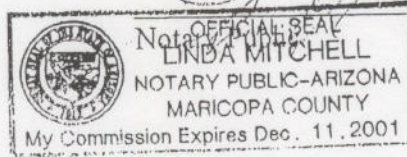
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 19th day of January, 2001, by Scott W. Smith, President of Great Western Communities, Inc., an Arizona corporation, d/b/a Great Western Homes, on behalf of the corporation.

My Commission Expires:

12/11/01



BYLAWS
OF
SOUTHERN CROSSING HOMEOWNERS' ASSOCIATION

ARTICLE I

Name and Location

The name of the corporation is **SOUTHERN CROSSING HOMEOWNERS' ASSOCIATION** hereinafter referred to as (the "Association."). The location of the principal office of the Association shall be as provided in the Articles of Incorporation (the "Articles"). Meetings of Members and Directors may be held at the principal office of the Association or at such other places within the State of Arizona as may be designated by the Board of Directors (the "Board").

ARTICLE II

Definitions

The words and terms used herein shall be deemed to have the same meanings as are given those words and terms in the certain Declaration of Covenants, Conditions and Restrictions dated January 10, 2001, and recorded on 01/22/2001, at Instrument No. 2001-0044392 of the Official Records of Maricopa County, Arizona (the "Declaration"), as the same may be amended from time to time. The term "Declarant" shall refer to Great Western Homes, an Arizona corporation, and the successors and assigns of Declarant's rights and powers under the Declaration.

ARTICLE III

Membership and Voting

Section 1. Membership. Every Owner shall be a Member of the Association. The terms and provisions set forth in these Bylaws, which are binding upon all Owners, are not exclusive, as Owners shall, in addition, have rights, duties and obligations set forth in the Articles, Declaration and Association Rules to the extent the provisions thereof are not in conflict with these Bylaws. Membership of owners shall be appurtenant to and may not be separated from the interest of such Owner in a Residence. Ownership of a Lot or Residence shall be the sole qualification for

ownership; provided, however, a Member's voting rights or privileges in the Common Area, or both, may be regulated or suspended as provided in the Declaration, these Bylaws or the Association Rules. Not more than one membership shall exist based upon ownership of a single lot.

Section 2. Declarant. The Declarant shall be a Member of the Association for so long as it either (a) holds Class B membership pursuant to Section 3 below or (b) owns any Lot.

Section 3. Voting. The Association shall have two (2) classes of voting membership:

Class A: Class A membership shall be all memberships excluding the Class B membership held by the Declarant, and each Owner shall be entitled to one (1) vote for each Class A membership held by the Owner, subject to the authority of the Board to suspend the voting rights of the Owner in accordance with the provisions hereof.

Class B: Class B memberships shall be held by the Declarant, and shall entitle Declarant to ten (10) votes for each Lot owned by Declarant. The Class B memberships shall cease and be converted to Class A memberships on the happening of the earliest of the following events:

(a) When the votes entitled to be cast by Class A members exceed the votes entitled to be cast by the Class B members; or

(b) When Declarant notifies the Association in writing that it relinquishes its Class B memberships.

Section 4. Right to Vote. No change in the ownership of a membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such membership must be cast as a unit, and fractional votes shall not be allowed. In the event that a membership is owned by more than (1) person or entity such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing his membership, it thereafter shall be conclusively presumed for all purposes that such Member was acting with the authority and consent of all other Owners of the same membership unless objection thereto is made at the time the vote is cast. In the event more than one (1) vote is cast for a particular membership, none of such votes shall be counted and all such votes shall be deemed void.

Section 5. Corporate or Trust Membership. In the event any Lot is owned by a corporation, partnership, trust, or other association, the corporation, partnership, trust or association shall be a Member and shall designate in writing at the time of acquisition of the lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the chief executive officer, if any, of such corporation, partnership, trust or association, shall have the power to vote the membership, and if there is no chief executive officer, then the board of directors or general partner of such corporation, trust or association shall designate who shall have the power to vote the membership.

Section 6. Cumulative Voting for Board Members. In any election of the Members of the Board, every Owner of a membership entitled to vote at such an election shall have the number of votes for each membership equal to the number of Directors to be elected, except that the Class B Member shall have ten (10) votes for each unsold Lot times the number of Directors to be elected. Each Member shall have the right to cumulate his votes for one (1) candidate or to divide such votes among any number of the candidates. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

Section 7. Suspension of Voting Rights. -In the event any Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of these Bylaws, the Declaration, the Articles, or Association Rules for a period of thirty (30) days, said Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current. In the event any Owner is in default of any non-monetary obligation of these Bylaws, the Declaration, the Articles, or Association Rules, and remains in default for more than ten (10) days after notice from the Association to cure same, said Member's right to vote shall be suspended for a period not to exceed sixty (60) days.

Section 8. Transfer of Membership. The rights and obligations of the Owner of a Lot having class A membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the membership appurtenant to said Lot to the new Owner thereof.

ARTICLE IV

Meeting of Members

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year after the date of incorporation of the Association. An annual meeting of the Members shall be held at least once every twelve (12) months thereafter at such time and place as is determined by the Board.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board, or upon written request of the Members who are entitled to vote at least fifty-one percent (51%) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be

given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than fifteen (15) days nor more than sixty (60) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, and/or proxies entitled to cast, fifty-one percent (51%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Declaration, the Articles, or these Bylaws. If, however, such quorum shall be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn and reschedule the meeting.

Section 5. Proxies. At all meetings of Members, each Member then entitled to vote may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary not less than two (2) days prior to the meeting. Every proxy shall be revocable and automatically shall cease upon conveyance by a Member of such Member's lot.

Section 6. Procedure. *Robert's Rules of Order* (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Declaration, the Articles, or these Bylaws.

ARTICLE V

Board of Directors; Selection; Term of Office

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors, who need not be Members of the Association so long as there is a Class B membership in the Association. The Board shall have the exclusive right of determining the affairs of the Association. The Board shall consist of not less than three (3) nor more than seven (7) Directors. The Board initially shall consist of the three (3) Directors designated in the Articles.

Section 2. Term of Office. The Directors designated in the Articles shall hold office until the first annual election of Directors, which shall take place at the first annual meeting of Members, or until their successors are elected and qualified. At the first annual meeting, the Members shall elect one (1) Director for an initial term of three (3) years, one (1) Director for an initial term of two (2) years, and one Director for an initial term of one (1) year. At each annual meeting thereafter, the Members shall elect Directors to replace those Directors whose terms have expired and all such Directors shall be elected for a term of three (3) years. The length of terms may be modified by the Members and the number of Directors may be increased to not more than seven (7) by vote of the Board. In the event of an increase in the number of Directors, the Members, at the first annual meeting after the increase, shall designate the term for the new directorships. If the new directorships are created and filled by the Board between annual meetings, the newly elected Directors shall serve until the next annual meeting of the Members.

Section 3. Removal and Vacancies. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of the death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and such successor shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association in the capacity of Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties as a Director and may receive a salary or wages if he is employed by the Association in a capacity in addition to serving as a Director.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE VI

Nomination and Election of Directors

Section 1. Nomination. Nomination for election to the Board may be made by a nominating committee. Nominations also may be made from the floor at the annual meeting of the Members. The nominating committee shall consist of a chairman, who shall be a member of the Board, and two or more persons who are either Members of the Association, officers of the corporate Member, or partners in a partnership Member. The initial nominating committee shall be appointed by the Board at least ninety (90) days prior to the first annual meeting to serve until the close of the first annual meeting. Thereafter, the nominating committee shall be appointed by the Board prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies which are to be filled.

Section 2. Election. Election to the Board shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

ARTICLE VII

Meeting of Directors

Section 1. Regular Meetings. Regular meetings of the Board may be held not less than quarterly, at such place and time as may be determined from time to time by resolution by the

Board.

Section 2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after no less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VIII

Powers and Duties of the Board of Directors

Section 1. Powers. The Board shall have power to:

(a) Adopt and publish rules and regulations governing the use of the Common Area, the personal conduct of the Members and their guests thereon, and any other matters contemplated by the Declaration and Articles, and to establish monetary penalties for infractions thereof;

(b) Suspend the voting rights of a Member and/or the Member's right to use all or any portion of the Common Area during any period in which such Member shall be in default in the payment of any assessment levied by the Association, or for non-monetary infractions of the Declaration, or the Rules and Regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Articles or the Declaration;

(d) Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; and

(e) Employ a manager, independent contractors, or such other employees as they deem necessary and to prescribe the duties of such persons.

Section 2. Duties. It shall be the duty of the Board to:

(a) Cause to be kept a complete record of all of its acts and corporate affairs and to represent a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by at least ten percent (10%) of the Class A Members who are entitled to vote;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties

are properly performed;

(c) As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each Residence at least thirty (30) days in advance of each annual assessment period; and

(2) Take such action, as and when the Board deems such action appropriate but after notice as provided in the Declaration, to foreclose the lien against any residence for which assessments are not paid and/or to bring an action at law against the Member personally obligated to pay the same.

(d) Issue or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an assessment has been paid, such certificates shall be conclusive evidence of such payment, as against any bona fide purchaser of, or lender on, the residence in question;

(e) Procure and maintain adequate liability and hazard insurance on the Common Area;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the maintenance responsibilities of the Association set forth in the Declaration to be performed.

ARTICLE IX

Officers And Their Duties

Section 1. Enumeration of Officers. The officers of this Association shall be a President, who shall at all times be a member of the Board, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time create by resolution.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each Annual Meeting of the Members.

Section 3. Term. The Directors designated in the Articles shall hold office until the first annual election of Directors, which shall take place at the first annual meeting of Members, or until their successors are elected and qualified. At the first annual meeting, the Members shall elect one (1) Director for an initial term of three (3) years, one (1) Director for an initial term of two (2) years, and one Director for an initial term of one (1) year. At each annual meeting thereafter, the Members shall elect Directors to replace those Directors whose terms have expired and all such

Directors shall be elected for a term of three (3) years. The length of the terms may be modified by the Members and the number of Directors may be increased to not more than seven (7) by vote of the Board. In the event of an increase in the number of Directors, the Members, at the first annual meeting after the increase, shall designate the terms for the new directorships. If the new directorships are created and filled by the Board between annual meetings, the newly elected Directors shall serve until the next annual meeting of the Members.

Section 4. Special Assessments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall (i) hold office for such period, (ii) have such authority, and (iii) perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. 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.

Section 6. Vacancies. A vacancy in any office may be filled by appointment of the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. Other than for these two (2) offices, no person simultaneously shall hold more than one (1) office except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and shall co-sign all promissory notes.

(b) Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds directed by resolution of the board; shall sign all checks and promissory notes of the Association, shall keep proper books of account; shall cause an annual audit of the Associations books to be made by a public accountant at the

completion of each fiscal year; and shall prepare an annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting and delivered to the Members.

(e) Delegation. The Board may delegate the duties listed above or other duties to a manager or managing agent, or other person; however, such delegation shall not relieve any member of the Board of his responsibility for such duties.

ARTICLE X

Indemnification

The Association shall indemnify all of its directors, officers, incorporators, members of the Architectural Committee, employees, agents and its former directors and officers, to the maximum extent authorized by law, against expenses incurred by them, including, without limitation, legal fees, and judgements and penalties rendered or levied against them or any of them in any legal action brought against any such persons for actions or omissions alleged to have been committed by any such person while acting within the scope of his or her employment by the Association, provided that the Board shall determine in good faith that such person did not act, fail to act, or refuse to act willfully or with gross negligence, or with fraudulent or criminal intent in regard to the matter involved in the action, and provided further that no such indemnification shall be available with respect to liabilities under the Securities Act of 1933, and provided further that the Association shall have the right to refuse indemnification in any instance in which the person to whom indemnification would otherwise have been applicable unreasonably shall have refused to permit the Association, at its own expense and through counsel of its own choosing, to defend him or her in any such legal action. Whenever any such person shall report to the President of the Association that he or she has incurred or may incur any such expense, the Board shall, at its next regular meeting, or at a special meeting held within a reasonable time thereafter, determine in good faith whether such person acted, failed to act, or refused to act willfully, with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action. If the Board determines in good faith that such person did not act, fail to act or refuse to act willfully or with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action, indemnification shall be mandatory and automatically shall be extended as specified herein, except as otherwise provided hereinbefore.

ARTICLE XI

Committees

Section 1. Architectural Committee. The Association shall establish an Architectural Committee (the "Committee") which shall consist of at least three (3) persons, none of whom shall be required to be an architect, officer or director of the Association or to meet any other particular qualifications other than as provided in Section 1(a) below.

(a) Membership. Declarant shall appoint all of the original members of the Committee and all replacements thereof until the first anniversary of the conveyance by Declarant of the first Lot to a Purchaser. Thereafter, Declarant shall have the right to appoint a majority of the members of the Committee until (i) the votes entitled to be cast by Class A members exceed the votes entitled to be cast by the Class B members; or (ii) when Declarant notifies the Association in writing that it relinquishes its Class B Membership. Thereafter, the Board shall have the power to appoint all the members of the Committee. Members appointed to the Committee by Declarant need not be members of the Association.

(b) Duties of Committee. It shall be the duty of the Committee to consider and act upon any and all proposals or plans submitted pursuant to the terms of the Declaration, to ensure that all improvements constructed on the Project by anyone other than Declarant conform to plans approved by the Committee, to adopt Architectural Rules and to perform other duties imposed upon it by the Declaration.

(c) Meetings. The Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the members of the Committee, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of the Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Committee shall not receive any compensation for services rendered.

(d) Architectural Rules. The Committee may, from time to time, and in its sole and absolute discretion, adopt, amend, and repeal by unanimous vote or written consent, rules and regulations to be known as "Architectural Rules." The Architectural Rules shall interpret and implement the Declaration by setting forth the standards and procedures for Committee review, the guidelines for design and placement of improvements, as well as all other duties of the Committee as particularly set forth in Section (b) above.

(e) Waiver. The approval by the Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee, shall not be deemed to constitute a waiver or any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

(f) Liability. Neither the Committee nor any member thereof shall be liable to the Association, any Owner or to any other party, for any damage, loss or prejudice suffered or claimed on account of (i) the approval or disapproval of any plans, drawings or specifications, or (ii) the constriction or performance of any work, whether or not pursuant to approved plans, drawings and specifications.

(g) Appeal. In the event plans and specifications submitted to the Committee are disapproved, the party or parties making such submission may appeal in writing to the Board within thirty (30) days following the final decision of the Committee. The Board shall submit such request

to the Committee for review, whose recommendations will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. Failure of the Board to render a decision within said seventy-five (75) day period shall be deemed a decision in favor of the appellant.

Section 2. General. The Board shall appoint such other committees as it deems appropriate in carrying out the purposes of the Association.

ARTICLE XII

Books and Records

The books, records and papers of the Association shall at all times, during reasonable business hours, be available for inspection by any Member. The Declaration, the Articles and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XIII

Assessments

As more fully provided in the Declaration, each Member is obligated to pay to the Association, Annual Assessments, Special Assessments and Supplemental Assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid on the due date, the assessment shall bear interest, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, as provided in the Declaration. Interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the Assessments provided for herein by virtue of such Owner's non-use of the Common Area or abandonment of his Residence.

ARTICLE XIV

Amendments

Section 1. Amendment by Vote of Members. These Bylaws may be amended in a manner not inconsistent with the Declaration and the Articles, at a regular or special meeting of the Members, by a vote not less than fifty-one percent (51%) of Members present in person or by proxy.

Section 2. Amendment If Required by Outside Agencies. The Board reserves the right to

amend all or any part of these Bylaws to such an extent and with such language as may be requested by any federal, state or local governmental agency which requests such an amendment to a condition precedent to such agency's approval of the Bylaws or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot. It is the desire of the Declarant to retain control of the Association and its activities through the Board during the anticipated period of planning and development of the Project until the Declarant has sold or otherwise divested itself of all interest in the Property. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, the Board shall have the right to prepare, provide for and adopt as an amendment hereto, other and different control provisions.

ARTICLE XV

Interpretation

In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

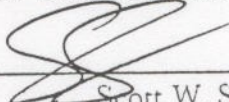
ARTICLE XVI

Fiscal Year

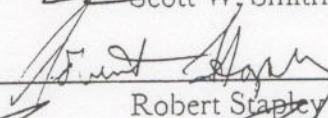
The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of each year, except that the first fiscal year shall begin on the date of incorporation of the Association.

DATED: 1-29, 2001

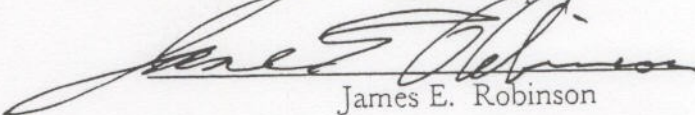
BOARD OF DIRECTORS:



Scott W. Smith



Robert Stapley



James E. Robinson

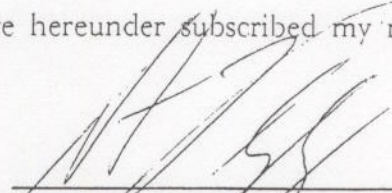
CERTIFICATION

The undersigned hereby certifies:

That I am the duly elected and acting Secretary of **Southern Crossing Homeowners' Association**, an Arizona non-profit corporation; and

That the foregoing Bylaws constitute the original Bylaws of said Association, as unanimously adopted by the Board of Directors on the 10th day of January, 2001.

IN WITNESS WHEREOF, I have hereunder subscribed my name this 10th day of January, 2001.



Steven D. Flaggman
Secretary