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CONTINENTAL LAND TITLE CO.
Order No. 80280-05

WHEN RECORDED MAIL TO:

GRAY, CARY, AMES & FRYE
1700 FIRST INTERSTATE PLAZA
401 "B" STREET
SAN DIEGO, CA 92101
ATTN: RICHARD F. LUTHER, ESQ.

THE FOREGOING INSTRUMENT IS A FULL, TRUE
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ON 3-17-86 FILE PAGE 85-101384
OF OFFICIAL RECORDS OF SAN DIEGO COUNTY.

CALIFORNIA WORLD TITLE COMPANY,
Patty Foster

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR WOODCREST BERNARDO HEIGHTS,
A PLANNED RESIDENTIAL DEVELOPMENT

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR WOODCREST BERNARDO HEIGHTS,
A PLANNED RESIDENTIAL DEVELOPMENT

This Declaration is made as of March 10, 1986, by WOODCREST HEIGHTS ASSOCIATES, a California general partnership ("Declarant"), with reference to the following facts:

A. Declarant is the owner of real property located in San Diego County, California, described as follows:

Lots 1 through 166, inclusive, of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to the Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California.

(hereinafter called the "Real Property").

B. Declarant will create on the portion of the Real Property described as follows:

Lots 1 through 4, inclusive, Lots 96 through 120, inclusive, and Lots 160 and 161 of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California

(hereinafter "Phase One"), and any property annexed pursuant to this Declaration, a planned development pursuant to California Business and Professions Code Section 11003.

C. It is the desire and intention of Declarant to impose on Phase One and any property annexed pursuant to this Declaration mutually beneficial restrictions under a general plan or scheme of improvement for the benefit of all Owners (as hereinafter defined) and to assure the permanent upkeep and maintenance of the Residences and Common Area, as hereinafter defined.

D. Although Declarant shall have no obligation to do so, Declarant may develop additional portions of the Real Property. Declarant reserves the right (i) to construct on the remainder of the Real Property Residences of a size, price range, architectural style and design subject to Declarant's sole discretion and (ii) to construct on the common areas of the remainder of the Real Property such facilities, including landscaping, as Declarant shall desire in its sole discretion. Such size, price range, type and/or design need not be consistent with previous development. Among other things, and not as a limitation thereon, Declarant may construct on the remaining Real Property lower-priced Residences, higher density Residences or Residences of a different architectural style. Moreover, nothing contained herein shall require Declarant to complete the future development in the manner set forth herein or to commence any further development. Except as set forth below, the timing of such further development and the construction and sale of Residences in such further development shall be in Declarant's sole discretion.

NOW, THEREFORE,

Declarant declares that all of the Lots (defined below) in Phase One and any Lots annexed pursuant to this Declaration are, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied and improved subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be for the subdivision, improvement, protection, maintenance, and sale of Residences within the Development (defined below), and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Development. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the Development, and shall be binding on and inure to the benefit of the successors in interest of such parties.

1. DEFINITIONS.

1.1 The "Annexation Parcel" means all or any of the Real Property described in Paragraph A on page 1 hereof, with the exception of Phase One.

1.2 The "Articles" means the articles of incorporation of the Association (hereinafter defined) and all amendments thereto.

1.3 The "Association" means WOODCREST HEIGHTS HOMEOWNERS ASSOCIATION, a California nonprofit mutual benefit corporation, its successors and assigns.

1.4 The "Board" means the board of directors of the Association.

1.5 The "Bylaws" means the bylaws of the Association and all amendments thereto.

1.6 The "Common Area" means all the real and personal property and improvements which are owned at any time by the Association or over which the Association has an easement for the use, care or maintenance thereof, for the common benefit, use and enjoyment of all Owners, as provided in this Declaration, and including but not limited to certain Lots containing open spaces, landscaping or roadways.

1.7 The "Community Architectural Committee" means the Community Architectural Committee as defined in the Community Declaration (hereinafter defined).

1.8 The "Community Articles" means the articles of incorporation for the Community Association (hereinafter defined).

1.9 The "Community Assessments" means the Community Assessments as defined in the Community Declaration.

1.10 The "Community Association" means the Community Association of Bernardo Heights, as defined in the Community Declaration.

1.11 The "Community Board" means the Community Board as defined in the Community Declaration.

1.12 The "Community Bylaws" means the bylaws for the Community Association.

1.13 The "Community Declaration" means the Declaration of Covenants, Conditions and Restrictions for the Community of Bernardo Heights, recorded on September 30, 1980, Official Records of San Diego County at File/Page No. 80-319018, and all amendments thereto.

1.14 The "Declarant" means WOODCREST HEIGHTS ASSOCIATES, a California general partnership, its successors and assigns, if such successors and assigns acquire or hold record title to any portion of the Development for development purposes.

1.15 The "Declaration" means this Declaration of Covenants, Conditions and Restrictions for Woodcrest Heights.

1.16 The "Development" means that portion of the Real Property, including all structures and improvements, which is subject to this Declaration, including any portion thereof annexed hereto pursuant to Article 17 hereof.

1.17 A "Lot" means a parcel in the Development as shown upon the Map.

1.18 The "Map" means the subdivision map or a parcel map covering the Real Property recorded in the Office of the San Diego County Recorder.

1.19 A "Member" means every person or entity who holds a membership in the Association.

1.20 A "Mortgage" means a mortgage or deed of trust encumbering a Lot or other portion of the Development. A "Mortgagee" shall include the beneficiary under a deed of trust, including assignees of any original beneficiary. An "institutional" Mortgagee is a Mortgagee that 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, or any federal or state agency. A "first" Mortgage is a Mortgage which is prior and senior to all other Mortgages encumbering the same property.

1.21 An "Owner" means each person or entity holding a record ownership interest in a Residence Lot, including Declarant. "Owner" shall not include persons or entities who hold an interest in a Residence Lot merely as security for the performance of an obligation or as a contract purchaser.

1.22 A "Phase" of the development shall refer to a phase of Development identified on Exhibit "A" attached hereto or to Phase One, as the case may be.

1.23 A "Residence" means a dwelling unit constructed, or to be constructed, upon a Lot, together with all improvements related thereto.

1.24 A "Residence Lot" means a Lot other than the Common Area.

2. PROPERTY RIGHTS, RIGHTS OF ENJOYMENT AND EASEMENTS.

2.1 The Residence Lot and Easements. Ownership of each Residence Lot within the Development shall include (i) a Residence Lot, (ii) a membership in the Association (as defined in Section 1.3), and (iii) any exclusive or nonexclusive easement or easements appurtenant to such Residence Lot as described in this Declaration or the deed by Declarant conveying the Residence Lot. Such easements shall include:

2.1.1 An exclusive easement appurtenant to certain Residence Lots as shown on Exhibit "B" attached hereto for purposes of ingress and egress, recreational, landscaping and general purposes (the "Yard Easement").

2.1.2 A nonexclusive easement appurtenant to certain Residence Lots as shown on Exhibit "C" attached hereto for purposes of storm drainage (the "Drainage Easement").

2.1.3 A nonexclusive easement appurtenant to certain Residence Lots as shown on Exhibit "D" attached hereto for ingress and egress and driveway purposes (the "Driveway Easement").

2.2 Owners' Nonexclusive and Exclusive Easements of Enjoyment. Every Owner shall have nonexclusive easements (i) of use and enjoyment in, to and throughout the Common Area of the Development and (ii) for ingress and egress over and through the Common Area. However, such nonexclusive easements shall be subordinate to, and shall not interfere with, exclusive easements over the Common Area appurtenant to Residence Lots. Each such nonexclusive and exclusive easement shall be appurtenant to and pass with the title to every Residence Lot, subject to the following rights and restrictions:

2.2.1 The right of the Association to limit the number of guests, and to adopt Association rules and regulations ("Association rules") regulating the use and enjoyment of the Common Area.

2.2.2 The right of the Association to borrow money to improve the Common Area.

2.2.3 The right of Declarant or its designees to enter upon the Development, within the five year period ending on the fifth anniversary of the most recently issued Public Report for the Development by the Commissioner of Real Estate of California, to construct the Development and to make repairs and remedy construction defects if such entry shall not

interfere with the use of any occupied Residence unless authorized by the Owner. Any damage caused by an entry onto a Lot by the Declarant or its designees shall be repaired by the entering party.

2.2.4 Declarant hereby covenants for itself and its successors and assigns that it will convey or cause to be conveyed to the Association fee simple title to the Common Areas described in this Declaration, free and clear of any and all encumbrances and liens, subject to reservations, easements, covenants and conditions then of record, including those set forth in this Declaration. Such conveyance shall be made prior to the first close of escrow for the sale of a Residence Lot.

2.3 Delegation of Use; Contract Purchasers; Tenants. Any Owner may delegate his rights of use and enjoyment in the Development, to the members of his family, his guests, and invitees, and to such other persons as may be permitted by the Bylaws and the Association rules, subject however, to this Declaration, to the Bylaws and to the Association rules. Each Owner shall notify the secretary of the Association of the names of any contract purchaser or tenant of such Owner's Residence. Any contract purchaser or tenant of a Residence shall have the rights and benefits afforded the Owner hereunder with respect to the rights of use and enjoyment of the Development; provided, however, such rights shall not include the membership and voting rights set forth in Article 5 hereof, nor the obligations imposed upon Owners other than in connection with the rights of use and enjoyment of the Development. Any breach by any contract purchaser or tenant may be enforced against the respective Owner as well as against said contract purchaser or tenant. Each Owner, contract purchaser or tenant also shall notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment in the Development and the relationship that each such person bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners.

2.4 Encroachments and Easements Granted Therefor. If any portion of a Residence as originally constructed by Declarant encroaches on the Common Area, or onto an adjoining Residence Lot regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains and all Residences and the Common Area are made subject to such easements.

2.5 Easements Granted by Association. The Association shall have the power to grant and convey to any third party easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities. Each Owner, in accepting a deed to a Residence Lot, expressly consents to such easement. However, no such easements can be granted if it would interfere with the use, occupancy or enjoyment by any Owner of his Residence.

2.6 Roadway Easement. Declarant shall have an easement for ingress and egress over all roadways constructed in or on the Real Property, and shall have no duty to maintain or contribute to maintenance of said roadway except damage and cleanup resulting from construction of subsequent phases and except to the extent specifically provided hereunder for Owners whose Lots are or become subject to this Declaration.

2.7 Community Declaration. The Real Property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the limitations, restrictions, easements, covenants, conditions, liens and charges as set forth in the Community Declaration. All of the limitations, restrictions, easements, covenants, conditions, liens and charges as set forth in the Community Declaration shall run with the land, shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in the Real Property, and shall be binding upon and inure to the benefit of the successors in interest of such parties.

3. USE, RESTRICTIONS, AND MAINTENANCE.

3.1 Residential Use. Residence Lots shall be used for residential purposes only. However, for a period of five (5) years from the date of the most recently issued Public Report for the Development by the Commissioner of Real Estate of California, Residence Lots owned by Declarant may be used by Declarant or its designees as models, sales offices and construction offices for the purpose of developing, improving and selling Residences in the Development. No buildings shall be erected, altered, placed or permitted to remain on any Lot other than one single-family attached or detached dwelling, together with an attached private garage for not more than three cars. No Owner shall convert, either temporarily or permanently, its garage to any primary use other than the

storage of automobiles. Nothing in this Declaration shall prevent an Owner from leasing or renting his Residence. No Owner may lease less than his entire Residence. However, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all provisions of this Declaration, the Articles, the Bylaws, and the Association rules and any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement. No Owner shall rent, lease or let his Residence for transient or hotel purposes. Any lease or rental which is either for a period of less than thirty (30) days or pursuant to which the landlord provides any services primarily associated with a hotel shall be deemed to be for transient or hotel purposes.

3.2 Commercial Use. Except as otherwise provided in this Declaration, including Section 3.1, no part of the Development shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, mineral excavation or other such non-residential purpose.

3.3 Height Limitations as to Improvements. No Owner shall construct, erect, refurbish, alter or place upon any Lot a building, fence, wall, structure or improvement of any type which unreasonably interferes with the view from any Lot, except structures or improvements constructed, erected or placed by Declarant from time to time in connection with the development of the Real Property. If an Owner constructs, erects, refurbishes, alters or places on a Lot any of the foregoing improvements which unreasonably interferes with the view from any Lot, said Owner shall alter or remove said building, fence, wall, structure or improvement so that it does not unreasonably interfere with the view from any Lot.

3.4 Height Limitations as to Plants. No Owner shall plant or implace any tree, bush or plant which, at maturity and without clipping or pruning thereof, would unreasonably interfere with the view from any Lot, except those trees, bushes or plants originally planted or placed by Declarant from time to time in connection with the development of the Real Property. If any tree, bush or plant unreasonably interferes with the view from any Lot, the Owner of the Lot upon which said tree, bush or plant is located shall prune or remove said tree, bush or plant so that it does not unreasonably interfere with the view from any Lot.

3.5 Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles

or other motorized vehicles (other than emergency repairs), shall be carried on, or within, the Development. Nothing shall be done on or within the Development that may be or may become an annoyance or nuisance to the residents of the Development, or that in any way interferes with the quiet enjoyment of occupants of Residences. Unless otherwise permitted by the Association, no Owner shall (i) use power tools or maintain a hobby shop and/or (ii) serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner's Residence Lot. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to unreasonably disturb the residents of any adjoining Lot(s).

3.6 Parking Restrictions; Use of Parking Area. No motor vehicle, truck larger than 3/4-ton capacity, dune buggy, boat, trailer, mobilehome, motorhome, van or camper shell (irrespective of whether the camper shell is attached to, or mounted upon, a vehicle or detached from a vehicle or otherwise not mounted upon a vehicle) shall be parked or stored on any of the streets or driveways. The foregoing vehicles may be parked or stored upon a Residence Lot if the same is entirely within (i) a garage with the garage door fully capable of closing or (ii) an enclosed area on the side of a Residence Lot, so as to keep such vehicle from being visible from any street or any Lot. However, any of the foregoing vehicles may be temporarily parked in the driveway of a Residence Lot for the purposes of loading or unloading passengers, groceries or other items of personal property. Guests shall be permitted to park temporarily in those areas designated within the Development as guest or visitor parking. The Association shall not (i) charge a fee for the use by guests of said guest parking, nor (ii) convert said guest parking for any other use at any time. No equipment or vehicle of any kind shall be repaired on (i) a Lot so as to be visible from neighboring Lots or the streets or (ii) the streets. No dismantled or wrecked vehicle or equipment shall be parked, stored, deposited or the like on any Lot, other than within a garage or other enclosed building on a Residence Lot.

3.7 Signs. No sign of any kind shall be displayed to the public view on or from any Residence Lot without the approval of the Board, except such signs as may be used by the Declarant or its designees for a period of five (5) years from the date of the most recently issued Public Report for the Development by the Commissioner of Real Estate of California, for the purpose of developing, selling and improving Residence Lots within the Development. However, one sign of customary and reasonable dimensions advertising a Residence for sale or for

rent may be placed within each Residence Lot or within the Common Area immediately adjacent thereto, but the location and design of such sign to be subject to approval by the Board.

3.8 Antennas and External Fixtures. No television or radio poles, antennas, flag poles or other external fixtures other than those originally installed by Declarant shall be constructed, erected or maintained on or within any Residence or Residence Lot, other than within completely enclosed portions of the Residence Lot not visible from the exterior thereof; provided, if cable television is or becomes available, the right to maintain television antennas other than within completely enclosed portions of his Residence shall terminate immediately unless the Board continues to authorize the maintenance of such antennas.

3.9 Restricted Use of Recreational Vehicles. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living area while located on the Development. However, trailers or temporary structures for use incidental to the construction of the Development or the sales of Residences by the Declarant may be maintained within the Development, but shall be promptly removed on completion of all construction and all sales.

3.10 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No Owner shall permit or cause any trash or refuse to be kept on any portion of the Development other than in the receptacles customarily used for it, which shall be located only in places specifically designated for such purpose or within the Owner's Residence Lot (except on the scheduled day for trash pickup).

3.11 Landscaping and Maintenance. Each Owner shall have the duty and responsibility of maintaining the landscaping on such Owner's Residence Lot and the Yard Easement appurtenant thereto, and all buildings, appurtenances, walls, fences, driveways, parking areas and other structures situated on such Owner's Residence Lot or Yard Easement, in a well-maintained, safe, clean and attractive condition at all times. The Owner of each Residence Lot shall clear weeds, rubbish, garbage or debris from its Residence Lot and Yard Easement and shall maintain it reasonably free and clear of any such weeds, rubbish, garbage or other debris, to reduce all possible fire hazards and so as not to damage the value of any adjoining Lots. If an Owner fails to comply with any of the provisions set forth in this Section 3.11, the Association, at its option, may remedy the noncompliance, and the Owner shall reimburse the

Association, upon demand, for all expenses incurred in connection therewith.

3.12 Perimeter Wall. The Association shall maintain the structural elements of the perimeter wall located along the perimeter of the Development adjacent to Avenida Venusto and Calle Peracho. The Association shall further maintain the appearance of the facade of said wall facing said streets. Each Owner upon or adjacent to whose Residence Lot said perimeter wall is located shall maintain the appearance of the facade of said perimeter wall facing said Owner's Residence Lot.

3.13 Exterior Alterations. No Owner shall, at his expense or otherwise, make or permit to be made any alterations or modifications (including painting) to the exterior of his Residence or any fences, railings or walls related thereto without the prior written consent of the Architectural Control Committee. The work of constructing and erecting any building or other structure shall be prosecuted diligently from the commencement thereof and the same shall be completed within a reasonable time in accordance with the requirements herein contained. Each Owner assumes all liability from any damage resulting from the construction, erection or placement of a retainer wall upon said Owner's Residence Lot.

3.14 Owner's Obligation to Repair. Each Owner at his expense shall be responsible for the maintenance and repair of his Residence Lot and all structures, improvements, additions and landscaping thereon, except as expressly set forth herein.

3.15 Association's Obligation to Maintain and Repair the Common Area. The Association shall maintain and repair the Common Area, as provided in Section 4.3.2.1 below.

3.16 Drainage. The Owner of each Residence Lot shall be responsible for reasonably maintaining any drainage channel, cut, swale, berm and control facilities situated on his Residence Lot or the Drainage Easement appurtenant thereto and shall otherwise be responsible for effectuating proper drainage from his Residence Lot. Each Owner shall maintain said Owner's Residence Lot in such a way as to prevent the accumulation of water or other drainage problems on other Lots within the Development. In addition, each Owner shall irrigate his Lot in a manner which will not cause unreasonable drainage or seepage onto or through an adjoining Lot.

3.17 Repair of Residence. The Owner of a Residential Lot whose Residence has been damaged or destroyed by fire or other calamity shall promptly and diligently cause such structure to

be repaired or restored. This obligation shall not extend to the installation of furniture and the like, but is for the purpose of preventing unsightliness caused by such damage or destruction and any resultant health or safety problems to other Owners within the Development and to the public.

3.18 Nonbuilding Area. No Owner shall (i) construct, erect or place a building, fence, wall, structure or improvement of any type, nor (ii), without the written approval of the Board, plant any tree, bush, or plant, upon any slope within the Development which is designated as a "nonbuilding area" on Exhibit "E" attached hereto. Notwithstanding the foregoing, with the prior written consent of the Board an Owner may remove a portion of the slope in said nonbuilding area and construct a retaining wall approved by the Board but which shall be maintained by the Owner; provided, however, no such retaining wall shall exceed three (3) feet in height. The Board may condition its approval upon the Owner's assuming in writing all liability relating to the restructuring of the slope or such other reasonable conditions including the payment of attorney's or other fees incurred in connection with such approval. If an Owner constructs, erects, or places a building, fence, wall, structure or improvement on any slope, said Owner shall be responsible for its maintenance and repair and assumes all liability from any damage resulting from the construction, erection or placement of said building, fence, wall, structure or improvement. If an Owner fails to comply, the Board, at its option, may remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. It shall be the duty and responsibility of the Owner to comply with all applicable ordinances, rules or regulations relating to "nonbuilding area" restrictions, including but not limited to the obtaining of any necessary permits, approvals and soil reports. Nothing contained herein shall limit the right of Declarant to construct retaining walls as required in Declarant's sole judgment.

3.19 Patio Covers. No Owner shall construct, erect or place upon any Residence Lot a patio cover without the prior written approval of the Architectural Control Committee and the Planning Director of the Planning Department of the City of San Diego ("Planning Director"). Patio covers may be permitted only if they are consistent with the architecture of the Residence to which they will be built. Declarant may submit (i) a master patio cover location plan which shall designate the area upon a Residence Lot upon which a patio cover may be built and (ii) a typical patio cover detail, which shall indicate the architectural details which will be permitted for a patio cover, to be reviewed and approved or disapproved by

the Planning Director. The approval of the master patio cover location plan and the typical patio cover detail by the Planning Director serves as the approval by the Planning Director of individual patio covers. Deviations from the master patio cover location plan or the typical patio cover detail must be approved by the Architectural Control Committee and the Planning Director.

3.20 Compliance With Laws. Nothing shall be done or kept in any Residence or in the Development that might increase the rate of, or cause the cancellation of, insurance on the Development, or any portion of the Development, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Residence that violates any permit, law, ordinance, statute, rule or regulation of any local, county, state or federal body. No Owner shall allow furniture, furnishings, or other personal property belonging to such Owner to remain within any portion of the Development except in such Owner's Residence and except as may otherwise be permitted by the Board.

3.21 Slope Control Zone.

3.21.1 Fences. All fences, installed, erected or maintained at or near the top of any slope within the slope control zone (defined in paragraph 3.21.2 below), including any horizontal portion adjacent to the top of said slope which is part of the same Residence Lot, shall be limited to black vinyl clad fabric fence with redwood posts, wrought iron, vertical rebar, or other suitable open material as may be approved by the Architectural Control Committee established pursuant to Article 8. In no circumstance shall galvanized steel chain link fence be allowed. Any Owner or occupant of a Residence Lot who desires to install a fence on a portion of his Residence Lot within the slope control zone shall first secure the written consent of the Architectural Control Committee prior to the installation thereof. The Architectural Control Committee shall consider the topography of the Residence Lot and adjoining Residence Lots and the maintenance of views before granting such approval. No fence, hedge, wall, or other dividing structure higher than three and one-half (3-1/2) feet shall be permitted within any setback area (other than alongside yards), which setback area is defined and currently required by the City of San Diego. No fence, hedge, wall or other dividing structure on the side yard of a Residence Lot shall be higher than six (6) feet on the perimeter area other than the slope control zone.

3.21.2 Slope Control Zone Limitations. Any portion of any Residence Lot having a slope greater than ten degrees

(10°) from the horizontal where such slope exceeds a height of two (2) feet vertically from the toe of said slope is within the slope control zone. No structure shall be permitted in the slope control zone except fences as provided in this Section 3.21 and no fence, landscaping or other material shall be placed or permitted to remain or other activities undertaken in the slope control zone which may interfere with the view from any Residence Lot, damage or interfere with established slope ratios, create erosion or slope subsidence or which may change the direction or flow or drainage channels.

3.22 Pets. Each Owner may raise or keep domesticated dogs, cats or other commonly accepted household pets; provided, however, that such pets and other animals must be kept for noncommercial purposes and shall not violate any applicable law or ordinance or constitute a nuisance. No pet or other animal shall be permitted to go or wander onto the Common Area or any Residence Lot other than the Residence Lot owned by the person owning such pet or animal. The owner of any such pet or animal shall be responsible for any damage done by such pet or animal and shall clean up after said pet or animal.

3.23 Exterior Lighting. Any exterior lighting installed on any Residence Lot shall be focused downward so as not to illuminate any adjoining Lot and shall be either indirect or of such controlled focus and intensity as not to unreasonably disturb the residents of any adjoining Residence Lot.

3.24 Indemnification. Each Owner shall be liable pursuant to the laws of the State of California for any damage to the Common Area that may be sustained by reason of the negligence of that Owner, members of his family, his contract purchasers, tenants, guests or invitees.

3.25 Future Construction. Nothing in this Declaration shall limit the right of Declarant, or its successors and assigns, to complete construction of improvements to the Common Area and to Residences owned by Declarant or to alter them or to construct additional improvements as Declarant deems advisable before completion and sale of the entire Development. The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of the Declarant's interest in the Development as developer, by an express assignment incorporated in a recorded deed that transfers an interest to a successor.

3.26 Enforcement. The failure of any Owner or the Association to comply with any provision of this Declaration or the Articles or Bylaws shall give rise to a cause of action in

the Association and/or any aggrieved Owner for the recovery of damages or for injunctive relief, or both, and for attorneys' fees incurred thereby.

4. THE ASSOCIATION.

4.1 Purpose. The Association has been created to provide for the ownership, management, maintenance and preservation of the Common Area, all as more specifically set forth in this Declaration, the Articles of Incorporation, the Bylaws and the Association rules.

4.2 Association Action; Board of Directors and Officers. Except as to matters requiring the approval of Members as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint. Such election or appointment shall be in accordance with this Declaration or the Bylaws and any amendments thereto.

4.3 Powers and Duties of Association.

4.3.1 Powers. The Association shall be a nonprofit mutual benefit corporation organized under the General Nonprofit Mutual Benefit Corporation Law of California subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws and this Declaration. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the following:

4.3.1.1 Assessments. The Association shall have the power to establish, fix, and levy assessments against the Owners of Residences and to enforce payment of such assessments in accordance with the provisions of Article 6 of this Declaration.

4.3.1.2 Right of Enforcement. The Association in its own name and on its own behalf, or on behalf of any Owner who consents, can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provisions of this Declaration or of the Articles or Bylaws, or of the Association rules or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of those provisions. In addition, the

Association can suspend the voting rights, can suspend use privileges of the Common Area or can assess monetary penalties against any Owner or other person entitled to exercise such rights or privileges for any violation of this Declaration or the Articles, Bylaws, Association rules, or Board resolutions. Each suspended or fined Owner or other person can appeal such action by filing written notice of his intention to appeal with the Board. The action imposing the fine or suspension shall then become ineffective until the fine or suspension is unanimously approved by all Board members at a regular or special meeting of the Board at which all Board members are present. The Owner or other person to be fined or suspended can appear, be represented by counsel and be heard at the meeting, and shall be entitled to such notice and hearing procedures as may be necessary to satisfy the minimum requirements of Section 7341 of the California Corporations Code. Except as provided in this section, the Association does not have the power or authority to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of such Owner's Residence if the Owner does not comply with provisions of this Declaration or of the Articles or Bylaws, or the Association rules of operation for Common Areas and facilities except when the loss or forfeiture is the result of the court judgment or an arbitration decision or a foreclosure or sale under a power of sale based on failure of the Owner to pay assessments levied by the Association. However, such restriction does not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments. Any of the foregoing notwithstanding, a monetary penalty imposed by the Association as a disciplinary measure for failure of a member to comply with the provisions of this Declaration or the Articles, Bylaws, Association rules or Board resolutions or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas and for which the member was allegedly responsible or in bringing the member and his Residence into compliance with the provisions of this Declaration or the Articles, Bylaws, Association rules or Board resolutions shall not be construed to be an assessment which may become a lien against the member'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.

4.3.1.3 Delegation of Powers. The Association, acting by and through the Board, can delegate its powers, duties, and responsibilities to committees or employees, and

shall employ a professional managing agent for the Development. Any agreement for professional management of the Development shall be terminable by either party with or without cause and without payment of a termination fee on thirty (30) days' written notice. The term of any such agreement shall not exceed one (1) year (although such agreement may be renewed from year to year by the Board). The Board may appoint an executive committee and any other committees or may hire employees and delegates to such committees or employees any of the powers and duties of the Board, subject to any limitations contained in the Bylaws.

4.3.1.4 Association Rules. The Association shall have the power to adopt, amend and repeal its rules as it deems reasonable. The Association rules shall govern the use of the Common Area by the Owner or his family, guests, invitees or by any contract purchaser, or tenant or their respective family members, guests or invitees. However, the Association rules shall not be inconsistent with or materially alter any other provisions of this Declaration, the Articles or the Bylaws. A copy of the Association rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. In case of any conflict between any Association rules and any other provisions of this Declaration, the Articles or Bylaws, such 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 inconsistency.

4.3.1.5 Actions. The Association may prosecute or defend, in the name of the Association, any action affecting or relating to the Common Area, or property owned by the Association, and any action in which all or substantially all of the Owners have an interest.

4.3.2 Duties of the Association. In addition to the powers delegated to it by its Articles or the Bylaws, and without limiting their generality, the Association, acting by and through the Board, or persons or entities described in Section 4.3.1.3, has the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

4.3.2.1 Operation and Maintenance of Common Area. The Association shall operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area, and all its facilities, improvements, and landscaping in a good condition and in a good state of repair.

periodic basis, and such reserve shall be funded by monthly assessments.

4.3.2.8 Maintenance of Other Areas. The Association shall operate, maintain and otherwise provide for the operation, maintenance and management of the following areas in the same manner as the operation and management of the Common Area:

a. Those portions of the nonbuilding areas shown on Exhibit "E" attached hereto which are designated as "Association maintained."

b. The Driveway Easements shown on Exhibit "D" attached hereto.

4.4 Personal Liability. No member of the Board, or of any committee of the Association, or any officer of the Association, or Declarant, or any agent of Declarant, shall be personally liable to any Owner or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted in good faith without willful or intentional misconduct.

4.5 Meetings and Notice. An organizational meeting shall be held as soon as practicable after incorporation of the Association, and the directors elected then shall hold office until the first annual meeting. All offices of the Board of Directors shall be filled at the organizational meeting.

As long as (i) the Declarant holds or directly controls 25% or more of the voting power of the Association, or (ii) there are two outstanding classes of membership in the Association (whichever is longer), the election of twenty percent (20%) of the directors (the "specially elected directors") shall be determined at a special election held immediately before the regular election of directors (except in the case of the election of a specially elected director following removal of his predecessor). At the duly constituted meeting of Members, nominations for the specially elected director shall be made from the floor. When nominations have been closed, the special election shall take place. Declarant shall not have the right to participate in or vote in such special election (although Declarant or Declarant's representatives may be present), and the candidates receiving the highest number of votes up to the number of specially

elected directors to be elected shall be deemed to be the specially elected directors, and their term shall be the same as that of any other director. Unless Members (excluding Declarant) holding a majority of all voting rights (excluding any voting rights held by Declarant) assent by vote or written consent, such specially elected directors cannot be removed. In case of the death, resignation, or removal of a specially elected director, his successor shall be elected at a special meeting of Members, and the provisions set forth in this section respecting the election of a specially elected director shall apply as to the election of a successor. Except as provided in this Declaration, the provisions of this Declaration and of the Articles and Bylaws applicable to directors, including their election and removal, shall apply to a specially elected director.

4.6 Document Availability. A current copy of the Declaration, Articles, Bylaws, rules and regulations governing the Residences, and the most recent annual financial statement, together with all other books, records and financial statements of the Association, shall be made available for inspection, upon request, at the office of the Association during normal business hours by any prospective purchaser of a Residence, Owners, first Mortgagees and any holders, insurers, or guarantors of a first Mortgagee.

5. MEMBERSHIP AND VOTING RIGHTS.

5.1 Membership.

5.1.1 Qualifications. Each Owner of a Residence Lot, including Declarant, shall be a Member of the Association (as defined in Section 1.3). No Owner shall hold more than one membership in the Association even though such Owner may own, or own an interest in, more than one Residence Lot. Ownership of a Residence Lot or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his ownership or ownership interest in all Residence Lots ceases, at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Residence Lot merely as security for performance of an obligation are not to be regarded as Members.

5.1.2 Members' Rights and Duties. Each Member shall have the rights, duties, and obligations set forth in this Declaration, the Articles, the Bylaws and the Association rules and all amendments thereto. Except as set forth in this Declaration, rights, interests and privileges of each Owner in

good standing shall be equal. Each Owner shall be and become a Member of the Association contemporaneously with his acquisition of a Residence Lot without further documentation of any kind.

5.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Residence Lots shall be appurtenant to each such Residence Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Residence Lot or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Residence Lot or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new Owner.

5.2 Voting.

5.2.1 Number of Votes. The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one (1) vote for each Residence Lot in which such class Member owns an interest. However, when more than one Class A Member owns an interest in a Residence Lot, the vote for such Residence Lot shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Residence Lot.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Residence Lot owned. The voting rights shall not vest until Assessments against Residential Lots have commenced. The Class B membership shall cease and be converted to Class A membership with only one vote for each Residence Lot owned on the first to occur of the following events:

5.2.1.1 When the total votes outstanding in the Class A membership equal

the total votes outstanding in the Class B membership; or

5.2.1.2 On the second anniversary of the original issuance of the most recently issued Public Report issued by the Department of Real Estate for a Phase of the Development; or

5.2.1.3 On the fourth anniversary of the issuance of the original Public Report issued by the Department of Real Estate for the first Phase of the Development.

5.2.2 Approval of Classes. As long as two classes of Members exist, no action by the Association that must have the prior approval of the Association Members shall be deemed approved by the Members unless approved by the appropriate percentage of both classes of Members.

5.2.3 Joint Owner Votes. The voting rights for each Residence Lot may not be cast on a fractional basis. If the joint Owners of a Residence Lot are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Residence Lot, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Residence Lot. If more than one (1) person or entity exercises the voting rights for a particular Residence Lot, their votes shall not be counted and shall be deemed void.

5.3 Appointment and Election of Board.

5.3.1 By Declarant. Declarant shall have the right to appoint the members of the Board and to remove and appoint successors or other members so appointed until the date of the first meeting of Members.

5.3.2 By the Owners. The Owners shall have the right to elect members of the Board commencing upon the first annual meeting of Members; all positions on the Board shall be filled at that election.

6. ASSESSMENTS.

6.1 Agreement to Pay. Declarant, for each Residence Lot owned by it, covenants and agrees, and each purchaser of a Residence Lot by his acceptance of a deed, covenants and

agrees, for each Residence Lot so owned, to pay to the Association regular assessments and special assessments, such assessments to be established, made and collected as provided in this Declaration.

6.2 Personal Obligations. Each assessment or installment, together with any interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the person or entity who was an Owner at the time such assessment, or installment, became due and payable. If more than one person or entity was the Owner of a Residence Lot, the personal obligation to pay such assessment or installment respecting such Residence Lot shall be both joint and several. The personal obligation for delinquent assessments or delinquent installments, and other such sums, shall not pass to an Owner's successors in interest unless expressly assumed by them. No Owner of a Residence Lot may exempt himself from payment of assessments or installments by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use or enjoyment of, or by abandonment of, his Residence Lot.

6.3 Purpose of Assessments; Maintenance of Reserves. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Members of the Association, the improvement, replacement, repair, operation and maintenance of the Common Area and the performance of the duties of the Association as set forth in this Declaration. Assessments may be used for repair of defects or failures in the Development. The regular assessments shall include adequate reserve funds for contingencies and for maintenance, repairs, and replacement of the Common Area improvements that must be replaced on a periodic basis sufficient to satisfy the requirements of any first Mortgagee. This limitation shall not affect the liability of any supplier or manufacturer of any product included in the Development. Unless the Association is exempt from federal or state taxes, all reserves shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

6.4 Determination of Amount of Assessments.

6.4.1 Regular Assessments. Regular assessments shall be assessed in the following amounts:

(i) Until January 1st of the year immediately following conveyance of the first Residence Lot to an Owner (the first assessment period), the maximum annual regular assessment per Residence Lot shall be \$59.20. In the event the first assessment period is less than a full calendar year, said annual regular assessment amount shall be reduced in proportion to the amount of time remaining in the calendar year constituting the first assessment period as of the conveyance of the first Residence Lot.

(ii) From and after January 1st of the year immediately following the conveyance of the first Residence Lot to an Owner, the maximum annual regular assessment may be increased no more than ten percent (10%) above the maximum annual regular assessment for the previous year without a vote of the membership of the Association.

(iii) From and after January 1st of the year immediately following the conveyance of the first Residence Lot to an Owner, the maximum annual regular assessment may be increased more than ten percent (10%) above the maximum annual regular assessment for the previous year by the vote or written assent of a majority or more of each class of Members of the Association; provided, however, that following the conversion of the Class B membership to Class A membership, the maximum annual regular assessment may be increased more than ten percent (10%) above the maximum annual regular assessment for the previous year by the vote or written assent of (1) holders of a majority of the voting power of the Association, and (2) holders of a majority of the voting power of the Association, excluding Declarant. The Board may fix the annual regular assessment at an amount not in excess of the maximum.

6.4.2 Special Assessments. In addition to the annual regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area (except as provided in Section 9 hereof), including fixtures and personal property related thereto, provided that in any fiscal year, the Association may not, without the vote or written assent of a majority of the voting power of the Association (including a majority of the voting power of the Declarant), levy any special assessments. The Association may also levy a special assessment against any Member to reimburse the Association for costs incurred in bringing the Member and his Residence into compliance with the provisions of the Declaration, the Bylaws and the Articles, which special

assessment may be levied upon the vote of the Board after notice and an opportunity for a hearing which satisfy the requirements of Section 7341 of the California Corporations Code. All proceeds from any special assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be otherwise handled and used in a manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board in order to avoid, if possible, its taxation as income of the Association.

6.4.3 Member Action. Any action authorized under Sections 6.4.1 or 6.4.2 above requiring membership approval shall be taken at a meeting called for that purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than ninety (90) days in advance of the meeting. A quorum for such meeting shall be fifty-one percent (51%) of each class of Members of the Association. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum for the preceding meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than required, Members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

6.5 Uniform Rate of Assessment. Except as provided in this Declaration, regular and special assessments must be fixed at a uniform rate for all Residence Lots.

6.6 Date of Commencement of Annual Assessments. The Owner of each Residence Lot (including Declarant as to those Residence Lots owned by it) shall be liable for assessments against its Residence Lot(s) upon conveyance of the first Residence Lot. Assessments shall commence and shall be collected as to each of the Residence Lots (including those owned by Declarant) upon the first day of the month following the conveyance of the first Residence Lot in such Phase to an individual owner; provided, however, the annual assessments for all such Phases identified in such Subdivision Public Report shall commence no later than the first day of the month following five (5) years from the date of the original issuance of the Subdivision Public Report first identifying such Phases. Voting rights attributable to the respective Residence Lots shall not vest until assessments against such Residence Lots have commenced.

6.7 Assessment Period. The regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and regular assessments shall be payable in equal monthly installments unless the Board adopts some other basis for collection. The Association shall not change the pro rata interest or obligation of any Lot for purposes of levying assessments unless seventy-five percent (75%) of the Owners and Mortgagees holding seventy-five percent (75%) of all first Mortgages have given their prior written consent.

6.8 Notice and Assessment Installment Due Dates. A single ten (10) day prior written notice of each annual regular assessment and each special assessment shall be given to any Owner of every Residence subject to assessment in which the due dates for the payments of installments shall be specified. The due dates for the payment of installments normally shall be the first day of each month unless some other due date is established by the Board. Each installment of regular assessments and special assessments shall become delinquent if not paid within thirty (30) days after its due date. There shall accrue with each delinquent installment a late charge, which shall be computed on the outstanding balance from month to month as follows: (i) one and one-half percent (1.5%) of any delinquent assessments not exceeding One Thousand Dollars (\$1,000), (ii) one percent (1%) of the excess over One Thousand Dollars (\$1,000), and (iii) if the late charge so computed is less than Ten Dollars (\$10) for any month, the late charge shall be Ten Dollars (\$10). No such late charge shall exceed the maximum amount allowable under Civil Code Section 1725 or any other law.

6.9 Estoppel Certificate. The Board or manager, on not less than twenty (20) days' prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular Owner is in default as to his Residence under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such Residence. Any such certificate delivered pursuant to this Section 6.8 may be relied on by any prospective purchaser or Mortgagee of the Residence, but reliance on such certificate may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

6.10 Initial Capitalization. In addition to the regular and special assessments set forth herein, each Owner shall pay to the Association an amount equal to one-twelfth (1/12) of the

then current annual assessment upon close of escrow for the purchase of such Owner's Residence Lot from Declarant. Notwithstanding the foregoing, upon the conveyance of the first Residence in a Phase by Declarant to an Owner, Declarant may, at its option, deliver to the Association an amount equal to the one-twelfth (1/12) of the then current annual assessment times the number of Residence Lots in such Phase. In the event Declarant elects to so deposit said amount, each Owner shall, upon the close of escrow for the purchase of its Residence Lot from Declarant, pay to Declarant and not to the Association, an amount equal to the deposit made by Declarant for such respective Residence Lot and the respective amount previously deposited into escrow shall be paid to the Association in lieu of the amount otherwise payable as set forth herein.

6.11 Subsidization by Declarant.

6.11.1 Requirements of Declarant. In the event Declarant elects to subsidize the cost of operating and maintaining the Common Areas and of providing services for the Development, it shall:

6.11.1.1 Subsidization Contract. Enter into a contract ("Subsidization Contract") with the Association acceptable in form and content to the California Department of Real Estate which shall specify in detail the obligations which Declarant will undertake to fulfill and the methods to be employed in valuing the goods and services furnished under the subsidization program;

6.11.1.2 Delivery to Association. Promptly furnish the Association with an executed copy of the Subsidization Contract;

6.11.1.3 Monthly Accounting. Submit a monthly accounting to the Association containing a description and valuation of the goods and services for the Common Areas furnished directly by Declarant or contracted and paid for by Declarant; and

6.11.1.4 Bond. Furnish a bond or other device to secure Declarant's undertaking to the Association and the Owners under the subsidization program. The penal sum of a subsidy bond shall not be reduced by reason of the fact that Declarant has posted a bond or other security device pursuant to Section 2792.9 of Title 10 of the California Administrative Code.

6.11.2 Escrow. The security device referred to in Section 6.10.1.4 above shall be delivered to a neutral escrow depositary acceptable to the California Department of Real Estate along with an executed copy of the Subsidization Contract and instructions to the depositary signed by Declarant and on behalf of the Association which shall provide as follows:

6.11.2.1 Notice as to Performance. The depositary shall not release or exonerate the security device until it has received written notice from the Association that Declarant has faithfully performed all of its obligations under the Subsidization Contract.

6.11.2.2 Arbitration. In the event of a dispute between Declarant and the Association with respect to the question of satisfaction of the conditions for exoneration or release of the security, the issue or issues shall, at the request of either party, be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association before an arbitrator selected from the panels of the arbitrators of said Association. The fee payable to said Association to initiate the arbitration shall be remitted by Declarant; provided, however, that the costs of arbitration shall ultimately be borne as determined by the arbitrator under the aforesaid Rules.

7. COLLECTION OF ASSESSMENTS: LIENS.

7.1 Right to Enforce. The right to collect and enforce assessments is vested in the Board acting by and on behalf of the Association. The Board or its authorized representative, including any manager, can enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.2 to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other amounts described in Section 6.3 shall be maintainable without foreclosing or waiving the lien rights.

7.2 Creation of Lien. If there is a delinquency in the payment of any assessment or installment on a Residence Lot, any amounts that are delinquent, together with the late charge described in Section 6.8 above, and all costs that are incurred by the Board or its authorized representatives in the collection of the amounts, including reasonable attorneys' fees, shall be a lien against such Residence Lot on the recordation in the Office of the County Recorder of San Diego

County of a notice of assessment executed by the President or Vice-President and Secretary or Assistant Secretary of the Association. The payment of an assessment is not delinquent for the purpose of this Section until at least thirty (30) days following the due date of the assessment. The notice of assessment shall not be recorded unless and until the Board or its authorized representative has delivered to the delinquent Owner or Owners of such Residence Lot, not less than fifteen (15) days before the recordation of the notice of assessment, a written notice of default and a demand for payment, and unless such delinquency has not been cured within fifteen (15) days after delivery of notice. The lien shall expire and be void unless, within one (1) year after recordation of the notice of assessment, the Board or its authorized representative (i) records a notice of default as provided in this Declaration or institutes judicial foreclosure proceedings or (ii) the Board or its authorized representative records a written notice of extension which shall extend the one-year period for an additional year.

7.3 Notice of Default; Foreclosure. Not more than one (1) year nor less than ten (10) days after the recording of the notice of assessment, the Board or its authorized representative can record a notice of default and can cause the Residence to be sold in the same manner as a sale is conducted under California Civil Code Sections 2924, 2924b-2924c, or through judicial foreclosure. However, as a condition precedent to the holding of any such sale under Section 2924c, appropriate publication shall be made. In connection with any sale under Section 2924c the Board is authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in California as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the Office of the County Recorder of San Diego County a certificate setting forth the satisfaction of such claim and release of such lien on payment of actual expenses incurred, including reasonable attorneys' fees. The Association, acting on behalf of the Owners, shall have the power to bid on the Residence Lot at foreclosure sale and to acquire, hold, lease, Mortgage and convey the Residence Lot.

7.4 Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article 7, the benefit of any homestead or exemption laws of California in effect at the time any assessment or installment becomes delinquent or any lien is imposed.

7.5 Subordination; Foreclosure. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage given for value. Sale or transfer of any Residence Lot shall not affect the assessment lien. However, the sale or transfer of any Residence Lot pursuant to judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residence Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage, or other purchaser of a Residence Lot, obtains title to the same as a result of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for the share of the common expenses or assessments by the Board chargeable to such Residence Lot which became due prior to the acquisition of title to such Residence Lot by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be a common expense collectible from the Owners of all of the Residence Lots, excluding such acquirer, its successors and assigns.

8. ARCHITECTURAL AND DESIGN CONTROL.

8.1 Appointment of Members. A committee shall be appointed for the control of structural and landscaping architecture and design ("Architectural Control Committee") for all improvements (including landscaping) within the Development. The Architectural Control Committee shall consist of three (3) members. Declarant may appoint all of the original members of the Architectural Control Committee and all replacements until the first anniversary of the most recently issued public report for the Development. Declarant may reserve to itself the power to appoint a majority of the members of the Committee until 90% of all the Residence Lots in the Development have been sold or until the fifth anniversary of the most recently issued final public report for the Development, whichever first occurs. After one year from the date of issuance of the original public report for the Development, the Board shall have the power to appoint one member to the Architectural Control Committee until 90% of all of the Residence Lots in the Development have been sold or until the fifth anniversary date of the original issuance of the final public report for the Development, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Architectural Control Committee. Members appointed to the Architectural Control Committee by the Board shall be from the membership of the Association. Members appointed to the Committee by Declarant need not be members of the Association.

8.2 Vacancies. Any vacancy on the Architectural Control Committee by reason of death, resignation or removal by the Owners of any of its appointees shall be promptly filled by the written consent of fifty-one percent (51%) of the Owners within thirty (30) days after such vacancy first occurs. Any vacancy on the Architectural Control Committee by reason of death, resignation or removal by Declarant of any of its appointees shall be promptly filled by Declarant with a person within thirty (30) days after such vacancy first occurs.

8.3 Right of Designate Representative. Notwithstanding anything contained herein to the contrary, the members of the Architectural Control Committee shall have the right to designate one (1) individual to act on behalf of the Committee, provided the Architectural Control Committee notifies the Owners of such action in writing.

8.4 Prior Approval. No building, fence, wall, structure or improvement of any type shall be constructed, erected, placed, refurbished or altered nor shall any tree, bush or plant be planted or placed upon a Residence Lot unless (i) the foregoing comply with the standards established by the Architectural Control Committee and (ii) the plans, specifications and location plat thereof have been approved by the Architectural Control Committee. All residences and related improvements thereto (including landscaping) shall comply with the standards established by the Architectural Control Committee. The Architectural Control Committee ~~may~~ establish and provide guidelines for the preparation, submission and review of plans, specifications, plats and schemes, which guidelines may be amended by the Architectural Control Committee at any time. In preparing these standards and reviewing any such plans, specifications, plats and schemes, the Architectural Control Committee may take into account (i) the quality of workmanship and materials to be used, (ii) harmony of external design with existing structures in the Project, (iii) the interference, or potential for interference, with the view from any Residence Lot and (iv) compliance with this Declaration. In addition, the Architectural Control Committee, in reviewing any such plans, specifications, plats and schemes, may require that the Owner requesting an approval from the Architectural Control Committee obtain the written approval of a neighboring Owner(s) with respect to any detail(s) shown on such plans, specifications, plats or schemes. The Architectural Control Committee shall approve said plans, specifications, plats or schemes for the construction, erection or placement of a building, fence, wall, structure or improvement on a Residence Lot if said plans, specifications, plats or schemes are consistent with the

original plans, specifications, plats or schemes of the residence and other improvements located on said Residence Lot. In the event the Architectural Control Committee fails to approve or disapprove any such plans, specifications, plats or schemes within thirty (30) days after all documents and information requested by the Architectural Control Committee have been received by the Architectural Control Committee, said plans, specifications, plats or schemes shall be incontrovertibly deemed to be approved.

8.5 Painting of Improvements. No building, fence, wall, structure or improvement of any type on a Residence Lot shall be painted or repainted unless (i) any of the foregoing improvements are painted or repainted in a color which was originally used for the Residence located on said Residence Lot or in a color which responds to the colors of the native environment or which is commonly considered to be an earth tone or (ii) the Architectural Control Committee's prior written approval is obtained.

8.6 Failure to Comply. If an Owner fails to obtain the prior approval of plans, specifications and plats referred to in Section 8.4 or if an Owner fails to comply with any of the provisions set forth in this Article, the Architectural Control Committee, at its option, may either remove the noncomplying improvement or remedy the noncompliance, and the Owner shall reimburse the Architectural Control Committee, upon demand, for all expenses incurred in connection therewith.

8.7 Effect of Approval. The approval of the Architectural Control Committee of any proposals, plans, specifications, drawings, plats or schemes for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Control Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, specifications, drawings, plats, schemes or any other matter subsequently or additionally submitted for approval or consent.

8.8 Liability of Committee. Neither Declarant nor the Architectural Control Committee, nor any member thereof, nor their duly authorized Architectural Control Committee representatives, shall be liable to the Association, or to the Owner, for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Control Committee's duties hereunder unless due to the willful misconduct or bad faith of the Architectural Control Committee. The Architectural Control Committee shall not be responsible for reviewing, nor shall its approval of any plan

or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

8.9 No Presumption of Compliance. The approval of the Architectural Control Committee of any proposals, plans, specifications, drawings, plats or schemes for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Architectural Control Committee, shall not be deemed to constitute a conclusive presumption that said proposals, plans, specifications, drawings, plats or schemes comply with the limitations, restrictions, conditions and covenants set forth in this Declaration.

8.10 Committee Rules. The Architectural Control Committee may, from time to time, and at its sole discretion, adopt, amend and repeal, by majority vote, rules and regulations to be known as "Architectural Control Committee Rules." The Architectural Control Committee's Rules shall interpret and implement the provisions of this Article 8 by setting forth the standards and procedures for Architectural Control Committee review and guidelines for architectural design, placement of buildings, placement and type of fencing, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Project; provided, however, the Architectural Control Committee's Rules shall not be in derogation of the minimum standards required by this Declaration.

8.11 Resignation. A member of the Architectural Control Committee may resign by written notice given to each Owner which shall be delivered by regular United States mail to the street address of each Owner.

8.12 Failure to Function. In the event the Architectural Control Committee ceases to function for any reason during the term of this Declaration, each and every Owner shall still be subject to the limitations, restrictions, conditions and covenants set forth herein and any Owner, its heirs, devisees, executors, administrators, successors or assigns shall be entitled to enforce said limitations, restrictions, conditions or covenants by appropriate legal proceedings. Notwithstanding anything contained herein to the contrary, if the Architectural Control Committee ceases to function during the term of this Declaration, no Owner shall be required to obtain the prior approval of plans, specifications or plats as set forth in Section 8.4. The Architectural Control Committee shall be deemed to have ceased to function if at any time there is a vacancy of two or more of its members for a period of one year.

9. COMMUNITY ASSOCIATION.

9.1 Easement to Community Association. The officers, agents, employees and independent contractors of the Community Association shall have a nonexclusive easement to enter upon the Development for the purpose of performing or satisfying the duties and obligations of the Community Association as set forth in the Community Declaration, the Community Bylaws, the Community Articles and the rules and regulations of the Community Board and the Community Architectural Committee.

9.2 Subordination of Assessment Lien. The lien of any assessment imposed upon any Residence Lot pursuant to this Declaration shall be subordinate and inferior to the lien of any assessment imposed upon such Residence Lot pursuant to the Community Declaration.

9.3 Community Association Assessments. Declarant, for each Residence Lot which it owns within the Real Property, hereby covenants, and each Owner of any Residence Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, does and is hereby deemed to covenant and agree to pay to the Community Association the Community Assessments imposed upon such Lots pursuant to the Community Declaration. The Community Assessments shall be levied and collected as provided in the Community Declaration.

The Community Association, in its sole and absolute discretion, may elect to require the Association to administer, levy, collect and enforce the Community Assessments imposed upon Residence Lots within the Real Property. All such funds collected by the Association shall be held in trust by the Association for the benefit of the Community Association, and such funds shall be disbursed to the Community Association as provided in the Community Declaration.

The Community Association, in its sole and absolute discretion, may elect to administer, levy, collect and enforce the assessments provided for under this Declaration. All such funds collected by the Community Association shall be utilized in the manner and for the purposes specified in this Declaration and in the Community Declaration, the Community Bylaws, the Community Articles, and the rules and regulations of the Community Board and the Community Architectural Committee.

9.4 Enforcement. Breach of any of the limitations, restrictions, conditions and covenants set forth in this Declaration, or the continuation thereof, may be enjoined,

abated or remedied by appropriate legal proceedings by the Community Association. The Community Association shall be deemed to be a person who may enforce the provisions of this Declaration. The failure of the Community Association to enforce any of said limitations, restrictions, conditions or covenants shall not constitute a waiver of the right to enforce the same thereafter. No liability shall be imposed on, nor incurred by, the Community Association as a result of such failure. The prevailing party in any action at law or in equity instituted by the Community Association to enforce or interpret said limitations, restrictions, conditions or covenants, shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorneys' fees.

9.5 Supremacy of Community Declaration. In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws or the Articles, the Association shall be entitled to exercise any of the rights conferred upon it and be subject to all of the obligations imposed upon it pursuant to the Community Declaration, the Community Bylaws or the Community Articles. The Association shall also be subject to all superior rights and powers which have been conferred upon the Community Association pursuant to the Community Declaration, the Community Bylaws and the Community Articles.

9.5.1 Each Owner and such Owner's Lot(s) shall be subject to all of the covenants, conditions, restrictions and provisions contained in the Community Declaration.

9.5.2 In the event of any conflict between any of the covenants, conditions, restrictions or provisions of this Declaration, the Bylaws or the Articles with any of the covenants, conditions, restrictions or provisions of the Community Declaration, the Community Bylaws or the Community Articles, the covenants, conditions, restrictions and provisions of the Community Declaration, the Community Bylaws and the Community Articles shall govern and prevail.

10. INSURANCE.

10.1 Liability Insurance. The Association shall obtain and maintain comprehensive public liability insurance including property damage insuring the Association, any manager, the Declarant and the Owners and occupants of Residences, and their respective family members, guests, invitees, and the agents and employees of each, against any liability incident to the ownership or use of the Common Area and any transportation

vehicle owned by the Association and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$1,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for nonowned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

10.2 Fire and Extended Coverage Insurance. The Association also shall obtain and maintain a master or blanket policy of fire insurance for the full insurable value of all of the improvements within the Common Area constructed by Declarant, or any replacements thereof. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to all institutional first Mortgagees. If more than one institutional first Mortgagee has a loan of record against the Development, or any part of it, the policy and endorsements shall meet the maximum standards of the various institutional First Mortgagees. The policy shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or their equivalent, an extended coverage endorsement, vandalism, malicious mischief coverage, a special form endorsement and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall be in the amounts as shall be determined by the Board. The policy shall name as insured the Association, the Owners and all institutional first Mortgagees, as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee described in this Declaration.

10.3 Trustee. All insurance proceeds payable under Section 10.2 may be paid to a trustee, to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank in San Diego County that agrees in writing to accept such trust.

10.4 Other Insurance. The Board may and, if required by any Mortgagee, shall purchase and maintain demolition insurance in adequate amounts to cover demolition in case of total or partial destruction and a decision not to rebuild Common Area

improvements. The Board also shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees of the Development. The Board shall purchase and maintain fidelity bonds or insurance covering Members of the Board, officers, and employees of any management agent, whether or not such persons are compensated for their services, naming the Association as obligee and written in an amount equal to at least one hundred and fifty percent (150%) of the estimated annual operating expenses of the Association including reserves. The Board shall purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary or that is required by any Mortgagee.

10.5 Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 10.1, 10.2 and 10.4. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

10.6 Distribution to Mortgagees. Any Mortgagee has the option to apply insurance proceeds payable on account of a Residence Lot, in reduction of the obligation secured by the Mortgage of such Mortgagee.

10.7 Additional Insurance--FNMA. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit developments established by Federal National Mortgage Association and Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Residence Lot within the Development, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association or Government National Mortgage Association.

10.8 Notice of Lapse, Cancellation or Modification. Each policy of insurance shall provide that notice shall be given to the Association and each first Mortgagee listed as a scheduled holder of a first Mortgage in said insurance policy at least ten (10) days prior to cancellation or substantial modification of any policy or fidelity bond, and upon lapse of any policy or fidelity bond.

11. DESTRUCTION OF IMPROVEMENTS.

11.1 Destruction; Proceeds 95% or More of Reconstruction Costs. If there is a total or partial destruction of the improvements in the Common Area, and if the available proceeds of the insurance carried pursuant to Article 10 are sufficient to cover not less than ninety-five percent (95%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, Members then holding at least seventy-five percent (75%) of the total voting power of each class of Members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall not take place. If repair and reconstruction is to take place, the Board shall be required to execute, acknowledge and record in the Office of the San Diego County Recorder, not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

11.2 Destruction; Proceeds Less Than 95% of Reconstruction Costs. If the proceeds of insurance are less than ninety-five (95%) of the costs of repair and reconstruction, repair and reconstruction may nevertheless take place if, within ninety (90) days from date of destruction, Members then holding at least fifty-one percent (51%) of the total voting power of each class of Members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction will take place. If repair and reconstruction is to take place, the Board shall be required to execute, acknowledge and record in the Office of the San Diego County Recorder, not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the Members to rebuild.

11.3 Rebuilding Procedures. If the Members determine to rebuild, pursuant to Sections 11.1 or 11.2, each Owner shall be obligated to contribute an equal share of the cost of reconstruction or restoration, over and above the available insurance proceeds.

11.4 Rebuilding Contract. If the Members determine to rebuild, the Board or its authorized representative shall obtain bids from at least two reputable contractors and shall award the repair and reconstruction work to the lowest bidder. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the insurance proceeds held by the trustee shall be disbursed to the contractor according to the terms of

the agreement. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

11.5 Rebuilding Not Authorized or Permitted. If the Members determine not to rebuild or if the improvements cannot legally be reconstructed, then, subject to the rights of Mortgagees, any insurance proceeds then available for such rebuilding shall be distributed to the Owner of each Residence Lot in proportion to his respective percentage interest in the Development determined by reference to an appraisal of the value of all Residence Lots and Residences thereon immediately prior to the destruction prepared by an independent appraiser selected by the Board, to be completed within sixty (60) days of the recordation of the certification not to rebuild. The Board shall have the duty, within one hundred twenty (120) days from the date of such destruction, to execute, acknowledge and record in the Office of the County Recorder of said County, a certificate declaring the intention of the Members not to rebuild.

11.6 Minor Repair and Reconstruction. In any case, the Board shall have the duty to repair and reconstruct improvements without the need for consent of Members and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed Twenty Thousand Dollars (\$20,000). The Board is expressly empowered to levy a special assessment for the cost of repairing and reconstructing the improvements to the extent insurance proceeds are unavailable, such assessment to be levied as described in Section 11.3 (but without the consent or approval of Members despite any contrary provisions) in this Declaration.

12. CONDEMNATION.

12.1 Sale by Unanimous Consent. If an action for condemnation of all or a portion of the Development is proposed or threatened by any governmental agency having the right of eminent domain, timely written notice shall be given all first Mortgagees. On unanimous written consent of all the Owners and after written notice to all Mortgagees, the Development, or a portion of it, may be sold.

12.2 Distribution of Proceeds of Sale or Award. On a sale or award occurring under Section 12.1 or 12.3, the proceeds shall be distributed to the Owners and the Mortgagees of each Residence Lot affected as their respective interest may appear

in proportion to the relative value of each affected Lot as determined by reference to an appraisal of the value of all such affected Residence Lots and Residences thereon (as of the date immediately prior to the condemnation), conducted by an independent appraiser selected by the Board. The cost of such appraisal shall be deducted from the proceeds or award.

12.3 Distribution of Condemnation Award. If the Development, or a portion of it, is not sold but is instead taken, the judgment or agreement of condemnation shall by its terms apportion the award among the Owners and their respective Mortgagees, and if it does not, then the proceeds shall be apportioned pursuant to Section 12.2 above.

13. NON-SEVERABILITY OF COMPONENT INTERESTS IN A RESIDENCE.

An Owner shall not be entitled to sever his Residence Lot, any exclusive or nonexclusive easements or other rights appurtenant thereto and/or his membership in the Association from the other components thereof. None of the component interests can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void. However, nothing contained in this section shall preclude the Owner of any Residence Lot from creating a co-tenancy or joint tenancy in the ownership of the Residence Lot with any other person or persons.

14. TERM OF DECLARATION

This Declaration shall be in effect for a period of fifty (50) years from the date this Declaration is filed for record, and shall be automatically extended for successive periods of twenty (20) years each thereafter unless within six (6) months prior to the expiration of the initial term or of any succeeding twenty-year term a written agreement executed by Owners owning a majority of the Lots, with the consent of such Owners' Mortgagees, shall be placed of record in the Office of the County Recorder of San Diego County terminating the effectiveness of this Declaration in whole or in part as to all or part of the Development.

15. PROTECTION OF MORTGAGEES.

15.1 Mortgage Permitted. Any Owner may encumber his Residence Lot with a Mortgage.

15.2 Subordination. The lien of the assessments (including interest, costs and attorneys' fees) provided for

herein shall be subordinate to the lien of any first Mortgage upon any Residence Lot. Sale or transfer of any Residence Lot shall not affect the assessment lien. However, the sale or transfer of any Residence Lot pursuant to judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residence Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Residence Lot obtains title, his successors and assigns shall not be liable for the share of the assessments chargeable to such Residence Lot which became due prior to the acquisition of title to such Residence Lot by such acquirer. Such unpaid share of assessments shall be deemed to be common expenses collectible from all of the Residence Lots including such acquirer, his successors and assigns.

15.3 Right to Examine Books and Records. First Mortgagees can examine the books and records of the Association or the Development as provided in Article 14 of the Bylaws and can require the submission of financial data concerning the Association or the Development, including annual audit reports and financial statements as furnished to the Owners.

15.4 Notices to Mortgagees of Record. If any Owner is in default under any provision of this Declaration, or under any provision of the Bylaws or the rules and regulations adopted by the Association, which default is not cured within thirty (30) days after written notice to such Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that said thirty (30) day period has expired, if such Mortgagee has filed a written request for such notice with the Association.

15.5 Payments by Mortgagees. Mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area or recreation area improvements or other insured property of the Association and, upon making any such payments, such Mortgagees shall be owed immediate reimbursement therefor from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon request of any Mortgagee the Association shall execute and deliver to such Mortgagee a separate written agreement embodying the provisions of this Section 15.5.

15.6 Effect of Breach. No breach of any provision of this Declaration shall invalidate the lien of any Mortgage in good faith and for value, but all of covenants, conditions and restrictions contained herein shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

15.7 Effect of Foreclosure. If any Residence Lot is encumbered by a first Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration for assessments or installments of assessments shall not operate to affect or impair the lien of a first Mortgage. On foreclosure of the first Mortgage, the lien for assessments or installments that has accrued up to the time of foreclosure shall be subordinate to the lien of the first Mortgage, with the foreclosure-purchaser taking title to the Residence free of the lien for assessments or installments that has accrued up to the time of the foreclosure sale. On taking title to the Residence Lot the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Residence Lot. The subsequently levied assessments or other charges may include previously unpaid assessments, provided all Owners, including the foreclosure-purchaser, and his successors and assigns, are required to pay their proportionate share as provided in this section.

15.8 Non-Curable Breach. Any Mortgagee who acquires title to a Residence Lot by foreclosure or by deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is noncurable or of a type that is not practical or feasible to cure.

15.9 Loan to Facilitate. Any Mortgage given to secure a loan to facilitate the resale of a Residence Lot after acquisition by foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article 15.

15.10 Appearance at Meetings. Because of its financial interest in the Development, any first Mortgagee may appear (but cannot vote) at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made the subject of remedial proceedings or assessments.

15.11 Right to Furnish Information. Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

15.12 Contracts With Declarant. Any agreement between the Association and Declarant pursuant to which the Declarant agrees to provide services shall provide for termination by either party without cause or payment of a termination fee on thirty (30) days' written notice and shall have a maximum contract term of one (1) year, provided that the Board can renew any such contract on a year-to-year basis.

15.13 Conflicts. In the event of any conflict between any of the provisions of this Article 15 and any other provisions of this Declaration, the provisions of this Article 15 shall control.

16. AMENDMENT.

16.1 Amendment Before Close of First Sale. Before the close of the first sale in the Development to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of record of an instrument amending or revoking the Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the San Diego County Recorder's Office.

16.2 Amendment After Close of First Sale. After the close of the first sale of a Residence Lot in the Development to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than seventy-five percent (75%) of the votes of Members, and the vote or written consent of the holders of not less than seventy-five percent (75%) of the votes of Members other than Declarant. However, if any provision of this Declaration requires a lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, or if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the secretary or other duly authorized officer of the Association and shall make appropriate reference to this

Declaration and its amendments and shall be acknowledged and recorded in the San Diego County Recorder's Office.

16.3 Prior Consent of Community Board. Anything contained in this Declaration to the contrary notwithstanding, neither the definitions of the terms, "Community Association," "Community Articles," "Community Bylaws," "Community Declaration" and "Community Assessment," nor any of the provisions contained in the Article of this Declaration entitled "Community Association," may be amended, modified or rescinded (i) without the prior written consent of the Board of Directors of the Community Association and (ii) without the recording of said written consent in the Office of the County Recorder of San Diego County, California. In addition, any written instrument amending this Declaration shall bear, or have attached thereto, the written consent of such other persons as may be required by paragraph 6.1 of the Community Declaration.

16.4 Business and Professions Code Section 11018.7. All amendments or revocations of this Declaration shall comply with the provisions of California Business and Professions Code Section 11018.7 to the extent said Section is applicable.

16.5 Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

17. ANNEXATION.

17.1 Proposed Phases. The Annexation Parcel described on Exhibit "A" attached hereto shall be annexed to the Development, if at all, pursuant to this Article 16. Upon such annexation, the property so annexed shall be subject to this Declaration to the same extent as though originally included herein. Declarant reserves the right (i) to construct on the Residence Lots of the property to be so annexed, Residences of a size, price range, architectural style and design subject to Declarant's sole discretion and (ii) to construct on the common areas of the property to be so annexed such facilities, including landscaping, as Declarant shall desire in its sole discretion. Such size, price range, type and/or design need not be consistent with previous Phases. Among other things, and not as a limitation thereon, Declarant may construct on the property annexed lower-priced Residences, higher density Residences or Residences of a different architectural style. Moreover, nothing contained herein shall require Declarant to complete the future Phases in the manner set forth herein. Except as set forth below, the timing of such annexation, and

the construction and sale of Residences in such Phases shall be in Declarant's sole discretion.

17.2 Automatic Annexation of Phases 2 and 3. The annexation of Phases 2 and 3 of the Annexation Parcel described on Exhibit "A" attached hereto shall occur automatically and without further consent or recordation of any additional declaration or other document upon the conveyance of the first Residence Lot in each respective Phase by Declarant to an individual Owner; provided, however, that Phases 2 and 3 shall be deemed annexed five (5) years from the original issuance of the final Subdivision Public Report for the Real Property.

17.3 Recordation of Declaration of Annexation and Restrictions. If Declarant elects to annex Phases 4, 5 and 6 of the Annexation Parcel, then Declarant shall file for record in the Office of the Recorder for San Diego County a Declaration of Annexation and Restrictions.

17.4 Date of Annexation. Following the recordation of any such Declaration of Annexation and Restrictions, Phase 4 shall be deemed annexed upon the close of escrow for the first sale of a Lot in such property. Upon the annexation of Phase 4 pursuant to the recordation of such Declaration of Annexation and Restrictions, the annexation of Phases 5 and 6 of the Annexation Parcel described on Exhibit "A" attached hereto shall occur automatically and without further consent or recordation of any additional declaration or other document upon the conveyance of the first Residence Lot in each respective Phase by Declarant to an individual Owner, provided, however, that Phases 5 and 6 shall be deemed annexed three (3) years from the original issuance of the final Subdivision Public Report for Phase 4.

17.5 Contents of Declaration of Annexation and Restrictions. The Declaration of Annexation and Restrictions shall contain (i) a description of Phase 4 and (ii) a statement that Phase 4 shall be subject to this Declaration. The Declaration of Annexation and Restrictions may contain complementary additions to and/or reasonable modifications of the provisions of this Declaration as may be appropriate to reflect the different character, if any, of the developmental plan for Phase 4, 5 and 6. In no event, however, shall any such Declaration of Annexation and Restrictions revoke, modify or add to the covenants, conditions and restrictions established by this Declaration with respect to Phase One, unless this Declaration is amended as hereinbefore provided.

17.6 Time Limit. The recordation of the Declaration of Annexation and Restrictions for Phase 4 of the Development shall occur within three (3) years after the conveyance of the first Lot in the Phase which was most recently annexed. If Declarant fails to record a Declaration of Annexation and Restrictions within said three (3) year period, then the annexation of all or any portion of the Annexation Parcel not previously annexed into the Development shall require (i) the vote of written assent of not less than sixty-seven percent (67%) of the total votes residing in members other than Declarant and (ii) the recordation of a Declaration of Annexation and Restrictions containing the written consent of Declarant and two (2) members of the Board.

17.7 Members' Rights and Obligations. Upon any annexation, automatic or otherwise, the property so annexed to the Development shall be subject to this Declaration for all purposes, and all owners of Residence Lots in the Real Property so annexed shall have the rights and duties of Owners provided for herein, including, without limitation upon the foregoing, membership in the Association, the right to vote, the right to use the Common Area (whether such Common Area was included in the Development initially or included by annexation), and the duty to pay maintenance charges. Upon annexation, the interests of the Owners of Phase One shall not be affected; and the Owners of the property annexed shall have no title to Phase One. Likewise, the Owners of Phase One shall have no title to any of the property annexed. The obligation of Owners to pay assessments to the Association and the right of such Owners to exercise voting rights in the Association in each Phase of such annexed property shall commence on the close of the first sale of a Lot by Declarant in that Phase of the Development, and assessments shall commence and be collected upon the first day of the month following the first sale of a Residence Lot by Declarant in that phase of the Development. Control by the Association of Common Area contained within the property annexed shall commence upon the close of such first sale.

17.8 Rental Program. If Declarant has conducted a rental program within the property annexed for a period of at least one year as of the date of closing of the escrow for the first sale of a Lot in the property annexed, Declarant shall pay to the Association appropriate amounts for reserves for replacement or deferred maintenance of common area improvements within the property annexed necessitated by or arising out of the use and occupancy of Lots under said rental program. Declarant shall make such payment to the Association concurrently with the closing of the escrow for the first sale of a Lot in the property annexed.

17.9 Reserved/Granted Easements. Upon the annexation of additional property as set forth above:

17.9.1 Declarant hereby reserves for the benefit of and appurtenant to the Lots hereinafter located on the Annexation Parcel, and their respective Owners, nonexclusive easements to use the Common Area pursuant to and in the manner set forth in this Declaration to the same extent and with the same effect as if each of the Owners of a Lot in the Annexation Parcel owned an undivided interest in the Common Area.

17.9.2 Declarant hereby grants for the benefit of and appurtenant to the Lots in the Development, and their Owners, the nonexclusive easement to use the Common Area in the Annexation Parcel pursuant to the provisions of and in the manner prescribed by this Declaration to the same extent and with the same effect as if each of the Owners of a Lot in the Development owned an undivided interest in the Common Area. Declarant reserves herein the right to grant nonexclusive rights and easements of enjoyment over all of the Common Area, wherever situated, in favor of the Owner of any Lot now or hereafter subject to this Declaration in order to effectuate such intent.

The reciprocal cross-easements set forth herein shall be effective only at such time as the Annexation Parcel, or any portion thereof, has been annexed by (i) the recording of a Declaration of Annexation and Restrictions by Declarant (to the extent of the property so annexed) and (ii) the close of escrow for the first sale of a Lot in the property so annexed. Prior to the time of annexation, any portion of the Annexation Parcel which has not been annexed shall not be affected hereby.

17.10 Amendment. So long as Declarant has the right to unilaterally annex property into the Development, this Article 17 shall not be amended without the written approval of Declarant attached to the instrument of amendment.

17.11 Termination of Annexation. At any time following the recordation of a Declaration of Annexation and Restrictions with respect to Phase 4, but prior to the first conveyance of a Lot in the property described in such Declaration of Annexation and Restrictions, Declarant shall have the right to record a Termination and Extinction of Declaration of Annexation and Restrictions describing all or any portion of such property and, upon recordation thereof, (i) any Declaration of Annexation and Restrictions described therein shall cease to be of any force or effect with respect to the property described in such Termination and Extinction of Declaration of Annexation

and Restrictions and (ii) any subsequent conveyance of a Lot in the property described in such Termination and Extinction of Declaration of Annexation and Restrictions (or the conveyance of any other interest therein) shall not accomplish the annexation into the Development of the property described in such Termination and Extinction of Declaration of Annexation and Restrictions.

17.12 Reciprocal Easements. Declarant hereby grants nonexclusive easements for the purpose of ingress, egress, and utilities over all private streets and roadways in the Development for the benefit of all or any portion of the Annexation Parcel which from time to time has not been annexed into the Development ("the Unannexed Parcel"). Said easements shall become effective as to those portions of the Unannexed Parcel subject to the Easement Deed (as defined below) upon recordation, by the owners of the Unannexed Parcel, of a deed (the "Easement Deed") granting to each of the Owners in the Development, or to the Association for the benefit of each of the Owners, reciprocal nonexclusive easements for the purpose of ingress, egress and utilities over any nonexclusive private common streets and/or roadways existing in those portions of the Unannexed Parcel subject to the Easement Deed ("the Benefited Property"). The use and enjoyment of the easements granted for the owners of the Benefited Property and the Owners in the Development are conditioned upon payment of expenses incurred in the maintenance and repair of said easements (hereinafter "Easement Assessments"). The Easement Assessments due and payable by the owners of the Benefited Property shall be paid on the basis of the ratio of the number of dwelling units actually constructed from time to time on the Benefited Property to the total number of dwelling units actually constructed from time to time on both the Benefited Property and the Development. If a homeowners' association is established for the Benefited Property, said association shall pay to the Association the Easement Assessments, on behalf of the owners of the Benefited Property. If a commercial building(s) is constructed on the Benefited Property, then, for purposes of levying Easement Assessments against the Benefited Property, every 1,000 square feet of floor area of said building(s) shall be deemed to constitute one dwelling unit. The Easement Assessments due and payable by the Owners in the Development shall be paid on the basis of the ratio of the number of dwelling units actually constructed from time to time on the Development to the total number of dwelling units actually constructed from time to time on both the Benefited Property and the Development. The Easement Assessments shall be paid by the Association (on behalf of the Owners in the Development) to the homeowners' association for the Benefited

Property. If a homeowners' association is not established, then Easement Assessments shall be paid directly to the owners of the Benefited Property. Each of the Owners in the Development shall indemnify and hold the owners of the Benefited Property harmless from any damage on the easements granted to them resulting from negligence or misuse by the Owners in the Development, their invitees, guests or agents. Conversely, each of the owners of the Benefited Property shall indemnify and hold the Owners in the Development harmless from any damage on the easements granted to them resulting from negligence or misuse by the owners of the Benefited Property, their invitees, guests or agents. The easements granted herein shall be used in a way which is consistent with the general plan of the Development and the Benefited Property.

17.13 Easements for Developing Property to be Annexed. Declarant hereby reserves for itself and its successors and assigns nonexclusive easements of ingress and egress over all private streets and roadways in the Development for the purpose of developing the Annexation Parcel; Declarant shall repair any damage on said easements caused by its misuse.

18. GENERAL PROVISIONS.

18.1 Headings. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

18.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity, or partial invalidity, illegality or unenforceability of any provision hereof shall not affect or invalidate any other provisions hereof, and all other provisions shall remain in full force and effect.

18.3 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver thereof.

18.4 Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies set forth herein, may be abated or enjoined by any Owner, any Member of the Board, or the Association.

18.5 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires

the contrary, and the masculine, feminine and neuter shall include the masculine, feminine or neuter, as the context requires.

18.6 Exhibits. All exhibits referred to are attached to this Declaration and incorporated by reference.

18.7 Easements Reserved and Granted. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any Lot.

18.8 Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

18.9 Notice to Owner. In each instance in which a notice is given to an Owner and/or Owners, the same shall be in writing and may be delivered personally, in which case personal delivery of such notice to one of two or more co-Owners or to any general partner of a partnership owning a Residence Lot shall be deemed delivery to all the co-Owners or to the partnership, as the case may be, and personal delivery of the notice to any officer or agent for the service of process of a corporation owning such Residence shall be deemed to be delivery to the corporation or such notice may be delivered by regular United States mail, postage prepaid, addressed to the Owner and/or Owners at the most recent address furnished by such Owner to the Association; or if no such address shall have been furnished, then to the street address of such Residence. Such notice shall be deemed to be delivered 48 hours after the time of such mailing, except for notice of a meeting of Members or Directors in which case the notice provisions of the Bylaws shall control.

18.10 Notice to Association. Any notice to be given to the Association may be delivered personally to any Member of the Board or delivered by United States mail, postage prepaid, addressed to the Board at such address as it shall fix from time to time and circulate to all Owners. Such notice shall be deemed to be delivered 48 hours after the time of such mailing.

18.11 Notice to Declarant. Notice to Declarant shall be delivered by United States mail, postage prepaid, addressed to Declarant at the address shown on the signature page of this Declaration, or such other address as it shall designate to the

Board from time to time. Such notice shall be deemed to be delivered 48 hours after the time of such mailing.

Declarant has executed this instrument as of March 10, 1986.

"DECLARANT"
WOODCREST HEIGHTS ASSOCIATES, a
California General Partnership

By: WOODCREST DEVELOPMENT OF
SAN DIEGO, INC., a
California corporation

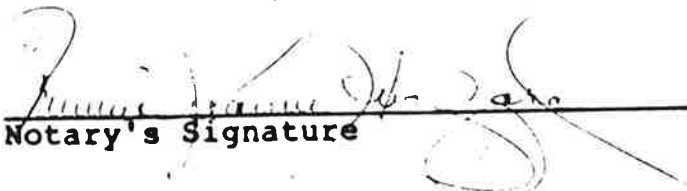
By: 

WAYNE BARNETT
Its: President

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On March 13, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared WAYNE BARNETT, 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 President of WOODCREST DEVELOPMENT OF SAN DIEGO, INC., the corporation that executed the within instrument on behalf of WOODCREST HEIGHTS ASSOCIATES, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.


Notary's Signature

(SEAL)



EXHIBIT "A"

Annexation Parcel

Phase 2

Lots 28 through 35, inclusive, Lots 87 through 95, inclusive, Lots 121 through 130, inclusive, and Lot 166 of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California.

Phase 3

Lots 63 through 86, inclusive, and Lots 162 and 165 of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California.

Phase 4

Lots 36 through 62, inclusive, and Lots 163 and 164 of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California.

Phase 5

Lots 11 through 27, inclusive, and Lots 131 through 138, inclusive of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California.

Phase 6

Lots 5 through 10, inclusive, and Lots 139 through 159, inclusive, of WOODCREST BERNARDO HEIGHTS in the City of San Diego, County of San Diego, State of California, according to Map thereof filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California.

EXHIBIT "A"

ANNEXATION PARCELS

TABLE OF LOTS BY ANNEXATION PHASE

<u>PHASE</u>	<u>LOTS INCLUDED</u>
I	1-4, 96-120, 160 and 161
II	28-35, 87-95, 121-130 and 166
III	63-86, 162 and 165
IV	36-62, 163 and 164
V	11-27 and 131-138
VI	5-10 and 139-159

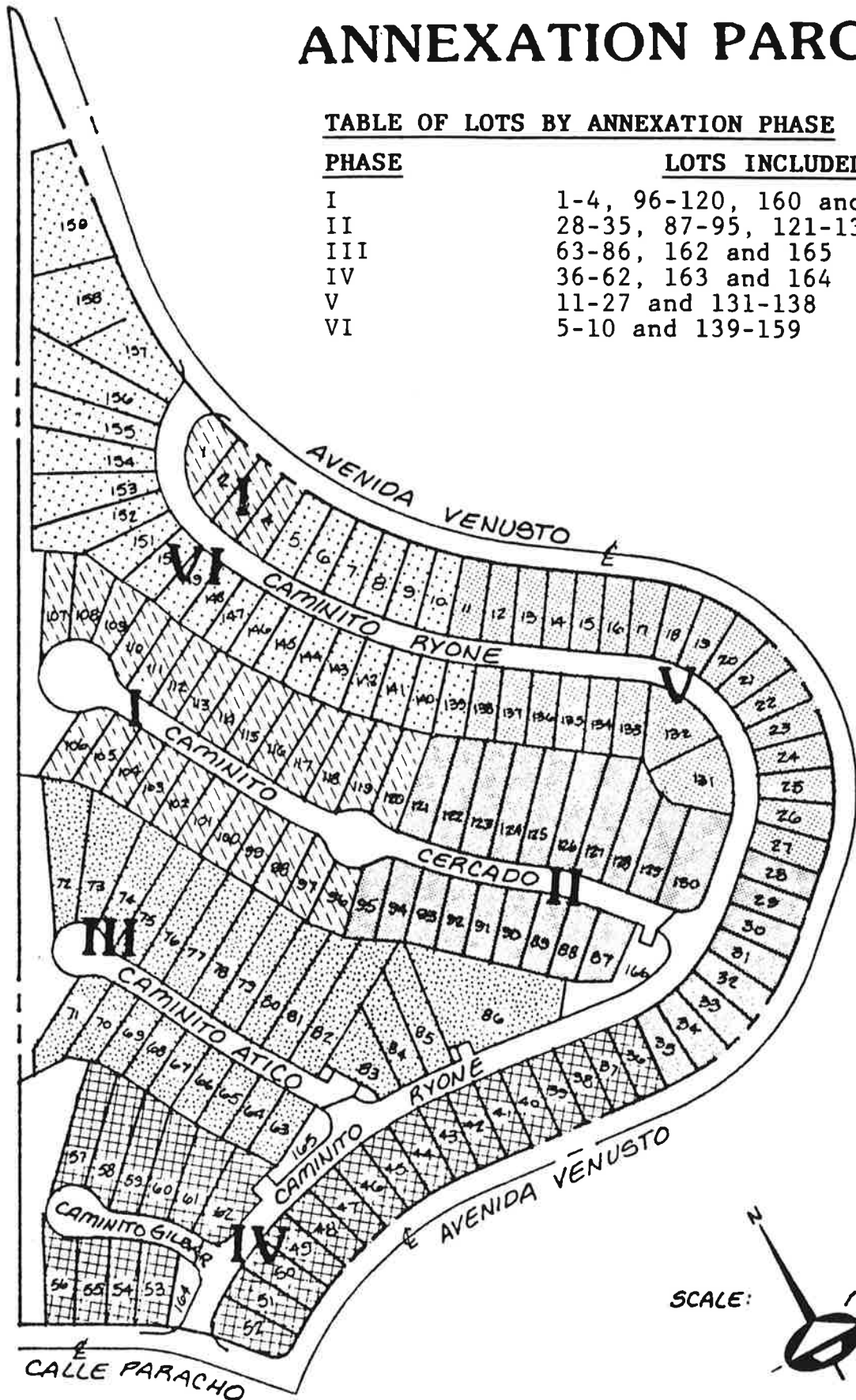
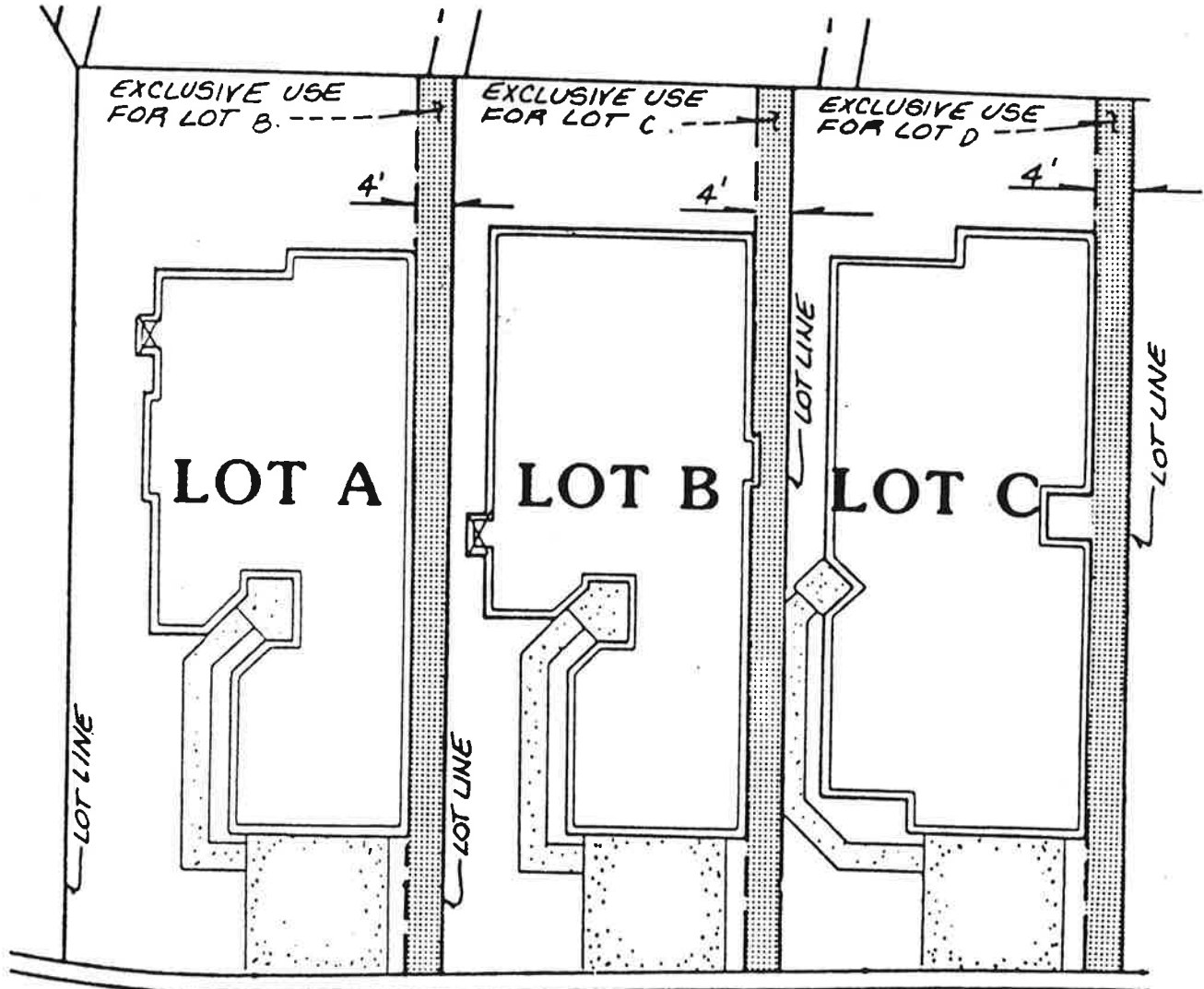


EXHIBIT "B"

EXCLUSIVE USE EASEMENT

(TYPICAL EASEMENT RELATIONSHIP)



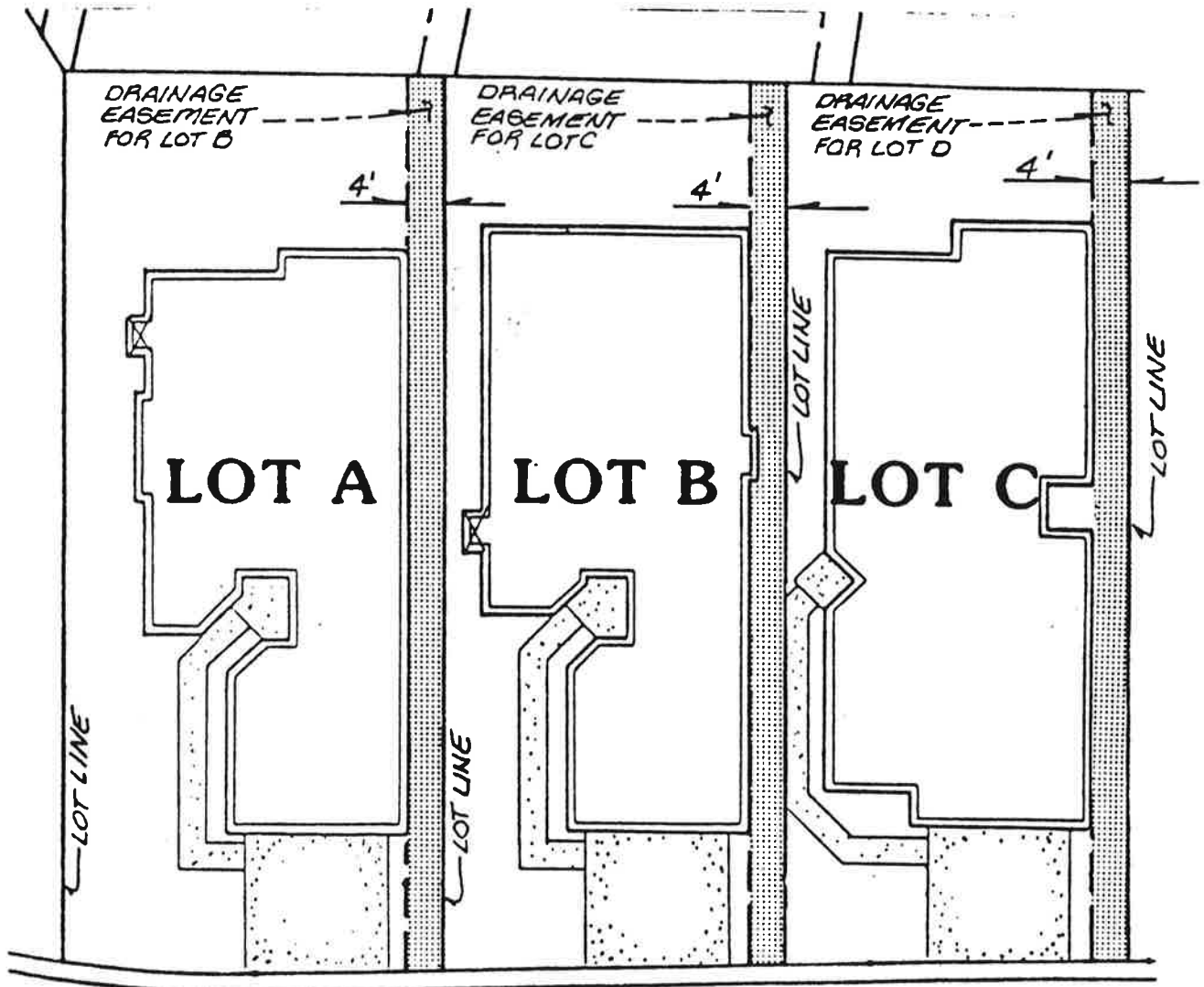
* NOTE: THIS EASEMENT DOES NOT APPLY TO
LOTS 5, 57, 72, 86, 107, 131, 132, 147, 148,
158 AND 159,

WOODCREST BERNARDO HEIGHTS

EXHIBIT "C"

DRAINAGE EASEMENT

(TYPICAL EASEMENT RELATIONSHIP)



* NOTE: THIS EASEMENT DOES NOT APPLY TO
LOTS 5, 57, 72, 86, 107, 131, 132, 147, 148,
158 AND 159,

WOODCREST BERNARDO HEIGHTS

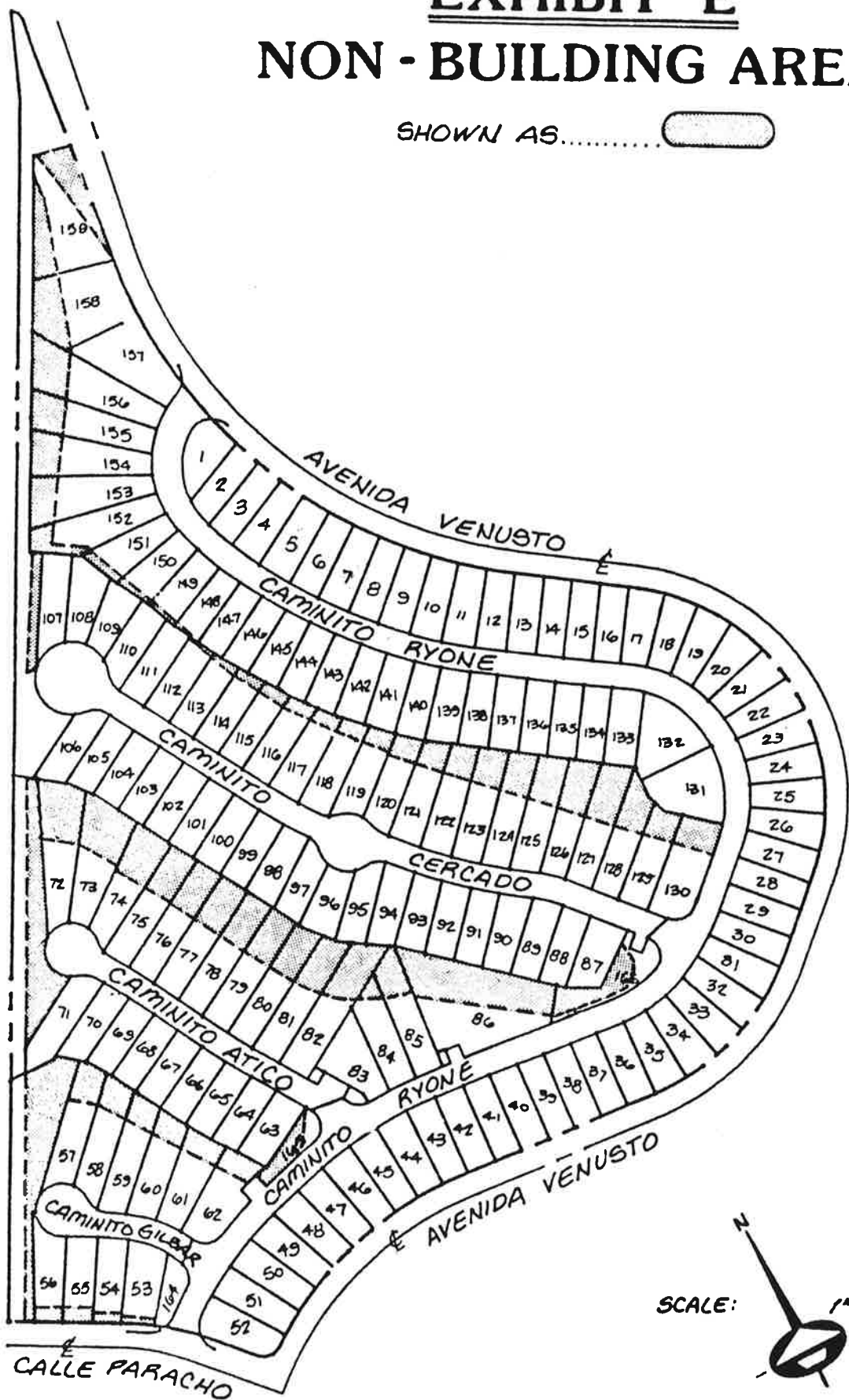
EXHIBIT "D"


ALL THAT PORTION OF LOTS 157 AND 158 OF WOODCREST BERNARDO HEIGHTS, MAP NO. 11457 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY ON FEBRUARY 25, 1986, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 157 A RADIAL LINE BEARS SOUTH $36^{\circ} 23' 09''$ EAST; THENCE EASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID LOT 157 AND THE ARC OF A 135 FOOT RADIUS CURVE, CONCAVE SOUTHERLY, THROUGH A CENTRAL ANGLE OF $01^{\circ} 41' 56''$ A DISTANCE OF 4.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH $37^{\circ} 47' 19''$ WEST, 16.99 FEET; THENCE NORTH $24^{\circ} 24' 56''$ EAST, 17.94 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 34 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF $49^{\circ} 18' 37''$, A DISTANCE OF 29.26 FEET TO A REVERSE CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 200 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $21^{\circ} 27' 13''$, A DISTANCE OF 74.89 FEET; THENCE NORTH $03^{\circ} 26' 28''$ WEST, 76.12 FEET; THENCE SOUTH $81^{\circ} 26' 46''$ EAST, 16.36 FEET; THENCE SOUTH $03^{\circ} 26' 28''$ EAST, 72.72 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE EASTERLY AND HAVING A RADIUS OF 184 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $21^{\circ} 27' 13''$, A DISTANCE OF 68.90 FEET TO A REVERSE CURVE, CONCAVE WESTERLY AND HAVING A RADIUS OF 50 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $49^{\circ} 18' 37''$, A DISTANCE OF 43.03 FEET; THENCE SOUTH $24^{\circ} 24' 56''$ WEST, 8.29 FEET; THENCE SOUTH $37^{\circ} 47' 19''$ EAST, 9.16 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 157 AND THE BEGINNING OF A NON-TANGENT 135 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY A RADIAL LINE BEARS SOUTH $27^{\circ} 50' 53''$ EAST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $06^{\circ} 50' 20''$, A DISTANCE OF 16.11 FEET TO THE TRUE POINT BEGINNING. SAID EASEMENT IS NONEXCLUSIVE AND IS FOR THE BENEFIT OF THE OWNERS OF RESIDENCE LOTS 157, 158, AND 159 OF WOODCREST BERNARDO HEIGHTS.

EXHIBIT "E" NON-BUILDING AREAS

SHOWN AS..... 



SCALE:  1" = 200'

CONSENT OF LIENHOLDER
AND SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deed of Trust dated December 23, 1985 and recorded December 27, 1985 as Instrument No. 85-489825 of public records of San Diego County, California, consents to the recording of the attached Declaration of Covenants, Conditions and Restrictions and agrees that the lien of the deed of trust shall be junior and subordinate and subject to said Declaration.

DATED: Mar. 13, 1986

LIENHOLDER: Wells Fargo Bank,
National Association
A National Banking Association

BY: _____

BY: _____

State of California

County of Orange

} ss.

CORPORATION ACKNOWLEDGEMENT

On this 13th day of March

, in the year 1986, before me

the undersigned

, a Notary Public

in and for the said State, residing therein, duly commissioned and sworn, personally appeared

A.L. Spooner

and John Halliburton

personally known to me (proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as Vice President and Vice President

President or Vice President

Secretary or Assistant Secretary

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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in and for said County and State, on this 13th day and year first above written.



Katherine Mulder

NOTARY PUBLIC IN AND FOR SAID STATE OF CALIFORNIA

BYLAWS OF WOODCREST HEIGHTS
HOMEOWNERS ASSOCIATION

A California Nonprofit Corporation

1. NAME AND LOCATION.

The name of the association is WOODCREST HEIGHTS HOMEOWNERS ASSOCIATION ("Association"). The Association is organized under the California Nonprofit Mutual Benefit Corporation Law. The principal office of the Association shall be located in San Diego County, California. Meetings of Members shall be held at those places specified in the Declaration, as hereinafter defined.

2. DEFINITIONS.

Terms used in these Bylaws shall have the meaning given to them in the Declaration of Covenants, Conditions and Restrictions for WOODCREST HEIGHTS, a Planned Residential Development, recorded in the Office of the County Recorder of San Diego County, California, as the same may be amended from time to time ("Declaration").

3. MEMBERSHIP; VOTING RIGHTS.

3.1 Membership.

3.1.1 Qualifications. Each Owner of a Lot, including Declarant, shall be a Member of the Association. No Owner shall hold more than one membership in the Association even though such Owner may own, or own an interest in, more than one Lot. Ownership of a Lot or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his ownership or ownership interest in all Lots in the Development ceases, at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Lot merely as security for performance of an obligation are not to be regarded as Members.

3.1.2 Members' Rights and Duties. Each Member shall have the rights, duties, and obligations set forth in these Bylaws, the Articles, the Declaration and the Association rules and all their amendments.

3.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Lots shall be appurtenant to each such

Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Lot or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new Owner.

3.2 Voting.

3.2.1 Number of Votes. The Association shall have two (2) classes of voting membership:

Class A: Class A Members are all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot in which such class Member owns an interest. However, when more than one Class A Member owns an interest in a Lot, the vote for such Lot shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one lot.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership with only one vote for each Lot owned on the first to occur of the following events:

3.2.1.1 On the second anniversary of the original issuance of the most recently issued Public Report issued by the Department of Real Estate for a phase of the Development; or

3.2.1.2 On the fourth anniversary of the issuance of the original Public Report issued by the Department of Real Estate for the first Phase of the Development.

3.2.2 Approval of Classes. Except as otherwise provided in Article 16 of the Declaration, as long as two classes of Members exist, no action by the Association that must have the prior approval of the Association Members shall be deemed approved by the Members unless approved by the prescribed percentage of both classes of Members.

3.2.3 Joint Owner Votes. The voting rights for each Lot may not be cast on a fractional basis. If the joint Owners of a Lot are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Lot, it will be conclusively presumed

for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. If more than one (1) person or entity exercises the voting rights for a particular Lot, their votes shall not be counted and shall be deemed void.

3.2.4 Secret Ballot; Cumulative Voting. In any election involving an election of more than one director, election to and removal from the Board shall be by cumulative voting, as defined in the California Corporations Code, subject to the procedural requirements of Section 7615(b) of the California Corporations Code. All votes for election to or removal from the Board shall be by secret written ballot. Each Member shall be entitled to vote (in person or by proxy) as many votes as such Member is entitled to exercise as provided in the Declaration. As to removal, unless the entire Board is removed by a vote of Association Members, an individual director shall not be removed unless the number of votes in favor of removal satisfies the requirements of the California Corporations Code governing such removal.

4. MEETINGS OF MEMBERS.

4.1 Annual (Regular) Meetings.

4.1.1 A regular meeting of Members shall be held annually. The first annual meeting of Members shall be held on such date and at such time as shall be designated by the Board, which date shall be within 45 days after the sale and conveyance by Declarant of the Residence Lot which represents the fifty-first (51st) percentile interest authorized for sale under the first public report for the Development, but in no event later than six months after the sale and conveyance by Declarant of the first Residence Lot in the Development. Subsequent annual meetings of Members shall be held on the anniversaries of the first annual meeting of Members and shall be held at such time and in such place as may be designated by the Board. If the date of the annual meeting as so determined is a legal holiday, then the meeting shall be held on the next-succeeding regular business day, at the same hour.

4.1.2 At the annual meeting, Members shall elect a Board of Directors, consider reports of the affairs of the Association and transact such other business as may properly be brought before the meeting.

4.2 Special Meetings. Special meetings of the Members may be called at any time by the vote of the Board, or upon written request of the Members representing at least five percent (5%) of the total voting power.

4.3 Notice of Meetings. Notice of all Members' meetings, annual or special, shall be given by personal delivery, mail or telegram and shall be given not less than ten (10) days nor more than ninety (90) days before the time of the meeting and shall set forth the place (which shall be at the Development or as close thereto as reasonably feasible and, unless unusual circumstances exist, shall not be outside San Diego County), date, and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each Member entitled to vote and to each Mortgagee who has requested in writing that such notice be sent to it; the notices shall be addressed to the Member's or Mortgagee's address last appearing on the books of the Association, or supplied by the Member or Mortgagee to the Association for the purpose of notice. Mailed notices shall be deemed received forty-eight (48) hours after they are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after they are sent. Notices to Members may also be personally delivered and shall be deemed received upon delivery to any occupant of the Member's residence.

4.4 Quorum. The presence at any meeting in person or by proxy of Members entitled to cast at least fifty percent (50%) of the total votes of all Members constitutes a quorum. If any meeting cannot be held because a quorum is not present, a majority of those present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called but may not transact any other business. At any adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of the total voting power of the Association. Any meeting of the Members at which a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present either in person or by proxy. If after the adjournment a new date is fixed for the adjourned meeting, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

4.5 Proxies. At all meetings of Members each Member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy is revocable and automatically ceases when the ownership interest or interests which entitles a Member to membership in the Association ceases, and at automatically eleven (11) months from the date of its execution unless otherwise provided in the proxy, and in all cases, such proxy shall terminate three (3) years from its date.

4.6 Order of Business. The order of business of all meetings of the Members shall be as follows:

- 4.6.1 roll call;
- 4.6.2 proof of notice of meeting or waiver of notice;
- 4.6.3 reading of minutes of preceding meeting;
- 4.6.4 reports of Board and officers;
- 4.6.5 election of Directors, if any are to be elected;
- 4.6.6 unfinished business; and
- 4.6.7 new business.

4.7 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules of Order.

4.8 Majority of Owners. Except as otherwise provided here or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

4.9 Action Without Meeting. Any action other than election of Board Members that may be taken at a meeting of the Members may be taken without a meeting if done in compliance with the provisions of Section 7513 of the Corporations Code.

4.10 Rights of Mortgagees. Any Mortgagee through its designated representative shall be entitled to attend any Members' meeting.

5. SELECTION AND TERM OF OFFICE OF BOARD.

5.1 Number. The Board shall consist of five (5) directors who need not be Members.

5.2 Term of Office. At the first annual meeting the Members shall elect each of three (3) directors for a term of two (2) years and two (2) directors for a term of one (1) year. At the expiration of the initial term of office of each director, his successor shall be elected to serve for a term of one (1) year.

5.3 Election, Removal, Vacancies.

(a) Every Member entitled to vote at any election of directors of the Association may cumulate his votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which he is entitled, or distribute his votes on the same principle among as many candidates as he may desire. Cumulative voting shall be required in all elections in which more than two positions on the Board are to be filled. Notwithstanding the foregoing, no Member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the Member has given notice at the meeting prior to the voting of the Member's intention to cumulate votes. If any one Member has given such notice, all Members may cumulate their votes for candidates in nomination.

(b) For as long as (i) a majority of the voting power of the Association resides in Declarant or (ii) there are two outstanding classes of Members for the purpose of voting, not less than twenty percent (20%) of the incumbents on the Board shall have been elected solely by the votes of owners other than Declarant.

(c) When the death or resignation of a director occurs, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

(d) The Members by majority vote at any annual or special meeting may remove any director and may elect a new director to serve the unexpired term of any director so removed, provided, however, that unless the entire Board is removed, an individual director shall not be removed if the number of votes against the resolution for his removal or not consenting to removal, would be sufficient to elect said director, if voted cumulatively at an election at which the same number of votes were cast, and the same number of directors were being elected at the time of the most recent election. Provided, further, a director who has been elected to office solely by the votes of Members other than the Declarant may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in the Members other than the Declarant.

(e) A director who has been elected solely by the votes of the Members other than Declarant may be removed from office prior to expiration of his term of office only by the vote of at least a majority of the voting power residing in Members other than Declarant.

5.4 Compensation. A director shall not receive any compensation for any services he may render to the Association. Any director may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

6. NOMINATION AND ELECTION OF DIRECTORS.

6.1 Nomination. Nomination for election to the Board shall be made by a nominating committee consisting of three (3) persons. Nominations also may be made from the floor at each annual meeting. The nominating committee shall consist of a chairman, who shall be a Member of the Board, and two (2) other persons who may be either Members of the Association or representatives of Declarant. Each Member of the nominating committee shall be appointed by the Board to serve for a period of one (1) year and vacancies shall be filled by the Board. The nominating committee shall make as many nominations for election to the Board as it may, in its discretion, determine, but not less than the number of vacancies to be filled. Nominations may be made from among Members or non-Members.

6.2 Election. Election to the Board shall be by secret ballot. At the election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to cast under provisions of Section 5.2 of the Declaration (and subject to cumulative voting and to the provisions respecting specially elected directors as are described therein). The candidates receiving the highest number of votes shall be deemed elected.

7. MEETINGS OF DIRECTORS.

7.1 Regular Meetings. Regular meetings of the Board shall be held quarterly, at the corporate offices of Woodcrest Development of San Diego, Inc., located at 3665 Kearny Villa Road, Suite 165, San Diego, California, and at such hour as may be fixed from time to time by resolution of the Board. Should any such meeting fall on a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday. Notice of the time and place of any such meeting shall be posted at a prominent place or places within the Common Area, and communicated to directors not less than four (4) days prior to the meeting; provided, however, that notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

7.2 Special Meetings. Special meetings of the Board for any purpose or purposes shall be called at any time by written notice signed by the president or vice-president, or if both are absent or unable or refuse to act, by any two directors. Written notice of the time and place of special meetings and the nature of any special business to be considered

shall be delivered personally to directors or the director's residence, or sent to each director by letter or by telegram, charges prepaid, addressed to him at his address as it is shown upon the records of the Association. In case such notice is delivered personally or by telegraph, it shall be delivered at least seventy-two (72) hours prior to the time of holding the meeting; in case such notice is mailed, it shall be deposited in the United States mail, first-class, registered or certified at least four (4) days prior to the time of holding the meeting. Such mailing, telegraphing or delivery as above provided shall be due, legal and personal notice to such director. Additionally, such notice shall be posted at a prominent place within the Common Area at least seventy-two (72) hours prior to the meeting. However, notice of the special meeting need not be given to any director who signed a waiver of notice or a written consent to holding of the meeting.

7.3 Quorum. A majority of the number of directors constitutes a quorum for the transaction of business at a meeting of the Board. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

7.4 Conduct of Meetings. Regular and special meetings of the Board shall be open to all Members of the Association; provided, however, that Association Members who are not on the Board may not participate in any deliberation or discussion unless expressly authorized by the vote of a majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of directors, adjourn a meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

8. POWER AND DUTIES OF THE BOARD.

8.1 Powers. The Board has all powers conferred upon the Association that are specified here and in the Declaration except those powers expressly reserved to the Members.

8.2 Duties. It shall be the duty of the Board:

8.2.1 to cause to be kept a complete record of all of its acts and doings and to present a statement of them to the Members at each annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members representing one-fourth (1/4) of the Class A Members;

8.2.2 to supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed; and

8.2.3 to delegate its powers as provided in the Declaration.

8.3 Notice of Action by Written Consent.

8.3.1 The Board may take actions without a meeting if all of the directors consent in writing to the action to be taken.

8.3.2 If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Area within three days after the written consents of all directors have been obtained.

9. OFFICERS AND THEIR DUTIES.

9.1 Enumeration of Officers. The officers of the Association shall be a president and vice-president, who shall at all times be Members of the Board, a secretary, a chief financial officer, and such other officers as the Board may create from time to time by resolution.

9.2 Election of Officers. The election of officers shall take place at the organizational meeting of the Board and at each meeting of the Board that follows each annual meeting of the Members.

9.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one year unless he resigns, is removed, or becomes otherwise disqualified to serve.

9.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

9.5 Resignation and Removal. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. The resignation shall take effect on the date of receipt of such notice or at any later time specified in the notice, and, unless otherwise requested by the notice, the acceptance of the resignation shall not be necessary to make it effective.

9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.7 Multiple Offices. The offices of the secretary and chief financial officer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created under Section 9.4 of these Bylaws.

9.8 Duties. The duties of the officers are as follows:

9.8.1 President. The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out, shall sign all leases, Mortgages, deeds and other written instruments and shall cosign all checks and promissory notes.

9.8.2 Vice-President. The vice-president shall act in place of the president in case of his absence, or his inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

9.8.3 Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, shall serve notices of meetings of the Board and of the Members, shall keep appropriate current records showing the Members and their addresses, and shall perform such other duties as required by the Board.

9.8.4 Chief Financial Officer. The chief financial officer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such funds as directed by resolution of the Board, shall cosign all checks and promissory notes of the Association, shall keep proper books of account, shall cause the financial statement provided in Article 13 of the Bylaws for the Association for its fiscal year to be prepared, and distributed to each Member as required therein.

9.9 Fees and Compensation. Officers shall be entitled to receive reasonable reimbursement for costs as determined by the Board. Nothing herein contained shall be construed or preclude any officer from serving the Association in any other capacity as an agent, employee or otherwise, and receiving compensation therefor. Officers shall not receive compensation for performing their duties as officers.

10. COMMITTEES.

Subject to any contrary provisions of the Declaration and these Bylaws, the Board may appoint a nominating committee as provided in these Bylaws. In addition, the Board may appoint such other committees as it deems appropriate to carry out its purposes.

11. ASSESSMENTS

11.1 As more fully provided in Articles 6 and 7 of the Declaration, each Member is obliged to pay to the Association annual and special assessments to be collected as described in that section, all of which is incorporated herein by reference.

12. AMENDMENTS

12.1 These Bylaws can be amended only with the vote or written consent of Members entitled to cast at least fifty-one percent (51%) of the voting power of the membership in the Association, and the vote or written consent of Members entitled to cast at least fifty-one percent (51%) of the voting power of the membership in the Association, excluding Declarant; provided, however, so long as Declarant's consent to the modification of those certain provisions set forth in Section 16.2 of the Declaration is required, any amendment to Section 3.2 hereof shall require the consent of Declarant.

12.2 Section 12.1 is not intended to limit the percentage of the voting power of the Association or of Members (other than the Declarant) necessary to amend a specific provision in these Bylaws when the specific provision requires a different percentage of affirmative votes. If more than 51% of the voting power is required by any specific provision of the Bylaws, the percentage in the specific provision shall control.

12.3 The adoption of any amendment to these Bylaws must comply with the provisions of California Business and Professions Code Section 11018.7 to the extent that said section is applicable.

12.4 Anything contained in these Bylaws to the contrary notwithstanding, the rights of each Director of The Community Association of Bernardo Heights set forth in Section 14.4 of these Bylaws may not be amended, modified nor rescinded at any time without the prior written consent of the Board of Directors of the Community Association of Bernardo Heights.

13. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS.

13.1 The following financial statements for the Association shall be regularly prepared and distributed to all Members regardless of the number of members or the amount of assets of the Association.

13.1.1 A budget for each fiscal year consisting of at least the following information shall be distributed not less than 45 days and not more than 60 days prior to the beginning of the fiscal year:

(a) Estimated revenue and expenses on an accrual basis.

(b) The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.

(c) An itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the Common Areas and facilities for which the Association is responsible.

(d) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and facilities for which the Association is responsible.

13.1.2 A balance sheet - as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of a Residence Lot in the Development - and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after said accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.

13.1.3 A report consisting of the following shall be distributed within 120 days after the close of the fiscal year.

(a) A balance sheet as of the end of the fiscal year.

(b) An operating (income) statement for the fiscal year.

(c) A statement of changes in financial position for the fiscal year.

(d) Any information required to be reported under Section 8322 of the California Corporations Code; and

(e) For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with the generally accepted accounting principles by a licensee of the California State Board of Accountancy.

13.2 If the report referred to in Section 13.1.3 above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.

13.3 In addition to financial statements, the governing body shall annually distribute within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of regular and special assessments, including the recording and foreclosing of liens against Members' subdivision interests.

14. INSPECTION OF ASSOCIATION BOOKS AND RECORDS.

14.1 Any membership register, books of account and minutes of meetings of the Members, the Board and committees of the Board of the Association shall be made available for inspection and copying by any Member of the Association, or his duly appointed representative, or any Mortgagee, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Development as the Board prescribes.

14.2 The Board shall establish by resolution reasonable rules with respect to:

14.2.1 Notice to be given to the custodian of the records of the Association by the Member, representative or Mortgagee desiring to make an inspection.

14.2.2 Hours and days of the week when inspection may be made.

14.2.3 Payment of the cost of reproducing copies of documents requested by a Member or by a representative or Mortgagee.

14.3 Every director of the Association shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

14.4 Every Director of the Association and every Director of the Community Association of Bernardo Heights, a California nonprofit mutual benefit corporation, will have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The foregoing right of inspection includes a right to make extracts and copies of documents, and, when such right is exercised by a Director of The Community Association of Bernardo Heights, all extracts and copies of documents requested by such Director shall be at his or her expense.

15. GENERAL PROVISIONS

15.1 Conflicting Provisions. In case of any conflict between any provisions of the Declaration and these Bylaws, the provisions of the Declaration control.

15.2 Fiscal Year. The fiscal year of the Association shall be a calendar year unless a different fiscal year is adopted by the Members at a duly constituted meeting.

15.3 Proof of Membership. No person can exercise the rights of membership in the Association until satisfactory proof of membership has been furnished to the secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the Owner of a Lot entitling him to membership. The deed or policy is conclusive in the absence of a conflicting claim based on a later deed or policy.

15.4 Absentee Ballots. The Board may make such provisions as it considers necessary or desirable for absentee ballots.

15.5 Consent to Waiver of Notice. The transactions at any meeting of the Board, or Members however noticed, shall be valid as though they occurred at a meeting held after regular notice if a quorum is present, and if either before or after the meeting each absent director or Member signs a written waiver of notice or a consent to the holding of such meeting or an approval of its correct minutes. All such waivers, consents, or approvals shall be filed with the records of the Board and made a part of its minutes.

15.6 Reserves. Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner described in the Declaration and shall be deposited into insured interest-bearing accounts. These sums may include amounts collected by Declarant from Owners through the purchase escrows that represent capital contribution by Owners to the Association.

RESTATED ARTICLES OF INCORPORATION
OF
WOODCREST HEIGHTS HOMEOWNERS ASSOCIATION
A California Nonprofit Mutual Benefit Corporation

Wayne A. Barnett and Donald Mitchell certify that:

1. They are the President and Chief Financial Officer, respectfully, of said corporation.

2. The Articles of Incorporation of said corporation shall be amended to read in full as follows:

ONE: The name of this corporation is WOODCREST HEIGHTS HOMEOWNERS ASSOCIATION.

TWO: This corporation is a Nonprofit Mutual Benefit Corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law. The specific purpose of the corporation is to provide for the ownership, management and/or administration of that certain real property situated in the County of San Diego, California, more particularly described as follows:

Lots 1 through 4, inclusive, Lots 96 through 120, inclusive, and Lots 160 and 161 of Woodcrest Bernardo Heights in the City of San Diego, County of San Diego, State of California, according to the Map thereof filed February 25, 1986 in the official records of the County Recorder of the County of San Diego, State of California and any property annexed thereto pursuant to the provisions of the Declaration hereinafter described.

The corporation shall fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to that certain Declaration of Covenants, Conditions and Restrictions for Woodcrest Bernardo Heights, a Planned Residential Development, applicable to the above-described property recorded in the official records of the County Recorder of the County of San Diego, State of California and all amendments thereof (collectively, the "Declaration"), and will promote the health, safety and welfare of all of its Members who shall be Owners of Lots (as defined in the Declaration) within the above-described property.

THREE: The name and address in this state of the corporation's initial agent for service of process is: Wayne A. Barnett, 3665 Kearny Villa Road, Suite 165, San Diego, California 92123.

FOUR: Amendment to these Articles of Incorporation shall require the assent (by vote or written consent) of a majority of the Board of Directors and of Members representing seventy-five percent (75%) or more of the voting power of each class of Members; provided, however, that after conversion of Class B membership to Class A membership, amendment to these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a majority of the Board of Directors; (ii) seventy-five percent (75%) or more of the total voting power of Members other than Declarant (as defined in the Declaration); provided, further that so long as Declarant's consent to the modification of those certain provisions set forth in Section 16.2 of the Declaration is required, any amendment to Article 6 hereof shall require the consent of Declarant.

FIVE: Each Owner of a Lot, including Declarant, shall be a Member of the Association. No Owner shall hold more than one Membership in the Association even though such Owner may own, or own an interest in more than one Lot. Ownership of a Lot or interest in it shall be the sole qualification for membership in the Association. Each Member shall remain a Member in the Association until his ownership or ownership interest in all Lots in the Development ceases, at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Lot merely as security for performance of an obligation are not to be regarded as Members. The Association membership of each person or entity who owns, or owns an interest in one or more Lot(s) shall be appurtenant to such Lot and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Lot or interest in it and then only to the transferee.

SIX: The corporation shall have two classes of voting membership:

Class A. Class A Members shall be all owners with the exception of Declarant (as defined in the Declaration) and shall be entitled to one (1) vote for each Residence Lot in which such class Member owns an interest. When more than one Class A Member owns an interest in a Residence Lot, the vote for such Residence Lot shall be exercised as they among themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Lot.

Class B. Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Residence Lot owned. The voting rights shall not vest until assessments against Residential Lots

have commenced. The Class B membership shall cease and be converted to Class A membership with only one vote for each Residence Lot owned on the first to occur of the following events:

(a) On the second anniversary of the original issuance of the most recently issued Public Report issued by the Department of Real Estate for a Phase of the Development; or

(b) On the fourth anniversary of the issuance of the original Public Report issued by the Department of Real Estate for the First Phase of the Development.

SEVEN: Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of this corporation.

3. The foregoing amendment has been approved by the Board of Directors of said corporation.

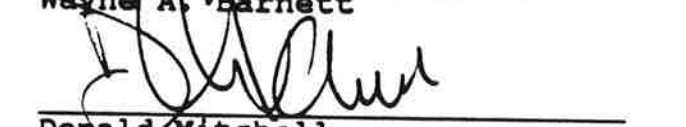
4. The foregoing amendment has been duly approved by the required vote of members of the corporation.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

DATED: October 17, 1986.



Wayne A. Barnett



Donald Mitchell

RECORDING REQUESTED BY:

CONTINENTAL LAND TITLE COMPANY

WHEN RECORDED MAIL TO:

SHEPPARD, MULLIN, RICHTER & HAMPTON
701 "B" Street, Suite 2355
San Diego, California 92101
Attention: Richard F. Luther, Esq.



FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR WOODCREST BERNARDO HEIGHTS,
A PLANNED RESIDENTIAL DEVELOPMENT

This First Amendment is made as of October 23, 1986,
by WOODCREST HEIGHTS ASSOCIATES, a California general
partnership ("Declarant"), with reference to the following
facts:

A. Declarant is the owner of real property located in
San Diego County, California, described as follows:

Lots 1 through 166, inclusive, of WOODCREST
BERNARDO HEIGHTS in the City of San Diego,
County of San Diego, State of California,
according to the Map thereof No. 11457 filed
February 25, 1986, in the official records
of the County Recorder of the County of San
Diego, State of California

(hereinafter called the "Real Property").

B. On or about March 10, 1986, Declarant executed that
certain Declaration of Covenants, Conditions and Restrictions
for Woodcrest Bernardo Heights, a Planned Residential
Development (the "Declaration"), which Declaration was recorded
March 17, 1986, as File No. 86-101384 of official records of
the County Recorder of San Diego County, California.

C. Pursuant to the Declaration, Declarant created on the
real property described as follows:

Lots 1 through 4, inclusive, Lots 96 through
120, inclusive, and Lots 160 and 161 of
WOODCREST BERNARDO HEIGHTS in the City of

San Diego, County of San Diego, State of California, according to Map thereof No. 11457 filed February 25, 1986, in the official records of the County Recorder of the County of San Diego, State of California

and any property annexed thereto pursuant to the Declaration, a planned development pursuant to California Business and Professions Code Section 11003.

D. Declarant now desires to amend the Declaration, pursuant to Section 16.1 thereof, as set forth herein.

NOW, THEREFORE, Declarant hereby declares:

1. Yard Easements. Section 2.1.1 of the Declaration is hereby amended and restated in its entirety to provide as follows:

2.1.1 One or more exclusive easements for ingress, egress, landscaping and recreational purposes appurtenant to certain residence lots:

(a) being (i) four (4) feet in width, (ii) parallel to the side property line, (iii) on the "entry-way" side of the benefitted parcel, and (iv) as shown on Exhibit "B" attached hereto; and/or

(b) being (i) of varying width, (ii) along the rear property line, (iii) between the extensions of the side yard easement boundaries (or the property line(s) with respect to those Residence Lots where there are no side yard easements), (iv) between the rear property line and the top of the slope of the nonbuilding areas shown on Exhibit "E," and (v) as shown on Exhibit "B" attached hereto (collectively, the "Yard Easement"). The boundaries of the side yard easements and the depth and width of the rear yard easements are generally as defined by the fences (if any) constructed by Declarant.

There are no side yard easements appurtenant to Lot 107, or Lots 5, 57, 72, 86, 131, 132, 147, 148, 158 or 159 to the extent that the same are annexed pursuant to Article 17 hereof.

There are back yard easements appurtenant to Lots 97, 98, 99, 100, 105 and 106 in Phase One. Prior to selling any Residence Lots in any Phase annexed hereto pursuant to Article 17 hereof,

Declarant shall record a document setting forth a description of the Lots to which back yard easements are not appurtenant. Said document may be the declaration of annexation pursuant to Article 17.

Notwithstanding anything set forth in Section 18 of this Declaration, each Owner of a Lot to which a back yard easement is appurtenant shall maintain the portion of the nonbuilding areas shown on Exhibit "E" that is within the boundaries of said Owner's back yard easement in a safe, clean and attractive condition at all times, reasonably free and clear of weeds, rubbish, garbage or other debris, in order to reduce all possible fire hazards and to avoid damaging the value of any adjoining Lots. If an Owner fails to so maintain the back yard easement appurtenant to said Owner's Residence Lot, the Association, at its option, may remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith.

The exact location of each back yard easement shall be as described in the grant deed from Declarant to the first Owner of the Residence Lot to which it is appurtenant.

2. Exhibit "B". Exhibit "B" of the Declaration is hereby amended and restated in its entirety, as set forth in Exhibit "A" to this First Amendment.

3. Maintenance. Paragraph 4.3.2.8(a) of the Declaration is hereby amended and restated in its entirety to provide as follows:

a. The nonbuilding areas shown on Exhibit "E" attached hereto.

4. Voting Rights. Section 5.2.1 of the Declaration is hereby amended and restated in its entirety to provide as follows:

5.2 Voting.

5.2.1 Number of Votes. The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one (1) vote for each Residence Lot in

be entitled to one (1) vote for each Residence Lot in which such class Member owns an interest. However, when more than one Class A Member owns an interest in a Residence Lot, the vote for such Residence Lot shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Residence Lot.

Class B: The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each Residence Lot owned. The voting rights shall not vest until Assessments against Residential Lots have commenced. The Class B membership shall cease and be converted to Class A membership with only one vote for each Residence Lot owned on the first to occur of the following events:

5.2.1.1 On the second anniversary of the original issuance of the most recently issued Public Report issued by the Department of Real Estate for a Phase of the Development; or

5.2.1.2 On the fourth anniversary of the issuance of the original Public Report issued by the Department of Real Estate for the first Phase of the Development.

5. Architectural Committee. Section 8.1 of the Declaration is hereby amended and restated in its entirety to provide as follows:

8.1 Appointment of Members. A committee shall be appointed for the control of structural and landscaping architecture and design ("Architectural Control Committee") for all improvements (including landscaping) within the Development. The Architectural Control Committee shall consist of three (3) members. Declarant may appoint all of the original members of the Architectural Control Committee and all replacements until the first anniversary of the issuance of the original public report for the Development. Declarant may thereafter appoint a majority of the members of the Committee until the earlier of (i) the seventh anniversary of the issuance of the original final public report for the Development, or (ii) the date that Declarant shall have annexed the entire Annexation Parcel, or the right to annex shall no longer exist, and 90% of all the Residence Lots in the Development, including those proposed for the remaining Annexation Parcel as long as the right to annex exists, have been sold; and the Board shall have the power to appoint one member to the Architectural Control Committee. Thereafter, the Board shall have the power to appoint all of the members of the

Architectural Control Committee. Members appointed to the Architectural Control Committee by the Board shall be from the membership of the Association. Members appointed to the Committee by Declarant need not be Members of the Association.

6. Amendments. Section 16.2 of the Declaration is hereby amended and restated in its entirety to provide as follows:

16.2 Amendment After Close of First Sale. After the close of the first sale of a Residence Lot in the Development to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than seventy-five percent (75%) of the votes of each class of Members, so long as there are two classes of Members, and thereafter by (i) the vote or written consent of the holders of not less than seventy-five percent (75%) of the votes of Members, and (ii) the vote or written consent of the holders of not less than seventy-five percent (75%) of the votes of Members other than Declarant. However, if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. In addition, the provisions of Section 2.2.3 (Declarant's Construction Easement), or of Articles 3 ("Use, Restrictions and Maintenance"), 4 ("The Association"), 5 ("Membership and Voting Rights"), 6 ("Assessments"), 7 ("Collection of Assessments, Liens"), 8 ("Architectural and Design Control"), 14 ("Term of Declaration"), 15 ("Protection of Mortgagees"), 16 ("Amendment") or 17 ("Annexation") may not be revoked, modified or amended in any way without the consent of Declarant until such time as Declarant has annexed the entire Annexation Parcel or Declarant's right to annex pursuant to Article 17 hereof expires with respect to the entire Annexation Parcel; provided, if at the time of such entire annexation or for such expiration of the right to annex Declarant has annexed a portion of the Annexation Parcel, or a portion of the Annexation Parcel has been automatically annexed pursuant to Sections 17.2 or 17.4, and the voting rights with respect thereto have not yet vested, then such consent shall be required for two (2) additional years or until the date such voting rights vest, whichever shall first occur.

Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the secretary or other duly authorized officer

of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the San Diego County Recorder's Office.

7. Commencement of Voting Rights. Article 17 of the Declaration is hereby amended by adding thereto the following new Section 17.14:

17.14 Early Commencement of Voting Rights. Any provision of this Declaration to the contrary notwithstanding, at Declarant's sole election as evidenced by a recorded document executed by Declarant setting forth such election, assessments and voting rights with respect to any Residence Lots in any Phase annexed pursuant to this Article 17 shall commence and vest as of such earlier date selected by Declarant on or after such annexation and need not wait until the conveyance of the first Residence Lot in such Phase. Upon such election Declarant shall be obligated thereafter to pay assessments as though all proposed Residences are completed on each Residence Lot so annexed regardless of whether such Residences are ever constructed. In the alternative, such voting rights shall commence with respect to any such Phase upon the commencement of Declarant's obligations under any Subsidization Contract approved by the Department of Real Estate which so provides for such early commencement.

8. Full Force and Effect. Except as expressly set forth herein, the Declaration is unmodified and in full force and effect.

Declarant has executed this instrument as of the date first written above.

"DECLARANT"

WOODCREST HEIGHTS ASSOCIATES, a
California General Partnership

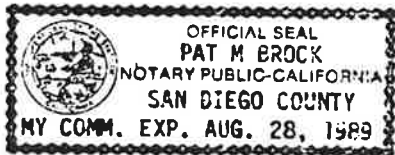
By: WOODCREST DEVELOPMENT OF
SAN DIEGO, INC., a
California corporation

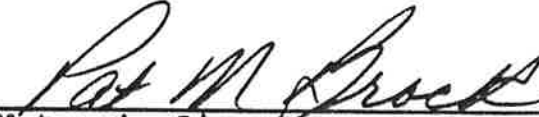
By: Wayne A. Barnett
Wayne A. Barnett
Its: President

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

On November 4, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared Wayne A. Barnett, 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 President of WOODCREST DEVELOPMENT OF SAN DIEGO, INC., the corporation that executed the within instrument on behalf of WOODCREST HEIGHTS ASSOCIATES, the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.





Notary's Signature
Pat M. Brock, Notary Public

[SEAL]

EXHIBIT "B"

YARD EASEMENT

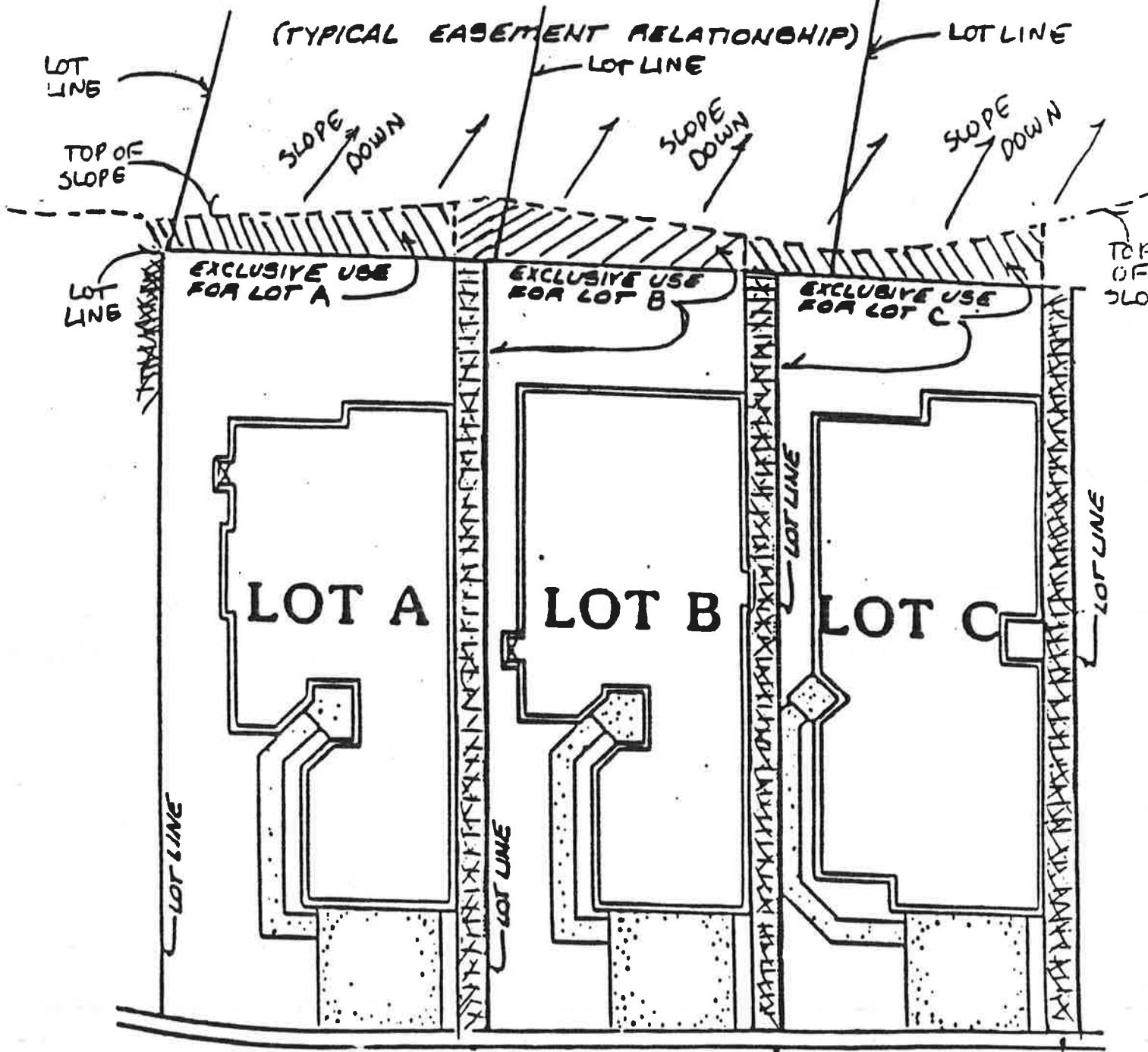


EXHIBIT "A" TO FIRST AMENDMENT