

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

Judy Macfarlane, City Clerk
City of San Ramon
2222 Camino Ramon
P.O. Box 5148
San Ramon, CA 94583

**AGREEMENT FOR CREEK MAINTENANCE
SOUTH SAN RAMON CREEK**

THIS AGREEMENT is made this 19th day of August, 1992,
between Villa San Ramon hereafter referred to as "Owner" and the City of San
Ramon, a municipal corporation, hereafter referred to as "City".

RECITALS

THIS AGREEMENT IS BASED UPON THE FOLLOWING FACTS:

- (1) Owner is the owner of real property "Property" in the City of San Ramon described in Exhibit "A", attached to this Agreement, and made a part hereof;
- (2) On November 4, 1986 the City Planning Commission reviewed and approved Owner's Development Plan and imposed certain creek maintenance requirements as conditions of said approval;
- (3) By terms of these conditions, Owner is required to perform certain types and quality of creek maintenance.

NOW, THEREFORE, IT IS AGREED BY THE PARTIES, as follows:

1. The purpose of this Agreement is to assure continued maintenance and care of a certain segment of South San Ramon Creek.

2. By terms of such conditions, Owner is required to maintain a certain section (property frontage) of South San Ramon Creek as follows:

- A. **ROUTINE MAINTENANCE** includes timely removal of unattached flow restricting debris anywhere within channel frontage of Property along both sides of creek;
- B. **MINOR MAINTENANCE** includes removal and clearance of vegetation anywhere within channel frontage of the property along both sides of creek; and
- C. **MAJOR MAINTENANCE** includes erosion prevention, mitigation, and repair on only the east side of the channel and the maintenance of any landscaping and related appurtenances within the channel area.

3. Owner agrees to consult with City any time minor or major maintenance work is anticipated. Upon approval of this work by City, an encroachment permit will be issued to the Property Owner to perform work.

4. Owner acknowledges that City, depending on level of maintenance effort, may not be the only authorizing agency Property Owner will need to procure permits from and that all costs associated with these permits shall be at the sole expense of Property Owners.

5. Owner agrees that this maintenance will materially benefit property and is necessary to comply with the conditions of approval imposed by the City as a requirement of the development of the property.

6. Owner agrees to diligently maintain creek as specified in Paragraph 2 using generally accepted methods.

7. Owner agrees that if Property Owner fails to meet the standards of creek maintenance, the City may elect to take the steps necessary to assure that creek is maintained and cared for. To do this, the City will serve a notice of its intent to either personally serve the notice upon the property or mail a copy of it by certified mail at the Owner's last address or as shown on the last equalized Assessor's roll, at least 15 days in advance of the date when it intends to do the work.

8. If the City incurs costs in restoring or maintaining the creek after following the procedure set forth in Paragraph 7 above, the City shall demand upon the Owner for payment. If the owner fails to pay the costs incurred by the City within thirty (30) days of the date demand is made, the City may make the costs a lien upon Property by recording a notice, that it has incurred expenses under the terms of this Agreement, with the County Recorder of Contra Costa County. The notice shall state the fact that the City has incurred the costs under the terms of this Agreement and shall state the amount, together with the fact that it is unpaid, and draws interest at the agreed rate of twelve percent (12%) a year

until paid.

9. The City may, in addition to the lien procedure set forth above in Paragraph 8, bring legal action to collect the sums due as a result of the making of expenditures for restoration and maintenance of landscaping. The Owner agrees that if legal action by the City is necessary to collect the amounts expended by the City, the Owner will pay the City a reasonable sum as attorney's fees and court costs, together with interest from the date which is thirty (30) days after the City has given its notice under Paragraph 5 above.

10. Notice as given by each party to this agreement shall be given to the other party at the address shown below:

Notices to the City shall be addressed:

City of San Ramon
2222 Camino Ramon
P.O. Box 5148
San Ramon, CA 94583

Notices to the Owner shall be addressed at the last known address as shown on the last equalized Assessor's roll of the County of Contra Costa.

11. Miscellaneous terms and provisions.

- (A) If any provision of this contract is adjusted to be invalid, the remaining provisions of it are not affected.
- (B) Notices to Owner shall be considered to have been given when sent as specified in Sections 7 and 10 above.
- (C) This Agreement contains a full, final and exclusive statement of the contract of the parties.
- (D) Owner appoints the City its attorney-in-fact to do all acts and things which the City considers necessary to restore or maintain the landscaping installed pursuant to the landscaping plan referred in Paragraph 2 above.
- (E) If there is more than one signer of this Agreement as Owner, their obligations are joint and several.

12. This Agreement pertains to and runs with the real property described in Exhibit "A". This Agreement binds the successor in interest of each of the parties to it.

13. City may require additional security. If, upon execution of this Agreement or at any time thereafter, the City considers that it is desirable to have the Owner post

additional security to guarantee the performance of his/her obligations, the City may require the Property Owner to post additional security with it.

The City may require either a cash deposit or a surety bond guaranteeing performance and in a form signed by sureties satisfactory to it. The condition of the security shall be that if the Owner fails to perform owners obligations under this Agreement, the City may, in the case of a cash bond, act for him using the proceeds from it, or in the case of a surety bond, require the sureties to perform the obligation of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date as stated above.

Dated: August 19, 1992

City of San Ramon

By: Mary Lou Oliver
Mayor

ATTEST:

Judy Macfarlane
Judy Macfarlane, City Clerk

Dated: August 19, 1992

Owner

By: Samuel P. Johnson
General Partner
Villa San Ramon, L.P.
owner

APPROVED AS TO FORM

Byron D. Athan
Byron Athan, City Attorney

DKC:nsb
(Creek.SSR)

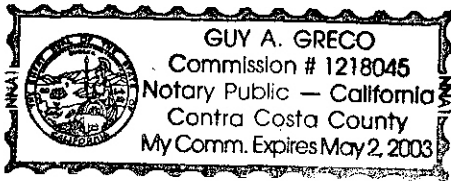
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
 County of Contra Costa } ss.

On January 29, 2003, before me, Guy A. Greco, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared DANIEL PATRICK SHELLOO
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
 Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: AGREEMENT FOR CREEK MAINTENANCE SOUTH SAN RAMON CREEK

Document Date: AUGUST 19, 1992 Number of Pages: 5

Signer(s) Other Than Named Above: MARY LOU OLIVER, JUDY MACFARLANE, BYRON ALLEN

Capacity(ies) Claimed by Signer

Signer's Name: DANIEL PATRICK SHELLOO
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

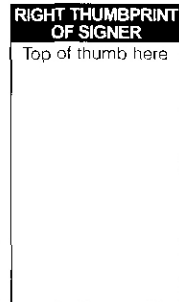


EXHIBIT "A"

LEGAL DESCRIPTION

**Real Property Situate in the City of San Ramon, Contra Costa County, State of California,
more particularly described as follows:**

**All of Parcel "B" as shown on the final map of Subdivision 88PM35 filed August 22, 1980
in Office of County Recorder of Contra Costa County.**

(Exhibit A)