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MISC 3995705

Stardust-VSF, Inc.
6730 North Scottsdale Road
Suite 230
Scottsdale, Arizona 85253
Attn: Chris Heeter

TRACT DECLARATION, DECLARATION OF ANNEXATION, AND DECLARATION OF PARCEL ASSESSMENT AREA

This Tract Declaration, Declaration of Annexation, and Declaration of Parcel Assessment Area (this "Tract Declaration") is executed as of this 15th day of March, 2006 by STARDUST DEVELOPMENT, INC., an Arizona corporation ("Declarant").

RECITALS:

- A. As of the date of this Tract Declaration, Declarant is the owner and holder of all rights of the "Declarant" under that certain Declaration of Covenants, Conditions, Restrictions and Easements for Verde Santa Fe dated February 6, 1997, and recorded on February 20, 1997, in Book 3360, page 858, Official Records of Yavapai County, Arizona as amended from time to time (the "Master Declaration").
- B. The real property described on Exhibit A attached hereto (the "Clubhouse Tract") is a part of the Additional Property for purposes of the Master Declaration and, as of the date of this Tract Declaration, Declarant holds fee simple title to the Tract.
- C. Article 2 of the Master Declaration contemplates that: (1) portions of the Additional Property may from time to time be added and annexed to the Project and subjected to the Master Declaration; and (2) Tract Declarations for property already subject to, or being annexed to, the Master Declaration may be executed and recorded from time to time.
- D. Declarant, with the consent of the consenting parties described thereon, previously recorded in the official records of Yavapai County the following documents (collectively, the "Lot Tract Declarations"): (1) that certain Tract Declaration and Declaration of Parcel Assessment Area, recorded on May 27, 2003, at Book 4035, page 412, pertaining to lots in Parcels 15, 16, 18 and 19 of Verde Santa Fe; (2) that certain Tract Declaration and Declaration of Parcel Assessment Area, recorded on January 28, 2004, at Book 4114, page 449, pertaining to lots in Parcel 6 of Verde Santa Fe; and (3) that certain Tract Declaration and Declaration of Parcel Assessment Area, recorded on June 20, 2005, at Book 4277, page 285, pertaining to certain lots in Parcels 1 through 4 and 5 through 7 of Verde Santa Fe.
- E. The Lot Tract Declarations contemplated that if a clubhouse and related facilities are constructed on the Clubhouse Tract before April 1, 2006 (the "Turnover Date") and the Clubhouse Tract is annexed into the Project, Declarant and the consenting parties described therein desired to provide for the Clubhouse Tract to be treated as Common Area. The Lot Tract Declarations further contemplated that certain lots in the community (the "Benefited Lots") and



the owners thereof will be subjected to a system of assessments to fund operating and other costs relating to the ownership and operation of the Clubhouse Tract and facilities located thereon. Pursuant to the Lot Tract Declarations, the Owners of the Benefited Lots have the right to use and enjoy the Clubhouse in return for payment of Clubhouse expenses by way of the assessments.

F. Concurrently herewith, Declarant intends to convey title to the Clubhouse Tract to the Verde Santa Fe Community Association (the "Master Association") pursuant to a special warranty deed (the "Deed"). Although the Deed conveys title to the Clubhouse Tract to the Master Association, this Tract Declaration establishes operational responsibility and control over the Clubhouse Tract in a committee of Owners of the Benefited Lots, rather than in the board of directors of the Master Association, and imposes financial responsibility for the Clubhouse on the Benefited Lots, rather than on all members of the Master Association.

G. Subject to the terms of this Tract Declaration, Declarant desires to add and annex the Clubhouse Tract to the Project; to subject the Clubhouse Tract to the Master Declaration and to record this Tract Declaration with respect to the Clubhouse Tract.

H. Capitalized terms not defined in this Tract Declaration shall have the same meaning as given them in the Master Declaration.

DECLARATIONS:

Declarant declares as follows:

1. Annexation. As permitted by Section 2.3 of the Master Declaration, the Clubhouse Tract is hereby added and annexed to the Project and subjected to the Master Declaration.
2. Land Use Classification. Subject to the provisions of this Tract Declaration and the Master Declaration, the Clubhouse Tract shall have a land use classification of "Common Areas."
3. Clubhouse Committee. The affairs of the Clubhouse Tract and the facilities located thereon, including, but not limited to, financial affairs, charges for use, rules for use (including guest policies), maintenance and repair, and hours of operation shall be determined from time to time by a committee (the "Clubhouse Committee") consisting initially of five members. Each member of the Clubhouse Committee shall be an Owner or spouse of an Owner of the Benefited Lots. Until the expiration or earlier termination of the Period of Declarant Control, Declarant shall have the power to appoint and remove members of the Clubhouse Committee from time to time. Commencing with the first selection of the Board of the Master Association by Members of the Master Association, and continuing thereafter annually, at the time of the Master Association's annual meeting, members of the Clubhouse Committee shall be selected annually by the vote or written assent of the Owners of the Benefited Lots. For the first Clubhouse Committee selected by the Owners of the Benefited Lots, the two members of the Clubhouse Committee receiving the most votes shall have terms of three years (or two years plus whatever partial year remains from the first such selection to the next annual meeting), the two member receiving the third and fourth most votes shall have a term of two years (or one year



plus whatever partial year remains from the first such selection to the next annual meeting) and the member receiving the fifth most votes shall have a term of one year (or whatever partial year remains from the first such selection to the next annual meeting). Thereafter, the vote of the Owners of the Benefited Lots shall fill the term(s) of those members of the Clubhouse Committee whose term(s) are expiring so that the terms of the Clubhouse Committee members are staggered and no more than two positions on the Clubhouse Committee are up for a vote at any one time. The Owners of the Benefited Lots shall have the right, from time to time, to establish procedures for conducting and tabulating any vote for the Clubhouse Committee and to establish the size of the Clubhouse Committee but, unless otherwise determined by the Owners of the Benefited Lots holding a majority of the votes attributable to such Benefited Lots, membership on the Clubhouse Committee shall consist of those individuals receiving the most votes in order, without any particular percentage of votes required for election to the Clubhouse Committee. Unless otherwise determined by the Owners of the Benefited Lots by a majority vote, in the event that an individual selected to serve on the Clubhouse Committee thereafter resigns or is otherwise unable or unwilling to continue serving (in the reasonable judgment of the Clubhouse Committee) the individual receiving the next highest number of votes at the last election for the Clubhouse Committee will be appointed to serve the remainder of the term for the vacated position. If the Owners of the Benefited Lots ever change the size of the Clubhouse Committee, terms will be adjusted to the extent reasonably feasible to continue the practice of staggered terms for members of the Clubhouse Committee.

4. Financial Responsibility. All costs and expenses of owning, operating, repairing and replacing the Clubhouse Tract and facilities located thereon shall be imposed upon the Owners of the Benefited Lots. To the extent that insurance, services, and other shared expenses are incurred by the Master Association for the Clubhouse Tract and other common areas of the Master Association, the costs allocable to the Clubhouse Tract shall be reasonably determined by the Board and shown by reasonable backup information. The Board shall, whenever reasonably feasible, utilize purchasing methods available to the Master Association for collective or bulk purchasing to minimize costs attributable to the Clubhouse Tract rather than causing all goods and services for the Clubhouse Tract to be separately obtained at higher cost, provided that the costs that are allocable to the Clubhouse Tract are substantiated with reasonable backup information.

5. Association Assistance. In recognition of the fact that the Clubhouse Committee is an unincorporated committee, the Board shall provide such administrative assistance as may be reasonably required to allow the Clubhouse Committee to perform its assigned responsibilities including, but not limited to, assistance with (a) accounting, (b) scheduling and conducting elections, (c) conducting any desired meetings of either the Owners of the Benefited Lots or the Clubhouse Committee, (d) keeping records of the Clubhouse Committee and its activities, and (e) promulgating and enforcing any rules applicable to use of the Clubhouse Tract. Any reasonable expenses incurred by the Master Association in connection with providing such assistance will be charged to the Owners of the Benefited Lots in the assessments applicable thereto.

6. Addition of Benefited Lots. The Owners of the Benefited Lots may from time to time, by a vote or written consent of those Owners of the Benefited Lots holding a majority of the votes attributable to the Benefited Lots at that time, allow additional lots then subject to the

Master Declaration to become Benefited Lots and the Owners of such lots to enjoy the amenities constructed on the Clubhouse Tract by recording one or more additional Tract Declarations subjecting the additional lots to a system of assessments to fund a share of the operating and other costs relating to the ownership and operation of the of the Clubhouse Tract and the facilities located thereon. Approval of any such addition of Benefited Lots may be on such terms and conditions as the then-existing Owners of Benefited Lots may reasonably specify, including, without limitation, terms that impose an initiation fee on the Owners of such additional Benefited Lots.

7. Enforcement. The Master Association or any Owner of a Benefited Lot shall have the right to enforce the provisions of this Tract Declaration (as one of the Project Documents).

8. Term. All of the covenants, conditions, restrictions and other provisions of this Tract Declaration (as amended from time to time) shall: (a) run with and bind the Clubhouse Tract and all portions thereof; (b) inure to the benefit of and shall be enforceable by the Master Association and the Owners of Benefited Lots or, so long as Declarant owns any portion of the Project or the Additional Property, by Declarant, and by their respective legal representatives, heirs, successors and assigns; and (c) remain in full force and effect for a term co-extensive with the term of the Master Declaration, as the same may be extended in accordance with the provisions thereof.

9. Amendment. This Tract Declaration may only be amended by a written instrument executed by all of the following: (i) Owners of the Benefited Lots holding at least sixty-seven percent (67%) of the total numbers of votes in the Master Association held by the Owners of the Benefited Lots and (ii) Declarant so long as Declarant owns any Lot or Parcel in the Project. In any vote or other determination under this Tract Declaration in which a decision is to be made by Owners of Benefited Lots, there shall be one vote appurtenant to each Benefited Lot and the Owner of the Benefited Lot shall be entitled to cast the vote or otherwise act for the Benefited Lot. Votes and other determinations hereunder by Owners of Benefited Lots shall be conducted in a manner consistent with the "Voting Procedures" described in Section 5.10 of the Master Declaration.

10. Severability; Interpretation; Gender. Invalidation of any provisions of this Tract Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. The provisions of this Tract Declaration shall be construed and interpreted with reference to the laws of the State of Arizona. Where the context hereof so requires, any personal pronouns used in this Tract Declaration, whether used in the masculine, feminine or neuter gender, shall include all genders, and the singular shall include the plural and vice versa. Titles of paragraphs are for convenience only and shall not affect the interpretation hereof. All Exhibits attached hereto are incorporated herein by reference.

11. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Tract Declaration would otherwise be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the President of the United States in office on the date this Tract Declaration is Recorded.



EXHIBIT A

LEGAL DESCRIPTION

UNOFFICIAL
COPY



**LEGAL DESCRIPTION
VERDE SANTA FE
CLUBHOUSE PARCEL**

A portion of Lot 104, VERDE SANTA FE - PHASE ONE, as depicted in Book 34 of Maps and Plats, Pages 63-67, Official Records of Yavapai County, Arizona, being a portion of Section 6, Township 15 North, Range 4 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, and being more particularly described as follows:

COMMENCING at a BLM brass cap marking the east quarter corner of said Section 6, from which a BLM brass cap marking the northeast corner of said Section 6, bears North 01°05'09" East, a distance of 2642.26 feet;

Thence North 01°05'09" East, along the east line of the northeast quarter of said Section 6, a distance of 340.39 feet to a spindle tagged LS 8902 marking the centerline of Cornville Road, thence North 68°13'05" West, along said centerline, a distance of 1424.65 feet; Thence South 21°46'55" West, a distance of 75.00 feet to a point on the southwesterly right-of-way of Cornville Road, which is the northeast corner of said Lot 104; Thence South 28°30'13" West, along the east line of said Lot 104, a distance of 268.80 feet to a 7/8" iron pipe with cap "RLS 16520" found at the southeast corner of said Lot 104; Thence North 61°35'04" West, along the southerly line of said Lot 104, a distance of 162.59 feet; Thence South 78°16'31" West, leaving the southerly line of said Lot 104, a distance of 60.07 feet; Thence North 21°50'18" East, a distance of 87.62 feet; Thence North 68°09'42" West, a distance of 297.31 feet to the **TRUE POINT OF BEGINNING**;

Thence South 21°47'02" West, a distance of 65.74 feet;

Thence South 33°59'43" West, a distance of 65.03 feet;

Thence North 56°03'18" West, a distance of 27.47 feet;

Thence South 33°56'43" West, a distance of 109.46' feet;

Thence North 81°27'55" West, a distance of 26.17 feet;

Thence North 46°56'55" West, a distance of 163.30 feet;

Thence North 23°18'35" West, a distance of 36.84 feet to a point on the east right-of-way line of Verde Santa Fe Parkway, said point being on a non-tangent curve, the center of which bears North 44°33'24" West, a distance of 884.00 feet;



Thence northeasterly, along said east right-of-way line of Verde Santa Fe Parkway, along the arc of said curve to the left, through a central angle of $22^{\circ}24'33''$, an arc distance of 345.74 feet to a point of reverse curvature, concave southeasterly, whose radius is 35.00 feet;

Thence northeasterly, along said east right-of-way line of Verde Santa Fe Parkway, along said curve to the right, through a central angle of $88^{\circ}44'52''$, an arc distance of 54.21 feet, to a point on the southwesterly right-of-way line of Cornville Road;

Thence South $68^{\circ}13'05''$ East, along said southwesterly right-of-way line of Cornville Road, a distance of 60.39 feet;

Thence South $21^{\circ}46'59''$ West, a distance of 24.35 feet to a point on a tangent curve, concave northwesterly, whose radius is 978.00 feet;

Thence southwesterly, along said curve to the right, through a central angle of $9^{\circ}35'20''$, an arc distance of 163.68 feet;

Thence South $31^{\circ}22'19''$ East, a distance of 33.02 feet;

Thence South $68^{\circ}54'04''$ East, a distance of 117.10 feet to the **TRUE POINT OF BEGINNING**.

Said parcel containing 1.541 acres, more or less.

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



