

**ARTICLES OF INCORPORATION**  
**OF**  
**THE GAINNEY RANCH COMMUNITY ASSOCIATION**

Pursuant to that certain Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements, dated March 23, 1984, recorded March 29, 1984, as instrument No. 84 130211, records of the County Recorder of Maricopa County, Arizona, as the same may be amended from time to time (the "Master Declaration"), and in compliance with the requirements of Arizona Revised Statutes §10-1001 et seq. (the "Act"), the undersigned have this day voluntarily associated themselves together for the purpose of forming a non-profit corporation and do hereby adopt the following Articles of Incorporation:

**ARTICLE I**

DEFINITIONS

The words and terms used herein shall be deemed to have the same meanings as are given those words and terms in the Master Declaration. "Declarant" as used herein shall refer to Markland Properties, Inc., an Arizona corporation and the successors and assigns of Declarant's rights and powers under the Master Declaration. "Gainney Ranch" as used herein to describe a place shall refer to the real property described in the Master Declaration as Gainney Ranch.

**ARTICLE I I**

NAME

The name of the corporation is THE GAINNEY RANCH COMMUNITY ASSOCIATION, hereafter called the "Master Association."

**ARTICLE I I I**

PRINCIPAL PLACE OF BUSINESS

The principal and known place of business and office of the Master Association shall initially be located at 5251 North 16th Street, Suite 900, Phoenix, Arizona 85016. Thereafter, it is contemplated that the principal and known place of business of the Master Association will be located on Gainney Ranch and a statement setting forth such change of known and principal place of business shall be filed as provided under the Act.

## ARTICLE IV

### STATUTORY AGENT

James M. Kilday, a bona fide resident of the State of Arizona for the last three (3) years, whose address is 5251 North 16th Street, Suite 900, Phoenix, Arizona 85016, is hereby appointed the initial statutory agent of the Master Association.

## ARTICLE V

### PURPOSES, POWERS AND CHARACTER OF AFFAIRS

Section 1. Purposes and Initial Purposes. This Master Association does not contemplate pecuniary gain or profit to the Members thereof. The specific purposes and the initial purpose for which the Master Association is formed are:

- (a) To encourage and facilitate social and recreational activities for the Owners and Residents of Gainey Ranch;
- (b) To provide for the orderly development, maintenance, preservation and architectural control, as provided in the Master Declaration, of Gainey Ranch;
- (c) To own the Master Association Land and to operate and maintain various Master Common Areas and Satellite Common Areas in accordance with the Master Declaration;
- (d) To promote the health, safety and welfare of the Owners and Residents within Gainey Ranch and any additions thereto as may hereafter be brought within the jurisdiction of the Master Association; and
- (e) To perform all other obligations and responsibilities of the Master Association as set forth in the Master Declaration.

Section 2. Powers For the purposes set forth in Section 1 above, and subject to any limitations set forth in the Master Declaration, the Master Association shall have the power to:

- (a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Master Association as set forth in the Master Declaration, as the same may be amended from time to time as therein provided, said Master Declaration being incorporated herein as if set forth at length;
- (b) Fix, levy, collect and enforce payment of, by any lawful means, all charges or assessments pursuant to the terms of the Master Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Master Association including

all licenses, taxes or governmental charges levied or imposed against the property of the Master Association;

(c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Master Association;

(d) Borrow money, guarantee payment or performance of obligations, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) Dedicate, sell or transfer all or any part of the Master Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Master Association;

(f) Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional property and Master Common Area; provided, however that, except as otherwise specifically provided in the Master Declaration with respect to the Additional Lands, any such merger, consolidation or annexation shall have the assent of the owners of two-thirds (2/3) of the Memberships in each class of Members;

(g) Establish and adopt Bylaws, the Gainey Ranch Rules and other rules and regulations deemed necessary and expedient to carry into effect the objects and purposes of the Master Association; and

(h) Have and to exercise any and all powers, rights and privileges which a corporation organized under the Act may by law now or hereafter have or exercise.

Section 3. Limitation on Purpose. Notwithstanding anything herein contained to the contrary, no part of the activities of the Master Association shall be devoted to carrying on propaganda or otherwise attempting to influence legislation and the Master Association shall make no gift, donation or contribution to any institution or organization engaged in such activities. The Master Association shall not participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. No part of the net earnings of the Master Association shall inure to the benefit of any Member or individual (other than by promoting social and recreational activities for Members, maintenance, and care of the Master Common Area, or by a rebate of excess membership dues, fees or Assessments).

Section 4. Character of Affairs. The character of affairs which the Master Association initially intends actually to conduct in Arizona is to carry out the duties and

responsibilities of the Master Association as set forth in the Master Declaration, including the providing of an organizational structure for the Members to engage in social and recreational activities, to provide for the operation and maintenance of the Master Common areas and Satellite Common Areas, to levy and collect assessments for the expenses of the Master Association, and to exert architectural control over the construction and maintenance of improvements on the Gainey Ranch.

## ARTICLE VI

### MEMBERSHIP AND VOTING

Section 1. Owners of Lots and Parcels. Every Owner of a Lot or Parcel which is subject to assessment shall be a Member of the Association. Each such Owner shall be entitled to the following number of Memberships:

- (a) One (1) Membership for each Lot owned by the Member except Lots in a Commercial Condominium;
- (b) One (1) Membership for each acre (43,560 square feet) or fraction thereof in each Parcel owned by the Member, except any Parcels which have a Land Use Classification of Single Family Residential, Cluster Residential, Golf Course, Golf Clubhouse or Resort Hotel;
- (c) One (1) Membership for each completed Rental Apartment owned by the Member;
- (d) One (1) Membership for each 5,000 square feet or fraction thereof of office space in a Commercial Office Building (including office space in a Commercial Condominium) and each 2,000 square feet of retail space in a Shopping Center or General Commercial Use building (including retail space in a Commercial Condominium) owned by the Member;
- (e) In the case of (i) the Owner of the Parcel designated for the use as an Apartment Development but as to which construction has not been completed, or (ii) the Owner of a Parcel designated for Residential Condominium Development but as to which a horizontal property regime has not been recorded, one (1) Membership for each Dwelling Unit permitted upon the Parcel under the Master Development Plan then in effect for Gainey Ranch or under the Tract Declaration for the Parcel, whichever is less, the number of such Dwelling Units to be determined on the assumption that the number of Dwelling Units within a Density Classification on the Master Development Plan or Tract Declaration will be spread evenly over all land within the Density Classification. If a site plan for the Parcel is subsequently approved by the Architectural

Committee and the City of Scottsdale for a number of Dwelling Units different than the number of Dwelling Units assumed pursuant to the Master development. Tract Declaration, the number of Memberships shall be adjusted, as to the portion of the Parcel covered by the site plan and effective as of the date of adjustment, to reflect the actual number of Dwelling Units authorized by the site plan;

(f) In the case of the Owner of a Parcel with a Land Use Classification of Single Family Residential or Cluster Residential, one (1) Membership for each Dwelling Unit permitted upon the Parcel under the Master Development Plan then in effect for Gainey Ranch or under the Tract Declaration for such Parcel, whichever is less. If a subdivision plat or other instrument creating Lots is recorded covering all or part of the area within the Parcel, then the Memberships attributable to the Lots shall be determined by Subsection 1(a) above, the Parcel shall be reduced in size by the area so platted and the number of Memberships held by the Owner, as Owner of the: unplatted portion of the original Parcel, shall be reduced by a number equal to the number of Lots in the recorded subdivision plat or other instrument. All member ships attributable to the Parcel shall cease when the land area ceases to be a Parcel because all of the area in the Parcel has been platted or other wise dedicated to the public and no unplatted Single Family Residential or Cluster Residential area remains within the Parcel;

(g) In the case of the Owner of a Lot or Parcel designated for use as Commercial Office Building, General Commercial Building, Shopping Center or Commercial Condominium Development, but as to which construction has not yet been completed ed, one (1) Membership for each 5,000 square feet or fraction thereof, of uncompleted office space and each 2,000 square feet or fraction thereof of uncompleted retail and other business space which may he constructed under a Tract Declaration on such Parcel. If a site plan for the Parcel is subsequently approved by the City of Scottsdale for buildings having: a square footage different than the maximum square footage set forth in the Tract Declaration, the number of Memberships shall he adjusted, as to the portion of the Parcel covered by the site plan and effective as of the date of adjustment, to reflect the actual square footage of commercial office and retail or other business space authorized by the site plan;

(h) In the case of the owner of a Parcel having a Land Use Classification of Resort Hotel, Recreational Facility or Golf Clubhouse one (1) membership for each 5,000 square feet or faction thereof in all buildings constructed on the Parcel;

(i) In the case of the Owner of a Parcel having a Land Use Classification of Resort; Hotel, Recreational Facility or Golf Clubhouse, but as to which

construction has not been completed, one (1) Membership for each 5,000 square feet or fraction thereof of uncompleted buildings which may be constructed under a Tract Declaration on such Parcel. If a site plan for the Parcel is subsequently approved by the City of Scottsdale for buildings having a square footage different than the maximum square footage set forth in the Tract Declaration, the number of memberships shall be adjusted, as to the portion of the Parcel covered by the site plan and effective as of the date of adjustment, to reflect the actual square footage of buildings authorized by the site plan; and

(j) Fifteen (15) Memberships for each Parcel having a Land Use Classification of Golf Course.

Each such Membership shall be appurtenant to and may not be separated from ownership of the Lot or Parcel to which the Membership is attributable. Joint ownership or ownership of undivided interests, in any real property which establishes a Membership shall not cause there to be more Memberships than the number established by assuming Declarant owned all of the property to which Memberships are attributable, i.e. there may be only one (1) Membership attributable to one (1) Single Family Residential Lot even though there may be two (2) or more Owners of such Lot. Memberships shall be shared by any joint owners of, or owners of, or owners of undivided interests in, a Lot or Parcel.

Section 2. Declarant The Declarant shall be a Member of the Master Association for so long as it holds a Class B Membership pursuant to Section 3 below or owns any Lot or Parcel in Gainey Ranch.

Section 3. Voting The Master Association shall have two (2) classes of voting Memberships:

**Class A.** Class A Memberships shall be all Memberships, except the Class B Membership held by the Declarant, and each Owner shall be entitled to one (1) vote for each Class A Membership held by the Owner, subject to the authority of the Board to suspend the voting rights of the Owner for violations of the Master Declaration in accordance with the provisions hereof and the Master Declaration; provided, however, a Member shall not be entitled to any votes for Memberships which are paying only a partial Assessment pursuant to Article VII, Section 3, of the Master Declaration.

**Class B.** There shall be one (1) Class B Membership which shall be held by the Declarant. At the time of any vote by the Members of the Master Association, the Class B Membership shall be entitled to (a) three (3) votes for each vote then held by the Owners who have Class A Memberships, plus (b) five (5) additional votes. The Class B Membership shall cease and be converted to Class A Memberships, on the basis of the number of Lots and Parcels actually owned by the Declarant, on the happening of the first of the following events:

- (a) Declarant notifies the Board that Declarant is terminating its Class B Membership;
- (b) The thirty-first (31<sup>st</sup>) day of December, 1999; or
- (c) Declarant ceases to own any real property in Gainey Ranch.

Section 4. Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Membership must be cast as a unit, and fractional votes shall not be allowed. In the event that a Membership is owned by more than one (1) person or entity and such owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member cast a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that such Member was acting with the authority and consent of all the other owners of the same Membership unless objection thereof is made at the time of the vote is cast. In the event more than one (1) vote is cast for a particular Membership, none of the said votes shall be counted and all said votes shall be deemed void.

Section 5. Cumulative Voting for Board Members. In any election of the members of the Board, every owner of a Membership entitled to vote for one or more members of the Board at such an election, shall have the number of votes for each Membership equal to the number of directors to be elected by the election in which the Member is entitled to participate, except that the Class B Member shall have in each election the number of votes designated in Section 3 above times the number of directors to be elected. Each Member shall have the right to cumulate his votes for one (1) candidate or to divide such votes among any number of votes of the candidates. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

Section 6. Membership Rights. Each Member shall have the rights, duties and obligations set forth in the Master Declaration and such other rights, duties and obligations as are set forth in the Articles and Bylaws, as the same may be amended from time to time.

Section 7. Transfer of Membership. Except as otherwise provided in Section 8 of the Article VI, the rights and obligations of the owner of a Class A Membership in the Master Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot or Parcel, and then only to the transferee of ownership to the Lot or Parcel. A transfer of ownership to a Lot or Parcel may be effected by deed, in testate succession, testamentary disposition, foreclosure of a mortgage of record; or such other legal process as now in effect or as hereafter be established under or pursuant to the laws of the State of Arizona. Any

attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot or Parcel shall operate to transfer the Membership (s) appurtenant to said Lot or Parcel to the new Owner thereof.

Section 8. Use of Membership; Designees. Subject to Gainey Ranch Rules, all of the Owners of a Membership may designate one (1) or more non-members (herein referred to as “Designees”) to exercise all of the rights of the Member except Members voting rights, but such designation shall not relieve the Member of any liabilities or obligations as an Owner or with respect to the Membership. So long as such designation is in effect, the Member shall be permitted to exercise only such Member’s voting rights and the Board may, among other things, in its discretion, set maximum or minimum periods for which such designation may be in effect and limit the number of persons who may be so designated by any Member at any one time. The Designee must be a Resident unless the Board adopts rules removing residency on Gainey Ranch as a requirement.

## ARTICLE VII

### BOARD OF DIRECTORS

The control and management of the affairs of this Master Association shall be vested in a Board of Directors of five (5) who need not be Members of the Master Association. The names and addresses of the persons who are to serve as directors beginning with the incorporation of the Master Association until their successors are elected and qualified are:

<u>Names</u>	<u>Addresses</u>
Stephen J. Brumm	5251 N. 16 <sup>th</sup> Street, Suite 900 Phoenix, Arizona 85016
Douglas R. Dunn	5251 N. 16 <sup>th</sup> Street, Suite 900 Phoenix, Arizona 85016
Daniel F. Desmond	5251 N. 16 <sup>th</sup> Street, Suite 900 Phoenix, Arizona 85016
Deborah L. McGinnis	5251 N. 16 <sup>th</sup> Street, Suite 900 Phoenix, Arizona 85016
James A. Woods	5251 N. 16 <sup>th</sup> Street, Suite 900 Phoenix, Arizona 85016

## **ARTICLE VIII**

### **AMENDMENTS**

Section 1. Amendments. The Articles may be amended in the manner not inconsistent with the Master Declaration, at the regular or special meeting of the Members, by a three-fourths (3/4ths) vote of the Votes cast at any duly called meeting at which a quorum of Members is present in person or by proxy.

Section 2. Right of Amendment if Requested by Governmental Agency or Federally Chartered Lending Institutions. Any thing in the Articles contrary notwithstanding, the Board shall have the right to amend all or any part of the Articles to such an extent and with such language as may be requested by the Federal Housing Administration (“FHA”) or the Veterans Administration (“VA”) and to further amend the Articles to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency’s approval of the Articles or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot (s) or Parcel (s) or any portions thereof. In the event of such an amendment, articles of amendment shall be executed, filed and published as provided under Arizona law. It is the desire of Declarant to retain control of the Master Association and its activities through the Board of Directors during the anticipated period of planning and development of Gainey Ranch. If any amendment requested pursuant to the provisions of this Section deletes, diminishes or alters such control, the Board shall have the right to prepare, provide for and adopt, as an amendment hereto, other and different control provisions.

## **ARTICLE XIII**

### **DURATION AND DISSOLUTION**

The Master Association shall exist so long as the Master Declaration is in effect, which shall be for an initial period of twenty (20) years from March 29, 1984, and for successive extension periods of ten (10) years each unless the Master Declaration is terminated, and the Master Association dissolved, by the affirmative vote of Members casting not less than ninety percent (90%) of the total votes to be cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period or any ten (10) year extension period. The Master Declaration may be terminated, and the Master Association dissolved, at any time if ninety percent (90%) of the votes cast by each class of Members shall be cast in favor of termination and dissolution at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate the Master Declaration and this Master Association shall be effective unless and until the written consent to such termination has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from the holders of Recorded first mortgages or deeds of trust to which the Assessment Lien is subordinate pursuant to Article VIII, Section 3 of the Master Declaration on seventy-five

percent (75%) of the Lots and Parcels upon which there are such Recorded first mortgages and deeds of trust. Upon dissolution of the Master Association, other than incident to a merger or consolidation, the assets of the Master Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Master Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

## **ARTICLE X**

### **INCORPORATOR**

The name and address of the incorporator is as follows:

<u>Name</u>	<u>Address</u>
Stephen J. Brumm	5251 N. 16 <sup>th</sup> Street, Suite 900 Phoenix, Arizona 85016

## **ARTICLE XI**

### **INTERPRETATION**

In the event that any provisions hereof is inconsistent with or in derogation of the Master Declaration, the provisions of the Master Declaration shall be deemed to control.

## **ARTICLE X**

### **INDEMNIFICATION**

The Master Association shall indemnify all of its Directors and Officers, and its former Directors and Officers, to the maximum extent authorized by law, against expenses incurred by them, including without limitation legal fees, and judgments and penalties rendered or levied against them or any of them in any legal action brought against any such person for actions or omissions alleged to have been committed by any such person while acting within the scope of his or her employment as a Director or Officer of the Master Association, provided that the Board of Directors shall determine in good faith that such person did not act, fail to act, or refuse to act willfully or with gross negligence, or with fraudulent or criminal intent in regard to the matter involved in the action, and provided further that no such indemnification shall be available with respect to liabilities under the Securities Act of 1933, and provided further that the Master

Association shall have the right to refuse indemnification in any instance in which the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Master Association, at its own expense and through counsel of its own choosing, to defend him or her in any such legal action. Whenever any such present or former Director or Officer shall report to the President of the Master Association or the Chairman of the Board of Directors that he or she has incurred or may incur any such expenses, the Board of Directors shall, at its next regular meeting or at a special meeting held within a reasonable time thereafter, determine in good faith whether such person acted, failed to act, or refused to act willfully, with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action.. If the Board of Directors determines in good faith that such person did not act, fail to act or refuse to act willfully or with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action, indemnification shall be mandatory and shall be automatically extended as specified herein, except as otherwise provided hereinbefore.

## **ARTICLE X**

### **FHA/VA APPROVAL**

If the Master Declaration and these Articles have been initially approved by the FHA or the VA in connection with any loan programs made available by FHA or VA and any loans have been made on property in Gainey Ranch which are insured or guaranteed by FHA or VA, then as long as there is a Class B Membership, the following actions will require the prior approval of the FHA or VA, as applicable, unless the need for such approval has been waived by FHA or VA: (i) annexation of any properties except all or any portion of the Additional Lands, (ii) mergers and consolidations, (iii) mortgaging of the Master Common Area, (iv) dedication of the Master Common Area except as required by zoning stipulations or agreements with the City of Scottsdale effective prior to the date hereof, and (v) dissolution and amendment of these Articles.

Dated this 10<sup>th</sup> day of October, 1984

Stephen J. Brumm