

(30) days thereafter, receive a notice of disapproval from any such entity. Said amendments shall not be recorded by Declarant until after the expiration of such thirty (30) day period.

ARTICLE 16

ANNEXATION OF ADDITIONAL PROPERTY

Additional property may be annexed to and become subject to this Declaration as set forth in this Article.

16.1 Phased Development of the Project. Declarant intends to sequentially develop the Project on a phased basis, each of which shall be annexed to the Project. However, Declarant is under no obligation to continue development of the Project. In addition, Declarant may elect to annex future Phases in any given order, pursuant to the provisions of Section 16.2 hereinbelow. No annexation hereunder shall be effective unless the procedures set forth in this Article have been executed.

16.2 Annexation Pursuant to General Plan of Development. All or any part of the real property described as Annexation Property in the Article herein entitled "Definitions," may be annexed to the Project and added to the scheme of this Declaration, and be subjected to the jurisdiction of the Association without the assent of the Association or its Members, provided and on condition that:

a. Any annexation pursuant to this section shall be made prior to the date which is the third (3rd) anniversary of the first close of escrow to occur after the issuance of the most recently issued Final Subdivision Public Report for the most recent Phase of the Project;

b. The development of the Annexation Property shall be in substantial conformance with the overall general plan of development for the Project originally submitted to and approved by the City, the DRE and VA/FHA; further, detailed plans for the development of each Phase shall have been submitted to and approved by VA/FHA prior to its annexation; and

c. A Notice of Annexation, as described in Section 16.4 of this Article, shall be recorded covering the Annexation Property.

16.3 Annexation Pursuant to Approval. Upon obtaining the approval in writing of the Association, pursuant to the vote or written assent of not less than sixty-seven percent (67%) of the total votes residing in the Members, excluding Declarant and Merchant Builders, and the approval of VA/FHA, if required, and the DRE, the owner of any property who desires to add said property to the scheme of this Declaration and to subject it to the jurisdiction of the Association may record a Notice of Annexation in the manner described in Section 16.4 of this Article.

16.4 Notice of Annexation. The annexation of additional property authorized under this Article shall be made by filing of record a Notice of Annexation, or similar instrument, covering said additional property, and the Notice of Annexation shall expressly provide that the scheme of this Declaration shall extend to such additional property. The Notice of Annexation may contain such complementary additions to and modifications of the Protective Covenants set forth in this Declaration which are necessary to reflect the different character, if any, of the annexed property and which are not inconsistent with the general scheme of this Declaration. Except as set forth in this section, no Notice of Annexation shall add, delete, revoke, modify or otherwise alter the Protective Covenants set forth in this Declaration.

Any Notice of Annexation must be executed by Declarant and the Merchant Builders, if any, who own the Annexation Property described in the Notice of Annexation.

16.5 Amendments to Notices of Annexation. Notwithstanding any other provisions of this Declaration to the contrary, a Notice of Annexation may be amended by the requisite affirmative vote of Members (and first Mortgagees, if applicable), as set forth in the Article herein entitled "General Provisions," in only the annexed property described in said Notice of Annexation, rather than all Members (and first Mortgagees, if applicable) in the Project, on the following conditions:

- a. Such amendment applies only to the annexed property described in said Notice of Annexation; and
- b. Such amendment shall in no way contradict, revoke or otherwise alter any of the Protective Covenants set forth in this Declaration.

16.6 Right of De-Annexation. Declarant and Merchant Builders hereby reserve the right to de-annex any property which may be annexed to the Project pursuant to this Declaration, and to delete said property from the scheme of this Declaration and from the jurisdiction of the Association, provided and on condition that the de-annexation shall be made prior to the closing of the sale of the first Lot in the property to be de-annexed, a draft of the revocation of Notice of Annexation has been submitted to and approved by VA/FHA and Declarant has obtained the prior written consent of the City.

16.7 Failure to Annex Annexation Property. If any Annexation Property is not annexed as provided herein, and the real property within the Annexation Property requires ingress, egress and access over private streets in the Project, and access to and use of the common facilities within the Project, valid easements shall exist for reasonable vehicular and pedestrian traffic and for reasonable use of the common facilities, provided, however, that the owner(s) of said property shall be obligated to pay their equitable share of the cost of maintenance and repair of said private streets and facilities, and shall be subject to a lien or liens for the maintenance and repair costs, as may be provided in a separate agreement between the Association and the owner(s) of said property.