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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SUMMIT VIEW RIDGE SUBDIVISION

THIS DECLARATION ("Declaration") made this ____ day of _____, 2001, by Casa Tiara Development, Inc. a Colorado corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of that certain real property in the County of Mesa, State of Colorado, described in *Exhibit A* to this Declaration which shall be the property ("Property") under this Declaration; and,

WHEREAS, Declarant deems it desirable to impose a general plan for the improvement, development and maintenance of the Property and to adopt and establish covenants, conditions and restrictions upon the Property for the purpose of enhancing, maintaining and protecting the value and attractiveness thereof; and,

WHEREAS, Declarant deems it desirable to set aside a portion of the Property as common areas for the use of the owners of the Property, and to establish a Colorado nonprofit corporation, SUMMIT VIEW RIDGE HOMEOWNERS' ASSOCIATION, INC., to which such common areas from time to time shall be conveyed and which shall be responsible for the management and maintenance of the planned development referred to herein and enforcement of the terms of this Declaration.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that the Property shall be held, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a general plan for the improvement and development of the Property. All of said limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in the Property or any part thereof and the successors in interest of such parties, and are imposed upon the Property and every part thereof as equitable servitudes which may be enforced by the Declarant, its successors and assigns, each Owner (as hereinafter defined), his or her successors and assigns, or by the Association (as hereinafter defined), its successors and assigns; provided, however, that no provisions of this Declaration shall limit, in any way, Declarant's construction of improvements on and development of Summit View Ridge, nor Declarant's right to maintain construction, sales or leasing offices or similar facilities on any real

property in Summit View Ridge owned by Declarant (or owned by an Owner with the consent of such Owner), nor Declarant's right to post signs incidental to construction, sales or leasing.

ARTICLE I

DEFINITIONS

Section 1.01. "Articles" shall mean Articles of Incorporation of Summit View Ridge Homeowners Association, Inc., filed with the Colorado Secretary of State, as said Articles may be amended from time to time, provided such Articles shall not be amended, changed or interpreted so as to be inconsistent with this Declaration.

Section 1.02. "Assessment" shall mean and refer to any or all of the Assessments hereinafter defined:

(a) "Regular Assessment" shall mean and refer to a charge against each Lot representing that portion of the Common Expenses attributable to such Lot as provided for in this Declaration.

(b) "Special Assessment" shall mean and refer to a charge against any Lot, directly attributable to such Owner, for certain costs incurred by the Association or Declarant for materials or services furnished to such Owner or his or her Lot at the request of or on behalf of such Owner, or as a result of any Owner failing to maintain any portion of his or her Lot in accordance with the provisions of this Declaration, or as a result of the negligence or willful misconduct of any Owner, his or her employees, guests or invitees, or for excessive use or special use of the services or facilities provided by the Association, including, but not limited to, parking, trash removal and maintenance of improvements.

(c) "Capital Improvement Assessment" shall mean and refer to a charge against any Lot representing a portion of the cost of the Association for the installation, construction, unexpected repair or replacement of any capital improvements, including the necessary fixtures and personal property related thereto, on the Common Area or any other portion of the Property upon which the Association may be required to install, construct, repair or replace any capital improvements as provided in this Declaration.

Section 1.03. "Association" shall mean and refer to Summit View Ridge Homeowners Association, Inc., a nonprofit corporation, incorporated under the laws of the State of Colorado.

Section 1.04. "Association Water" shall mean and refer to all shares of the capital stock of Grand Valley Irrigation Company and any other water or water rights, ditch or ditch rights, reservoir

(f) taxes paid by the Association;

(g) amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Area or any portion thereof;

(h) amounts paid or incurred by the Association in collecting assessments pursuant to Article VI hereof, including amounts expended to purchase a Lot in connection with the foreclosure of the assessment lien against such Lot;

(i) expenses incurred by the Association for any reason whatsoever in connection with the Common Area, this Declaration or any amendment to this Declaration, the Articles, or the Bylaws or in the furtherance of the purposes of the Association or in the discharge of any obligations imposed on the Association by the Board pursuant to this Declaration or any amendment to this Declaration;

(j) maintenance and upkeep of the grass areas and landscaping of the Lots of the individual Owners, to the extent such responsibility is expressly assumed by the Association, including, but not limited to, irrigation, mowing and trimming.

Section 1.10. "Conveyance" shall mean and refer to conveyance of a fee simple title, or lease of any part of the Property.

Section 1.11. "Declarant" shall mean and refer to Casa Tiara Development, Inc., its successors and assigns.

Section 1.12. "Lot" shall mean and refer to each numbered Lot now existing or to be created from the Property described in *Exhibit A* and any additional real property at any time annexed thereto. The boundaries of a Lot shall be as shown and defined on the original plat map and on any additional or re-plat map or maps recorded in the Mesa County Records.

Section 1.13. "Unimproved Lot" shall be a Lot upon which no improvements have been constructed.

Section 1.14. "Improved Lot" shall be a Lot upon which improvements have been constructed.

Section 1.15. "Member" shall mean and refer to every person or entity who holds a membership in the Association as provided in Article II, Section 2.01.

Section 1.16. "Mortgage" shall mean any mortgage or deed of trust or other conveyance of a Lot, or any interest therein, including but not limited to, the improvements thereon, to secure the performances of an obligation, which Lot will be reconveyed upon completion of such performance.

or water storage rights appurtenant to or used in connection with any portion of the Property or owned by the Association.

Section 1.05. "Board" shall mean the Board of Directors of the Association.

Section 1.06. "Bylaws" shall mean the Bylaws of the Association which have been or will be adopted by the Board, as such Bylaws may be amended from time to time, provided said Bylaws shall not be amended, changed or interpreted so as to be inconsistent with this Declaration.

Section 1.07. "CCIOA" means the Colorado Common Interest Ownership Act presently codified at 38-33.3-101, *et seq.*, as it may subsequently be amended from time to time.

Section 1.08. "Common Area" shall mean any and all real property and the improvements thereon, and any personal property, owned or leased from time to time by the Association for the common use and enjoyment of the Members. The Common Area consisting of real property, if any, shall be as shown on the recorded plat within the area described in *Exhibit A*. Common Area shall also include any and all irrigation lines and equipment used in delivering irrigation water to the individual lots. Declarant shall convey the Common Area to the Association, fully landscaped, free of all liens and encumbrances except current real property taxes (which taxes shall be prorated as of the date of conveyance), title exceptions of record and the covenants, conditions, reservations and restrictions contained in this Declaration and the instrument which conveys the Common Area to the Association.

Section 1.09. "Common Expenses" shall mean and refer to the actual and estimated costs of:

(a) maintenance, management, operation, repair and replacement of the Common Area, to the extent provided in this Declaration, including utilities, trash pick-up and disposal, landscaping and other services benefitting the Common Area;

(b) fire, casualty, liability and other insurance covering the Common Area and workmen's compensation for all employees;

(c) unpaid assessments;

(d) management and administration of the Association, including, but not limited to, bonding of the members of the Board, officers and employees of the Association, and compensation paid by the Association to accountants, attorneys and employees, for services benefitting the Association or Common Area;

(e) reasonable reserves as appropriate;

Section 1.17. "Mortgagee" shall mean and include mortgagees, trustees, beneficiaries and holders of deeds of trust, and the holders of any indebtedness secured by mortgages.

Section 1.18. "Mortgagor" shall mean and include mortgagors and trustors under deeds of trust.

Section 1.19. "Owner" shall mean and refer to Declarant and to any person or entity holding a record fee simple ownership interest in any Lot which is a part of the Property, including contract purchasers, but excluding Mortgagees and those having such interest merely as security for the performance of an obligation.

Section 1.20. "Property" shall mean and refer to all the real Property described on *Exhibit A* hereto, together with any real property annexed thereto in the future.

Section 1.21. "Sight Distance Easement" shall mean an area designated by Mesa County to insure adequate unobstructed vision at all intersections.

Section 1.22. "Summit View Ridge" shall mean all of the Property, and improvements thereon, now or hereafter subject to this Declaration or any amendment to this Declaration.

ARTICLE II

THE ASSOCIATION
MEMBERSHIP; VOTING RIGHTS; DECLARANT CONTROLS

Section 2.01. Membership. Every Owner of one or more Lots in the Property shall be entitled and required to be a member of the Association, subject to the voting rights provisions of this Article II. No person or entity other than an Owner of one or more Lots in the Property may be a member of the Association.

Section 2.02. Allocation of Votes. Each Lot shall be allocated one vote in the Association, subject to Section 2.05 below.

Section 2.03. No Cumulative Voting. In the election of directors, cumulative voting shall not be allowed.

Section 2.04. Membership Appurtenant. Membership in the Association shall be appurtenant to and inseparable from a Lot. Membership in the Association may not be transferred except in connection with the transfer of ownership of a Lot.

Section 2.05. Declarant Control.

(a) Notwithstanding anything stated elsewhere in this Declaration, until the earliest of: (1) ten (10) years after the date of recording of this Declaration in the office of the Mesa County, Colorado, Clerk and Recorder; (2) sixty (60)

days after conveyance of 75 percent of the Lots to owners other than Declarant; or, (3) two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business, Declarant may appoint and remove officers and members of the Board of Directors of the Association, subject to the limitations stated in this section.

(b) Not later than sixty (60) days after conveyance of 25 percent of the Lots which may be created by the terms of this Declaration to Owners other than Declarant, at least one member, and not fewer than 25 percent of the members, of the Board of Directors must be elected by the Owners of Lots other than Declarant.

(c) Not later than sixty (60) days after conveyance of 50 percent of the Lots which may be created by the terms of this Declaration to Owners other than Declarant, not fewer than 33 1/3 percent of the members of the Board of Directors must be elected by Owners other than Declarant.

(d) Not later than the termination of the period of Declarant control specified in subsection 2.05(a) of this Article, the Owners shall elect a Board of Directors of at least three (3) members, at least a majority of who must be Owners other than Declarant or designated representatives of Owners other than Declarant. The Board of Directors so elected and officers shall take office upon termination of the period of Declarant control specified above.

(e) Notwithstanding anything to the contrary stated elsewhere in this Section 2.05, by a vote of 67 percent of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, any member of the Board of Directors may be removed with or without cause, other than a member appointed by Declarant.

Section 2.06. Quorum. A quorum will be deemed present throughout any meeting of the Association if persons entitled to cast 20 percent of the votes which may be cast for election of the Board of Directors of the Association are present in person or by proxy at the beginning of the meeting. A quorum will be deemed present throughout any meeting of the Board of Directors of the Association if persons entitled to cast 50 percent of the votes on that Board are present at the beginning of the meeting.

ARTICLE III

PROPERTY RIGHTS IN THE LOTS AND COMMON AREA

Section 3.01. Title to the Lots. The Declarant, its successors and assigns, shall convey fee title to the Lots subject to current real property taxes, which taxes shall be prorated to the date of transfer, and easements, conditions and reservations then of record, including those set forth in this

Declaration. No Owner shall be entitled to sever his or her ownership interest in a Lot from his or her membership in the Association, provided that this clause shall not be construed as precluding the Owner of a Lot from creating a co-tenancy or joint tenancy with other person or persons.

Section 3.02. Title to the Common Area. The Declarant, its successors and assigns, shall convey fee simple title to the Common Area to the Association, free and clear of all liens and encumbrances, except easements, conditions and reservations then of record, including those set forth in this Declaration prior to sale or conveyance of any individual lots in Summit View Ridge.

Section 3.03. Members' Easements of Enjoyment. Every Member shall have a non-exclusive right and easement in and to the Common Area, including, but not limited to, an easement for ingress, egress and support over and through the Common Area, and easements for utilities, sewage and drainage. Each such easement 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 adopt uniform rules and regulations pertaining to the use and enjoyment of the Common Area;

(b) The Association may borrow money and encumber by mortgage or deed of trust the Common Area or any part thereof for the purpose of improving the Common Area, provided any such mortgage or deed of trust shall be expressly subordinate to the rights of the Members herein;

(c) The right of the Association to suspend a Member's voting rights for any period during which any Assessment against his or her Lot remains unpaid and delinquent, and for a period not to exceed thirty (30) days for any single infraction of the rules and regulations of the Association, provided that any suspension of such voting rights except for failure to pay assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the Bylaws of the Association;

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds of the votes has been recorded, agreeing to such dedication or transfer, and provided written notice of the proposed action is sent to every Member no less than thirty (30) days nor more than sixty (60) days in advance.

(e) The right of Declarant or its designees to enter upon the planned development for purposes of construction of the development and for purposes of making repairs and remedying construction defects; provided such entry shall not

interfere with the use of any occupied Lot unless authorized by the Lot Owner.

(f) The right of the Association to charge reasonable admission and other fees for the use of any recreational or storage facility situated upon the Common Area.

Section 3.04. Delegation of Use. Any Member may delegate in accordance with the Bylaws, his or her right of enjoyment to the Common Area to the members of his or her family, his or her guests and invitees, or his or her tenants, or contract purchasers who are in possession of such Member's Lot.

Section 3.05. Waiver of Use. No Member may exempt himself or herself from personal liability for assessments duly levied by the Association nor release the Lot owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his or her Lot.

Section 3.06. Parking Plan. Each Lot, when improved, shall provide a minimum of two parking spaces for each residence located upon said Lot. All parking spaces shall have an asphalt-based or concrete surface.

Section 3.07. General Restrictions. All future Owners of the Lots by their acceptance of their respective deeds, covenant and agree as follows:

(a) That the Common Area shall remain undivided, and no Owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of Owners with respect to the operation and management of the Property.

(b) The Association shall have a perpetual and non-exclusive easement on the Common Area and all Lots for the purpose of ingress and egress in connection with the maintenance of and repairs to the Common Area, including without limitation, the irrigation system, and maintenance and upkeep of the grass areas and landscaping, including without limitation, irrigation, mowing and trimming, to the extent responsibility for such maintenance and upkeep of the grass areas and landscaping has been expressly assumed by the Association.

ARTICLE IV

COVENANT FOR ASSESSMENTS

Section 4.01. Creation of the Lien and Personal Obligation of Assessments. The undersigned, for each Lot within the Property (including any Lots subsequently added under Article

XII below), covenants, and each Owner of any Lot by acceptance of a deed for that Lot, whether or not it shall be so expressed in that deed, is deemed to covenant and agree to pay to the Association: (a) all assessments or charges levied against that Lot; (b) all fees, charges, late charges, attorneys fees, fines, collection costs, and interest charged pursuant to this Declaration or as allowed by Section 33-33.3-316(1), C.R.S., or any other provision of CCIOA as it may be subsequently amended by any other applicable law. All items set forth in this section, from the time such items become due, shall be a charge on and covenant running with the land and shall be a continuing lien on the Lot against which each such item is charged. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations. Each such item, together with interest, costs, and reasonable attorneys fees, shall also be the joint and several personal obligation of each person and entity who was the Owner of the Lot at the time when the item became due. This personal obligation shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner may be exempt from liability for assessments by waiver of use or enforcement of Common Expenses, Association Water, Irrigation Facilities, or other assets or benefits of the Association, or by abandonment of Lot or Residence.

Section 4.02. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for: Common Expenses; to promote the health, safety, or welfare of the residents in Summit View Ridge; or for the benefit of the Common Area or Association Water; or for any other purpose of the Association as those purposes are specified by the Articles of Incorporation of the Association (as amended from time to time); or as otherwise authorized by CCIOA.

Section 4.03. Initial Assessment.

(a) The initial assessment for Common Expenses of the Association shall be fixed in an amount set by, and made upon the resolution of, the Board of Directors of the Association.

(b) After any assessment has been made by the Association, assessments shall be made no less frequently than annually based on a budget adopted by the Association as described elsewhere in this Declaration. Assessments may include, without limitation, allocations for reserves for repair or replacement of existing capital items and acquisition, construction, and existing capital items and acquisition, construction, and installation of new improvements, all to the extent set forth in the approved budget upon which such assessment is based.

(c) Until the Board of Directors of the Association makes an assessment, all expenses of the Association shall be paid by Declarant.

Section 4.04. Date of Commencement of Annual Assessment; Due Dates. The first Assessment for Common Expenses shall be adjusted according to the number of months remaining in the calendar year for which the Assessment is made, if less than a full year. Thereafter, the Board

of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject to the Assessment. The due dates 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 Assessments on a specified Lot have been paid.

Section 4.05. Expense Allocation. Except as otherwise stated in this section, each Lot shall be allocated a fraction of the Common Expenses of the Association in which the numerator is one and the denominator is the number of Lots then in the Property. Any Common Expense or portion of any Common Expense benefitting or caused by fewer than all Lots shall be assessed exclusively against the Lots benefitted by or causing the Common Expense.

Section 4.06. Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate not to exceed 21 percent per annum set annually by the Association's Board of Directors. In the event the Board fails to set the interest rate, the rate shall be 15% per annum.

Section 4.07. Priority of Lien. The lien for assessments which includes all those items specified in item (a) and (b) in Section 4.01 of this Article IV shall have the priority specified in CCIOA which, as of the date of this Declaration, is codified at Section 38-33.3-316(2), C.R.S.

ARTICLE V

BUDGET AND RECORDS

Section 5.01. Books and Records. The Board of Directors shall cause to be maintained a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principles. All books, records, and papers of the Association shall be available for inspection and copying by any Member or his or her representative during regular business hours at the principal office of the Association. The Board of Directors may establish reasonable rules concerning notice to be given the custodian of the records by anyone desiring to inspect them, and payment of costs of reproducing any documents requested by any Member.

Section 5.02. Annual Budget. The Board of Directors shall cause to be prepared no less than annually an operating budget, balance sheet, and cash flow statement for the Association.

Section 5.03. Delivery of Budget. Within thirty (30) days after adoption of any proposed budget, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other deliver of the summary.

Section 5.04. Ratification of Budget. Unless at that meeting Owners representing a majority of all Lots reject the budget, the budget is ratified, whether or not a quorum is present.

Section 5.05. Rejection of Budget. In the event that the proposed budget is rejected, the present budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

Section 5.06. Reserve Fund. As part of each annual budget, the Board of Directors shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of any personal property, fixtures, and improvements required to be operated or maintained by the Association based upon age, remaining life, replacement cost, and any other relevant factors.

ARTICLE VI

NONPAYMENT OF ASSESSMENTS

Section 6.01. Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of delinquency at a rate not to exceed 21 percent per annum and in addition to all legal and equitable rights or remedies, the Association may, at its option, bring an action at law against the Owner personally obligated to pay the same or, upon compliance with the notice provisions set forth in Section 6.02 hereof, proceed to foreclose the lien (provided for in Section 4.01 hereof) against the Lot, and there shall be added to the amount of such Assessment and interest thereon, all costs which may be incurred by the Association in the collection thereof, including reasonable attorneys fees. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or institute judicial foreclosure proceedings against such Owner or other Owners for the collection of such delinquent Assessments.

Section 6.02. Notice of Claim of Lien. No action shall be brought to foreclose an Assessment lien or to proceed under the power of sale provided in Section 6.03 less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the County Recorder in the county in which the Property is located. Said notice of claim of lien must recite a sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may at the Association's option include interest on the unpaid Assessment, plus reasonable attorneys fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association as claimant.

Section 6.03. Foreclosure Sale. Any such sale provided for above is to be conducted in accordance with those provisions of the laws and rules of the courts of the state of Colorado applicable to the foreclosure of mortgages and deeds of trust, or in any other manner permitted or

provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, in the name of the Association.

Section 6.04. Curing of Default. Upon the timely curing of any delinquency for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, a certificate setting forth the satisfaction of such claim and release of such lien, upon payment by the defaulting Owner of a fee, to be determined by the Association, to cover interest, the costs of preparing and filing or recording such release, and other expenses incurred.

Section 6.05. Cumulative Remedies. The Assessment lien and the rights of foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments, as above provided, all remedies being cumulative.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 7.01. Architectural Approval. All improvements on any Lot shall be in compliance with the zoning approved by Mesa County. No building, fence, wall, sign or other structure shall be commenced, erected or maintained upon the Property (including Common Area), nor shall any exterior addition to or change or alteration therein (including painting) be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee provided for in Section 7.03 hereof as to harmony of external design and location in relation to surrounding structures and topography. Provided that Declarant, its successors or assigns shall not be required to comply with the provisions of this Section 7.01. In the event said Committee, or its designated representatives, fails to approve or disapprove such design and location within thirty (30) days after said plan and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. All improvement work approved by the Architectural Committee shall be diligently commenced and completed.

Section 7.02. Landscaping Approval. No Owner shall plant or place any trees, bushes, shrubs or plants upon any Lot until the plans and specifications for the species and placement of any such trees, bushes, shrubs or plants have been submitted to and approved in writing by the Architectural Committee provided for in Section 7.03 hereof. Said plans as submitted shall show in detail the proposed elevations and locations of said trees, bushes, shrubs or plants, including the location and elevation of the same in relation to all other Lots subject to these restrictions. Provided that Declarant, its successors or assigns, shall not be required to comply with the provisions of this Section 7.02.

Section 7.03. Appointment of Architectural Committee. The Declarant shall initially appoint the Architectural Committee consisting of not less than three (3) members, who shall remain in office until: (a) ten (10) years from the date of recording of this Declaration; or (b) all of the Lots in the Property have been sold and deeds thereto recorded in favor of Owners, whichever shall first occur. From and after such time and event, as the case may be, the Architectural Committee shall be appointed by the Board of the Association and shall be composed of three (3) or more representatives who need not be Members of the Association. In the event of the death or resignation of any member of the Committee prior to the time when the Board of the Association is vested with authority, the Declarant shall have the right to appoint such member's successor.

Section 7.04. No Liability. Neither Declarant, the Association, or the Architectural Committee or the members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of property affected by these restrictions by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications, and every Owner of any of said Property agrees that he or she will not bring any action or suit against Declarant, the Association, the Architectural Committee, or any of the members thereof to recover any such damage.

Section 7.05. Notice of Noncompliance or Noncompletion. Not withstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of completion of construction of any improvements within the Property, said improvements shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all the provisions in this Article VII, unless actual notice of such noncompliance or noncompletion, executed by the Architectural Committee or its designated representatives, shall appear of record in the office of the County Recorder of Mesa County, Colorado, or unless legal proceedings shall have been instituted to enforce compliance or completion.

Section 7.06. Rules and Regulations. The Architectural Committee may from time to time, in its sole discretion, adopt, amend and repeal rules and regulations interpreting and implementing the provisions hereof.

Section 7.07. Variances. Where circumstances, such as topography, location of property lines, location of trees, or other matters require, the Architectural Committee, by the vote or written consent of a majority of the Members thereof, may allow reasonable variances evidenced in writing as to any of the covenants, conditions or restrictions contained in the Declaration under the jurisdiction of such Committee, on such terms and conditions as it shall require. The granting of a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except at the particular provision hereof covered by the variance and shall not necessarily serve as a basis for subsequent variances with respect to the other Lots. The granting of any variance shall not affect in any way the Association's or Owner's obligation to comply with the laws and resolutions of Mesa County and other applicable governmental laws or regulations.

Section 7.08. Appointment and Designation. The Architectural Committee may from time to time, by the vote or written consent of a majority of its members, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects, engineers or other qualified persons who shall have full authority to act on behalf of said Architectural Committee in all matters delegated.

Section 7.09. Review Fee and Address. Any plans and specifications shall be submitted in writing for approval together with a reasonable processing fee. The address of the Architectural Committee shall be the principal place of business of the Association of such other place as the Architectural Committee may from time to time designate in writing to the Board of Directors. Such address shall be the place for the submittal of any plans and specifications and the place where the current rules and regulations, if any, of the Architectural Committee shall be kept.

Section 7.10. Inspection. Any member or agent of the Architectural Committee may from time to time at any reasonable hour or hours and upon reasonable notice enter and inspect any property subject to the jurisdiction of said Architectural Committee as to its improvement or maintenance in compliance with the provisions hereof.

Section 7.11. General Provisions. The members of the Architectural Committee shall not be entitled to any compensation for services performed under Article VII hereof. The powers and duties of such Committee shall cease and terminate on a date forty (40) years after the date of the recording of this Declaration. Thereafter, the approval described in Article VII shall not be required unless, prior to said termination date and effective thereon, a written instrument shall be executed and duly recorded by the then record Owners or a majority of the Lots appointing a representative or representatives who shall thereafter exercise the same powers previously exercised by said Committee.

Section 7.12. Compliance with Governmental Laws. The Declarant, its successors and assigns, and all future Owners of any Lot, and their heirs, personal representatives, successors and assigns by their acceptance of their respective deeds, and the Association shall be bound by and subject to the laws and resolutions of Mesa County and all other applicable governmental laws or regulations. No building or other structure or addition or change or alteration thereof shall be commenced, constructed, erected, placed, altered, maintained or permitted to remain erected, placed, altered, maintained or permitted to remain on any of the real property within the Property, including the Common Area, which is in violation with any of the laws or resolutions of Mesa County or any other applicable governmental laws or regulations.

ARTICLE VIII

ASSOCIATION POWERS AND OWNERS' USE

Section 8.01. Authority. The Association shall have all rights, powers, and authority specified or permitted by: (a) CCIOA; (b) any other applicable law; (c) this Declaration; and (d) the Articles and Bylaws of the Association to the extent not inconsistent with (a), (b), or (c).

Section 8.02. Actions Against Owners. The Association may take judicial action against any Owner to enforce compliance with any provisions of this Declaration, obtain mandatory or injunctive relief, or obtain damages for noncompliance and exercise any other right or remedy for enforcement of this Declaration permitted by law. All of such rights and remedies of the Association shall be cumulative.

Section 8.03. Conveyance or Encumbrance. The Association shall have the right to encumber, dedicate, or convey all or any part of the Common Area or any other Association asset, except as provided in Section 9.02, below. However, no such encumbrance, dedication, or conveyance shall be effective except in an instrument signed by 75 percent of the Owners, including 75 percent of all Owners other than Declarant, agreeing to such encumbrance, dedication, or transfer which has been recorded in the Mesa county records. Such an instrument may be signed in counterparts which shall together constitute a single agreement.

Section 8.04. Delegation of Use. Any Owner may delegate, subject to any Bylaws of the Association, his or her right of enjoyment to the Common Area and use of Association Water to the members of his or her family residing with him or her, his or her tenants, or contract purchasers who reside on the Lot owned by that Owner.

Section 8.05. Declarant's Use. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, its successors and assigns, or any agent, contractor, subcontractor or employee of the Declarant to maintain during the period of construction and sale upon such portion of the properties as Declarant deems necessary such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to said construction and sale, including, but without limitation, a business office, storage area, construction yards, signs model units and sales office.

Section 8.06. Owner's Use. In addition to the duties stated elsewhere in this Declaration, each Owner shall have the duty and obligation to perform and comply with the following restrictions to preserve the overall value of the entire property:

(a) Use of Lots is restricted to high quality, single family detached or attached (duplex unit) residences with attached garages for not more than three (3) cars, subject to the terms and provisions hereof relating to Architectural Control. All residences shall have exterior materials of wood or other natural materials or shall be of other composition to simulate natural materials. Roofs shall be pitched and shingled or tiled. No store, detached office or place of retail business of any kind and no hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, saloon or other place of entertainment, nor any church, club, fraternal association or other association normally or regularly involving the gathering of people in groups larger than the family will be erected or permitted upon the sites, and no business of any kind or character whatever shall be conducted thereon or in or from any building thereon, except for

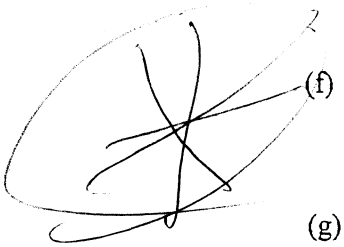
home occupations or businesses as may be allowed by Mesa County zoning regulations.

(b) Maintenance, upkeep and repairs of any residence or other improvements on each Lot shall be the sole responsibility of the individual Owner thereof, except for maintenance and upkeep of grass areas and landscaping to the extent such responsibility is expressly assumed by the Association. The owners of any attached residences or duplex units constructed on Lots shall share equally in the costs of maintenance, upkeep, repair and replacement of party walls between the attached residences or duplex units. The exterior of residences shall be maintained in good condition and repair, including, without limitation, shingles, tiles, paint and trim. All landscaping, steps, and porches, shall be aesthetically pleasing and reasonably consistent with the landscaping of the surrounding Lot Owners. Weather permitting, all Lots shall be reasonably landscaped within six (6) months after the residence is built on the Lot. All steps and porches shall be completed, including the appropriate painting, within thirty (30) days after the residence is built on the Lot.

(c) All utilities, fixtures and equipment installed within the perimeter of any Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the perimeter lot line, shall be maintained and kept in repair by the Owner thereof, except for maintenance and repair of common irrigation lines and equipment. An Owner shall do no act nor any work that will impair any easement or hereditament nor any act nor allow any condition to exist which will adversely affect the other Lots and improvements or their Owners.

(d) Refuse piles or other unsightly objects or materials shall not be allowed to be placed on or to remain upon any Lot. All receptacles or other equipment for the storage or disposal of refuse materials shall be kept in a clean and sanitary condition.

(e) No commercial type vehicles, unlicensed vehicles or trucks shall be parked on any Lot except while engaged in transport. For the purposes of this paragraph, a 3/4-ton or smaller vehicle, commonly known as a pickup truck, shall not be deemed to be a commercial vehicle or truck. No recreational vehicles including, but not limited to campers, boats, snowmobiles, and motor homes, shall be parked on or about any Lot or street in Summit View Ridge, unless parked inside a garage or out of plain sight from any street or streets adjoining the Lot behind a privacy fence or at the back of the Lot. No major vehicle repairs shall be conducted upon any Lot, Common Area or street in Summit View Ridge, except within enclosed garages. "Major vehicle repairs" shall include, without limitation, those which render the vehicle inoperable for more than a 24 hour period.



(f) No Lot or easement shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be disposed of in a sanitary manner.

(g) No Lot Owner shall be allowed to park in the area between the front of their home and the street, no more than two (2) vehicles, except while engaged in transport or for infrequent periods not to exceed 12 hours. All parking spaces shall have an asphalt-based or concrete surface.

(h) There will be only one detached or attached residence (duplex unit) per Lot to be used by one (1) family only. Residences shall have a minimum of 1,100 square feet of living space in the case of single level structures and a minimum of 1,400 square feet of living space in the case of bi-level structures.

(i) Mesa County setback requirements or the following setback requirements, whichever are more restrictive, shall apply regarding residence and attached garage locations: (1) No residence shall be nearer than twenty (20) feet of the front property line; (2) No residence shall be nearer than ten (10) feet of the rear property line; and, (3) no residence shall be nearer than five (5) feet from each side of property line.

(j) No elevated tanks of any kind (oil, gas, water, etc.) shall be constructed on any Lot.

(k) Clotheslines, equipment, garbage cans, service yards or storage areas shall be adequately screened by planting or construction. No structure, tower or antenna shall be erected, altered, placed or permitted on the site which exceeds the height of the peak of the roof of the residence constructed on the Lot. Placement, cable placement and color of satellite dishes shall be subject to prior approval of the Architectural Committee as provided for in Section 7.01 hereof, to the extent permissible under applicable federal, state and local laws, rules and regulations. To the extent feasible, satellite dishes and antennas shall be placed in locations which are not visible from the street or streets bordering any lot on which placement occurs.

(l) No obnoxious, offensive or other activity which would constitute a public or private nuisance or annoyance to the neighborhood will be permitted.

(m) No dangerous or wild animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that a reasonable number of dogs, cats, or other household pets may be kept if they are not kept, bred, or maintained for commercial purposes. All pets shall be under the control of their owner, whether by containment on the Owner's property or on a leash.

No pet shall be allowed to run at large, endanger, or harass persons, property, or other animals, or constitute a nuisance or annoyance to other Lot Owners or occupants. The Board of Directors of the Association, when requested by any Owner, shall have the authority to determine whether or not the number of pets is unreasonable, or whether any animal or pet is a nuisance to any other Owner.

(n) No firearms, unlawful fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged.

(o) No advertising signs, billboards or unsightly objects shall be maintained or erected. "For Sale" signs may be posted no larger than those allowed by the then existing Mesa County zoning restrictions. Nothing contained in this paragraph shall be construed to prohibit the temporary placement of political signs for reasonable periods before and after elections as otherwise permitted by applicable law.

(p) No fencing shall be placed on any Lot without approval of the Architectural Committee as provided for in Section 7.01 hereof, which approval may be withheld if such fencing is not in character and harmonious with the improvements existing on the other Lots and the Common Area in Summit View Ridge or if such fencing interferes with maintenance and upkeep of any grass areas or landscaping.

(q) In the event any Owner maintains and keeps his or her yard in a condition which violates any of the use restrictions hereinabove set forth, the Board of Directors of the Association shall have the power to contract with an independent third party to remedy the use violation. Said right to remedy shall arise after seven (7) days written notice of the nature of the violation is given to the Owner of the Lot, and the Owner has failed to remedy the violation said 7-day period. The cost of correcting the violation shall be paid as a Special Assessment and is enforceable by the Association against the Owner of the Lot in violation, as provided in Article IV herein. This remedy shall be in addition to other remedies provided herein for enforcement of the provisions of this Declaration.

(r) No landscaping, fences, improvements or other objects in excess of 30 inches in height shall be placed in any Sight Distance Easements.

ARTICLE IX

IRRIGATION AND WATER RIGHTS

Section 9.01. System. Declarant shall construct a gravity flow or pressurized irrigation system for the use and benefit of the Common Area and individual Lots.

Section 9.02. Title to System. The Declarant, its successors and assigns, shall transfer ownership to the entire irrigation system and _____ shares of the Capital Stock of the Grand Valley Irrigation Company, free and clear of all liens and encumbrances, to the Association at such time as the Common Area is conveyed and prior to conveyance of any individual Lot. Said water stock shall not be encumbered, dedicated nor conveyed in whole or in part without the express written consent of Mesa County, Colorado. This provision of the Declaration may not be amended or deleted without the express written consent of Mesa County.

Section 9.03. Maintenance and Water Assessments. The Declarant, its successors and assigns, shall maintain the system and pay all water assessments until such time as it is transferred to the Association, provided however, that Declarant shall be reimbursed for all payments of water assessments. Upon the transfer to the Association, full responsibility for the maintenance and payment of water assessments shall be the responsibility of the Association.

ARTICLE X

RIGHTS OF LENDERS

Section 10.01. Filing Notice; Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Lot within the Property. Such notice need not state which Lot or Lots are encumbered by such Mortgage, but shall state whether such Mortgagee is a First Mortgagee. Wherever the approval of all or a specified percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or a specified percentage only of those Mortgagees which have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having the notice provided in this Section, a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgagees over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

Section 10.02. Relationship with Assessments Liens.

(a) The lien provided for in the Article hereof entitled "Nonpayment of Assessments" for the payment of Assessments shall be subordinate to the lien of any Mortgage which was recorded prior to the date any such Assessment becomes due, except as otherwise provided in Section 38-33.3-316(2)(b)(I), C.R.S..

(b) If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a Mortgage: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and (2) the foreclosure of the lien of said Mortgage, or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the Events of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation for said charges as shall have accrued up to the time of any of the Events of Foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the Events of Foreclosure.

(c) Any Mortgagee who obtains title to a Lot by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale, shall take title to such Lot free of any lien or claim for unpaid Assessments against such Lot which accrue prior to the time such Mortgagee or purchaser takes title to such Lot, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Lots within the Property.

(d) Nothing in this Section shall be construed to release any Owner from his or her obligations to pay for any Assessment levied pursuant to this Declaration.

ARTICLE XI

INSURANCE AND FIDELITY BONDS

Section 11.01. Insurance. The Association shall carry any and all insurance coverages required by the CCIOA.

Section 11.02. Corporate Employees. If any Owner or Association employee controls or disburses Association funds, the Association must obtain and maintain, to the extent reasonably available, fidelity insurance in an aggregate amount equal to not less than two months of current assessments plus reserve calculated from the then-current budget of the Association.

Section 11.03. Independent Contractors. Any person employed as an independent contractor by the Association for the purposes of managing the Association must obtain and maintain fidelity insurance in that same amount unless the Association names such a person as an insured employee in a contract of fidelity insurance described above.

Section 11.04. Additional Coverage. The Association may carry or require of an independent contractor employed to manage the Association fidelity insurance coverage in an amount greater than that specified in this section.

Section 11.05. Commons Expenses. Premiums for insurance required by the Association under this provisions are Common Expenses of the Association.

ARTICLE XII

SPECIAL DECLARANT RIGHTS

Section 12.01. Special Declarant Rights. Declarant reserves all special declarant rights available under CCIOA, currently defined at Section 38-33.3-103(29), C.R.S.

Section 12.02. Assignment by Declarant. Except as restricted by CCIOA or other applicable law, Declarant may assign (from time to time) some or all of Declarant's rights or obligations under this Declaration to any other person or entity and, upon such assignment, shall be relieved from any obligation or liability assigned.

Section 12.03. Sales Office and Models. Despite anything to the contrary stated elsewhere in this Declaration, the Declarant may maintain a sales and/or management office and model homes on the Property. The office may be located on any Lot owned or leased by Declarant and may be relocated to any other Lot owned or leased by Declarant from time to time, at Declarant's sole discretion. If Declarant ceases to own or lease any Lot, Declarant shall have a period of thirty (30) days in which to remove the office described above from the Property. The Declarant may maintain one or more signs on the Common Area or Lots owned or leased by Declarant for the purposes of advertising the Property and the sales of Lots. The provisions of this section shall control in the event of any conflict with any other provisions contained in this Declaration.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.01. Rules and Regulations. The Association shall have the right to impose rules and regulations upon the Owners concerning use of the Common Area, Association Water, and any other Association property; provided, all rules and regulations shall apply equally and uniformly to all Lots and Owners.

Section 13.02. Enforcement.

(a) The Association or the Owner (including Declarant) of any Lot may enforce any provision of this Declaration in an action at law or in equity. The relief sought may include damages (including, for example, consequential and incidental damages) for any violation, or injunctive relief, or both. This listing of possible remedies is not exclusive. It is the intent of the Declarant that the Association or an Owner may obtain any relief available under the then applicable law or the provisions of this Declaration for violation of any provision of this Declaration. All such rights and remedies shall be cumulative.

(b) In any litigation or other proceeding concerning enforcement or interpretation of this Declaration, the prevailing party shall be entitled to recover reasonable attorney fees and court costs, in addition to any other relief available to that party.

Section 13.03. Term. The provisions of this Declaration shall each constitute covenants running with the land applicable to all of the Lots, binding Declarant and all persons and entities claiming by, through, or under it for a period of twenty (20) years from the date of this Declaration. Thereafter, this Declaration shall be automatically extended for successive periods of twenty (20) years each, without action by or notice to any person or entity.

Section 13.04. Amendment. Subject to the provisions of Section 38-33.3-217(1), (5) and (6), C.R.S., all or any portion of this Declaration other than the provisions of Article XII may be supplemented, changed, or canceled in whole or in part at any time by the consent of 67 percent of the Lots evidenced by an instrument in writing signed by all of the then Owners of the Lots in a manner provided by law at the time for conveyance of real property, when that instrument is duly recorded in the office of the Clerk and Recorder of Mesa County, Colorado. Upon recordation in that manner, any modification of this Declaration shall be valid and binding upon the Owners of the Lots and their heirs, personal representatives, successors in interest, and assigns. This Declaration may also be amended as provided by Section 38-33.3-217(7), C.R.S.

Section 13.05. CCIOA Controls. Any provision of this Declaration in conflict with the provisions of CCIOA shall be void and of no effect.

Section 13.06. Notice. Any notice or demand required or permitted by this Declaration shall be in writing and shall be sent by United States first-class mail, postage prepaid, to the address of the Owner of the Lot(s) to receive notice at the address provided by the Owner for that purpose to the secretary of the Association. If the Owner fails to provide an address to the secretary, notice shall be sent to the address of the Owner specified in the deed recorded in the Mesa County, Colorado, real estate records by which that Owner took title and to the street address of that Lot, if any.

Section 13.07. Section Headings. The section titles and headings used in this Declaration are for identification purposes only and shall not be utilized to interpret or construe the provisions of this Declaration.

Section 13.08. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

Section 13.09. Binding Effect. The provisions of this Declaration shall be binding upon and for the benefit of Declarant and each and all of its successors in interest and assigns.

Section 13.10. Gender. Whenever reference is made to persons, unless the context requires otherwise, words denoting the singular may be, and where necessary shall be, construed as denoting

the plural number; and words of the plural number may be, and where necessary shall be, construed as denoting the singular number; and words of one gender may be, and where necessary shall be, construed as denoting such other gender as may be appropriate.

Section 13.11. No Right Given to the Public. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Property to the general public or for any public use or purpose.

Section 13.12. Applicability of Governmental Regulations. The covenants, conditions, and restrictions contained herein are separate and distinct from any zoning, building or other law ordinance, rule or regulation of Mesa County or of any governmental authority having jurisdiction over the Property which now or in the future may contain different requirements from or in addition to those contained herein or which may prohibit uses permitted herein or permit use prohibited herein. In the event of any conflict between the provisions hereof and the provisions of any such law, ordinance, rule or regulation, the owner must first comply with all governmental laws, ordinances, rules or regulations and then to the extent possible, the Owner must comply with these covenants, conditions, and restrictions unless such compliance would result in a violation of such law, ordinance, rule or regulation, in which case, upon a finding that compliance herewith would result in such a violation, the Architectural Committee shall waive any such covenants, conditions, or restrictions to the extent it results in such a violation, and in connection therewith, the Architectural Committee may impose such conditional covenants, conditions, and restrictions as may be necessary to carry out the intent of this Declaration.

IN WITNESS WHEREOF, Declarant have executed this instrument the day and year first above written.

DECLARANT:

CASA TIARA DEVELOPMENT,
a Colorado corporation

By _____
Mansel L. Zeck, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 3 day of December 2001, by Mansel L. Zeck, as President of Casa Tiara Development, Inc., a Colorado corporation.

WITNESS my hand and official seal.
My commission expires: 4-30-05

Notary Public

CAROLYN M. COOK NOTARY PUBLIC STATE OF COLORADO

Exhibit A

A parcel located in the northeast quarter of the northeast quarter, Section 15, Township 1 South, Range 1 East, Ute Meridian, Mesa County, Colorado, described by metes-and-bounds from the results of a field survey as follows:

Beginning at a point which is S85°50'11"W 394.04 feet from the northeast corner of Section 15, then along the following ten courses:

1. N89°47'50"W 557.00 feet along a line 30.00 feet south of and parallel to the north line of the northeast quarter of the northeast quarter;
2. S00°00'21"W 1287.95 feet along a line 950 feet west of and parallel to the east line of the northeast quarter of the northeast quarter;
3. S89°49'03"E 301.66 feet along the south line of the northeast quarter of the northeast quarter;
4. N00°00'10"E 658.92 feet along a line 6.6 feet east of and parallel to the east line of the east half of the northeast quarter of the northeast quarter;
5. S89°48'26"E 450.37 feet along the south line of the north half of the east half of the northeast quarter of the northeast quarter;
6. N00°00'21"E 223.24 feet along a line 198.00 feet west of and parallel to the east line of the northeast quarter of the northeast quarter;
7. N89°47'50"W 100.00 feet along a line 435.6 feet south of and parallel to the north line of the northeast quarter of the northeast quarter;
8. N00°00'21"E 252.19 feet along a line 298.00 feet west of and parallel to the east line of the northeast quarter of the northeast quarter;
9. N89°47'50"W 95.00 feet along a line 183.41 feet south of and parallel to the north line of the northeast quarter of the northeast quarter;
10. N00°00'21"E 153.41 feet along a line 298.00 feet west of and parallel to the east line of the northeast quarter of the northeast quarter to the beginning.

The basis for bearings is assumed N89°47'50"W 1310.02 feet between Mesa County Survey Monuments No. 12-1 and No 991 respectively for the northeast corner and the east sixteenth corner on the north boundary of Section 15.

TOGETHER WITH any and all water, water rights, ditches and ditch rights appurtenant to the Property,

together with all its appurtenances.

26 PAGE DOCUMENT

2030995 12/14/01 0125PM
Monika Todd Clk&Rec Mesa County Co
RecFee $130.00

Development Improvements Agreement

Book2982 Page160

1. **Parties:** The parties to this Development Improvements Agreement ("the Agreement") are CASA TIARA DEVELOPMENT, INC. ("the Developer") and THE COUNTY OF MESA, COLORADO ("the County").

2. **Effective Date:** The Effective Date of the Agreement will be the date that this agreement is recorded.

RECITALS

The Developer seeks permission to subdivide property with the County to be known as SUMMIT VIEW RIDGE ("the Subdivision"), or to develop the platted property known as SUMMIT VIEW RIDGE ("the Subdivision"), which property is more particularly described as Exhibit "A" attached and incorporated by this reference (the "Property"); and

The County seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the Subdivision and limiting the harmful effects of substandard subdivisions, including premature subdivision which leaves property undeveloped and unproductive; and,

The purpose of this Agreement is to protect the County from the cost of completing subdivision improvements itself and is not executed for the benefit of materialmen, laborers, or others providing work, services or material to the Subdivision or for the benefit of lot or home buyers in this Subdivision; and,

The mutual promises, covenants and obligations contained in this Agreement are authorized by State law and the County's land development ordinances;

THEREFORE, for valuable consideration, the receipt and adequacy of which is acknowledged, the Parties agree as follows:

DEVELOPER'S OBLIGATION

3. **Improvements:** The Developer will design, construct and install, at his own expense, these on-site and off-site subdivision improvements listed on Exhibit "B" attached and incorporated by this reference ("the Improvements"). The Developer's obligation to complete the Improvements will be in conformance with the time schedule shown in Exhibit "B" and will be independent of any obligations of the County contained herein.

4. **Security Options:** To secure performance of his obligations under this agreement (except his obligations for warranty under paragraph 6), the Developer will deposit with the County on or prior to the Effective Date, either

____ A) An irrevocable letter of credit in the amount of $_____,

_X_ B) **A subdivision improvements disbursement agreement,**

____ C) Building permit hold,

____ D) Cash in the amount of $_____ to be escrowed by the County Treasurer, or

____ E) A performance bond.

Option A: Irrevocable Letter of Credit - The letter of credit will be issued by a financial institution ("Bank") and approved by the County Planning Department, will be payable at sight to the County and will bear an expiration date not earlier than one (1) year after the Effective Date of this Agreement. The letter of credit will be payable to the County at any time upon presentation of (I) a sight draft drawn on the issuing bank in the full amount or in a portion of the full amount to which the County is entitled to draw pursuant to the terms of the Agreement and the letter of credit; and (ii) a certification is executed by the County Planning Director or his designee stating that the Developer is in default under this Agreement; and (iii) the original letter of credit. The letter of credit will be the same as Exhibit "C-1" attached and incorporated by this reference.

Option B: Subdivision Improvements Disbursement Agreement - The subdivision improvements disbursement agreement will be executed by a Bank and will provide for segregation of Developer's loan proceeds by the Bank in the amount to which the County is entitled to draw pursuant to the Terms of this Agreement, which funds will be disbursed to the County, in full or in part, upon presentation of a (I) request for disbursement; and (ii) a certification executed by the County Public Works Director or his designee stating that the Developer is in default of this Agreement; or (iii) as otherwise provided by the subdivision disbursement agreement. The subdivision improvements disbursement agreement will be the same as Exhibit "C-2" attached and incorporated by this reference.

Option C: Building Permit Guarantee - A building permit guarantee will be extended in a letter substantially the same as the letter in Exhibit "C-3" and incorporated by this reference. The guarantee will be acceptable for a term of 6 months from the date of this Agreement at which time another option must be recorded. A 6-month maximum extension of time may be requested before the Board of County Commissioners subject to staff review for compliance with the terms of this Agreement. Under the terms of this Agreement, the Developer will not seek, or be issued a building permit until all of the improvements are completed and approved by the County, or another security option is accepted by the County.

Option D: Cash - Cash in the form of a cashier's check, certified check or bank account in the sole ownership of the County will be escrowed with the County Treasurer in the amount to which the County is entitled to draw pursuant to the Terms of this Agreement, which funds will be disbursed to the County in full or in part, upon presentation of a (I) request for disbursement; and (ii) a certification executed by the County Public Works Director or his designee stating that the Developer is in default of this Agreement; or (iii) as otherwise provided by the subdivision disbursement agreement. The subdivision improvements disbursement agreement will be the same as Exhibit "C-4" attached and incorporated by this reference.

Option E: Performance Bond - A performance bond will be extended upon which the County will be entitled to draw pursuant to the Terms of the Agreement, which funds will be disbursed to the County in full or in part, upon presentation of a (I) request for disbursement; and (ii) a certification executed by the County Public Works Director or his designee stating that the Developer is in default of this Agreement; or (iii) as otherwise provided by the subdivision disbursement agreement.

5. **Standards:** The Developer will construct the Improvements according to the standards and specifications required by the Mesa County Land Development Code and the Road and Bridge Specifications, or as provided in the final plat approval proceedings.

6. **Warranty:** The Developer warrants that the Improvements, each and every one of them, will be free from defects for a period of eighteen (18) months from the date of the County resolution accepting the improvements completed by the Developer.

7. **Commencement and Completion Periods:** The improvements, each and everyone of them, will be completed within one (1) year from the Effective Date of this Agreement ("the Completion Period").

8. **Compliance with Law:** The Developer will comply with all relevant federal, state and local laws, ordinances and regulations in effect at the time of final subdivision plat approval when fulfilling his obligations under this Agreement.

COUNTY'S OBLIGATION

9. **Plat Approval:** The County will grant final subdivision plat approval to the Subdivision under the terms and conditions previously agreed to by the parties on _____ or provided by the Mesa County Land Development Code as it existed on the date of approval.

10a. Notice of Defect: The Developer shall instruct his engineer to provide timely notice to the Developer, contractor, issuer of security and the Engineering and Planning Divisions of the County Public Works Department whenever inspections reveals that an improvement does not conform to County Standards and any specifications approved in the development application or is otherwise defective. The County will subsequently issue a Notice of Deficiencies to the Developer and the issuer of security. The Developer will have thirty (30) days from the issuance of such notice to correct the defect. If inclement weather or circumstances beyond the Developer's control prevent correction within that time period, he may apply for an initial 30-day extension to the correction period to be received by the County Planning Division not later than 10-days after receipt of said Notice. If subsequent extensions are requested, the County will not issue further Notices and the Developer must request extensions no later than 10 business days before the expiration of the current extension period. The extension will be reviewed by County Public Works Department/Planning and Engineering & Design Divisions for compliance with the time schedule and improvements costs as represented on Exhibit B herein and for compliance with County standards and specifications as approved in the development application. If an extension is not approved by the Board of County Commissioners, a condition of default shall be declared and an Affidavit of Lapse of Improvements Agreement shall be recorded stating that building permits will not be issued in the Subdivision and the County may request that the court enjoin the sale, transfer or conveyance of lots within the Subdivision until a new Development Improvements Agreement and Guarantee are accepted by the County.

10b. Notice of Non-Compliance with Completion Date: The County shall issue the Developer a Notice of Deficiencies not earlier than 30 days before the Completion Date. If inclement weather or circumstances beyond the Developer's control prevent construction within the completion period, he may apply for an initial 30-day extension to the completion period to be received by the County Planning Division not later than 10-days after receipt of said Notice. If subsequent extensions are requested, the County will not issue further Notices and the Developer must request extensions no later than 10 business days before the expiration of the current extension period. The extension will be reviewed by County Public Works Department/Planning and Engineering & Design Divisions for compliance with approved development application documents and for compliance with County standards and specifications and provided the security is also extended in the amount of the current costs for those improvements; the request will be presented to the Board of County Commissioners for approval. If an extension is not approved by the Board of County Commissioners, a condition of default shall be declared and an Affidavit of Lapse of Improvements Agreement shall be recorded stating that building permits will not be issued in the Subdivision and the County may request that the court enjoin the sale, transfer or conveyance of lots within the Subdivision until a new Development Improvements Agreement and Guarantee are accepted by the County.

11. Acceptance of Improvements: The County's final acceptance of improvements is conditioned on the presentation by the Developer of signatures of acceptance by all entities serving the constructed improvements and on the presentation by the Developer of a document or documents where appropriate, for the benefit of the County showing that the developer owns the improvements in fee simple and that there are no liens or

encumbrances on the improvements. Acceptance of any improvements does not constitute a waiver by the County of any rights it may have on account of any defect in or failure of the improvement that is detected or which occurs after the acceptance.

12. Reduction of Security: After the acceptance of any improvement and upon application of the Developer, the amount which the County is entitled to draw on under the letter of credit, subdivision improvements disbursement agreement or cash in escrow will be reduced by an amount equal to ninety percent (90%) of the estimated cost of the improvement as shown in Exhibit B. At the request of the Developer, the County will execute a resolution verifying the acceptance of the improvement and waiving and releasing its right to draw on the letter of credit, subdivision improvements disbursement agreement or cash in escrow to the extent of such amount. A Developer in default under this Agreement will have no right to such resolution. Upon the acceptance of all of the Improvements, the full balance that may be drawn under the letter of credit, subdivision improvements disbursement agreement or cash in escrow agreement will be released.

13. Use of Proceeds: The County will use funds drawn under the letter of credit, subdivision improvements disbursement agreement or cash in escrow only for the purpose of completing the Improvements or correcting defects in or failure of the Improvements.

OTHER PROVISIONS

14. Events of Defaults: The following conditions, occurrences or actions will constitute a default by the developer during the Completion Period:

a. Developer's failure to complete each portion of the Improvements in conformance with the time schedule shown in Exhibit "B" or a extended by County resolution; the County may not declare a default until a 30-day notice (Notice of Deficiencies) has been given to the Developer or any requested extensions of time have been denied by the Board of County Commissioners at a public hearing;

b. Developer's failure to demonstrate reasonable intent to correct defective construction of any improvement within the applicable correction period; the County may not declare a default until a Notice of Deficiencies has been given to the Developer and the 30-day correction period has elapsed; the County may declare a default after subsequent approved correction periods have lapsed without such Notice unless Developer applies for another extension no later than 10 business days before the expiration of the current extension period and that request is approved by the Board of County Commissioners in a public hearing;

c. Notification of Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer or foreclosure of any lien against the Property or portion of the Property; the County will immediately declare a default without prior notification to the Developer;

d. Notification to the County by lender with a lien on the Property of a default on this obligation; the County will have the option to immediately declare a default without prior notification to the Developer;

15. Measure of Damages: The measure of damages for breach of this Agreement by Developer will be reasonable cost of satisfactorily completing the IImprovements. For Improvements upon which construction has not begun, the estimated costs of the Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion; however, neither the amount or the amount of the letter of credit the subdivision improvements disbursement agreement,

performance bond or cash escrow establish the maximum amount of the Developer's liability.

16. County's Rights Upon Default: When any event of default occurs, the County may draw upon the letter of credit, performance bond or escrowed collateral less ninety percent (90%) of the estimated cost (as shown in Exhibit "B") of all improvements previously accepted by the County, or may exercise its rights to disbursement of loan proceeds under the subdivision improvements disbursement agreement. The County will have the right to complete the improvements itself or contract with a third party for completion, the Developer grants to the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such improvements. Alternatively, the County may assign the proceeds of the amount of the letter of credit the subdivision improvements disbursement agreement, performance bond or the escrowed collateral to a subsequent party who has acquired the Subdivision by purchase, foreclosure or otherwise who will then have the same rights of completion as the County if and only if the subsequent party agrees in writing to complete the unfinished improvements and provides reasonable security for the obligation. In addition, the County may also enjoin the sale, transfer, or conveyance of lots within the Subdivision, until the Improvements are completed and accepted. These remedies are cumulative in nature are in addition to any other remedies the County has at law or in equity.

17. Indemnification: The Developer expressly agrees to indemnify and hold the County, it's employees and assigns harmless from and against all claims, costs and liability of every kind and nature except those arising out of negligence on the part of County employees and assigns, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work at the Subdivision pursuant to this Agreement. The Developer further agrees to aid and defend the County in the event that the County is named as a defendant in an action concerning the performance of work pursuant to this Agreement, except where such suit is brought by the Developer. The Developer is not an agent or employee of the County.

18. No Waiver: No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the County and the Developer; nor will the waiver of any default under this Agreement be deemed a waiver of subsequent defaults or defaults of the same type. The County's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of the improvement.

19. Amendment or Modification: The parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the County by the County Attorney or jis designee and by the Developer or his authorized officier. Such amendment or modification will be properly notarized before it may be effective.

20. Attorney's Fees: Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitle to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker.

21. Vested Rights: The County does not warrant by this Agreement that the Developer is entitled to any other approval(s) required by the County, if any, before the Developer is entitled to commence development of the Subdivision or to transfer ownership of property in the Subdivision.

22. **Third Party Rights:** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.

23. **Scope:** This Agreement constitutes the entire Agreement between the parties and no statements, promises or inducements that are not contained in this Agreement will be binding on the parties.

24. **Time:** For the purposes of computing the Completion Period, and time periods for County action, such times in which war, civil disasters, or acts of God occur or exist will not be included if such times prevent the Developer or County from performing it obligations under this Agreement.

25. **Severability:** If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will no affect the validity of any other part, term or provision and the rights of the parties will be construed as if part, term or provision was never part of the Agreement.

26. **Benefits:** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the County. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also will be binding on the heirs, successors, and assigns of the Developer, and shall be a covenant running with the Property. There is no prohibition on the right of the County to assign its rights under this Agreement. The County will expressly release the original Developer's guarantee or obligations under the subdivision improvements disbursement agreement if it accepts new security from any developer or lender who obtains the Property. However, no other act of the County will constitute a release of the original Developer from his liability under this Agreement.

27. **Notice:** Any notice required or permitted by this Agreement will be deemded effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Developer: Casa Taira Development, Inc.
C/o Mansel L. Zeck, President
P.O. Box 1058
Grand Junction, CO 81502

If to County: Land Use and Development Division
P.O. Box 20,000
Grand Junction, CO 81502-5022

28. **Recordation:** County will record a copy of this Agreement in the Clerk and Recorder's Office of Mesa County, Colorado.

29. **Immunity:** Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.

30. **Personal Jurisdiction and Venue:** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement, letter of credit, performance bond, subdivision improvements disbursements agreement, or cash escrow agreement will be deemed to be proper only if such action is commenced in District Court for Mesa County. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

James S. Hoyus 12/11/01
Signature of **County** Engineering Supervisor or His Representative Date

Mansel L. Zeck 12-7-01
Signature of Developer Date
Mansel L. Zeck, President
Casa Tiara Development, Inc.

BOOK2982 PAGE166

P.O. Box 1058, Grand Junction, CO 81502
Print Name and Address

Notarized by: _____

My Commission Expires on: _____

SUBDIVISION IMPROVEMENTS DISBURSEMENT AGREEMENT

This Agreement is entered into by and between **MESA COUNTY, COLORADO** ("County"), **BANK OF COLORADO, N.A.**, ("Bank"), and **CASA TIARA DEVELOPMENT, INC.** ("Developer").

RECITATIONS

A. Developer has been required by the County to construct certain improvements to **SUMMIT VIEW RIDGE** Subdivision ("Improvements") in accordance with the *Mesa County Land Development Code*, under a Development Improvements Agreement recorded in Book _____, Page(s) _____, in the records of the Mesa County Clerk and Recorder ("Development Improvements Agreement"), also known herein as Exhibit A, as it may be modified.

B. The Bank has agreed to loan funds to the Developer for construction in the **SUMMIT VIEW RIDGE** Subdivision, including for construction of the Improvements.

C. The Mesa County Public Works Department/Engineering & Design Division has approved an estimate of the costs of all the Improvements of $_____, and that amount of the Developer's loan proceeds shall be referred to in this Agreement as the "Funds."

D. The parties wish to insure that the Funds are disbursed only to pay for the improvements.

TERMS

The parties, for valuable consideration, the receipt and adequacy of which is acknowledged, agree as follows:

1. Funds for Improvements. Bank shall lock out the Funds on behalf of Developer within three (3) days of execution of this Agreement. The Funds will not be paid out or disbursed to or on behalf of the Developer except as set forth in this Agreement.

2. Disbursement of Funds. Bank shall disburse all or a portion of the Funds only upon receipt of the following, except as provided by Paragraph 4:

a. A draw request signed by a professional engineer licensed by the State of Colorado ("Engineer"), which shall state which of the Improvements has been completed; also that the Engineer has inspected the Improvements for which payment is requested; also that the work has been completed in accordance with the approved plans and specifications; and that the sum requested to be disbursed is reasonable and consistent with the estimates which forms the basis for the Development Improvements Agreement; and,

b. All bills or invoices for such work, which have been approved by the Developer.

c. Copies of all draw requests for payment on road and drainage construction shall be submitted to the County Engineering & Design Division, and if no objection is received by the Bank within five (5) business days of receipt of the requests, the work shall be deemed accepted.

d. The final draw request shall contain signatures of acceptance by all entities serving the constructed improvements. Copies of the draw request and acceptances shall be submitted to the Mesa County Planning Division and Mesa County Engineering and Design Division. If no objection is received by the Bank within five (5) working days of receipt of the request and acceptances, the improvements shall be deemed accepted.

e. Upon proof of payment of the final draw request by the Bank, and on the presentation by the Developer of a document or documents showing that the Developer owns the Improvements in fee simple and that there are no liens, encumbrances or other restrictions on the Improvements, the County will execute a resolution verifying the acceptance of the improvements and waiving and releasing its right to draw on this Agreement.

Bank shall use Exhibit A attached to allocate disbursements for the appropriate line item for which Funds have been disbursed. Copies of its record for disbursements, including approved draw requests, shall be available to the County upon request. All parties acknowledge that the line items are estimates and that actual costs may exceed these estimates.

3. Default by Owner on Obligation to Bank. Upon default of the Developer on this obligation to Bank on the Funds, Bank shall disburse no further Funds to or at the direction of the Developer except to the County under the terms of this Agreement. Bank shall also notify the County Planning Department in writing immediately of any of the following:

a. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer;

b. Default on this obligation to Bank;

c. Foreclosure of any lien against the Property or a portion of the Property or conveyance of the Property in lieu of foreclosure.

4. County Rights Upon Default. Upon any default under the Development Improvements Agreement, County shall notify the Bank of such event by a Notice of Deficiencies. If within 30 days of receipt of a Notice of Deficiencies, Developer has not remedied the deficiencies or applied for an extension of time within 10 business days of this receipt of said Notice, Bank shall receive a copy of an Affidavit of Lapse of Improvements. Upon receipt of such Affidavit, Bank will immediately cease disbursement of Funds. The County shall have the option of requesting in writing disbursement of the full amount of the remaining undisbursed funds within 90 days from the date of the filed Affidavit of lapse of Improvements Agreement, which request shall promptly be honored by the Bank, for the purpose of satisfactory completion of the Improvements by the County or a successor party. If a successor party agrees in writing to complete the Improvements, the County will hold the Funds as full or partial security as required by the amount of the incomplete improvements. The County will release Funds to the successor party after acceptance of satisfactorily constructed improvements and in accordance with paid invoices as approved by the County Public Works Director or his designee not to exceed the total amounts established on the new Development Improvements Agreement.

Upon final completion and acceptance of the performance required under the Development Improvements Agreement, County shall refund to Bank any funds disbursed which are not actually expended to pay all costs, expenses and liabilities, including attorney's fees, incurred in satisfactorily completing the Improvements. The County shall have the option of enjoining the sale, transfer, or conveyance of lots within the Subdivision until the Improvements are completed or accepted.

5. Developer Consent. Developer consents to disbursements and other conduct authorized by provisions of this Agreement.

6. Liability for Loss. If the Bank fails to disburse Funds in accordance with the procedures as set forth under this Agreement, and the County suffers loss by reason of such failure, Bank shall be liable to County for the amount of the County's loss.

7. Successors and Assigns. This Agreement shall be binding on the heirs, successors, receivers and assigns of all parties and shall terminate when the County has accepted the Improvements and has recorded a release of this Agreement, or upon receipt by the County of the full amount of the remaining undisbursed funds as requested upon default, or 91 days after the filing of an Affidavit of Lapse of Improvements Agreement, whichever comes first.

8. Notice. Any notice required or permitted by this Agreement will be deemed effective when personally delivered in personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

If to Developer: CASA TIARA DEVELOPMENT, INC.
MANSEL L. ZECK, PRESIDENT
P.O. BOX 1058
GRAND JUNCTION, CO 81502

If to County: MESA COUNTY PLANNING DEPARTMENT
P.O. BOX 20000
GRAND JUNCTION, CO 81502-5022

If to Bank: BANK OF COLORADO
KENT SHETTLER, VICE PRESIDENT
200 GRAND AVENUE
GRAND JUNCTION, CO 81501

9. Immunity. Nothing contained in this Agreement constitutes a waiver of the County's sovereign immunity under any applicable state law.

10. Attorney's Fees. Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitle to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, the attorney's fees may be equitably divided between the parties by the decision maker.

MESA COUNTY

BY: _____

DATE: 12/14/01

CASA TIARA DEVELOPMENT, INC., MANSEL L. ZECK, PRESIDENT
Developer's Name

P.O. BOX 1058
GRAND JUNCTION, CO 81502
Address

_____ 12-7-01
Signature of Developer Date

BANK OF COLORADO
Name of Bank

200 GRAND AVENUE, GRAND JUNCTION, CO 81501
Address of Bank

BY: _____ 12/13/01
Date

KENT SHETTLER, VICE PRESIDENT
Type Name and Title of Bank Officer

1 PAGE DOCUMENT

2071212 08/14/02 0404PM
Monika Todd Clk&Rec Mesa County Co
RecFee $20.00
Documentary Fee $Exempt

EASEMENT GRANT AND AGREEMENT

Book3132 Page559

THIS EASEMENT GRANT AND AGREEMENT is made this 14 day of August, 2002, by and between CASA TIARA DEVELOPMENT, INC., a Colorado corporation, whose address is P.O. Box 550, Fruita, CO 81521, hereinafter referred to as "Grantor", and CASA TIARA DEVELOPMENT, INC., a Colorado corporation, whose address is P.O. Box 550, Fruita, Colorado, 81521, hereinafter referred to as "Grantee".

WITNESSETH:

WHEREAS, Grantor is the owner of the following described real property situate in the County of Mesa, State of Colorado:

Lot 8, Block 6, in SUMMIT VIEW RIDGE SUBDIVISION, Mesa County, Colorado;

also known by street and number as: 496 Mountain Drive, Grand Junction, CO 81504;

hereinafter referred to as the "Lot 8".

WHEREAS, Grantee is the owner of the following described real property situate in the County of Mesa, State of Colorado:

Lot 9, Block 6, in SUMMIT VIEW RIDGE SUBDIVISION, Mesa County, Colorado;

also known by street and number as: 3192 Prairie Way, Grand Junction, CO 81504;

hereinafter referred to as the "Lot 9".

WHEREAS, the purpose of this instrument is to grant and create for the benefit of Lot 9 an easement across a portion of Lot 8 for ingress and egress to and from Lot 9 from Mountain Drive, all in accordance with and subject to the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the sum of TEN AND 00/100THS DOLLARS ($10.00) paid by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, and the mutual terms, promises, covenants and conditions contained herein, the parties agree as follows:

1. Grantor by these presents does hereby grant, bargain, sell, convey and confirm unto the Grantee, its successors and assigns forever, a permanent easement and right-of-way over and across an area of Lot 8 as more particularly described in Exhibits A and B, attached hereto and incorporated herein. The purpose of the said easement is to confirm and create a driveway to provide access to and from Lot 9 from Mountain Drive. Grantor, for itself, its successors and assigns, does hereby warrant title to said easement in Grantee, its successors and assigns.

2. The easement granted by this instrument shall run with the lands in benefits and burdens and the terms of this instrument shall be binding upon, and inure to the benefit of, Grantor and Grantee, and their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this instrument on the date first written above.

(Corporate seal)

GRANTOR:

CASA TIARA DEVELOPMENT, INC.

By _____
Mansel L. Zeck, President

(Corporate seal)

GRANTEE:

CASA TIARA DEVELOPMENT, INC.

By _____
Mansel L. Zeck, President

STATE OF COLORADO)
) SS.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 13 day of August, 2002, by Mansel L. Zeck, as President of Casa Tiara Development, Inc., a Colorado corporation, Grantor.

Witness my hand and official seal.

My commission expires: 12/8/03

NOTARY PUBLIC DONNA K. RAY STATE OF COLORADO

_____
Notary Public

STATE OF COLORADO)
) SS.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 13 day of August, 2002, by Mansel L. Zeck, as President of Casa Tiara Development, Inc., a Colorado corporation, Grantee.

Witness my hand and official seal.

My commission expires: 12/8/03

NOTARY PUBLIC DONNA K. RAY STATE OF COLORADO

_____
Notary Public

EXHIBIT A

EASEMENT DESCRIPTION

A tract of land for ingress and egress purposes located in Lot 8, Block 6 of Summit View Ridge Subdivision, Mesa County, Colorado, being more particularly described as follows:

Commencing at the northwest corner of said Lot 8;
thence N44°47'20"E a distance of 9.20 feet along the northwesterly line of said Lot 8 to the point of beginning;
thence N44°47'20"E a distance of 27.65 feet along said northwesterly line;
thence S89°59'39"E a distance of 14.87 feet along the north line of said Lot 8;
thence S00°19'25'E a distance of 7.95 feet;
thence S71°14'59"W a distance of 36.32 feet to the point of beginning.
Said easement contains 283 square feet more or less.

This description was prepared by:
Michael W. Drissel PLS 20677
118 Ouray Ave.
Grand Junction, CO. 81501

EXHIBIT B

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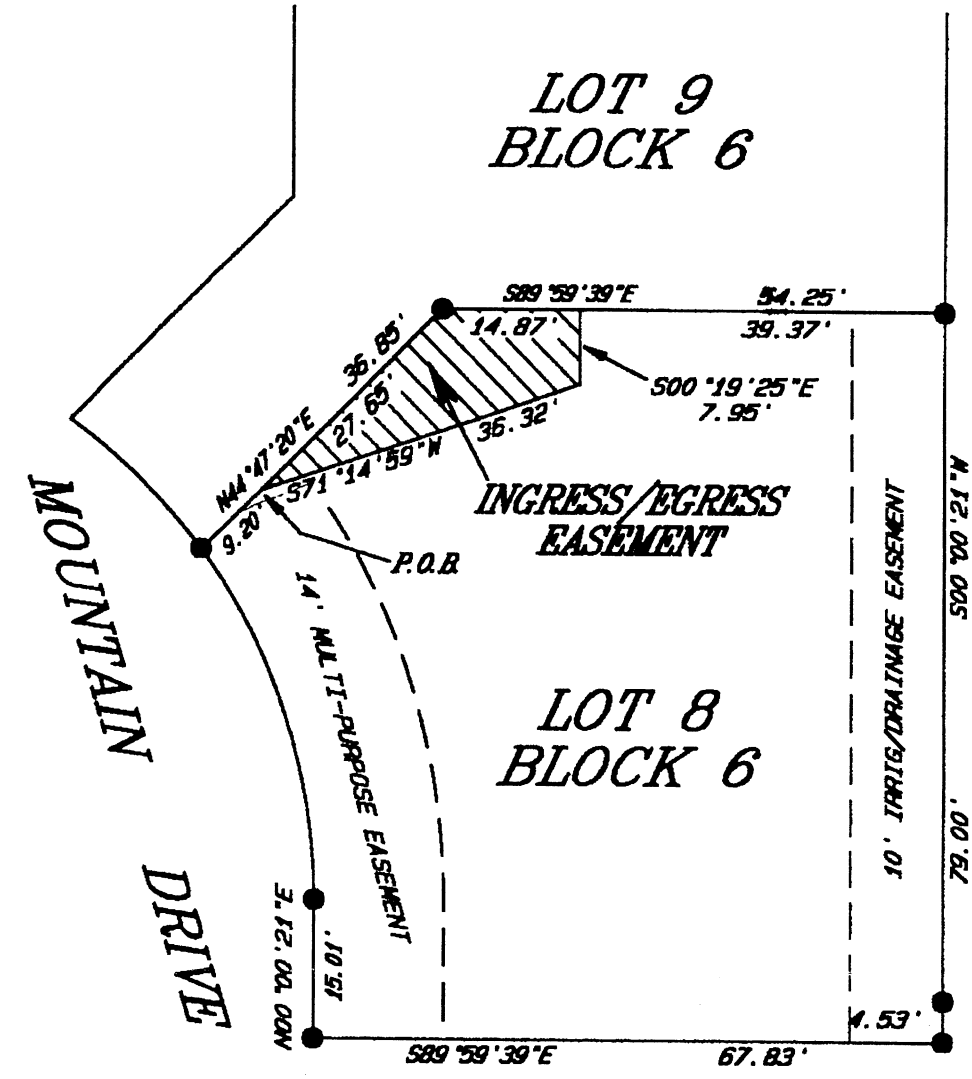

N

SCALE 1" = 20'

● PROPERTY PIN

D H SURVEYS, INC
118 OURAY AVE.
GRAND JUNCTION, CO.