

F. ANN RODRIGUEZ, RECORDER  
RECORDED BY: C V  
DEPUTY RECORDER  
1016 PE3

TFATI  
CENTRAL ARIZONA WATER  
PO BOX 43020  
PHOENIX AZ 85080



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Replenishment District  
333

**COURTESY RECORDING  
NO TITLE LIABILITY**

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
LA JOYA VERDE RANCHO ABREGO III,  
LOTS 1 THROUGH 15 AND COMMON AREA "A"  
REGARDING MEMBERSHIP IN THE CENTRAL ARIZONA  
GROUNDWATER REPLENISHMENT DISTRICT**

This Declaration of Covenants, Conditions and Restrictions for La Joya Verde Rancho Abrego III, Lots 1 through 15 and Common Area "A" Regarding Membership in the Central Arizona Groundwater Replenishment District is made this 23<sup>rd</sup> day of May, 2007, by First American Title Insurance Company, a California corporation, as Trustee under Trust No. 9105, by Deed recorded June 6, 2006 as Docket 12819, Page 4404.

**RECITALS**

- A. Declarant is the owner of the Property, legally described in Exhibit A attached and incorporated into this Declaration.
- B. Declarant has applied to the Department for a certificate of assured water supply for the property pursuant to Arizona Revised Statutes Title 45, Chapter 2, Article 9.
- C. As permitted by Arizona Revised Statutes § 45-576.01(B), Declarant desires to satisfy one requirement for obtaining a certificate of assured water supply by qualifying the Property as Member Land pursuant to the Groundwater Replenishment Statute. As Member Land, the Property will be a member of the Central Arizona Groundwater Replenishment District, an operating subdivision of the CAWCD.
- D. To qualify the Property as Member Land, the Groundwater Replenishment Statute requires Declarant to subject the Property to this Declaration.
- E. To permit the delivery of Excess Groundwater to the Property as Member Land, each Parcel must be subject to the Parcel Replenishment Obligation, the Replenishment Assessment, the Activation Fee and the applicable Replenishment Reserve Fee to be determined by CAWCD.
- F. Qualifying the Property as Member Land and subjecting the Property to the Parcel Replenishment Obligation, the Replenishment Assessment, the Activation Fee and the Replenishment Reserve Fee directly benefits the Property by increasing the potential of

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the Property to qualify for a certificate of assured water supply issued by the Department pursuant to Arizona Revised Statutes Title 45, Chapter 2, Article 9, thereby allowing the development, use and enjoyment of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants, conditions and restrictions contained in this Declaration.

## ARTICLE 1 DEFINITIONS

1.1 "Activation Fee" means the fee established by CAWCD for the purpose of raising funds to pay a portion of the costs associated with acquisition and development of water supplies and infrastructure necessary for CAWCD to perform its obligations under Article 4 of the Groundwater Replenishment Statute. The Activation Fee is equal to the per-unit fee established by the CAWCD Board of Directors multiplied by the total number of housing units to be constructed within that portion of the Property owned by the Owner.

1.2 "CAWCD" means the Central Arizona Water Conservation District, a political subdivision of the State of Arizona, and any successor political subdivision.

1.3 "Declarant" means First American Title Insurance Company, a California corporation, as Trustee under Trust No. 9105, by Deed recorded June 6, 2008 as Docket 12819, Page 4404.

1.4 "Declaration" means this Declaration of Covenants, Conditions and Restrictions for La Joya Verde Rancho Abrego III, Lots 1 through 15 and Common Area "A" Regarding Membership in the Central Arizona Groundwater Replenishment District, as amended from time to time.

1.5 "Department" means the Arizona Department of Water Resources, an agency of the State of Arizona, and any successor agency.

1.6 "Excess Groundwater" means the amount of Groundwater equal to the amount of Groundwater delivered to the Property in a calendar year in excess of the amount of Groundwater that may be used at the Property in that calendar year consistent with the applicable Assured and Adequate Water Supply Rules adopted by the Department for the Tucson Active Management Area pursuant to Arizona Revised Statutes § 45-576(H).

1.7 "Groundwater" is as defined in Arizona Revised Statutes § 45-101(5).

1.8 "Groundwater Replenishment Statute" means Arizona Revised Statutes Title 48, Chapter 22.

1.9 "Member Land" is as defined in Arizona Revised Statutes § 48-3701(10).

1.10 "Owner" means the Person or Persons who individually or collectively own fee title to a Parcel, provided that if fee title to a Parcel is vested in a trustee under a deed of trust under Arizona Revised Statutes Title 33, Chapter 6.1, the owner of the trustor's interest under the deed of trust is deemed to be the "Owner" of that Parcel.

1.11 "Parcel" means any portion of the Property now existing or hereafter established for which the tax assessor for the county in which the Property is located has issued a separate tax parcel number.

1.12 "Parcel Replenishment Obligation" means, with respect to any particular Parcel, an amount of Groundwater that is equal to the amount of Groundwater delivered to the Parcel in a calendar year multiplied by the percentage that the Excess Groundwater of the Property for that year bears to the total amount of Groundwater delivered to the Property during that year.

1.13 "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, limited liability partnership, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.14 "Property" means the real property described in Recital A.

1.15 "Replenishment Assessment" means the annual assessment levied by CAWCD against a Parcel in a calendar year based on the Parcel Replenishment Obligation applicable to that Parcel during that year, including any applicable Replenishment Reserve Charge.

1.16 "Replenishment Reserve Charge" means the charge established annually by CAWCD pursuant to Arizona Revised Statutes § 48-3772(E) and included in the Replenishment Assessment.

1.17 "Replenishment Reserve Fee" means the fee that must be levied by CAWCD pursuant to Arizona Revised Statutes § 48-3774.01. The fee is equal to twice the Replenishment Reserve Charge multiplied by the total projected annual Excess Groundwater demand for La Joya Verde Rancho Abrego III, Lots 1 through 15 and Common Area "A" as reported by the Department pursuant to Arizona Revised Statutes § 45-578(F).

## ARTICLE 2 COVENANT FOR REPLENISHMENT ASSESSMENT

2.1 Replenishment Assessment. Each Parcel is hereby made subject to the Replenishment Assessment based on the Parcel Replenishment Obligation in an amount to be determined by CAWCD as necessary to allow CAWCD to perform its obligations under Article 4 of the Groundwater Replenishment Statute.

2.2 Levy of Replenishment Assessment. CAWCD shall levy the Replenishment Assessment against each Parcel in accordance with Arizona Revised Statutes § 48-3778.

2.3 Interest, Costs and Penalties. If the Replenishment Assessment is not paid when due, CAWCD will be entitled to interest, costs and penalties as provided by law.

### **ARTICLE 3 COVENANT FOR REPLENISHMENT RESERVE FEE**

3.1 Replenishment Reserve Fee. Each Parcel that has qualified as a Category 1 member land pursuant to Arizona Revised Statutes § 48-3774.01 is hereby made subject to the Replenishment Reserve Fee based on a pro rata distribution of the total projected annual Excess Groundwater demand for La Joya Verde Rancho Abrego III, Lots 1 through 15 and Common Area "A" as reported by the Department pursuant to Arizona Revised Statutes § 45-578(F).

3.2 Payment of Replenishment Reserve Fee. In accordance with Arizona Revised Statutes § 45-576(C), the Replenishment Reserve Fee must be paid by the Owner to CAWCD prior to the issuance of a public report by the state real estate commissioner authorizing the sale or lease of subdivided lands within that portion of the Property owned by the Owner. With the approval of CAWCD and the Department, long-term storage credits, as defined in Arizona Revised Statutes § 45-802.01, may be assigned by the Owner to CAWCD's replenishment reserve subaccount in lieu of paying the Replenishment Reserve Fee.

3.3 Interest, Costs and Penalties. If the Replenishment Reserve Fee is not paid when due, CAWCD will be entitled to interest, costs and penalties as provided by law.

3.4 Not Applicable to Category 2 Member Land. This Article 3 shall not apply to those parcels of the Property that have qualified as Category 2 member land pursuant to Arizona Revised Statutes § 48-3774.01.

### **ARTICLE 4 COVENANT FOR PAYMENT OF ACTIVATION FEE**

4.1 Activation Fee. Each subdivision that qualifies as a member land pursuant to Arizona Revised Statutes § 48-3774 is hereby made subject to the Activation Fee.

4.2 Payment of Activation Fee. The Activation Fee must be paid by the Owner to CAWCD prior to the issuance of a public report by the state real estate commissioner authorizing the sale or lease of subdivided lands within that portion of the Property owned by the Owner.

4.3 Interest, Costs and Penalties. If the Activation Fee is not paid when due, CAWCD will be entitled to interest, costs and penalties as provided by law.

### **ARTICLE 5 COVENANT FOR CREATION OF LIEN**

5.1 Creation of Lien and Personal Obligation. Declarant, for each Parcel, hereby covenants and agrees, and each Owner (other than Declarant), by becoming the

Owner of a Parcel, is deemed to covenant and agree, to pay the Replenishment Assessment, Activation Fee and Replenishment Reserve Fee to CAWCD in accordance with this Declaration and the Groundwater Replenishment Statute. The Replenishment Assessment, together with interest, costs, and penalties as provided by law, constitutes a continuing lien on the Parcel against which such Replenishment Assessment is levied, as provided by Arizona Revised Statutes § 48-3778. A Replenishment Assessment, together with interest, costs and penalties, is also a personal obligation of each Person who was an Owner of a Parcel at the time such Replenishment Assessment came due.

5.2 Remedies for Nonpayment of Replenishment Assessment. In the event of delinquency of any Replenishment Assessment, CAWCD has the rights and remedies provided in Arizona Revised Statutes § 48-3778.

## ARTICLE 6 GENERAL PROVISIONS

6.1 Binding Effect. The Property shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any portion of or any interest in the Property, each Owner is bound by all the covenants, conditions and restrictions now or hereafter imposed by this Declaration. The covenants, conditions and restrictions contained in this Declaration run with the land and bind Declarant, all Owners, and all successors and assigns of Declarant or any Owner. Declarant agrees and covenants to CAWCD to execute and record any additional documentation which CAWCD may reasonably require to effectuate the intents and purposes of this Declaration and the Groundwater Replenishment Statute.

6.2 Amendments. This Declaration may be modified, amended or revoked only (i) by the express written agreement of CAWCD, the Department and the Owners of 67% of the total area of the Property; or (ii) by amendment statutes, rules or regulations or successor statutes, rules or regulations, as contemplated by Paragraph 6.4.

6.3 Interpretation. This Declaration must be construed and interpreted in accordance with and in reference to the laws of the State of Arizona, including but not limited to the Groundwater Replenishment Statute.

6.4 Rules, Regulations and Successor Statutes. All references in this Declaration to Arizona Revised Statutes include all rules and regulations promulgated by the Department under such statutes and all amendments and successor statutes, rules and regulations to such statutes, rules and regulations.

6.5 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable does not affect the validity or enforceability of any other provision of this Declaration.

6.6 Captions. All captions, titles or headings in this Declaration are used for the purpose of reference and convenience only and do not limit, modify or otherwise affect any of the provisions of this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first set forth above.

DECLARANT:

FIRST AMERICAN TITLE INSURANCE COMPANY, a  
California corporation, as Trustee under Trust No. 9105  
*and not otherwise*

By: Cindy A. Reiche  
Cindy A. Reiche

Its: Trust Officer

The undersigned beneficiary under Trust No. 9105 hereby directs First American Title Insurance Company, a California corporation, as Trustee under Trust No. 9105, by Deed recorded June 6, 2006 as Docket 12819, Page 4404, to execute this document and consents to the execution and recording of this document.

BENEFICIARY:

PEPPER VINER AT RANCHO ABREGO II, L.L.C., an  
Arizona limited liability company

By: PEPPER VINER MANAGEMENT CO. II, LLC, an  
Arizona limited liability company

Its: Manager

By: [Signature]  
Phillip C. Pepper

Its: [Signature]  
~~Senior Vice President~~  
Chief Managing Director

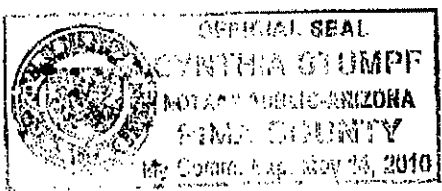
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STATE OF ARIZONA )  
 ) ss.  
County of Pima )

The foregoing instrument was acknowledged before me this 23rd day of May, 2007, by Cindy A Reiche, the Trust Officer of First American Title Insurance Company, as Trustee under Trust No. 9105.

Cynthia Stumpf  
Notary Public

My commission expires:



STATE OF Arizona )  
 ) ss.  
County of PIMA )

The foregoing instrument was acknowledged before me this 22nd day of MAY, 2007, by Phillip C. Pepper, the Senior Vice President of Pepper Viner Management Co. II, LLC on behalf of Pepper Viner at Rancho Abrego II, L.L.C. CHIEF MANAGING DIRECTOR

Marcia A. Halula  
Notary Public

My commission expires:

10/9/09



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EXHIBIT A

Block B of La Joya Verde, According to the map recorded in Book 47 of Maps and Plat, Page 6, records of, Pima County, Arizona;

Except that part thereof described as follows:

BEGINNING at the Northeast corner of said Block B;

THENCE S 00°09'09" E (record S 00°08'52" E), along the East line of said Block a distance of 688.36 feet;

THENCE N 82°21'35" W, 1218.26 feet to a point on the West line of said Block;

THENCE N 08°08'11" E (record N 08°09'36" E), along said West line a distance of 407.50 feet;

THENCE N 08°14'13" E along a chord bearing to spiral curve to the right with a delta of 1°30'00", a distance of 131.21 feet (record 131.19 feet), to the Northwest corner of said Block;

THENCE S 89°39'05" E, (record S 89°39'45" E), along the said North line a distance of 1129.16 feet (record 1128.19 feet), to the POINT OF BEGINNING.

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