

RECORDING REQUESTED BY:
AND WHEN RECORDED RETURN TO:
J.H. HEDRICK CO.
1516 W. REDWOOD ST.
SAN DIEGO, CA 92101

83-509026
LEFFINGWELL CREEK

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CA
MAY 6 1983 AT 8 A.M.
Recorder's Office

DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

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LEFFINGWELL CREEK
DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION is made this 22nd day of April, 1983, by Hedrick Enterprises, a California corporation its successors and assigns, hereafter referred to as "Declarant".

R E C I T A L S

A. Declarant is the fee owner of the real property located in the County of Los Angeles, State of California, which is more particularly described as:

Lot 1 of Tract No. 42101, in the County of Los Angeles, State of California, as recorded in Book 1010, pages 52-54, of maps in the Office of the County Recorder of said County, on October 27th, 1982.

herein after called the "Covered Property". This Declaration is being imposed by Declarant upon the Covered Property.

Declarant has or intends to improve the Covered Property by constructing thereon 36 condominium units.

Declarant has or intends to improve the Covered Property by constructing thereon 36 condominium units, consisting of 22 - 2 bedroom townhouse units and 14 - 3 bedroom townhouse units, 14 - 2 car enclosed garages, 22 - 1 car enclosed garages, and 22 open parking spaces, all in accordance with plans and specifications on file with the County of Los Angeles.

The respective interest in the common area to be conveyed with each unit comprises an undivided 1/36th interest therein.

B. Declarant has deemed it desirable to establish covenants, conditions and restrictions upon the Covered Property and each and every portion thereof, which will constitute a general scheme for the management of the Covered Property, and for the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Covered Property and enhancing the quality of life within the covered property.

C. It is desirable for the efficient management of the Covered Property and the preservation of the value, desirability and attractiveness of the Covered Property to create a corporation to which should be delegated and assigned the powers of managing the Covered Property, maintaining and administering the Common Area and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessment and charges hereinafter created and referred to and to perform such other acts as shall generally benefit the Covered Property.

D. Leffingwell Creek Homeowners' Association, a nonprofit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid.

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All persons who purchase Residences within the real property designated as the Covered Property in this Declaration shall be Owners as defined herein, and shall thereby automatically become Members of said Association and shall be subject to its powers and jurisdiction.

E. Declarant will hereafter hold and convey title to all of the Covered Property subject to certain protective covenants, conditions and restrictions hereafter set forth.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of its interest as the same may from time to time appear in the Covered Property shall be held and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of said interests in the Covered Property, and the owners of said interests, their successors and assigns. These covenants, conditions, restrictions and easements shall run with said interests and shall be binding upon all parties having or acquiring any right or title in said interests or any part thereof, and shall inure to the benefit of each owner thereof and are imposed upon said interests and every part thereof as a servitude in favor of each and every of said interests as the dominant tenement or tenements.

ARTICLE 1

DEFINITIONS

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

Section 1.1. "Architectural Committee" shall mean and refer to the committee or committees provided for in Article V hereof.

Section 1.2. "Articles" and "Bylaws" shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended.

Section 1.3. "Assessments": The following meanings shall be given to the Assessments hereinafter defined:

"Regular Assessment": shall mean the amount which is to be paid by each Member to the Association for Common Expenses.

"Special Assessment" shall mean a charge against a particular Owner and his or her Residence, directly attributable to the Owner, to reimburse the Association for costs incurred in bringing the Owner and his or her Residence into compliance with the provisions of this Declaration, the Articles, Bylaws or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules, together with attorney's fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

"Reconstruction Assessment" shall mean a charge against each Member and his or her Residence representing a portion of the cost to the Association for reconstruction of any portion or portions of the Covered Property pursuant to the provisions of this Declaration.

"Capital Improvement Assessment": shall mean a charge against each Member and his or her Residence, representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Covered Property which the Association may from time to time authorize pursuant to the provisions of this Declaration.

"Cable Televisions Service Assessment" shall mean a charge or subscription fee against a particular Owner and his or her Residence for cable television services obtained by the Association for the benefit of such Owner as provided in this Declaration.

Section 1.4. "Association" shall mean and refer to Leffingwell "Creek Homeowners' Association", a non-profit corporation, incorporated under the laws of the State of California, its successors and assigns.

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Section 1.5. "Association Rules" shall mean rules adopted by the Association pursuant to Article VI hereof.

Section 1.6. "Board" shall mean the Board of Directors of the Association.

Section 1.7. "County" shall mean and refer to the County of Los Angeles, California.

Section 1.8. "Common Area" shall mean all portions of the Covered Property except the Units and, without limiting the generality of the foregoing, specifically including all structural projections within a Unit which are required for the support of a Condominium Building, gas, water, waste pipes, all sewers, all ducts, chutes, conduits, wires and other utility installations of the structures wherever located (except the outlets thereof when located within the Units), the land upon which the structures are located, the air space above these structures, all bearing walls, columns, floors, the roof, the slab foundation, common stairways, window glass and the like. Common Area shall specifically exclude all garage door opening systems and all air conditioning units notwithstanding that the foregoing are located in the Common Area.

Section 1.9. "Common Expenses" shall mean and refer to the actual and estimated costs of:

- (a) maintenance, management, operation, repair and replacement of the Common Area, and all other areas on the Covered Property which are maintained by the Association;
- (b) unpaid Assessments;
- (c) maintenance by the Association of the Maintenance Area;
- (d) costs of management and administration of the Association, including but not limited to, compensation paid by the Association to managers, accountants, attorneys, and employees;
- (e) the costs of utilities, trash pickup and disposal, gardening and other services which generally benefit and enhance the value and desirability of the Covered Property;
- (f) the costs of fire, casualty, liability, workmen's compensation, and other insurance covering the Common Area or Maintenance Area;
- (g) the costs of any other insurance obtained by the Association;
- (h) reasonable reserves as deemed appropriate by the Board;
- (i) the costs of bonding of the members of the Board, any professional managing agent or any other person handling the funds of the Association;
- (j) taxes paid by the Association;
- (k) amounts paid by the Association for discharge of any lien or encumbrance levied against the Covered Property or portions thereof;
- (l) costs incurred by the Architectural Committee or other committees established by the Board; and
- (m) other expenses incurred by the Association for any reason whatsoever in connection with the Common Area or Maintenance Area, or the costs of any other item or items designated by this Declaration, the Articles, Bylaws or Association Rules, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

Section 1.10. "Condominium" shall mean a fractional undivided interest in common with the other Owners in the Common Area of the Covered

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Property, together with a separate interest in a Unit and all rights, title and interest appurtenant thereto. Such fractional undivided interest in common of each Owner shall be as described in the instrument conveying a Condominium to such Owner and shall not be changed except as provided in Section 9.10 of Article IX hereof and Section 10.8 of Article X hereof.

Section 1.11. "Condominium Building" shall mean a separate building containing one or more Units or elements of Units.

Section 1.12. "Condominium Elements" shall mean the following elements of a Unit:

(a) "Balconies" shall mean that portion of a Unit designed for use as a balcony and shall be identified as such on the Condominium Plan.

(b) "Garage" shall mean that portion of a Unit designed for use as a garage, and shall be identified as such on the Condominium Plan, and shall consist of the interior undecorated surface of the perimeter walls, floors, ceilings, windows (if any), and doors of each Garage element and the space encompassed thereby, including the outlets of all utility installations therein.

(c) "Patio" shall mean that portion of a Unit designed for use as a patio, and shall be identified as such on the Condominium Plan. The Patio shall consist of the contiguous surfaces of any Common Area walls or fences, the surfaces of the walls of contiguous Condominium Buildings, with the upper and lower horizontal boundaries being planes above and below the surface of the land as shown on the Condominium Plan, and the space and the land encompassed by all of the foregoing. In the event that the contiguous Common Area land or improvements do not completely enclose the Patio element, the remaining boundaries of the airspace contained within said Patio element shall be as delineated on the Condominium Plan.

(d) "Residential Element" shall mean that portion of a Unit designed for use as a residence, and shall be identified as such on the Condominium Plan. The Residential Element shall consist of the interior undecorated surfaces of the perimeter walls, floors, ceilings, windows and doors of each Residential Element and the space encompassed thereby, including the outlet of all utility installations therein.

Section 1.13. "Condominium" and "Condominium Owner" shall mean, respectively, the estate and the Owner of any condominium within the Covered Property within any condominium project established pursuant to Section 1350 and following of the Civil Code of the State of California or any similar statute hereafter enacted.

Section 1.14. "Condominium Plan" shall mean that certain condominium plan recorded by Declarant in the Office of the County Recorder of the County in which the Covered Property is located and any amendments thereto. In interpreting deeds, leases, declarations and plans, the existing physical boundaries of a Unit constructed in substantial accordance with the Condominium Plan shall be conclusively presumed to be its boundaries rather than the description expressed in the deed, lease, declaration or plan, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries as shown on the plan or in the deed, lease, or declaration and those of the building as constructed.

Section 1.15. "Covered Property" shall mean and refer to all the real property described in the Recitals.

Section 1.16. "Exclusive Use Area", if any, shall mean those portions of the Common Area to which an exclusive right to use is granted to an Owner as shown and described on the Condominium Plan.

Section 1.17. "Federal Agencies" shall mean and refer to collectively one or more of the following agencies and the following letter designation for such agencies shall mean and refer to respectively the agency specified within the parentheses following such letter designation: FHA (Federal Housing Administration), FHLMC (Federal Home Loan Mortgage Corporation), FNMA (Federal National Mortgage Association), GNMA (Government National Mortgage Association), VA (Veterans Administration).

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Section 1.18. "Final Subdivision Public Report" shall refer to that report issued by the Department of Real Estate of the State of California pursuant to Section 11018.2 of the California Business and Professions Code or any similar statute hereafter enacted.

Section 1.19. "Institutional Mortgagee" shall mean and refer to a First Mortgagee which is a bank or savings and loan association or established mortgage company or other entity chartered under federal or state laws, any corporation or insurance company, any federal or state agency, or any other institution regulated by federal or state law.

Section 1.20. "Maintenance Area" shall mean and refer to any area within (other than Common Area) or outside of the Covered Property which the Association is required to maintain by this Declaration.

Section 1.21. "Member" shall mean and refer to every person or entity who qualifies for membership pursuant to Article II of this Declaration entitled, "Membership", including Declarant so long as Declarant qualifies for membership pursuant to said Article.

Section 1.22. "Mortgage" shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Residence. A "First Mortgage" shall refer to a Mortgage which has priority over any other Mortgage encumbering a specific Residence.

Section 1.23. "Mortgagee" shall mean and refer to the mortgagee or beneficiary under any Mortgage. A "First Mortgagee" shall mean the holder of a Mortgage that has priority over any other Mortgage encumbering a Residence.

Section 1.24. "Owner" shall mean and refer to one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Residence, including Declarant, or the vendee under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation.

Section 1.25. "Residence" shall mean and refer to a Condominium.

Section 1.26. "Trustee" shall mean and refer to the insurance trustee as more fully described in Article VIII hereof.

Section 1.27. "Unit" shall mean the elements of a Condominium not owned in common with the Owners of other Condominiums and as shown and described as such on the Condominium Plan; provided, however, that the following are not part of any Unit; bearing walls, columns, floors, roofs, foundations, pipes, ducts, flues, chutes, conduits, wires and other utility installations, whenever located, except the outlets thereof when located in the Unit.

ARTICLE II

MEMBERSHIP

Section 2.1. - Membership. Every Owner shall be a Member. The terms and provisions set forth in this Declaration which are binding upon all Owners are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws and Association Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners shall be appurtenant to and may not be separated from the interest of such Owner in any Residence. Ownership of a Residence shall be the sole qualification for membership; provided, however, a Member's voting rights or privileges with respect to the recreational facilities located on the Common Area may be regulated or suspended as provided in this Declaration, the Bylaws or the Association Rules. Not more than one membership shall exist based upon ownership of a single Residence.

Section 2.2. - Transfer. The membership held by any Owner shall not be transferred, pledged, or alienated in any way, except that such membership shall automatically be transferred to the transferee of the interest of an Owner required for membership. Any attempt to make a prohibited transfer is void and will not be reflected upon

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the books and records of the Association. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner.

Section 2.3. - Voting Rights. An Owner's right to vote shall vest immediately upon the date Regular Assessments commence upon such Owner's Residence as provided in this Declaration. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles, Bylaws and Association Rules.

Section 2.4. - Classes of Voting Membership. The Association shall have common classes of voting membership.

Class A. Class A Members shall be all Owners with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Residence in which they hold the interest in a Residence required for membership, each such person shall be a Member and the vote for such Residence shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Residence. In the event that joint Owners or co-Owners or multiple Owners of a Residence are unable to agree among themselves at the time that votes are cast on any matter in question as to how their vote or votes with respect to such Residence shall be cast, they shall not be entitled to vote on the matter in question. If any Owner casts a vote representing his or her Residence, it will thereafter be conclusively presumed for all purposes that he or she was acting with the authority and consent of all other Owners of the same Residence. Any votes cast with regard to any such Residence in violation of this provision shall be null and void.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Residence in which it holds the interest required for membership; provided that the Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events,

(a) when the total votes outstanding in the Class A Membership equals the total outstanding in the Class B Membership;

(b) a date not later than the second anniversary of the original issuance of the Final Subdivision Public Report for the Covered Property.

Section 2.5. - Class A Voting Rights. Notwithstanding the provisions of this Article, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Declaration and the Bylaws to elect at least twenty percent (20%) of the total number of directors on the Board, at any meeting of Members at which directors are to be elected, then such Class A Members shall, by majority vote, among themselves, elect the number of directors required to equal twenty percent (20%) of the total number of directors on the Board. In the event twenty percent (20%) of the total number of directors is equal to any fractional number, the number of directors to be elected pursuant to the special Class A voting right shall be rounded to the next higher whole number. In no event shall the Class A Members be entitled to elect more than twenty percent (20%) of the total number of directors, adjusted to the provisions of this special Class A voting right. The remaining vacancies on the Board shall be elected by the Class B Member.

Section 2.6. - Approval of Members. Unless otherwise specifically provided in this Declaration or the Bylaws, any provision of this Declaration or the Bylaws which requires the vote or written assent of a specified majority of the voting power of the Association or any class or classes of membership shall be deemed satisfied by the following:

(a) the vote of the specified percentage at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members. Such

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percentage must include the specified number of all Members entitled to vote at such meetings and not such a percentage of those Members present;

(b) written consents signed by the specified percentage of Members as provided in the Bylaws.

Section 2.7. - Approval by Each Class of Members. Any provision in the governing instruments calling for membership approval of action to be taken by the association, except provisions with respect to the action to enforce the obligations of the subdivider under any completion bond, shall expressly require the vote or written assent of the prescribed percentage of each class of membership during the time that there are two outstanding classes of membership. Any requirement elsewhere in the Articles of Incorporation, Bylaws, and Declaration of Restrictions, except with respect to the action to enforce the obligations of the subdivider under Section 18.15 of this Declaration, that the vote of the subdivider shall be excluded in any such determination shall be applicable only if there has been a conversion of class B members to class A members, and the same shall be read as requiring the vote of the prescribed percentage of the class A members and the vote of the prescribed percentage of the class A members other than the subdivider.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 3.1. - Creation of the Lien and Personal Obligation of Assessments. Each Owner including the Declarant to the extent Declarant is an Owner as defined herein, of any Residence by acceptance of a deed or other conveyance, creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, Capital Improvement Assessments, Reconstruction Assessments, and Cable Television Service Assessments, if applicable, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorney's fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Residence against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs, and attorney's fees, shall also be the personal obligation of the Owner of such Residence at the time when the Assessment becomes due. The personal obligation shall not pass to the successors in title of an Owner unless expressly assumed by such successors.

Section 3.2. - Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety, and welfare of the Members, the management of the Covered Property enhancing the quality of life in the Covered Property, and the value of the Covered Property including, without limitation, the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and Maintenance Area, or in furtherance of any other duty of the Association.

Section 3.3. - Regular Assessments. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board shall distribute to each Member a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Board shall at that time determine the amount of the Regular Assessment to be paid by each Member. Each Member shall thereafter pay to the Association his or her Regular Assessment in installments as established by the Board. Each such installment shall be due and payable on the date established by the Board in the written notice sent to Members. In the event the Board shall determine that the estimate of total charges for the current year is, or will become inadequate to meet all Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Member, and the date or dates when due. After the Association's first fiscal

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year of operation, it shall not impose a Regular Assessment which is increased more than twenty percent (20%) over the amount of the Regular Assessment in the immediately preceding fiscal year, without the approval of a majority of the voting power of the Association other than Declarant.

Section 3.4. - Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy in any calendar year, a Capital Improvement Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Area to the extent same is not covered by the provisions affecting the necessary fixtures and a Capital Improvement Assessment, the total amount of which exceeds five percent (5%) of the estimated Common Expense, as estimated in accordance with Section 3.3, without the approval of a majority of the voting power of the Association other than Declarant. Any reserve collected by the Association for the future maintenance and repair of the Common Area, or any portion thereof, shall not be included in determining said annual capital improvement limitation. All amounts collected as Capital Improvement Assessments may only be used for capital improvements and shall be deposited by the Board in separate bank accounts to be held in trust for such purposes. Said funds shall not be commingled with any other funds of the Association and shall be deemed a contribution to the capital account of the Association by the Members.

Section 3.5. - Proration of Assessments. Regular and capital improvement assessments shall ordinarily be fixed at an equal amount for each unit.

(a) In the case of a subdivision offering in which it is reasonable to anticipate that any owner will derive as much as ten percent (10%) more than any other owner in the value of common services supplied by the Association, the assessment against each owner shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

(b) Reconstruction assessments against owners in a condominium development to raise funds for the rebuilding or major repair of the structural common area housing units of the project shall be levied upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

Section 3.6. - Certificate of Payment. The Association shall, upon demand, furnish to any Member liable for Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the Assessments on a specified Residence have been paid, and the amount of delinquency, if any. A reasonable charge not to exceed Fifteen Dollars (\$15.00) may be collected by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 3.7. - Exempt Property. All properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments created herein.

Section 3.8. - Special Assessments.

(a) In the event the board shall determine that the theretofore estimated total amount of funds necessary to defray the common expense of the Association for a given fiscal year is, or will become, inadequate to meet such expenses for any reason, including, but not limited to, unanticipated delinquencies, costs of construction or reconstruction, unexpected repairs or replacement of capital improvements upon the common area, or otherwise, the board shall determine the approximate amount necessary to defray such expenses, and if said amount is formally approved by the board same shall become a special assessment which may be assessed hereunder. Except as provided in Section 3.5 (b) and Section 3.8 (c), every special assessment shall be levied upon the same basis as that prescribed for the levying of regular assessments.

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(b) The Board may not, without the vote or written assent of a majority of the voting power of the Association residing in members other than the subdivider, impose a general special assessment per unit which is more than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(c) The above provisions do not apply to the following special assessments.

1. Where the special assessment against a member is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member and his subdivision interest into compliance with the provisions of the governing instruments of the Association, and the attorney's fees, interest, and other charges relating thereto as provided in this Declaration. Such special assessments shall be levied by the Board against a Residence to reimburse the Association.

2. In the event the Association undertakes to provide materials or services which benefit individual residences and which can be accepted or not by individual owners, such as tree trimming, such owners in accepting such materials or services agree that the costs thereof shall be a special assessment.

Section 3.9. - Cable Television Service Assessment. In the event the Board elects to contract for cable television service, Cable Television Service Assessments shall be levied by the Board against the Owners who have subscribed with the Association for such service. The Cable Television Service Assessment shall exclude charges for the main distribution system for the community antenna television system and the installation thereof within the Covered Property. In such circumstances, the Cable Television Service Assessment shall commence as to such Owner on the first of the month following the month in which he so subscribes and shall continue against such Owner and any subsequent transferee of his Residence until the first day of the month following the month in which any such Owner or transferee notifies the Board in writing that he no longer wishes to subscribe to such service, or the month in which the Board elects to cancel the Association's contract for cable television service.

Section 3.10. - Date of Commencement of Regular Assessments. The Regular Assessments shall commence as to all Residences on the first day of the month following the conveyance of the first Residence by Declarant to an individual Owner. It is provided, further, that in the event the amount budgeted to meet Common Expenses for the then current year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the Regular Assessment or may abate collection of Regular Assessments as it deems appropriate. Until such time as the Class B Membership has ceased and been converted into Class A Membership, in no event shall a reduction in the amount or the abatement in the collection of Regular Assessments pursuant to this Section result in a quantity or quality of services diminished from those upon which the Common Expense budget for the year in question is based.

Section 3.11. - No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that (i) the Association is not properly exercising its duties and powers as provided in this Declaration; (ii) a Member has made or elects to make no use of the Common Area, or (iii) any construction or maintenance performed pursuant to Section 7.6 of Article VII of this Declaration shall in any way postpone Assessments or entitle a Member to claim any such offset or reduction.

Section 3.12. - Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of California now in effect, or in effect from time to time hereafter.

Section 3.13. - Reserves. The Regular Assessments shall include reasonable amounts as determined by the Board collected as reserves for the future periodic maintenance, repair or replacement of all or

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a portion of the Common Area, or any other purpose as determined by the Board. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in separate bank accounts to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members.

ARTICLE IV

NONPAYMENT OF ASSESSMENTS

Section 4.1. - Delinquency. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent on said date (the "delinquency date"). If any such Assessment is not paid within thirty (30) days after delivery of notice of such delinquency from the Association, a late charge of Ten Dollars (\$10.00) shall be levied and the Assessment shall bear interest from the delinquency date at the rate of ten percent (10%) per annum. The Association may, at its option, and without waiving the right to judicially foreclose its lien against the Residence, pursue any available remedies, including, without limitation, bringing an action at law against the Member personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 4.2 hereof to foreclose the lien against the Residence. If action is commenced, there shall be added to the amount of such Assessment the late charge, interest, the cost of such action, and attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include said late charge, interest and a reasonable attorney's fee, together with the costs of action. Each Member vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure against such Member or other Members for the collection of such delinquent Assessments.

Section 4.2. - Notice of Lien. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided until thirty (30) days after the date of a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Residence, and a copy thereof is recorded by the Association in the office of the County Recorder in which County the properties are located; said notice of claim of lien must recite a good and sufficient legal description of any such Residence, the record Owner of reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment at the rate of ten percent (10%) per annum; a late charge of Ten Dollars (\$10.00), plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

Section 4.3. - Foreclosure Sale. Said Assessment lien may be enforced by sale by the Association, its attorney or any other person authorized by the Board to make the sale after failure of the Owner to make the payments specified in the notice of claim of lien within said thirty (30) day period. Any such sale provided for above, is to be conducted in accordance with the provisions of Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h of the Civil code of the State of California as said statutes may from time to time be amended, applicable to the exercise of powers of sale in 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 Residence, using as a credit bid the amounts secured by such lien, Association funds, or funds borrowed for such purpose, at the sale, and to acquire and hold, lease, mortgage, and convey the same.

Section 4.4. - Curing of a Default. Upon the timely payment or other satisfaction of: (a) all delinquent Assessments specified in the notice of claim of lien; (b) all other Assessments which have become due and payable with respect to the Residence as to which such notice of claim of lien was recorded; and (c) interest, late charges and attorneys' fees and other costs of collection pursuant to this Declaration and the notice of claim of lien which have accrued, officers of the Association or any other persons designated by the Board are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment

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by the defaulting Owner of a fee, to be determined by the Association, but not to exceed Twenty-five Dollars (\$25.00) to cover the costs of preparing and filing or recording such release.

ARTICLE V

ARCHITECTURAL CONTROL

Section 5.1. - Appointment of Architectural Committee. The Architectural Committee shall consist of not less than three (3) nor more than five (5) persons as fixed from time to time by resolution of the Board. The Declarant shall initially appoint the Architectural Committee. The Declarant shall retain the right to appoint, augment or replace all members of the Architectural Committee until one (1) year after the date of the issuance of a Final Subdivision Public Report covering the Covered Property. The Declarant shall retain the right to appoint, augment or replace a majority of the members of the Architectural Committee until five (5) years after the date of the issuance of said Subdivision Public Report, or until ninety percent (90%) of the Residences within the Covered Property have been conveyed by the Declarant, whichever shall first occur. Notwithstanding the foregoing, commencing one (1) year following the issuance of said Final Subdivision Public Report, the Board shall have the right but not the obligation to appoint the remaining persons to the Architectural Committee. Five (5) years after the date of the issuance of said Final Subdivision Public Report, or when ninety percent (90%) of the Residences within the Covered Property have been conveyed by Declarant, whichever shall first occur, the right to appoint, augment or replace all members of the Architectural Committee shall automatically be transferred to the Board. Persons appointed by the Board to the Architectural Committee must be Members; however, persons appointed by Declarant to the Architectural Committee need not be Members, in Declarant's sole discretion.

Section 5.2. - General Provisions.

(a) The Architectural Committee may establish reasonable procedural rules and may assess a fee not to exceed Fifty Dollars (\$50.00) per submission of plans in connection with review of plans and specifications including, without limitation, the number of sets of plans to be submitted; however, the Architectural Committee may delegate its plan review responsibilities to one or more members of such Architectural Committee. Upon such delegation, the approval or disapproval of plans and specifications by such persons shall be equivalent to approval or disapproval by the entire Architectural Committee. Unless any such rules are complied with, such plans and specifications shall be deemed not submitted.

(b) The address of the Architectural Committee shall be the principal office of the Association as designated by the Board pursuant to the Bylaws. Such address shall be the place for the submittal of plans and specifications and the place where the current Architectural Standards shall be kept.

(c) The establishment of the Architectural Committee and the systems herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain, repair, alter or modify or otherwise have control over the Residences as may otherwise be specified in this Declaration, in the Bylaws or in any Association Rules.

(d) In the event the Architectural Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been duly submitted in accordance with any rules regarding such submission adopted by the Architectural Committee, such plans and specifications will be deemed approved.

Section 5.3. - Approval and Conformity of Plans. No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Covered Property, nor shall there be any addition to or change in the exterior of any Residence, structure or other improvement including, without limitation, the painting of exterior walls and fences, unless plans and specifications therefor have been submitted to and approved by the Architectural Committee.

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The Board shall, from time to time, adopt promulgate architectural standards ("Architectural Standards") to be administered through the Architectural Committee. The Architectural Standards shall include among other things those restrictions and limitations upon the Owners set forth below:

(a) time limitations for the completion of the architectural improvements for which approval is required pursuant to the Architectural Standards;

(b) conformity of completed architectural improvements to plans and specifications approved by the Architectural Committee; provided however, as to purchasers and encumbrancers in good faith and for value, unless notice of noncompletion or nonconformance identifying the violating Residence and its Owner and specifying the reason for the notice, executed by the Architectural Committee, shall be filed of record in the Office of the County Recorder of the County in which the Covered Property is located and given to such Owner within thirty (30) days of the expiration of the time limitation described in subsection (a) above, or unless legal proceedings shall have been instituted to enforce compliance or completion within said thirty (30) day period, the completed architectural improvements shall be deemed to be in compliance with plans and specifications approved by the Architectural Committee and in compliance with the Architectural Standards of the Association, but only with respect to purchasers and encumbrancers in good faith and for value; and

(c) such other limitations and restrictions as the Board in its reasonable discretion shall adopt, including, without limitations, the regulation of the following: construction, reconstruction, exterior addition, change or alteration to or maintenance of any building, structure, wall or fence, including, without limitation, the nature, kind, shape, height, materials, exterior color and surface and location of such dwelling or structure and the harmony of exterior design and color in relation to other dwellings and structures within the Covered Property.

Section 5.4. - Nonliability for Approval of Plans. Plans and specifications are not approved for engineering design, and by approving such plans and specifications neither the Architectural Committee, the members thereof, the Association, the Members, the Board nor Declarant assumes liability or responsibility therefor, or for any defect in any structure constructed from such plans and specifications.

Section 5.5. - Appeal. In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submissions may appeal in writing to the Board. The written request shall be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. The Board shall submit such request to the Architectural Committee for review, whose written recommendations will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

Section 5.6. - Reconstruction After Destruction. The reconstruction after destruction by casualty or otherwise of any Residence which is accomplished in substantial compliance with the Condominium Plan filed covering the Covered Property shall not require compliance with the provisions of this Article. Such reconstruction shall be conclusively deemed to be in substantial compliance with such Condominium Plan if it has received the approval of the Association.

ARTICLE VI

DUTIES AND POWERS OF THE ASSOCIATION

Section 6.1. - General Duties and Powers. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere pro-

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vided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

Section 6.2. - General Duties of the Association. The Association through the Board shall have the duty and obligation to:

(a) enforce the provisions of this Declaration, the Articles, Bylaws, and Association Rules, by appropriate means and carry out the obligations of the Association hereunder;

(b) maintain and otherwise manage the following:

(i) all easements and real property and all facilities, improvements and landscaping thereon in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association;

(ii) all personal property in which the Association holds an interest, subject to the terms of any instrument transferring such interest to the Association; and

(iii) all property, real or personal, which the Association is obligated to repair or maintain pursuant to this Declaration, including, without limitation, Article VII of this Declaration.

(c) pay any real and personal property taxes and other charges assessed to or payable by the Association;

(d) obtain, for the benefit of the Common Area, water, gas and electric, refuse collections and other services;

(e) act as a managing agent for all of the Covered Property; and

(f) whenever required to do so by this Declaration, employ a person qualified and experienced in appraising property similar in nature and use to the Covered Property to conduct an independent appraisal ("Independent Appraisal") to determine the fair market value of the Covered Property requested to be appraised. The cost of said Independent Appraisal shall be levied as a Special Assessment against the Owner or Owners whose Condominiums are appraised.

Section 6.3. - General Powers of the Association. The Association through the Board shall have the power but not the obligation to:

(a) acquire interests in real or personal property for offices or other facilities that may be necessary or convenient for the management of the Covered Property, the administration of the affairs of the Association or for the benefit of the Members;

(b) borrow money as may be needed in connection with the discharge by the Association of its powers and duties;

(c) establish in cooperation with the City's special tax assessment district for the performance of all or a portion of the maintenance or other functions now within the responsibility of the Association;

(d) provide trash pickup and disposal service for the benefit of the Owners and their Residences;

(e) contract for cable television service for the benefit of the Owners who have subscribed for such service; and

(f) negotiate and enter into contracts with Institutional Mortgagees and mortgage insurers and guarantors as may be necessary or desirable to facilitate the availability of loans secured by mortgages, within the Covered Property.

Section 6.4. - General Limitations and Restrictions on the Powers of the Board. In addition to the limitations and restrictions enumerated in the Articles and Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Board shall be prohibited from taking any of the following actions without the approval of a majority of the voting power of the Association other than Declarant.

83- 509026 (a) enter contracts for materials or services which have

a term in excess of one (1) year, with the following exceptions:

(i) a management contract, the terms of which have been approved by the FHA or VA;

(ii) a contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(iii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the applicable policy permits short rate cancellation by the insured; and

(iv) lease agreements for laundry room fixtures and equipment shall not exceed five years duration provided that the lessor under the agreement is not an entity in which the subdivider has a direct or indirect ownership of 10 percent or more;

(b) incur aggregate expenditures for capital improvements to the Covered Property in any fiscal year in excess of five percent (5%) of the estimated Common Expenses during any fiscal year as set forth in Section 3.4 hereof;

(c) sell all real or personal property of the Association with an aggregate fair market value in excess of five percent (5%) of said estimated Common Expenses during any fiscal year; and

(d) pay compensation to directors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association;

(e) fill a vacancy on the Board created by the removal of a Board member.

Section 6.5. - Association Rules. The Board shall also have the power to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules") which may include the establishment of a system of fines and penalties enforceable as Special Assessments, all as provided in the Bylaws. The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitations, the use of the Common Area, provided, however, that the Association Rules may not discriminate among Owners, and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal or specific portions of the Association Rules shall be delivered to each Owner in the same manner established in this Declaration for the delivery of notices. Upon completion of the notice requirements, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and their successors in interest whether or not actually received thereby. The Association Rules, as adopted, amended, or repealed, shall be available at the principal office of the Association to each Owner and Institutional Mortgagee upon request. In the event of any conflict between and such Association Rules and any other provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws to the extent of any such conflict.

Section 6.6. - Delegation of Powers. The Association shall have the right, according to law, to delegate to committees, officers, employees or agents any of its duties and power under this Declaration, the Articles, and Bylaws; provided, however, no such delegation to a professional management company, the Architectural Committee or otherwise shall relieve the Association of its obligation to perform such delegated duty.

Section 6.7. - Pledge of Assessment Rights. The Association shall

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have the power to pledge the right to exercise its Assessment powers in connection with obtaining funds to repay a debt of the Association; provided, however, any such pledge shall require the prior affirmative vote or written assent of not less than seventy-five percent (75%) of the Class A Members and of the Class B Members. Said power shall include, but not be limited to, the ability to make an assignment of Assessments which are then payable to or which will become payable to the Association; which assignment may be then presently effective but shall allow said Assessment to continue to be paid to and used by the Association as set forth in this Declaration, unless and until the Association shall default on the repayment of the debt which is secured by said assignment. The Association may levy Special Assessments against the Members to obtain such funds. Upon the failure of any Member to pay said Special Assessment when due, the Association may exercise all its rights, including, without limitation, the right to foreclose its lien, pursuant to Article IV hereof. Without limiting the generality of the foregoing, any pledge of Assessment rights in excess of an amount equal to twenty-five percent (25%) of the total Regular Assessments collected by the Association in the then preceding fiscal year, shall require the prior written approval of seventy-five percent (75%) of the Institutional Mortgagees based on one (1) vote for each first mortgage held.

Section 6.8. - Emergency Powers. The Association or any person authorized by the Association may enter any Residence in the event of any emergency involving illness or potential danger to life or property. Such entry shall be made with as little inconvenience to the owners as practicable, and any damage caused thereby shall be repaired by the Association unless covered by insurance carried by the Owner.

ARTICLE VII

REPAIR AND MAINTENANCE

Section 7.1. - Repair and Maintenance by Association. Except to the extent that an Owner may be obligated, or the City has accepted the obligation, to maintain and repair as hereinafter provided, and without limiting the generality of the statement of duties and powers contained in this Declaration, the Articles, Bylaws or Association Rules, the Association shall have the duty to accomplish the following upon the Covered Property or other land in such manner and at such times as the Board shall prescribe:

- (a) maintain, repair, restore, replace and make necessary improvements to the Common Area, including, without limitation, the following:
 - (i) the exterior surfaces of all Condominium Buildings, to include the painting thereof, including, without limitation, the interior surface boundaries of Condominium Elements which are exterior walls of Condominium Buildings;
 - (ii) private walkways, bicycle paths, trails or other pedestrian paths, and parkways.
 - (iii) private streets and adjacent streetscapes within the Covered Property;
 - (iv) drainage facilities and easements in accordance with the requirements, if any, of the County Flood Control District;
 - (v) install and maintain "no parking" signs along all driveways;
- (b) maintain all other areas, facilities, equipment, services or aesthetic components of whatsoever nature as may from time to time be requested by the vote or written consent of two-thirds (2/3) of the voting power of the Members;
- (c) the costs of any such maintenance and repair pursuant to this Section shall be paid out of the funds of the Association as provided herein; and
- (d) slope and landscaped and improved areas within the Common Area, including any drainage facilities located thereon,

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shall be maintained continuously by the Association, in a neat, orderly and safe condition and in such a manner as to enhance their appearance, maintaining established slope ratios, prevent erosion or sliding problems, and to facilitate the orderly discharge of water through drainage systems and patterns established by Declarant. No structure, planting or other material shall be placed or permitted to remain, or other activities undertaken on any area within the Covered Property which might create erosion or sliding problems, or interfere with established drainage systems or patterns. Any area drains and other drainage facilities and systems within the Common Area shall be maintained by the Association, in a neat, orderly and safe condition and in such a manner as to facilitate the orderly discharge of water by means of same.

Section 7.2. - Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain and repair as may be provided in this Declaration, every Owner shall:

(a) maintain, repair, replace and restore all of the Residential elements and the Garage elements, the floor and interior surfaces of the Balcony and Patio elements which are not exterior walls of Condominium Buildings. Without limiting the generality of the foregoing, Owners shall maintain all plants or other growing things emplaced or located within such nonresidential elements of Units, and such plants or other growing things shall be permitted to encroach into or onto the Common Area subject to Article V hereof;

(b) repair and replace all window glass and skylight glass for his or her own Condominium, and Owners shall be responsible for the interior and exterior cleaning of such window glass and skylight glass;

(c) repair, maintain or replace Garage doors, including, without limitation, hinges, springs and other parts of the door mechanism;

(d) maintain, repair, replace and restore all portions of the Unit, including, without limitation, the interior walls, ceilings, floors and doors in a clean, sanitary and attractive condition; and

(e) in the event the Board shall determine that the walls, ceilings, floors, doors or any other portion of the Common Area forming the boundaries of a Unit have been damaged from within the Unit, notwithstanding that such damage may be to the Common Area, the Owner of the Unit shall be responsible for repairing such damage in a timely manner and in accordance with such rules as the Board or Architectural Committee shall from time to time adopt.

Section 7.3. - Right of Association to Maintain and Install. In the event that an Owner fails to accomplish any maintenance or repair required by this Section, the Association or its delegates may, but shall not be obligated to, cause such maintenance and installation to be accomplished as hereinafter set forth.

(a) Upon finding by the Board of a deficiency in such maintenance or installation, the Board shall give notice of deficiency to the Owner which shall briefly describe the deficiency and set a date for hearing before the Board or a committee selected by the Board for such purpose. The Board may delegate its powers under this subsection to a duly appointed committee of the Association.

(b) Such hearing shall be held not less than ten (10) nor more than thirty (30) days from the date of said notice.

(c) Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Owner with the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to such Owner. If the Board or any such committee renders a decision against the Owner, it shall further set a date by which the deficiency is to be corrected by the Owner. A decision of such committee may be appealed to the Board, but a decision of the Board shall be final.

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(d) If the deficiency continues to exist after the time limitation imposed by a final decision of the Board or any such committee, the board or such committee may cause such maintenance or installation to be accomplished.

(e) In the event the Board or such committee elects to cause such maintenance or installation to be accomplished, the following shall apply:

(i) The Owner shall have no more than ten (10) days following the receipt thereby or written notice of such election from the Board or such committee to select a day or days upon which such maintenance or installation work shall be accomplished.

(ii) The date which said Owner selects shall be not less than fifteen (15) days nor more than forty-five (45) days following the last day of said ten (10) day period.

(iii) If said Owner does not select such day or days within said ten (10) day period, the Board or such committee may select a day or days upon which such work may be accomplished which shall be not less than twenty-five (25) nor more than fifty-five (55) days from the last day of said ten (10) day period.

(iv) Unless the Owner and the Board otherwise agree, such maintenance or installation shall take place only during daylight hours on any day, Monday through Friday, excluding holidays.

(f) If the Association pays for all or any portion of maintenance or installation, such amount shall be a Special Assessment against the affected Owner. This Special Assessment may not become a lien against affected Owner's subdivision interest enforceable by a sale of the interest in accordance with the provisions of Sections 2924, 2924 (b) and 2924 (c) of the Civil Code.

Section 7.4. - Right of Entry. The Association shall have the right to enter upon any Residence in connection with any maintenance, repair or construction in the exercise of the powers and duties of the Association.

Section 7.5. - Maintenance of Public Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace, or restore the underground facilities of public utilities which are located within easements in the Common Area owned by such public utilities. However, the Association shall take such steps as are necessary or convenient to ensure that such facilities are properly maintained, replaced or restored by such public utilities.

Section 7.6. - Assumption of Maintenance Obligations. Declarant, its subcontractors and the agents and employees of the same shall have the right to come on the Common Area to complete the construction of any landscaping or other improvement to be installed on the Common Area as provided in this Declaration. In the event that Declarant's subcontractors are contractually obligated to maintain the landscaping and/or other improvements on the Common Area, such maintenance shall not be assumed by the Association until the termination of such contractual obligation. If any excess of Assessments collected over actual Common Expenses incurred by the Association is caused by reason of construction or maintenance pursuant to this Section, or otherwise, such excess shall be placed in reserve to offset the future expenses of the Association in any manner designated by the Board.

ARTICLE VIII

INSURANCE

Section 8.1. - Types. The Association shall obtain and maintain in effect the following types of insurance:

(a) a comprehensive public liability insurance insuring the Association, the Declarant and the agents and employees of each and the Owners and the respective family members, guests and in-

...vitees of the Owners against any liability incident to the ownership or use of the Common Area or maintenance by the Association of the Maintenance Area, and including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000.00) for death of or injury to any one person in any one occurrence, One Million Dollars (\$1,000,000.00) for death or injury to more than one person in any one occurrence, and One Hundred Thousand Dollars (\$100,000.00) for property damage in any one occurrence.

(b) a master or blanket policy of fire insurance in an amount equal to one hundred percent (100%) of the full replacement value, (replacement cost new including debris removal and demolition) of all of the improvements within the Covered Property and within the portions of the Maintenance Area that the Association is required by this Declaration to repair or restore in the event of partial or total destruction thereof. Such policy and any endorsement thereon shall be in the form and content for such term and in such company as may be satisfactory to any Institutional Mortgagee; and, if more than one Institutional Mortgagee exists, such policy and endorsements shall meet the maximum standards of such Institutional Mortgagees. Such policy shall contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, special adjustment clause, or a similar clause and a determinable cash adjustment clause, or a similar clause to permit cash settlement covering full value of the improvements of the Covered Property in the event of destruction of improvements and a decision not to rebuild pursuant to Article IX herein. Such policy shall be in such amounts as shall be determined from time to time by the Board, shall name as insured the Association, the Owners and Declarant, so long as Declarant is the Owner of any of the Condominiums, and all Mortgagees as their respective interests may appear, and shall contain a loss-payable endorsement in favor of the Trustee; and

(c) fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible to handle the funds of the Association, and such fidelity bonds shall name the Association as obligee, shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, including reserve and shall contain waivers of any defense based on the exclusion of persons who serve without compensation or from any definition of "employee" or similar expression.

Section 8.2. - Waiver by Members. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association, the Owners and the Mortgagees which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Association, the Board, other Owners, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 8.3. - Other Insurance. The Board may and, if required by any Institutional Mortgagee, shall purchase and maintain in force demolition insurance in adequate amounts to cover demolition in the event of total or partial destruction and a decision not to rebuild, as well as a blanket policy of flood insurance. The Board shall also purchase and maintain worker's compensation insurance, to the extent that the same shall be required by law, for all employees of the Association. The Board shall also purchase and maintain in effect such insurance on personal property owned by the Association, and such other insurance, as it deems necessary or as is required by any Institutional Mortgagee including, without limitation, earthquake insurance, plate-glass insurance and officers' and directors' liability insurance.

Section 8.4. - Premiums, Proceeds, and Settlement. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by

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the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. Casualty insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, or otherwise disposed of as provided in Article IX hereof. The Association is hereby granted to authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signature shall be binding on the Association and the Members.

Section 8.5. - Annual Insurance Review. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Covered Property in light of increased construction costs, inflation, practice in the area in which the Covered Property is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Owners and of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 8.6. - Abandonment of Replacement Cost Insurance. Unless at least seventy-five percent (75%) of the Institutional Mortgagees based on one (1) vote for each First Mortgagee held have given their prior written approval, the Association shall not be entitled to fail to maintain the extended coverage fire and casualty insurance required by this article on less than one hundred percent (100%) current replacement cost basis.

Section 8.7. - Federal Requirements. Notwithstanding the foregoing provisions of this Article, the Association shall continuously maintain in effect such casualty, flood and liability insurance requirements for Condominium projects established by any of the Federal Agencies, so long as either is a Mortgagee, Owner, or insures or guarantees a Mortgage within the Covered Property, except to the extent such coverage is not available or had been waived in writing by the foregoing entities.

Section 8.8. - Trustee. Except as provided below, all insurance proceeds payable under Section 8.1 (b) (regarding fire and extended coverage insurance) shall be paid to a Trustee. The benefit of the Owners, Mortgagees and others, as their respective interests shall appear, pursuant to the provisions of Article IX herein. The Trustee shall be appointed by the Board and shall be a commercial bank, or branch thereof, or a trust company, or branch thereof, in the County in which the Covered Property is located which has agreed in writing to accept such trust. When proceeds from a single claim do not exceed Ten Thousand Dollars (\$10,000.00), such proceeds shall be paid to the Association to be used as provided in Article IX hereof.

Section 8.9. - Individual Casualty Insurance Prohibited. Except as expressly provided in Section 8.10, no Owner will separately insure his or her Condominium or any part thereof against loss by fire or other casualty covered by any insurance carrier under Section 8.1 (b) (regarding fire and extended coverage insurance). Should any Owner violate this provision, and should any loss intended to be covered by insurance carried by the Association occur, and the proceeds payable thereunder be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by it to the extent of such reduction to the Trustee for application by the Board to the same purposes as the reduced proceeds are to be applied.

In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Association or the Trustee, the Board may levy a Special Assessment against such Owner and his or her Condominium for such amount. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may effect the remedies of Section 1356 of the California Civil Code and Article IV hereof.

Section 8.10. - Rights of Owners to Insure. Notwithstanding the other provisions of this Article, an Owner shall be permitted to insure his or her personal property against loss by fire or

other casualty and may carry public liability insurance covering his or her individual liability for damage to persons or property occurring inside his or her individual Unit. In addition, any improvements made by an Owner to his or her Unit may be separately insured by such Owner, provided such insurance shall be limited to the type and nature of coverage commonly known as "tenant's improvements" coverage. All such policies as may be carried by the Association, the Board, other Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only; provided, however, such other policies shall not adversely affect or diminish any liability under any insurance obtained by the Association, and duplicate copies or certificates of such other policies shall be deposited with the Board.

Section 8.11. - Required Waiver. All policies of physical damage insurance shall provide for Waiver of the following rights to the extent such waivers are obtainable from the respective insurers:

- (a) subrogation of claims against the Owners or tenants of the Owners;
- (b) any defense based on co-insurance;
- (c) any right of set-off, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association;
- (d) any invalidity, other adverse effect of defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured;
- (e) any right of the insurer to repair, rebuild or replace and, in the event the building is not repaired, rebuilt or replaced following loss, any right to pay under the insurance the lesser of the replacement value of the improvements insured or the fair market value thereof;
- (f) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Unit; and
- (g) any right to require any assignment of any Mortgage to the insurer.

ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

Section 9.1. - Automatic Reconstruction. In the event of partial or total destruction of any Condominium Building, the Board shall promptly take the following action:

- (a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain a performance bond, if the Board deems the same to be necessary or desirable.
- (b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said Condominium Building.
- (c) The Board shall meet and determine whether the insurance proceeds, if any, will cover eighty-five percent (85%) or more of the estimated cost of reconstruction as determined pursuant to subsection (a) of this Section, or whether the portion of the estimated cost not covered by insurance is less than Six Hundred Dollars (\$600.00) per year per Condominium. Such percentage covered by insurance or such cost shall hereinafter be referred to as the "Acceptable Range of Reconstruction Cost". If the Board finds that a bid obtained under this Section is within the Acceptable Range of Reconstruction Cost, the Board shall cause a notice to be sent to all Owners of Condominiums within the

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partially or totally destroyed Condominium Buildings (hereinafter in this Article referred to as the "affected Owners") and to the Mortgagees of Mortgages encumbering Condominiums in said Condominium Building setting forth such findings and informing said Owners and said Mortgagees that the Board intends to commence reconstruction pursuant to this Declaration. In the event that at least twenty percent (20%) of the affected Owners, based on one (1) vote for each Condominium, object in writing to such reconstruction by the date indicated therefor on such notice, which in no event shall be sooner than ten (10) days or later than thirty (30) days after the Board shall call a meeting of the affected Owners pursuant to Section 9.2 of this Article. In the event that the foregoing requirements are satisfied and the requisite number of affected Owners do not object in writing by such date, the Trustee shall pay such insurance proceeds as are available to the Board and shall cause reconstruction to take place as promptly as practicable and shall levy a Reconstruction Assessment against each affected Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds. If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall proceed according to Section 9.2.

(d) The foregoing determinations shall be made by the Board as soon as possible. However, if such determinations cannot be made within sixty (60) days of the date of destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected Owners pursuant to Section 9.2.

(e) If the Board determines that any Unit has become uninhabitable by reason of its total or partial destruction, Regular Assessments shall abate against the Owner thereof until the Board determines that the reconstruction of the Unit has restored its habitability. However, if the Board determines that such abatement will adversely and substantially affect the management, maintenance and operation of the Covered Property, it may elect to disallow such abatement.

Section 9.2. - Reconstruction Pursuant to Meeting. If the Board determines that the requirements of the Acceptable Range of Reconstruction Costs have not been met, or if the requisite number of affected Owners object in writing to a decision by the Board to reconstruct pursuant to Section 9.1, the Board shall call a meeting of the affected Owners by mailing notice of such determination and of the meeting to each such affected Owner at his address as shown on the records of the Association. Such meeting shall be held not less than twenty-one (21) days after (i) the meeting at which the Board makes its determination that the cost of reconstruction was not within the Acceptable Range of Reconstruction cost, or (ii) the date indicated on the notice of the Board sent to Members pursuant to subsection (c) of Section 9.1, as the case may be. The affected Owners may, by a vote at such meeting or by the written consent of not less than sixty-six and two-thirds percent (66-2/3%) of the affected Owners based on one (1) vote for each Condominium determined to proceed with the reconstruction. If the affected Owners so determine to reconstruct the partially or totally destroyed Condominium Building, the Board shall levy a Reconstruction Assessment against each affected Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds.

Section 9.3. - Decision to Reconstruct; Procedure After Meeting. In the event that the Association undertakes reconstruction pursuant to Section 9.2, the following shall apply:

(a) Immediately after such meeting, the Board shall notify by first-class mail, registered or certified, all Institutional Mortgagees of Condominiums in totally or partially destroyed Condominium Buildings of the Association's decision to undertake reconstruction. The Board shall also send a true copy of all such notices to the Trustee.

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(b) In the event that any such Institutional Mortgagee desires to apply for insurance proceeds allocable to the Condominium encumbered by its Mortgage, such Institutional Mortgagee shall notify the Trustee and the Association in writing of such election within thirty (30) days of the date the notice of the Board sent pursuant to subsection (a) above is deposited in the United States mail. Upon receipt of timely notice from any such Institutional Mortgagee, the Trustee shall promptly pay to such Institutional Mortgagee the insurance proceeds allocable to the Condominium encumbered by the Mortgage of such Institutional Mortgagee for the purpose of the reduction or elimination of the obligation secured by such Mortgage; provided, however, in no event shall the Trustee pay to such Institutional Mortgagee an amount greater than (i) the outstanding indebtedness secured by said Mortgage, or (ii) the insurance proceeds allocated to such Condominium, whichever of (i) or (ii) is the lesser. Simultaneously with such payment, the Trustee shall notify the board of the Amount of such payment. The Trustee shall not make payment to Institutional Mortgagees pursuant to this subsection (b), unless such Institutional Mortgagee notifies the Trustee of its election prior to the expiration of the thirty (30) day period following the deposit in the United States mail of the Board's notice to such Institutional Mortgagee pursuant to this subsection (b).

(c) As to each Condominium for which insurance proceeds have been paid to the Trustee and for which an Institutional Mortgagee has not timely notified the Trustee of its election to apply such proceeds to the reduction or elimination of the obligation owing to such Institutional Mortgagee, the Trustee promptly upon the expiration of the appropriate time period shall pay all insurance proceeds allocable to such Condominium to the Board to be applied to insurance reconstruction undertaken by the Association pursuant to Section 9.2. In the event that the Trustee has paid a portion of the insurance proceeds allocable to a Condominium to an Institutional Mortgagee after timely request therefor, simultaneously with such payment the Trustee shall pay all remaining proceeds, if any, allocable to such Condominium to the Board to be applied to reconstruction undertaken by the Association pursuant to Section 9.2.

(d) For the purposes of this Article, the amount of insurance proceeds "allocated" or "allocable" to a Condominium shall be determined pursuant to this subsection (d). In the event that the insurance carrier allocated casualty insurance proceeds among Condominiums for which such proceeds are payable, the insurance carrier must allocate the insurance proceeds among the condominiums in the same manner as provided for the Trustee. Such allocation shall be final and binding on the Owners, the Mortgagees, the Association, and the Trustee. The Board shall make every possible effort to cause such insurance carrier to make such allocation. In the event that such allocation is not made, the Trustee shall allocate such proceeds among such Condominiums in totally or partially destroyed Condominium Buildings based upon the relative fair market value of the Condominiums as established by the valuation of each Condominium as last determined prior to the destruction by an Independent Appraisal. Such allocation made by the Trustee shall be final and binding of the Owners, the Mortgagees, and the Association.

(e) In the event that the Trustee pays insurance proceeds to any Institutional Mortgagee pursuant to this Section, the Owner of the Condominium which was encumbered by the Mortgage of such Institutional Mortgagee shall pay to the Association an amount equal to the insurance proceeds paid by the Trustee to such Institutional Mortgagee. In the event that such Owner has failed to pay such amount within thirty (30) days of a written demand therefor by the Association, the Board may levy a Special Assessment against such Owner and his Condominium for such amount. In the event such Special Assessment is not paid within thirty (30) days of its due date, the Board may effect the remedies of Section 1356 of the California Civil Code and Article IV hereof. Such Special Assessment and any Regular Assessment levied subsequent thereto shall not be a personal liability of the Owner against whom such Assessments are levied and shall only be charged against his Condominium.

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Section 9.4. - Decision Not to Reconstruct; Procedure After Meeting. In the event that the affected Owners decide not to reconstruct at the meeting called pursuant to Section 9.2 the Trustee shall apply the insurance proceeds as follows:

(a) The Trustee shall first apply insurance proceeds to the reduction or elimination, as the case may be, of all outstanding Mortgages encumbering Condominiums for which insurance proceeds have been paid by reason of the casualty; provided, however, as to any Condominium, the Trustee shall not pay insurance proceeds to Mortgagees in an amount greater than (i) the outstanding indebtedness secured by Mortgages encumbering said Condominium, or (ii) the insurance proceeds allocable to said Condominium, whichever of (i) or (ii) is the lesser.

(b) Proceeds shall be allocated among the units as provided for in Section 9.3 (d). All proceeds allocated to Condominiums and remaining after payments to Mortgagees pursuant to subsection (a) shall be distributed by the Trustee to such Owners in the partially or totally destroyed Condominium Building after the deduction of an amount determined pursuant to subsection (c) below.

(c) The Board shall levy a uniform Reconstruction Assessment against all affected Owners equal to the costs of clearing of the debris of totally or partially destroyed Condominium Buildings and cleaning of the area. The Trustee shall pay to the Board said Reconstruction Assessments of the Owners of partially or totally destroyed Condominiums out of the insurance proceeds allocated to such Owners prior to the distribution of such proceeds thereto pursuant to subsection (b) above. In the event that insurance proceeds allocated to any Owner, after deduction of proceeds paid to Mortgagees, is not sufficient to pay the entire Reconstruction Assessment levied against such Owner, such Owner shall not be relieved of his obligation to pay any such excess.

Section 9.5. - Certificate of Intention to Reconstruct. In the event that the Association undertakes reconstruction pursuant to this Article, the Board shall execute, acknowledge and record in the Office of the County Recorder of the County in which the Covered Property is located, a certificate declaring the intention of the Association to rebuild not later than one hundred eighty (180) days from the date of destruction. If no such certificate of reconstruction is so filed within said one hundred eighty (180) day period, it shall be conclusively presumed that the Association has determined not to undertake reconstruction pursuant to this Article.

Section 9.6. - Partition. In the event that a certificate described in Section 9.5 is not recorded within the one hundred eighty (180) day period provided therein, the right of any Owner to partition through legal action as described in Article XVI hereof shall forthwith revive.

Section 9.7. - Compliance with Condominium Plan. Any reconstruction undertaken pursuant to this Article shall substantially conform to the Condominium Plan, as amended pursuant to Section 9.10 or otherwise, if appropriate.

Section 9.8. - Negotiations with Insurer. The Board shall have full authority to negotiate in good faith with representatives of the insurer or the totally or partially destroyed Condominium Building or any other portion of the Common Area, and to make settlement with the insurer for less than full insurance coverage on the damage to the Condominium Building or any other portion of the Common Area. Any settlement made by the Board in good faith shall be binding upon all Owners.

Section 9.9. - Repair of Units. Installation of improvements to, and repair of any damage to, the interior of a Unit shall be made by and at the individual expense of the Owner of that Unit and, in the event of a determination to reconstruct after partial or total destruction, shall be completed as promptly as practical and in a lawful and workmanlike manner.

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Section 9.10. - Amendment of Condominium Plan. In the event that reconstruction is to take place pursuant to this Article, the Board shall have the power to record an amendment to the Condominium Plan so that the Condominium Plan conforms to the Condominium Buildings as designed to be reconstructed; provided, however, the Board shall not file an amendment to the Condominium Plan without the prior authorization of the Mortgagee of a Mortgage encumbering any Condominium, the plan of which shall be altered by such amendment. In the event that the Board, together with said Mortgagees, if appropriate, decide to record such amendment to the Condominium Plan, all Owners and the record holders of all security interests in the Covered Property shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and holders of security interests shall also execute such other documents or take such other actions as required to make such amendment effective.

Section 9.11. - Reconstruction of Common Area. If Common Area other than a Condominium Building is totally or partially destroyed, the Board shall cause reconstruction to commence by the earlier of (i) thirty (30) days of the Association's receipt of the insurance proceeds payable by reason of such destruction, or (ii) ninety (90) days after each destruction, and to thereafter be diligently and continuously prosecuted to completion within a reasonable period of time. The Trustee shall pay to the Board all insurance proceeds payable by reason of such destruction and the Board shall apply such proceeds to the costs of reconstruction. In the event that the insurance proceeds are not sufficient to pay the costs of reconstruction of the Common Area, the Board shall levy a uniform Reconstruction Assessment against all Owners in a total amount equal to such difference. If the insurance proceeds exceed the cost of reconstruction, the Board shall distribute the excess in equal shares to each Owner or to their Mortgagees as their interests may appear.

Upon being requested to do so by any Institutional Mortgagee, the Board shall give such Institutional Mortgagee notice in writing of any loss to all or any portion of the common area if such loss exceeds \$10,000.00.

Section 9.12. - Availability of Labor and Material. In determining whether the plans for a reconstructed Condominium Building are in substantial conformance with the Condominium Plan, the Board may take into consideration the availability and expense of the labor and materials in the original construction of the Project. If such labor or materials is not available or it prohibitively expensive at the time of reconstruction, the Board may permit the substitution of other labor or material as it deems proper.

Section 9.13. - Contracting for Reconstruction. In the event repair or reconstruction is undertaken pursuant to this Article, other than Section 9.9 hereof, the Board or its delegates shall have the sole ability to contract for such work as may be necessary for said repair and reconstruction.

Section 9.14. - Seventy-Five Percent (75%) Vote Required. All insurance proceeds available from any total or partial destruction shall be applied to the purposes set forth in this Article, except upon the vote or written assent of not less than seventy-five percent (75%) of the Institutional Mortgagees based on one (1) vote for each First Mortgage held thereby.

Section 9.15. - Costs of Collecting Insurance Proceeds. If it should become necessary in the judgment of the Board to incur costs for appraisals, legal fees, court costs and similar expenses in order to determine or collect insurance proceeds, such costs shall be first deducted before distribution or application of insurance proceeds as provided in this Article.

Section 9.16. - Destruction of Improvements Within Maintenance Area. In the event of partial or total destruction of improvements upon the Maintenance Area, the Association shall have no obligation to restore such improvements or pay any portion of the cost thereof unless requested by the voting power of two-

thirds. (2/3) of the Members or unless this Declaration, as the same may be amended from time to time by a Supplementary Declaration, so provides, and then only to the extent and subject to the conditions provided herein. If the Association is so obligated to restore any such partially or totally destroyed improvements on any Maintenance Area, the restoration and repair of such improvements shall be governed by the same provisions as govern the restoration and repair of improvements under Section 9.11.

ARTICLE X

EMINENT DOMAIN

Section 10.1. - Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Covered Property.

Section 10.2. - Representation by Board in Condominium Proceedings. In the event of a taking, the Board shall, subject to the right of all Mortgagees who have requested the right to join the Board in the proceedings, represent all of the Members in an action to recover all awards. No Member shall challenge the good faith exercise of the discretion of the Board in fulfilling its duties under this Article. The Board is further empowered, subject to the limitations herein, as the sole representative of the Members, in all aspects of condemnation proceedings not specifically covered herein.

Section 10.3. - Award for Condominium. In the event of taking of Condominiums, the Board shall distribute the award forthcoming from the taking authority according to the provisions of this Section after deducting therefrom fees and expenses related to the condemnation proceeding including, without limitation, fees for attorneys and appraisers and court costs. In the event that the taking is by judgment of condemnation and said judgment apportions the award among the Owners and their respective Mortgagees, the Board shall distribute the amount remaining after such deductions among such Owners and Mortgagees on the allocation basis set forth in such judgment. In the event that the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the Board shall distribute the award among the Owners and their respective Mortgagees based upon the relative values of the Condominiums affected by such taking as determined by: (1) the fair market value of each Condominium as determined prior to the taking by an Independent Appraisal of the Project. The determination by the Independent Appraisal as to the degree each Condominium has been affected by the taking shall be final and binding on all Owners and Mortgagees. Nothing contained herein shall entitle an Owner to priority over a Mortgagee of his or her Condominium as to the portion of the condemnation award allocated to his Condominium. In no event shall any portion of such award be distributed by the Board to an Owner and/or the Mortgagees of his or her Condominium in a total amount greater than the portion allocated hereunder to such Condominium.

Section 10.4. - Inverse Condemnation. The Board is authorized to bring an action in inverse condemnation. In such event, the provisions of this Article shall apply with equal force.

Section 10.5. - Revival Right to Partition. Upon a taking which renders more than fifty percent (50%) of the Condominiums incapable of being restored to at least ninety-five percent (95%) of their floor area and substantially their condition prior to the taking, the right of any Owner to partition through legal action as described in Article XVI hereof shall forthwith revive. The determination as to whether Condominiums partially taken are capable of being so restored shall be made by the Board, whose decision shall be final and binding on all Owners and Mortgagees.

Section 10.6. - Awards for Members' Personal Property and Relocation Allowance. Where all or part of the Covered Property is taken, each Member shall have the exclusive right to claim all of the award made for his or her personal property, and any relocation, moving expense, or other allowance of a similar nature designed to facilitate relocation. Notwithstanding the foregoing provi-

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sions, the Board shall represent each Member in an action to recover all awards with respect to such portion, if any, of a matter of law, part of the real estate comprising any Condominium, and shall allocate to such Member so much of any awards as is attributable in the taking proceedings, or failing such attribution, attributable by the Board to such portion of Members' personal property.

Section 10.7. - Notice to Members. The Board, immediately upon having knowledge of any taking or threat with respect to the Covered Property, or any portion thereof, shall promptly notify all Members.

Upon being requested so to do by any Institutional Mortgagee, the Board shall give such Institutional Mortgagee notice in writing of any taking of the common area if such taking exceeds \$1,000.

Section 10.8. - Change of Condominium Interest. In the event of a taking, and notwithstanding Section 18.18 entitled "Amendments" of Article XVIII herein, the Board may amend the Condominium Plan to reflect the change. In the event that the Board decides to record such amendment to the Condominium Plan, all Owners and the record holders of all security interests in the Covered Property shall execute and acknowledge said amendment so that it will comply with Section 1351 of the California Civil Code or any similar statute then in effect. Said Owners and holders of security interests shall also execute such other documents or take such other actions as required to make such amendment effective. The Board shall cause a notice of change in the Condominium Plan to be sent to each Owner and Mortgagee within ten (10) days of the filing of such amendments in the County Recorder's Office of the County in which the Covered Property is located.

ARTICLE XI USE RESTRICTIONS

Section 11.1. - Commercial Use. Subject to Section 13.3, no part of a Residence nor any part of the Covered Property shall be used or caused to be used or allowed or authorized in any way, directly or indirectly for any business, commercial, manufacturing, mercantile, storing, vending, or any nonresidential purposes; provided, however, that the Association shall have the right to provide or authorize such services on the Common Area as it deems appropriate for the enjoyment of the Common Area for the benefit of the Members.

Section 11.2. - Signs. No sign or billboard of any kind shall be displayed to the public view on any portion of the Covered Property except such signs as may be used by Declarant or its sales agents in connection with the development of the Covered Property and sale of the Residences; provided, however, that a Member may display in his or her Residence, a sign advertising its sale or lease by him or her so long as such sign shall comply with any customary and reasonable standards promulgated by the Board as to the size, color, shape or other qualifications for permitted signs.

Section 11.3. - Nuisance. No noxious or offensive trade or activity shall be carried on upon any Residence, or any part of the Covered Property, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners of his respective Residence, or which shall in any way increase the rate of insurance.

Section 11.4. - Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall hereafter be used on any Residence at any time, either temporarily or permanently.

Section 11.5. - Vehicles. No trailer, camper, boat or similar equipment shall hereafter be permitted to remain upon the Covered Property, including, without limitation, streets, alleys or driveways, unless placed or maintained within an enclosed area, or unless obscured from view of adjoining Residences, streets, or alleys by a fence or appropriate screen, nor permitted to be

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parked other than temporarily, on any street, alley, or any other portion of the Covered Property. Temporary parking shall mean parking of vehicles belonging to guests of Owners, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of services to the Association or the Owners and parking of vehicles belonging to or being used by Owners for parking of vehicles belonging to or being used by Owners for loading and unloading purposes. The Board may adopt rules for the regulation of the admission and parking of vehicles within the Covered Property, including the assessment of charges to Owners who violate or whose invitees violate, such rules, and the designation of parking areas which may only be used for the parking of vehicles by the guests of Owners. Any charges so assessed shall be Special Assessments. Any fence or screen required under this Section shall comply with any standards promulgated pursuant to Article V hereof as to size, color, or other qualification for permitted fences or screens. In addition, the Board may designate areas within the Covered Property for parking of campers and similar equipment without the requirement of fencing or screening.

Section 11.6. - Animals. No animals, livestock, reptiles, insects or poultry of any kind, shall be raised, bred or kept upon the Covered Property, except that two (2) dogs, cats or other usual and ordinary household pets of usual and ordinary size may be kept on the Residences, provided they are not kept, bred or maintained for any commercial purpose. Pets shall not be allowed on the Common Area except as may be permitted by rules made by the Board.

Section 11.7. - Oil and Mineral Rights. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in the Covered Property nor, subsequent to the recording of this Declaration, shale oil wells, tanks, tunnels, or mineral excavations or shafts be installed upon the surface of the Covered Property or within five hundred (500) feet below the surface of such properties. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Covered Property.

Section 11.8. - Unsightly Items. All weeds, rubbish, debris, or unsightly material or objects of any kind shall be regularly removed from the Residences and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, woodpiles, storage areas, machinery and equipment shall be prohibited upon any Residences unless obscured from view of adjoining streets or portions of the Covered Property from a height of six (6) feet or less. Any fence or screen required by this Section shall comply with any standards promulgated pursuant to Article V of this Declaration as to size, color or other qualification for permitted fences or screens.

Section 11.9. - Antennae. No television, radio, or other electronic antennae, masts, poles or flagpoles, or device of any type shall hereafter be erected, constructed, placed or permitted to remain on the Covered Property unless and until the same shall have been approved in writing by the Architectural Committee, or unless the same be contained within a building.

Section 11.10. - Drainage. As used herein, the term "drainage pattern and system" includes, but is not necessarily limited to, underground drain pipes and patterns of drainage over the Common Area from and to adjoining properties and improvements. The Association shall have the right to use the established drainage pattern and system for the purpose of draining the Common Area and improvements thereon; provided that such right of drainage shall not include the right to discharge noxious or offensive matter. Water from any Common Area and the improvements thereon may drain or flow onto adjacent Common Area except to the extent provided for by the established drainage pattern and system. All slopes or terraces on any Common Area shall be maintained as provided herein so as to prevent any erosion thereof upon adjacent streets or adjoining property.

Section 11.11. - Garages. No garage doors shall be permitted to remain open except for a temporary purpose, and the Board may

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adopt rules for the regulation of the opening of garage doors, including the assessment of charges to Owners who violate or whose invitees violate such rules. Any charges so assessed shall be Special Assessments.

Section 11.12. - Window Covers. Curtains, drapes, shutters or blinds may be installed as window covers. No window shall be covered with aluminum foil or similar reflective material.

Section 11.13. - California Vehicle Code. The City shall be allowed to impose and enforce all provisions of the applicable California Vehicle Code sections on any private streets contained within the Covered Property.

Section 11.14. - Single-Family Residential. All Residences shall only be used for the residential purposes of a family.

Section 11.15. - Use of Common Area. The Common Area shall be used for community purposes only, and shall not be used for recreational dwelling purposes and no residential dwellings shall be constructed thereon.

ARTICLE XII

RIGHTS OF ENJOYMENT

Section 12.1. - Members' Right of Enjoyment. Every Member shall have a nonexclusive easement for use and enjoyment in and to the Common Area, regardless of the project in which such Member is an Owner, and such right shall be appurtenant to and shall pass with the interest required to be an Owner to every Residence, subject to all of the easements, covenants, conditions, restrictions and other provisions contained in this Declaration, including, without limitation, the following provisions:

(a) the right of the Association to limit the number of guests of Members and to limit the use to the recreational facilities, if any, on the Common Area by persons not in possession of a Residence, but owning a portion of the interest in a Residence required for membership;

(b) the right of the Association to establish reasonable rules and regulations pertaining to the use of the Common Area;

(c) the rights of the Association to suspend the right of a Member to use the Common Area or any portion thereof designated by the Board during any time in which any Assessment against his or her Residence remains unpaid and delinquent or 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 rights to use such Common Area 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. Notwithstanding the foregoing, the Association shall not have the right hereunder to suspend any Member's right to use any portion of the Covered Property necessary for such Member to gain access to his or her Residence;

(d) the right of the Association to establish in cooperation with the City, a special tax assessment district for the performance of all or a portion of the maintenance and other functions now within the responsibility of the Association; and

(e) the right of the Association to grant easements on, over and under the Common Area to public utilities or governmental entities or agencies; provided that such easement shall not unreasonably interfere with the right of any Owner to the use and enjoyment of his or her Residence and the Common Area. No Members entitled to cast two-thirds (2/3) of the voting power of the Members residing in the Project in which the easement will be granted has been recorded agreeing to the granting of such easement. The certificate of the President and Secretary of the Association attached to such instrument certifying that the Members signing such instrument represent two-thirds (2/3) of the voting power of the Members shall be deemed conclusive proof thereof.

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Section 12.2. - Delegation of Use. Any Member may delegate his or her right of enjoyment to the Common Area to the members of his or her family or his or her tenants who reside on his or her Residence, or to his or her guests, subject to rules and regulations adopted by the Board. Each Member shall be liable to the Association for any damage to the Common Area or to any of the equipment or improvements thereon which may be sustained by reason of the negligence or willful misconduct of said Member of his or her family, relatives, guests, or invitees, both minor or adult.

Section 12.3. - Waiver of Use. No member may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Residence owned by him or her from the liens, charges and other provision of this Declaration, the Articles, Bylaws and Association Rules, by waiver of the use and enjoyment of the Common Area, or the abandonment of his or her Residence.

ARTICLE XIII

EASEMENTS

Section 13.1 - Amendment to Eliminate Easements. Prior to the sale of all units, this Declaration cannot be amended to modify or eliminate the easements reserved to Declarant without prior written approval of Declarant and any attempt to do so shall have no effect. Any attempt to modify or eliminate this Section shall likewise require the prior written approval of Declarant. After all of the units have been sold by Declarant, consent of Declaration is no longer required.

Section 13.2. - Nature of Easements. Unless otherwise set forth herein, any easement reserved to Declarant herein shall be non-exclusive.

Section 13.3. - Certain Rights and Easements Reserved to Declarant.

(a) Utilities. Easements over the Covered Property for the installation and maintenance of electric, telephone, cable television, water, gas, sanitary, sewer lines and drainage facilities as are needed to service the Covered Property are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements shall not unreasonably interfere with the use and enjoyment by the Members of their Residences or the Common Area.

(b) Cable Television. There is hereby reserved to Declarant over the Covered Property, together with the right to grant and transfer the same, the right to emplace on, under or across the Covered Property transmission lines and other facilities for a community antenna television system and thereafter to own and convey such lines and facilities and the right to enter upon the Covered Property to service, maintain, repair, reconstruct and replace said lines or facilities; provided, however, that the exercise of such rights shall not unreasonably interfere with any Owner's reasonable use and enjoyment of his or her Residence.

(c) Construction and Sale. There is hereby reserved to Declarant, together with the right to grant and transfer the same to Declarant's sales agents and representative and prospective purchasers of Residences, over the Covered Property as the same may from time to time exist, easements for construction, maintenance, temporary storage of materials and equipment during the course of construction of maintenance, display, sales and exhibit purposes in connection with the erection and sale or lease of Residences within the Covered Property; provided, however, that such use shall not be for a period beyond the earlier of (i) three (3) years from the conveyance of the first Residence by Declarant or (ii) the sale by Declarant of all Residences within the Covered Property, and provided further that no such use by Declarant and others shall otherwise restrict the Members in the reasonable use and enjoyment of the Covered Property.

Section 13.4. - Certain Easements for Owners.

(a) Rights and Duties: Utilities and Cable Television.

Wherever sanitary sewer house connections, water house connections, electricity, gas, telephone and cable television lines or drainage facilities are installed within the Covered Property, the Owners of any Residence served by said connections, lines or facilities shall have the right and there is hereby reserved to Declarant, together with the right, subject to the rights of any entity with whom the Declarant or Association has contracted for the installation and maintenance of a community antenna system, or who otherwise has an ownership interest in said system, to grant and transfer the same to Owners an easement to the full extent necessary for the full use and enjoyment of such portion of such connections which service his or her Residence, and to enter upon the Residences owned by others, or to have utility companies enter upon the Residences owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below, provided that such Owner or utility company shall promptly repair any damage to a Residence caused by such entry as promptly as possible after completion of work thereon.

(b) Ingress, Egress and Recreational Rights. Declarant hereby reserves to itself, its successors and assigns, and agrees that it will grant to all Owners nonexclusive easement for ingress, egress, pedestrian walkways and general recreational purposes over and upon the Common Area which is not a Condominium Building. Such easements when granted to Owners shall be subject to the rights of the Association as set forth in Article XII hereof.

(c) Drainage. There is hereby reserved to Declarant, together with the right to grant and transfer the same to Owners, easements for drainage over the Covered Property from the drainage patterns and systems described in Section 7.1 (d) hereof.

Section 13.5. - Certain Easements for Association.

(a) Association Rights. There is hereby reserved to Declarant easements over the Covered Property. Declarant hereby grants the same to the Association, for the purposes of permitting the Association to discharge its obligations as described in this Declaration.

(b) Drainage. There is hereby reserved to Declarant, and Declarant hereby grants the same to the Association, easements for drainage over the Covered Property from the drainage patterns and systems described in Section 7.1 (d) hereof.

Section 13.6. - Support, Settlement, and Encroachment. There is hereby reserved to Declarant, and Declarant hereby grants and transfers the same to Owners, the following reciprocal easements for the purposes set forth below:

(a) an easement appurtenant to each Residence which is contiguous to another Residence or Common Area, which Residence shall be the dominant tenement and the contiguous Residence or Common Area shall be the servient tenement;

(b) an easement appurtenant to the Common Area contiguous to a Residence, which Common Area shall be the dominant tenement and which contiguous Residence shall be the servient tenement; and

(c) said easements shall be for the purposes of:

(i) support and accommodation of the natural settlement of structures;

(ii) encroachment by reason of a roof, eave overhang or similar projections created during the original construction of the improvements on the Covered Property, if any, or the reconstruction or repair of a Unit or improvements on the Common Area in accordance with plans and specifications approved by the Architectural Committee; and

(iii) encroachments due to original engineering or

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surveying errors, errors in original construction, errors in reconstruction or repair in accordance with plans and specifications approved by the Architectural Committee.

ARTICLE XIV

RIGHTS OF LENDERS

Section 14.1. - 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 Residence within the Covered Property. Such notice need not state which Residence or Residences 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 delivered 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 Mortgages 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 14.2. - Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering any Residence, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Residence except as otherwise provided in this Article.

Section 14.3. - Curing Defaults. A Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is noncurable or not feasible to cure shall be final and binding on all Mortgagees.

Section 14.4. - Resale. It is intended that any loan to facilitate the resale of any Residence after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Mortgagees.

Section 14.5. - Relationship with Assessment Liens.

(a) The lien provided for in Article IV hereof for the payment of Assessments shall be subordinate to the lien of any First Mortgage which was recorded prior to the date any such Assessment becomes due.

(b) If any Residence subject to a monetary lien created by any provisions hereof shall be subject to the lien of a First 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 First Mortgage and (2) the foreclosure of the lien of said First Mortgage or sale under a power of sale included in such First Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate to affect or impair

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the lien hereof, except that any persons who obtain an interest, shall take title free of the lien hereof or any personal obligations 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 First Mortgagee who obtains title to a Residence by reason of any of the Events of Foreclosure, or any purchaser at a private or judicial foreclosure sale of a First Mortgage or First Deed of Trust, shall take title to such Residence free of any lien or claim for unpaid Assessments against such Residence, which accrue prior to the time such First Mortgagee or purchaser takes title to such Residence, except for liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Residences within the Covered 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.

Section 14.6. - Seventy-Five Percent (75%) Vote of Institutional Mortgagees. Except upon the prior written approval of at least seventy-five percent (75%) of Institutional Mortgagees, based on one (1) vote for each First Mortgage held, neither the Association nor the Members shall be entitled to do any of the following:

(a) abandon or terminate by any act or omission the condominium, legal status of the Covered Property, or any part thereof, except for abandonment or termination provided by law and/or this Declaration in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) dissolve the Association;

(c) abandon, partition, sell, alienate, subdivide, release, transfer, hypothecate or otherwise encumber the Common Area; provided, however, the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area shall not require such approval;

(d) partition or subdivide a Unit or any elements thereof; or

(e) change the Ownership interest of the Condominium:

(1) as provided in Section 1.10

(2) for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards

(3) for purposes of determining the pro rata share of ownership of each condominium in the Common Area.

(f) use hazard insurance proceeds for losses to any portion of the Covered Property for other than the repair, replacement, or reconstruction of such improvements, except as provided in Article IX;

(g) amend the provisions of Article VIII hereof;

(h) amend the provisions of Article IX hereof;

(i) amend the provisions of this Declaration, the By-Laws, or the Articles governing:

(1) Voting

(2) Assessments, assessment liens, and subordination thereof

(3) The reserve for repair and replacement of common elements

(4) Property maintenance obligations

(5) Rights to use the common elements

(6) Annexation

(7) Any provisions which, by its terms, is specifically for the benefit of First Mortgagees, or specifically confers

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rights on First Mortgagees.

Section 14.7. - Other Rights of Institutional Mortgagees. Any Institutional Mortgagee of its mortgage servicing contractor, shall, upon written request to the Association, be entitled to:

- (a) inspect the books and records of the Association during normal business hours;
- (b) receive the annual audited financial statement of the Association ninety (90) days following the end of the Association's fiscal year;
- (c) receive written notice of all annual and special meetings of the Members or of the Board, and Institutional Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give an Institutional Mortgagee the right to call a meeting of the Board or the Members for any purpose or to vote at any such meeting; and
- (d) receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration by the Owner whose Residence is encumbered by such Institutional Mortgagee's Mortgage, which default has not been cured within sixty (60) days of a request therefor by the Association; provided, however, the Association shall only be obligated to provide such notice to Institutional Mortgagees who have delivered a written request therefor to the Association specifying the Residence or Residences to which such request relates.

Section 14.8. - Mortgagees Furnishing Information. Mortgagees are hereby authorized to furnish information to the Board concerning the status of any Mortgage.

Section 14.9. - Right of First Refusal. In the event this Declaration is amended to provide for any right of first refusal to purchase or lease a Residence in the Association, a Mortgagee who comes into possession of a Residence pursuant to a judicial foreclosure, a deed in lieu of foreclosure of a trustee's sale shall be exempt therefrom. In addition conveyances to and from third party foreclosure purchasers and mortgage insurers and guarantors shall also be exempt.

Section 14.10. - Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

Section 14.11. - Voting Rights of Institutional Mortgagees. In the event of a default by an Owner in any payment due under the terms of any Institutional Mortgage held by an Institutional Mortgagee or the promissory note secured thereby, the Institutional Mortgagee or his or her representative shall have the right, upon giving notice to such default Owner attributable to such Residence at any regular or special meeting of the Members held during such time as such default may continue. Any such Owner's voting rights shall be restored to his or her at such time as such default is cured.

Section 14.12. - Notice of Destruction or Taking. In the event that any Condominium Common Area and any improvements thereto or any portion thereof is damaged or is made the subject of any condemnation proceedings in eminent domain or is otherwise sought to be acquired by a condemning authority, the board shall promptly notify any Institutional Mortgagee affected by such destruction, taking or threatened taking. As used herein, "damaged" or "taking" shall mean damage or taking to the Common Area exceeding Ten Thousand Dollars (\$10,000.00) or damage or taking to a Unit exceeding Ten Thousand Dollars (\$10,000.00). If requested in writing by an Institutional Mortgagee, the Association shall evidence its obligations under this Section in a written agreement

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in favor of such Institutional Mortgagee.

Section 14.13. - Payment of Taxes or Premiums by Institutional Mortgagees. Institutional Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless such taxes or charges are separately assessed against the Owners, in which case the rights of Institutional Mortgagees shall be governed by provisions of their Mortgages, Institutional Mortgagees may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area and Institutional Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any Institutional Mortgagee which requests the same to be executed by the Association.

ARTICLE XV

EFFECTS OF FEDERAL PROGRAMS

Section 15.1. - FHA/VA Approval. As long as any Class B votes are outstanding, the following actions will require the prior approval of the FHA and the approval of the VA so long as VA is an Owner, Mortgagee, or guarantor or insurer of any Mortgage within the Covered Property:

(a) alteration of the Common Area, the construction of additional improvements, the establishment of additional licenses, reservations and rights-of-way, or alteration of construction plans and designs, all pursuant to Section 18.17 entitled "Construction by Declarant".

(b) mergers or consolidations of the Association;

(c) any amendment or modification of this Declaration pursuant to Section 17.17 hereof.

(d) any amendment or modification of the Articles and Bylaws; and

(e) annexation of additional properties to the plan of this Declaration.

ARTICLE XVI

LIMITATIONS UPON THE RIGHT TO PARTITION AND SEVERANCE

Section 16.1. - No Partition. The right of partition is hereby suspended, except that the right to partition shall revive and the Covered Property may be sold as a whole when the conditions for such action set forth in Articles IX and X hereof have been met; provided, however, notwithstanding the foregoing, any Owner may, upon the prior written approval of the Institutional Mortgagee of the first Mortgage encumbering his or her Condominium, bring an action for partition by sale of the Covered Property, as provided in Section 1354 of the Civil Code for the State of California or any similar statute then in effect upon the occurrence of any of the events therein provided. Provided, further, that if any Condominium shall be owned by two (2) or more co-tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants.

Section 16.2. - No Severance. The elements of a Condominium and other rights appurtenant to the ownership of a Condominium are inseparable, and each Owner agrees that he or she shall not, while this Declaration or any similar declaration is in effect, convey, lease or otherwise transfer less than an entire Condominium and such appurtenances. Any conveyance made in contravention of this Section shall be void. The provisions of this Section shall terminate on the date that judicial partition shall be decreed.

Section 16.3. - Proceeds of Partition Sale.

(a) Whenever an action is brought for the the partition by sale of the Covered Property, whether upon the occurrence of any

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of the events provided in Section 1354 of the Civil Code for the State of California (or similar statute then in effect) or upon the revival of the right to partition pursuant to Articles IX and X hereof, the Owners of Condominiums shall share in the proceeds of such sale in the same proportion as their interests in the Common Area. As used in the foregoing sentence, such interest of each Owner shall be determined by comparing (i) the fair market value of an Owner's Condominium as determined by an independent Appraisal of the Covered Property, to (ii) the total of such fair market value for all Condominiums in the Covered Property.

(b) The distribution of the proceeds of any such partitions sale shall be adjusted as necessary to reflect any prior distribution of insurance proceeds of condemnation award as may have been made to Owners and their Mortgagees pursuant to Articles IX and X hereof. In the event of any such partition and sale, the liens and provisions of all Mortgages or Assessment liens encumbering Condominiums within the Covered Property so encumbered shall extend to each applicable Owner's interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment of any Mortgage or Assessment line encumbering such proceeds as aforesaid.

ARTICLE XVII

PROTECTION OF THE COVERED PROPERTY FROM LIENS

Section 17.1. - Association to Defend Certain Actions. In the event that a lawsuit is brought against all or substantially all of the Members which will or could result in any lien or encumbrance being levied against the entire Covered Property, the Association shall defend such lawsuit and the costs of such defense shall be a Special Assessment against all of the Members joined as defendants in such lawsuit; provided, however, in the event that an insurance carrier is obligated to provide such defense under a policy of insurance carried by the Association, the Association shall be relieved of the obligation to provide such defense. Nothing contained herein shall in any way limit the rights of any Member or Members to retain counsel of their choice to represent them in such lawsuit at their own expense. In the event that a Member so chooses, he or she shall not be relieved of liability for the Special Assessment provided for in this Section.

Section 17.2. - Payment of Lien. In the event that a lien or encumbrance not covered by California Civil Code Section 1357 attaches to all or substantially all of a Project by reason of judgment or otherwise, the Association shall promptly take the appropriate steps to remove such lien, including but not limited to the payment of money and the posting of a bond. The Association shall have the power to borrow money and to take such other steps as are necessary to free the Covered Property of such liens.

Section 17.3. - Owners to be Specially Assessed. Simultaneously with any action taken pursuant to Section 8.2, the Association shall levy a Special Assessment against all of the Members whose Condominiums were subject to the lien or encumbrance which caused the Association to act pursuant to said Section equal to each such Member's pro rata share of such lien or encumbrance. In the event that such Special Assessment is not paid within thirty (30) days of its due date, the Board may effect the remedies of Section 1356 of the California Civil Code and Article IV hereof.

Section 17.4. - Reimbursement by Certain Owners. In the event that it shall be proven in a court of law of competent jurisdiction over the claim or claims causing the Association to take action under this Article that a judgment resulting in a lien on all or a portion of the Covered Property was primarily due to the acts or omissions of a particular Member or Members or the families thereof, such Member or Members shall reimburse the Association for all expenses incurred by it pursuant to the provisions of this Article. Upon such reimbursement, the Association shall distribute the funds received to the Members against who Special Assessments were levied pursuant to the provisions of this Article.

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ARTICLE XVIII

GENERAL PROVISIONS

Section 18.1. - Enforcement. The Association, or any Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Articles or Bylaws and any amendments thereto. With respect to architectural control, Assessment liens or any other liens or charges and Association Rules, the Association shall have the exclusive right to the enforcement thereof.

Section 18.2. - No Waiver. Failure by the Association or by any Member to enforce any covenant, condition, or restriction herein contained, or the Articles, Bylaws or Association Rules in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition or restriction.

Section 18.3. - Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or Mortgagees under this Declaration are cumulative, and not one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

Section 18.4. - Severability. Invalidation of any one or a portion of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 18.5. - Covenants to Run with the Land; Term. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Covered Property and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners and seventy-five percent (75%) of the Institutional Mortgagees, based on one (1) year prior to the end of any such period, agreeing to terminate said covenants, conditions and restrictions in whole or in part.

Section 18.6. - Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential community or tract and for the maintenance of the Covered Property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 18.7. - Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural.

Section 18.8. - Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association or any Member. Such remedy shall be deemed cumulative and not exclusive.

Section 18.9. - Attorneys' Fees. In the event action is instituted to enforce any of the provisions in this Declaration, the party

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prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit.

Section 18.10. - Notices. Any notice to be given to an Owner or a Mortgagee or mortgage servicing contractor under the provisions of this Declaration shall be in writing and may be delivered as follows:

(a) Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Residence. Any notice so deposited in the mail within the County in which the Covered Property is located, shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivery of all such co-Owners.

(b) Notice to a Mortgagee or its mortgage servicing contractor shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished to the Association by such Mortgagee or such contractor for the purposes of notice or, if no such address is furnished, to any office of the Mortgagee in the County in which the Covered Property is located, or if no such office is located in said County, to any office of such mortgagee.

(c) The affidavit of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, to any Mortgagee or Mortgagees, or to all Members or all Mortgagees, to the address or addresses shown on the records of the Association, shall be deemed conclusive proof of such mailings whether or not such notices are actually received.

Section 18.11. - Obligations of Declarant. So long as Declarant is utilizing the easement described in Section 13.3 (e), Declarant shall not be subject to the provisions of Article V or the provisions of Article XI.

Section 18.12. - Effect of Declaration. This Declaration is made for the purposes set forth in the Recitals to this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect of enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

Section 18.13. - Personal Covenant. To the extent the acceptance of a conveyance of a Residence creates a personal covenant between the Owner of such Residence and Declarant or other Owners, such personal covenant shall terminate and be of no further force or effect from and after the date when a person or entity ceases to be an Owner except to the extent this Declaration may provide otherwise with respect to the payment of money to the Association.

Section 18.14. - Nonliability of Officials. To the fullest extent permitted by law, neither the Board, the Architectural Committee, any other committees of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonable believed to be the scope of their duties.

Section 18.15. - Enforcement of Bonded Obligations. In the event that the improvements to the Common Area have not been completed prior to the issuance of a Final Subdivision Public Report covering the Covered Property by the Department of Real Estate of the

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State of California, and the Association is obliged under a bond or other arrangement (hereinafter the "bond") to secure performance of the commitment of Declarant to complete such improvements, the following provisions shall apply:

(a) The Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such questions as provided above, the Board shall call a special meeting of the Members for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the Bylaws dealing with meetings of the Members, but in any event such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) or more of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting of Members shall be the Owners other than Declarant. A vote at such meeting of a majority of the voting power of such Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement such decision by initiating the pursuing appropriate action in the name of the Association.

Section 18.16. - Leases. Any agreement for the leasing or rental of a Residence (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Articles, the Bylaws, the Association Rules and any applicable agreements between the Association and any of the Federal Agencies. Said lease shall further provide that any failure by the lessee thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. Any Owner who shall lease his or her Residence shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, the Bylaws and the Association Rules. With the exception of a Mortgagee in possession of a Residence following a default in a First Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Owner may lease such Owner's Residence for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days or any rental whatsoever, if the occupants of the Residence are provided customary hotel service such as room services for food and beverage, maid service, furnishing laundry and linen and bellboy service.

Section 18.17. - Construction By Declarant. Nothing in this Declaration shall limit the right of Declarant to alter the Residences, or to construct such additional improvements as Declarant deems advisable prior to completion of improvements upon and sale of the entire Development. Such right shall include but shall not be limited to erecting, constructing and maintaining on the Covered Property such structures and displays as may be reasonably necessary for the conduct of the business of completing the work and disposing of the same by sale, lease or otherwise. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a purchaser from Declarant to establish on the Covered Property additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Development. Declarant

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reserves the right to alter its construction plans and designs as it deems appropriate. The rights of Declarant hereunder may be assigned to any successor or successors to all or part of said entity's respective interest in the Development, by an express assignment incorporated in a recorded deed or lease, as the case may be, transferring such interest to such successor. Declarant shall exercise its rights contained in this provision in such a way as not to unreasonably interfere with the Members' rights to use and enjoy the Covered Property.

Section 18.18. - Amendments. Subject to the other provisions of this Declaration, including without limitation, the rights of Mortgagees pursuant to Articles VIII and XIV hereof, or otherwise, this Declaration may be amended as follows:

(a) Until such time as there is a Class A Membership pursuant to this Declaration, amendments or modifications shall be effective when executed by Declarant and when recorded in the Official Records of the County in which the Covered Property is located. Thereafter any amendments of this Declaration may be amended only by the affirmative vote or written consent of Members representing not less than two-thirds (2/3) of the voting power of each class of membership. From and after such time as the Class B voting rights terminate as provided for in Article II hereof, entitled "Membership," this Declaration may be amended by the affirmative vote or written consent a majority of the voting power of Members and a majority of the votes of members other than Declarant.

(b) In addition to the foregoing, any amendment or modification of Article III, IV, V, VII, IX, and X hereof shall additionally require the prior written approval of not less than seventy-five percent (75%) of the Class A Members, which shall include a majority of the votes of members other than Declarant.

(c) An amendment or modification that requires the vote and written assent of the Members as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as hereinabove provided, and when recorded in the Official Records of the County in which the Covered Property is located.

(d) Notwithstanding the foregoing, any provision of this Declaration, of the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage of the voting power of any particular class of Membership of the Association for action to be taken under said provision can be amended only with the affirmative vote or written assent of not less than the same percentage of the voting power of each such class of Membership.

IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first hereinabove written.

J.H. Hedrick Enterprises, Inc.
a California corporation

By Janet L. Hedrick
Its Vice President
By _____
Its _____

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(Corporation)
STATE OF CALIFORNIA

83- 509026

COUNTY OF San Diego
On April 22, 1983

SS.

before me Anita Zaragoza, a Notary Public

in and for said State, personally appeared Janet L. Hedrick

(known to me) (or proved to me on the basis of satisfactory evidence) to be the Vice

President, and XXXX

(known to me) (or proved to me on the basis of satisfactory evidence) to be XXXX

Secretary of the corporation that executed the within instrument (known to me) (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature *Anita C Zaragoza*



Form 3018 (CA 12-82)

(This area for official notarial seal)

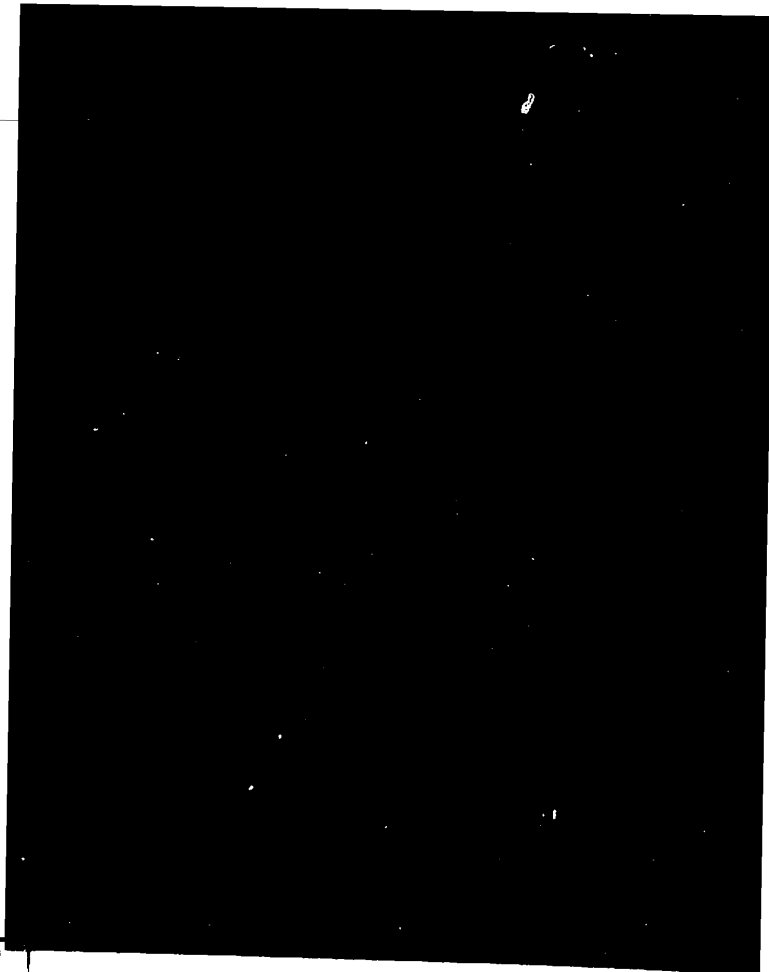
CALIFORNIA LAND TITLE CO.
60 UNIVERSAL CITY PLAZA
UNIVERSAL CITY, CALIFORNIA 91608


The undersigned, BEL-LYN DEVELOPMENT CO., INC., a California corporation
_____, Beneficiary under that certain
Deed of Trust recorded September 23, 1981 as Instrument No.
81-944725 Official Records, Los Angeles County, California,
does hereby consent to each and all of the provisions contained in that
Certain Declaration of Covenants, Conditions, and Restrictions executed
by J.H. HEDRICK & CO., a California corporation

Date: April 14, 1993 Beneficiary (Lender)
BEL-LYN DEVELOPMENT CO., inc., a California
By: corporation
By: Kare Feinstein

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Created By: aallen Printed: 8/26/2010 4:16:38 PM PST



State of <u>California</u> } ss.		On this the <u>14</u> day of <u>April</u> , 19 <u>87</u> , before me,
County of <u>Los Angeles</u>		<u>James E. Armfield</u>
83- 509026		the undersigned Notary Public, personally appeared
		<u>Kenneth A. Henneman</u>
		<input type="checkbox"/> personally known to me
		<input checked="" type="checkbox"/> proved to me on the basis of satisfactory evidence
		to be the person(s) who executed the within instrument as
		<u>PRESIDENT</u> or on behalf of the corporation therein
		named, and acknowledged to me that the corporation executed it.
		WITNESS my hand and official seal.
		<u>James E. Armfield</u>
		Notary's Signature

CORPORATE ACKNOWLEDGMENT FORM - 7120 052

NATIONAL NOTARY ASSOCIATION • 23612 Ventura Blvd. • Woodland Hills, CA 91364



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
CALIFORNIA LAND TITLE CO.
60 UNIVERSAL CITY PLAZA
UNIVERSAL CITY, CALIFORNIA 91608

SUBORDINATION

The undersigned, GOLDEN STATE SANWA BANK
_____, Beneficiary under that
certain Deed of Trust recorded December 21, 1982 as Instrument No.
82-1275989, Official Records, Los Angeles County,
California, does hereby consent to each and all of the provisions con-
tained in that Certain Declaration of Covenants, Conditions, and Restrict-
ions executed by Hedrick Properties, Inc., a California corporation

as OWNER/DECLARANT, recorded concurrently herewith
~~Instrument No. XX~~ on
Lot 1, Tract No. 42101, and does hereby agree that the lien
and charge of said Deed of Trust shall be, and is hereby made, subordinate
to, junior to, and subject to said within-referenced instrument and the
entire effect thereof.

Date: February 9, 1983

Beneficiary (Lender)
BY: Golden State Sanwa Bank
BY: W. V. Wells, Sr. Vice President

ATTACH APPROPRIATE NOTARY JURAT

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Revised 12/16/80

CAT. NO. NK00737
FO 1985 CA 17-821
(Corporation)

STATE OF CALIFORNIA
COUNTY OF Los Angeles

83- 509026

TITLE INSURANCE
AND TRUST
A TFCOR COMPANY

On February 9, 1983 before me, the undersigned, a Notary Public in and for
said State, personally appeared W. V. Wells

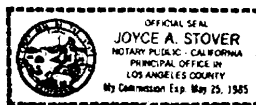
personally known to me or proved to me on the basis
of satisfactory evidence to be the person who executed
the within instrument as the Sr. Vice
President, and

personally known to me or
proved to me on the basis of satisfactory evidence to be
the person who executed the within instrument as the
Secretary of the Corporation
that executed the within instrument and acknowledged
to me that such corporation executed the within instru-
ment pursuant to its by-laws or a resolution of its
board of directors.

WITNESS my hand and official seal.

Signature

Joyce A. Stover



(This area for official notarial seal)