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DECLARATION OF COVENANTS

CONDITIONS AND RESTRICTIONS

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DECLARATION OF COVENANTS

CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth, by L.W.D., INC., a California corporation referred to as "Declarant," is made with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in the City of Atascadero, County of San Luis Obispo, State of California, more particularly described as Lots one through eleven, inclusive, of Tract 1129 per map recorded on the 29th day of March, 1984, in Book 11, Page 73 of Maps, in the Official Records of San Luis Obispo County, California.

B. Declarant intends by this document to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said lots and the owners thereof.

C. Declarant hereby establishes by this declaration, a plan for the individual ownership of the real property described as Lots 2 through 11, inclusive of Tract 1129 as referenced above, as well as the beneficial enjoyment, as hereafter set forth, of all of Lot 1, of Tract 1129 which is hereinafter defined and referred to as the "common area."

NOW THEREFORE, declarant hereby declares that the above described property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are imposed as equitable servitudes pursuant to a general plan for the development of the property for the purpose of

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enhancing and protecting the value and attractiveness of the property, and the project, and every part hereof, in accordance with the plan for the subdivision of the property. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the property or the project.

ARTICLE I

DEFINITIONS

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

1.2 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each lot owner as determined by the Association.

1.3 "Association" shall mean and refer to the P.G.C.A. Homeowners Association, an incorported association, the members of which shall be the owners of the lots 2 through 11 of Tract 1129.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

1.6 "Common area(s)" shall mean and refer to Lot 1 of Tract 1129 per subdivision map recorded on March 29, 1984, at Book 11, Page 73 of Maps, of the Official Records of San Luis Obispo County, California, together with all easements for ingress, egress, and utilities which are appurtenant thereto.

1.7 "Common expenses" means and includes the actual and estimated

expenses of operating the common area and any reasonable reserve for such purposes as found and determined by the Board and all sums designated for common expenses by or pursuant to the subdivision documents.

1.8 "Declarant" shall mean and refer to L.W.D., Inc., a California Corporation, its successors and assigns.

1.9 "Declaration" shall mean and refer to this enabling Declaration, as amended or supplemented from time to time.

1.10 "Eligible holder mortgages" shall mean mortgages held by "eligible mortgage holders".

1.11 "Eligible mortgage holder" shall mean a first lender who has requested notice of certain matters from the Association in accordance with Section 8.6C.

1.12 "Eligible insurer or guarantor" shall mean an insurer or governmental guarantor of a first mortgage who has requested notice of certain matters from the Association in accordance with Section 8.6C.

1.13 "First lender" shall mean any person, entity, bank, savings and loan association, insurance company, or financial institution holding a recorded first mortgage on any lot.

1.14 "Lot" shall mean and refer any plat or parcel shown on the map with the exception of lot 1.

1.15 "Map" shall mean and refer to that subdivision map recorded the 29th day of March, 1984, in Book 11 of Maps at Page 7 of Maps, in the Officials Records of San Luis Obispo County.

1.16 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

1.17 "Mortgage" shall include a deed of trust as well as a mortgage.

1.18 "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a mortgagee.

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1.19 "Mortgagor" shall include a Trusotras well as a mortgagor.

1.20 "Owner" or "Owners" shall mean and refer to the record holder of holders of title, if more than one, of any Lot, exclusive of lot 1. This shall include any person having a fee simple title to any such lot and shall include contract sellers, but shall exclude persons or entities having an interest merely as security for the performance of an obligation.

1.21 "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.22 "Project" shall mean and refer to the entire real property above described including all structures and improvements erected or to be erected thereon.

1.23 "Project documents" shall mean this Declaration, as amended from time to time, the exhibits, if any, attached thereto, together with the other basic documents used to create and govern the project, including the Map, the Articles, and the Bylaws, but excluding unrecorded rules and regulations adopted by the Board or the Association.

1.24 "Property" or "Properties" means and includes the real property described above and all improvements erected thereon and all property, real, personal or mixed intended for or used in connection with the subdivision.

1.25 "Subdivision Documents" shall mean the same as project documents.

1.26 "Structures" shall mean a residential building and appurtenances thereto located on a lot.

1.27 "Singular or plural": The singular and plural number and masculine, feminine and neuter gender shall each include the other where the context requires.

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ARTICLE II

CREATION OF PROPERTY RIGHTS

2.1 Every owner shall have a right and non-exclusive easement of ingress and egress over, and of enjoyment in and to, the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions and any other provision herein contained:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and the right to use of any recreational facility by any Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations after a hearing by the Board of Directors of the Association; The rights of the Association shall be exercised consistant with Section 7341 of the California Civil Code;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedications or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

2.2 Any Owner may delegate, in accordance with the Bylaws, or other provisions of the Declaration, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract

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purchasers who reside on the property.

2.3 Party Walls. Each wall which is built as part of the original construction of the structures upon a lot and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(a) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(b) If a party wall is destroyed or damaged by fire or other casualty and it is not rebuilt pursuant to other provisions of the Declaration, then, any Owner who has used the wall may restore it and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, subject to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(c) Notwithstanding any other provisions of this Declaration to the contrary, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(d) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

(e) In the event of any dispute arising concerning a party wall or under the provisions of this Section, the issue shall be submitted to and be subject to the rules of the American Arbitration Association.

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2.4 Parking: There are no assigned parking spaces within the common area for any lot. Any parking spaces may be used by all owners, their tenants and guests, pursuant to rules adopted by the board. The Board may from time to time assign the exclusive right to use said spaces to particuar lots upon written approval of the City of Atascadero, California. Assignment of said spaces shall be based upon mutual consent of the lot owners and failing such consent, shall be such after notice to said owners and hearing before the Baord who has the ultimate authority to designate exclusive parking.

2.5 Partition Prohibited: The common area shall remain one lot as set forth above. Unless otherwise specified herein no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the common area. Judicial partition by sale of a single lot owned by two or more persons and division of the sale proceeds is not prohibited hereby but partition of title to a single lot is prohibited.

ARTICLE III

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Association to Own and Manage Common Areas: The ownership of the common area shall be vested in the Association and Managed in accordance with its bylaws. The owners of all the lots covenant and agree that the administration of the project shall be in accordance with the provisions of this Declaration, the Bylaws and Articles of the Association.

3.2 Membership: The owner of a lot shall automatically, upon becoming the owner of same, be a member of the Association, and shall

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remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be held in accordance with the Bylaws of the Association

3.3 Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such lot. Upon death of a member, his membership passes automatically along with title to his lot, to his heirs. A mortgagee does not have membership rights until he becomes an owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No member may resign his membership. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of his lot, the Association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

3.4 Membership Classes and Voting Rights: The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Declarant and shall be entitled to one (1) vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. Class B members shall be the Declarant and shall be entitled to vote as follows: voting shall be the same as for Class A memberships, except that Class B members may triple their votes for each

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lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events,whichever occurs earlier.

(a) When the total votes outstanding in the Class A membership equal the total votes (tripled as stated above) outstanding in the Class B membership; or

(b) On the second anniversary date of the original issuance of the final subdivision public report for the project.

Any action by the Association which must have the approval of the members before being undertaken shall require the vote or written assent of at least a majority of each class of membership during the time that there are two outstanding classes of membership. Where the vote or written assent of each class of membership is required, any requirement that the vote of Declarant be excluded is not applicable, unless otherwise specified herein. Voting rights attributed to lots shall not vest until assessments have been levied against those lots by the Association.

ARTICLE IV

ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each lot owned within the project, hereby covenants, and each owner of any lot by acceptance of a deed thereof, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for purposes permitted herein, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, penalties, fines and reasonable attorneys' fees, shall be a charge on the lot and shall be a

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continuing lien upon the lot against which each such assessment is made, the lien to become effective upon recordation of a notice of assessment. Each such assessment together with interest, costs, penalties, fines and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such lot at the time when the assessment fell due. The personal obligation or delinquent assessment shall not pass to his successors in title unless expressly assumed by them. No owner of a lot may exempt himself for liability from his contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas or by the abandonment of his lot.

4.2 Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire project and for the improvement and maintenance of the common area for the common good of the project.

4.3 Annual Assessment:

A. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the annual assessment may be increased each year by not more than twenty percent (20%) above the maximum assessments for the previous year without a vote of the membership.

B. The Board may not, without the vote or written consent of a majority of the voting power of the Association residing in members other than the Declarant, impose a regular annual assessments which is more than twenty percent (20%) greater than the regular annual assessment for the immediately preceeding fiscal year.

C. Without membership approval, the Board of Directors may fix the annual assessments at an amount not in excess of the maximum. However,

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the annual assessments may not be decreased either by the Board or by the members, by more than ten percent (10%) in any one year without the approval of a majority of the voting power of the Association residing in members other than the Declarant, or, where the two class voting structure is still in effect, a majority of each class of members. Failure by the Board to set assessments shall not be deemed a waiver of the assessments but rather the prior year's assessment shall continue.

D. Subject to the limitations on the maximum and minimum amount of assessments herein provided, if at any time during the course of any year the Board shall deem the amount of the annual assessments to be inadequate or excessive, the Board shall have the power, at a regular or special meeting, to revise the assessments for the balance of the assessment year, effective on the first day of the month next following the date of the revision.

E. Payment for all assessments shall be monthly except that the Board may permit a member to pay the assessments in one (1) lump sum.

4.4 Special assessments for Capital Improvements Or Extraordinary Expenses; Reserves for Replacement; Trust Funds: The Board of Directors 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, or for extraordinary expenses incurred by the Association, provided that in the event special assessments exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the vote or written consent of a majority of the voting power of the Association residing in members other than the Declarant shall be required to approve such assessments.

Special assessments shall be levied on the same basis as regular assessments, provided that a special assessment against a member may be a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member and his lot into compliance with the provisions of the Subdivision documents, and provided that a special assessment against owners to raise funds for the rebuilding or major repair of any common area improvements destroyed due to fire or other insurable hazard shall be levied upon the basis of the ratio of the square footage of the structure on the lot to be assessed to the total square footage of all structures on lots to be assessed.

Unless otherwise specified herein, as part of the regular annual assessment for maintenance authorized above, the Board of Directors shall annually fix the amount to be contributed pro rata by each member to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position. The Board shall maintain a separate account for those funds. Payment for all assessments shall be monthly except that the Board may permit a member to pay the assessments in one (1) lump sum. Separate records shall be maintained for all funds deposited to said account, which shall be designated as a "Reserve Account".

Amounts received by the Association as contribution, assessments or dues from the owners shall be held in one or more accounts. Deposits shall be made, and funds accounted for so that reserves for capital improvements and for replacement can be clearly separated from funds for operating expenses or repair and maintenance funds. Capital improvement and replacement funds shall be used solely for capital improvements and

replacement or repair of the common areas within the project.

4.5 Notice and Quorum for any Action Authorized Under Section 4.3 and 4.4: Any action authorized under Sections 4.3 and 4.4 which requires a vote of the membership, shall be taken at a meeting called for that purpose, written notice of which shall be personally delivered or mailed first class, postage prepaid, to all members not less than ten (10) nor more than ninety (90) days in advance of the meeting specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. If a quorum is present and the proposed action is favored by a majority vote of the members present at such meeting, but such vote is less than a majority of the voting power of the Association, including a majority of members other than the Declarant, 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.

4.6 Division of assessments: Except as provided in Section 4.4, all assessments, both annual and special, shall be charged to and divided among the lot owners equally. Assessments may be collected on a monthly basis.

4.7 Date of commencement of Annual Assessments: Due Dates: The regular assessments provided for herein shall commence as to all lots covered by this Declaration on the first day of the month following the closing of the first sale on the conveyance of the first lot to an individual owner. Subject to the provisions of Section 4.3 hereof, the Board of Directors shall determine and fix the amount of the annual assessments against each lot and send written notice thereof to every owner at least sixty (60) days in advance of each annual assessment period. The due dates shall be

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established by the Board of Directors. Assessments shall be apportioned and payable monthly, however, an owner shall have the right to pay the assessment in one lump sum for the assessment period. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. Such a certificate shall be conclusive evidence of such payment.

4.8 Effect of Nonpayment of assessment: Any assessments, or monthly installments thereof, not paid within thirty (30) days after the due date shall be levied a late charge at the maximum rate allowed by Section 1725 of the California Civil Code as amended or replaced from time to time.

4.9 Transfer of Unit by Sale or Foreclosure: Sale or transfer of any lot shall not affect the assessment lien. However, the sale of any lot pursuant to mortgage foreclosure of a first mortgage shall extinguish the lien of such assessments (including fees, late charges, fines or interest levied in connection therewith) as to payments which become due prior to such sale or transfer (except for assessments liens recorded prior to the mortgage). No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Where the mortgagee of a first mortgage of record or other purchaser of a lot obtains title to the same as a result of foreclosure of any such first mortgage, such acquirer of title, his successor and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such lot which became due prior to the acquisition of title to such lot by such acquirer (except for assessments liens recorded prior to the mortgage). Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the lot owners including such acquirer, his successors or

assigns.

4.10 Priorities; Enforcement; Remedies: When a notice of Assessment has been recorded, such assessment shall constitute a lien on each respective lot prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deeds of trust with first priority over other mortgages or deeds of trust made in good faith and for value.)

Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized to make the sale, after failure of the owner to pay such assessment in accordance with its terms, such sale to be conducted in accordance with the provisions of sections 2924-2924H of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

Fines and penalties for violations of restrictions are not assessments and are not enforceable by assessment lien.

The Association, acting on behalf of the lot owners, shall have the power to bid for the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Where the purchase of a foreclosure lot will result in a five percent (5%) or greater increase in assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association, including a majority of members other than Declarant. During the period a lot is owned by the Association, following foreclosure: (1) No right to vote shall be exercised on behalf of the lot; (2) No assessments shall be assessed or levied on the lot; and (3) Each other lot shall be charged, in addition to its usual assessments, its equal share of the assessments that would

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have been charged to such lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

After acquiring title to the lot at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the lot which deed shall be binding upon the owners, successors, and all other parties.

The Board may temporarily suspend the voting rights and right to use recreational facilities of a member who is in default in payment of any assessments, after notice and hearing, pursuant to California Corporations Code section 7341 and as provided in the Bylaws.

4.11 Unallocated Taxes: In the event that any taxes are assessed against the common area, or the personal property of the Association, rather than against the other lots, said taxes shall be included in the assessments made under the provisions of section 4.1 and, if necessary, a special assessment may be levied against the lots in an amount equal to said taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

4.12 Exemption From Assessments: All property dedicated to, and accepted by, a local public authority or public agency, and all property owned by the association, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

5.1 Duties: In addition to the duties enumerated in its Bylaws, or elsewhere provided for in this Declaration, and without limiting the

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generality thereof, the Association shall perform the following duties:

A. Maintenance:

(1) The Association shall maintain, repair, replace, restore, operate and manage all of the common areas and all facilities, improvements, furnishings, equipment and landscaping thereon and thereunder, and all property that may be acquired by the Association. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent acts of an owner, or his guests, tenants or invitees, the cost of which is not covered by insurance. The cost of repair or replacement resulting from such excluded items shall be the responsibility of each owner; provided, however, that if an owner shall fail to make the repairs or replacements which are the responsibility of such owner, as provided herein, then after 30 days notice to the owner and a public hearing, the Association shall make such repairs or replacements, and the cost thereof shall be paid immediately to the Association by the owner who is obligated to make said repairs or replacements.

(2) In the event an owner of any lot shall fail to maintain the lot and improvements situated thereon in a manner satisfactory to the board of directors, the association, after thirty (30) days notice to the owner and a public hearing, shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessments to which such lot is subject.

B. Insurance: The Association shall maintain adequate policy or policies of insurance for liability and hazards on property owned by the

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Association and as required by Section 8.8 of this Declaration.

C. Discharge of liens: After notice and hearing as provided in Section 4.5, the association shall discharge by payment, if necessary, any lien against the common area, and assess the cost thereof to the member or members responsible for the existence of said lien.

D. Assessments: The Association shall fix, levy, collect and enforce assessments as set forth in article IV hereof.

E. Payment of Expenses: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

F. Enforcement: The Association shall enforce this Declaration.

G. Security: Upon majority consent of the members of the Association, the Association shall provide security for the common area, and until such time no security shall be provided.

5.2 Powers: In addition to the powers enumerated in its Bylaws, or elsewhere provided for herein, and without limited the generality therof, the Association shall have the following powers:

A. Utility Service: The Association shall have the authority to obtain, for the benefit of all of the lots, all water, gas and electric service and refuse collection and CATV.

B. Easements: The Association shall have authority by document signed or approved by three-fourths (3/4) of the total voting power of the Association, including three-fourths (3/4) of the members other than Declarant, to grant easements in additiion to those shown on the Map, where necessary for utilities, cable television, and sewer facilities over the common area to serve the common and open space areas and the lots.

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C. Manager: The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings, file suit, record or foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association, and to terminte the same for cause on thirty (30) days' written notce, or without cause and without penalty on ninety (90) days' written notice.

D. Adoption of Rules: The Association or the Board may adopt reasonable rules not inconsistent with this Declaration relating to the use of the common rea and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the property and other owners.

E. Access: For the purpose of performing construction, maintenance or emergency repair for the benefit of the common area the Association's agents or employees shall have the right, after reasonable notice (not less than 24 hours except in emergencies) to the owner thereof, to enter any lot or to enter any portion of the common area at reasonable hours. Such entry shall be made with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Associaion.

F. Assessments, Liens and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take

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disciplinary action against any owner for failure to pay assessment or for violtion of any provision of the subdivision documents. Penalties may include but are not limited to: fines, temporary suspension of voting rights, rights to the use of recreational facilities, if any, or other appropriate discipline, provided that the accused member is given notice and the opportunity to be heard with respect to the alleged violations before a descision to impose fines or discipline is made, as provided in Section 4.5., and the action taken is consistent with Section 7341 of the California Civil Code.

G. Enforcement: The Association shall have the authority to enforce this Declaration as per Article VIII hereof.

H. Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of property shall be by document signed or approved by three-fourths (3/4) of the total voting power of the Association which shall include three-fourths (3/4) of the members other than Declarant, or where the two class voting structure is still in effect, three-fourths (3/4) of the voting power of each class of members.

I. Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of three-fourths (3/4) of the total voting power of the Association including three-fourths (3/4) of the members other than Declarant, or where the two class voting structure is still in effect, three-fourths (3/4) of the voting power of each class of members, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as

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secured for money borrowed or debts incurred.

J. Dedication: The Association shall have the power to dedicate all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication shall be effective unless an instrument has been signed by three-fourths (3/4) of the total voting power of the Association including three-fourths (3/4) of the members other than Declarant, or where the two class voting structure is still in effect, three-fourths (3/4) of the voting power of each class of members, agreeing to such dedication.

K. Contracts: The Association shall have the power to contract for goods and/or services for the common area(s), facilities and interests or for the Association, subject to limitations of Section 7.3 of the Bylaws, or elsewhere set forth in the project documents.

L. Delegation: The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association, provided that the Board shall not delegate its responsibility for hearings required to be given by the Board or as otherwise stated herein.

M. Use of Recreational Facilities: The Association shall have the power to limit the number of an owner's tenants or guests who may use the recreational facilities, provided that all limitations apply equally to all owners, unless imposed for disciplinary reasons, after notice and hering.

N. Security: The Association shall have the power to contract for security service for the common area.

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5.3 In addition to the powers enumerated in the Bylaws of the Association, or elsewhere herein, the Board shall have the power to fill vacancies on the Board except for a vancancy created by the removal of a Board Member.

ARTICLE VI

UTILITIES

6.1 Owners' Rights and Duties: The rights and duties of the owners of a lot with respect to sanitary sewers, water, electricity, gas and television receiving, and telephone lines and facilities, shall be as follows:

A. Whenever storm or sanitary sewer, drainage, plumbing, water, electricity, gas, television lines, or connections are installed within the property, which connections or any portion thereof lie in or upon a lot owned by other than the owner of a lot served by said connections, the owners of any lot served by said connections shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain said connections as and when necessary.

B. Whenever storm or sanitary sewer, drainage, plumbing, water, electricity, gas, television receiving or telephone lines or connections are installed within the property which connections serve more than one lot, the owner of each lot served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his lot.

C. In the event of a dispute between owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such owners addressed to the Association, the matter shall be submitted to arbitration pursuant to the rules of the American Arbitration

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Association, and the decision of the Arbitrator(s) shall be final and conclusive on the parties.

6.2 Easements for Utilities and Maintenance; Easements over and under the property for the installation, repair and maintenance of electric, telephone, water, gas and sanitary sewer lines and facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as may be hereafter required or needed to service the property, are hereby reserved by Declarant and its successor and assigns, including the Association, together with the right to grant and transfer the same.

6.3 Association's Duties: The Association shall maintain all utility installations located in the common area except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the project except those metered or charged separately to the lots.

ARTICLE VII

USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the property and each lot therein is subject to the following:

7.1 Lot Use: No lot shall be occupied and used except for residential purposes by the owners, their tenants, and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns, may use any lot or lots in the project owned by Declarant for a model home site or sites for display and sales office during construction and until the last lot is sold by Declarant. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either

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temporarily or permanently.

Residents shall be limited to not more than three (3) persons per bedroom in any living structure built on a lot.

No lot or lots or any structure built thereon shall be leased, subleased, occupied, rented, let, sublet, or used for or in connections with any time-sharing agreement, plan, program, or arrangement, including, without limitation, any so-called "vacation license", "travel club", "extended vacation", or other membership or time-interval ownership arrangement. The term "time-sharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or other arrangement under which the right to use, occupy, or possess the lot or lots or any portion thereof in the project rotates among various persons, either corporate, partnership, individual, or otherwise, on a periodically recurring basis for value exchanged, whether monetary or like-kind use privileges, according to a fixed or floatig interval or period of time twenty-five (25) consecutive calendar days or less. Provided, this section shall not be construed to limit the personal use of any portion thereof in the project by any lot owner or his or her social or family guests.

7.2 Nuisances: No noxious, illegal, or seriously offensive activities shall be carried on upon any lot, or in any part of the property, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisace to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective lot, or which shall in any way increase the rate of insurance for the project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the strucutral integrity of any building.

7.3 Vehicle Restrictions. No trailer, camper, mobile home, motor

home, house car, commercial vehicle, truck (other than standard size pickup truck or standard size van), boat, inoperable automible, or similar equipment shall be permitted to remain upon any area within the property, other than temporarily which shall not exceed a continued period of 24 hours, unless placed or maintained within an enclosed carport or garage. Commercial vehicles shall not include sedans or standard size vans and pickup trucks which are used both for buiness and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smokey vehicles shall be operated upon the property. No unlicensed motor vehilces shall be operated upon the proprty. Twenty-four (24) hours after notice has been personally delivered to the owner or placed on the windshield of a vehicle or seventy-two (72) hours after notice has been mailed to the address of the registered owner of a vehicle parked, stored, or maintained on the property, in violation of the provisons of this Declaration, the owner shall be deemed to have consented to the removal of said vehicle from the project and the Association or its agents or employees shall have the authority to tow away and store any such vehicle, whether said vehicle shall belong to a owner, or his tenant, a member of his famiy, or his guest or invitee. Charges for such towing and storage shall be paid by the lot owner responsible for the presence of such vehicle.

7.4 Signs: No signs shall be displayed to the public view on any lots or any portion of the property except such signs as are approved by the Board or committee appointed by the Board. One only "For Sale" or "For Rent" sign per lot shall be allowed provided it does not exceed three (3) square feet in size.

7.5 No animals, reptiles, insects, or birds of any kind shall be

raised, bred, or kept on any lot, or on any portion of the property; except that no more than a total of one usual and ordinary household pet such as a dog, cat, bird, etc., may be kept provided that it is not kept, bred, or maintained for any commercial purposes and it is kept under reasonable control at all times.

After making a reasonable attempt to notify the owner, the Association or any owner may cause any unleashed dog found within the common area to be removed by the Association to a pound or animal shelter under the jurisdiction of the County of San Luis Obispo, by calling the appropriate authorities, whereupon the owner may, upon payment of all expenses connected therewith, repossess the dog. Owners shall prevent their pet from soiling all portions of the common area or a lot and shall promptly clean up any mess left by their pet. Owners shall be fully responsible for any damage caused by their pet.

7.6 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, garbage cans, woodpiles, or storage piles shall be kept screened and concealed from view of other lots, streets and common area. The Association shall be responsible for removal of garbage from the central pick-up point if one exists or subsequently created by action of the Board.

7.7 Radio and Television Antennas: No alteration to or modification of a central radio and/or television antenna system or cable television system, whichever is applicable, if developed by the Declarant or a cable television franchisee and as maintained by the Association or

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said franchisee, shall be permitted, and no owner may be permitted to construct and/or use and operate his own external radio and/or television antenna without the consent of the Board.

7.8 Right to Lease: No owner shall be permitted to lease the structure built the owners lot for any period less than thirty (30) days. Any lease agreement shall be required to provide that the term of the lease shall be subject in all respects to the provisions of the Declaration and the bylaws and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. All owners leasing or renting their lots shall promptly notify the Secretary of the Association in writing of the names of all tenants and members of tenant's family occupying such lot and of the address and telephone number where such owner can be reached. All leases shall be required to be in writing.

7.9 Architectural Control: No building, fence, wall, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any kind shall be commenced, installed, erected, painted, repainted, or maintained upon the property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the board.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the Board or to the architectural control committee for approval as to quality or workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with the Declarant's original plans and specification. No permission or

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approval shall be required to repaint in accordance with a color scheme previously approved by the board or the committee, or to rebuild in accordance with plans and specifications previously approved by the Board or by the committee. Nothing contained herein shall be construed to limit the right of an owner to paint the interior of the structure on his lot any color desired.

Landscaping of patios or yards visible from the street or from the common area not involving the use of natural plants, grass, trees, or shrubs, which does involve the use of synthetic materials or of concrete, rock, or similar materials, shall not be undertaken by any owner until plans and specifications showing the nature, kind, shape, and location of the materials shall have been submitted to and approved in writing by the Board or by an architectural control committee appointed by the Board.

The architectural control committee shall consist of three (3) members. Declarant may appoint all of the original members of the committee and all replacements until the first anniversary of the issuance of the original final public report for the project. The Declaraant reserves to itself the power to appoint a majority of the members to the committee until ninety percent (90%) of all lots in the project have been sold or until the fifth anniversary of the issuance of the final public report for the project, whichever occurs first. After one (1) year from the date of issuance of the original public report for the project, the Board shall have the power to appoint one (1) member tc the architectural control committee until ninety percent (90%) of all the lots in the project have been sold or until the fifth anniversary date of the issuance of he final public report for the project, 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

architechural control committee by the board shall be from the membership to the Association. Members appointed to the architectural control committee by the Declarant need not be members of the Associaton. A majority of the architectural control committee may desigate a representative to act for it. In the event of death or resignation of any member of the committee, the successor shall be appointed by the person , entity or group which appointed such member until Declarant no longer has the right to appoint any members to the committee, and thereafter the Board shall appoint such successor. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services perfomed pursuant hereto. In the event the committee fails to approve or disapprove plans and specifications within (30) days after the same have been submitted to it, approval will not be required and the related convenants shall be deemed to have been duly complied with.

7.10 Drapes: All drapes, curtains, window coverings, shutters or blinds visible from the street or common areas shall be of colors, material and patterns which are approved by the Board or its authorized committee.

7.11 Clothes Lines: There shall be no outside laundering or dying of clothes, except inside fenced areas with clothes to be hung below fence level so as not to be visible from the streets or common area or other lots.

7.12 Power Equipment and Car Maintenance: No power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the property except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval the Board shall consider the effects of noise, air

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pollution, dirt or grease, fire hazard, intereference with radio or television reception, appearance and similar objections.

7.13 Liability of Owners for Damage to common area: The owner of each lot shall be liable to the Association for all damage to the common area or improvements thereon caused by such owner or any occupant of his lot or guest or by an owner's pet, except for that porion of said damage, if any, fully covered by the insuance. Liability of an owner shall be established only after notice to the owner and hearing before the Board. In the event an owener disagrees with the decision of the Board on the question or liability, the owner may petition a court of law or submit the matter to arbitration under the rules of the American Arbitration Associaion.

7.14 Basketball Standards: No basketball apparatus attached to the exterior of any building or affixed to the common area shall be permitted on the property without the consent of the Board.

ARTICLE VII

GENERAL PROVISIONS

8.1 Enforcement: The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws or the Articles, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by Court. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Invalidity of any Provision: Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this project is situated, the validity of all other

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provisions and portions hereof shall remain unaffected and in full force and effect.

8.3 Term: The covenants and restrictions of this Declaration shall run with and bind the property, and shall inure to the benefit of and shall be enforceably by the Association or the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of five (5) years, unless an instrument in writing, signed by a majority of the then owners of the lots, has been recorded within the year preceeding the beginning of each successive period of five (5) years, agreeing to change said covenants and restrictons in whole or in part, or to terminate the same.

8.4 Amendments: Prior to close of escrow on the sale of the first lot, Declarant may amend this Declaration with the consent of the Department of Real Estate as to any amendment constituting a material change. After sale of the first lot, this Declaratin may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing 67% of the total voting power of the Association and 67% of the affirmative votes or written consent of the members other than the Declarant, or when the two (2) class voting structure is still in effect, a majority of each class membership. Provided however, that the percentage of the voting power necessary to amend a specified clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

8.5 Encroachment Easements: Each lot within the property is hereby declared to have an easement over all adjoining lots and the Common Area for the purpose of accommodating any encroachment due to minor

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engineering errors, minor errors in the original construction, reconstruction, repairs, settlement, shifting, or movement of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment,settlement, or shifting; provided, however,that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occured due to the intentional conduct of said owner or owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each lot agree that minor encroachments on adjoining lots or common area shall be permitted and that there shall be valid easements for the maintenance of said encroachment so long as they shall exist.

8.6 Rights of First Lenders. No Breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) on any lot made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in the subdivision documents to the contrary, first lenders shall have the following rights:

A. Copies of Subdivision Documents: The Association shall maintain and make available to lot owners and lenders, and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Bylaws, Articles or other rules concerning the project and the books, records, and financial statements of the Association. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances.

B. Any first mortgage holder shall be entitled, upon written request, to have an audited financial statement for the immediately preceeding fiscal year prepared at its expense if one is not otherwise available. Such statement shall be furnished within a reasonable time following such request.

C. Notice of Action: Upon written request to the Association, identifying the name and address of the eligible mortgage holder or eligible insurer or guarantor, and the lot number or address, such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of: (1) condemnation loss or any casualty loss which affects a material portion of the common area, (2) any default in performance of obligations under the project documents or delinquency in the payment of assessments or charges owed by an owner of a lot subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days, (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (4) any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in Section 8.6D. The Association shall discharge its obligation to notify eligible holder or eligible insurers or guarantors

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by sending written notice required herein to such parties at the address given on the current request for notice, in the manner prescribed by section 8.16.

D. Consent to action:

(1) Except as provided by statue in case of substantial destruction or condemnation of the project, and further excepting any reallocation of interests in the common area:

(a) The consent of owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated and the approval of eligible mortgage holders on lots which have at least sixty-seven percent (67%) of the votes of lots subject to eligible holder mortgages, shall be required to terminate the legal status of the Association.

(b) The consent of owners of lots to which at least sixty-seven (67%) of the votes in the association are allcated and the approval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of the lots subject to eligible holder mortgages, shall be required to add or amend any material provisions of the subdivision documents which establish, provide or, govern or regulate any of the following: (i) voting; (ii) assessments, assessments liens or subordination of such liens; (iii) reserves for mainteance, repair, and replacement of the Common Area(s); (iv) insurance or fidelity bond; (v) rights to use of common areas; (vi) responsibility for maintenance and repair of the several portions of the project; (vii) boundaries of any lot; (viii) convertibility of lots into common areas or of common areas into lots; (ix) leasing of lots; (x) imposition of any right of first refusal or similar restriction on the right of a lot owner to sell, transfer or otherwise convey his or her lot; (xi) any provisions

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which are for the express benefit of mortgage holders eligible insurers or guarantors of first mortgage on lots.

(c) An addition or amendment to such document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(2) Except as provided by statute in case of condemnation of substantial loss to the Common Area, unless the holder(s) of at least two-thirds (2/3) of the first mortgages (based upon one vote for each first mortgage owned), or owners of the lots have given their prior written approval, the Association and/or the owners shall not be entitled to:

(a) Change the pro rata interest or obligations of any individual lot owner for the purpose of: (i) levying assessments or charges of allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each lot in the Association.

(b) Partition or subdivide any lot.

(c) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this clause.)

(d) Use hazard insurance proceeds for losses to any structure or Common Area property for other than the repair, replacement or reconstruction of such structures or Common area property.

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E. The subdivision documents contain a provision creating a "right of first refusal," but any such right shall not impair the rights of any first lender to: (1) foreclosure or take title to a lot pursuant to the remedies provided in the mortgage, or (2) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or (3) sell or lease a lot acquired by the mortgagee.

F. Contracts; Any agreement for professional management of the project, or lease or any other contract providing for services of the developer, sponsor, or builder, may not exceed one (1) year. Any agreement, contract, or lease, including a management contract entered into prior to passage of control of the Board of Directors of the Association to lot purchasers, must provide for termination by either party for cause on thirty (30) days' written notice, or without cause and without payment of a termination fee or penalty on ninety (90) days' or less written notice.

G. Reserves; Association dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those improvements which the Association is obligated to maintain that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessment.

H. Working Capital: A working capital fund must be established for the initial months of the Associations operation equal to at least a two (2) months' estimated Common Area charge for each lot. Each lot's share of the working capital fund must be collected and transferred to the Association at the time of closing of the sale of each lot and maintained in a segregated account for the use and benefit of the Assocation. The contribution to the working capital fund for each unsold lot shall be paid to the Association within sixty (60) days after the date of

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conveyance of the first lot. The purpose of the fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be condsidered as advance payments of regular assessmets. Any time after the close of escrow on the sale of the last lot of the project, the Board, at its discretion, may eliminate the requirement for keeping the working capital fund. Declarant may require buyers of lots to reimburse Declarant at the close of escrow for such payments, along with payment for prorated assessments.

I. Priority of Liens; Each holder of a first mortgage lien on a lot who comes into possession of the lot by virtue of foreclosure of the mortgage, or any purchaser at a foreclosure sale under a first deed of trust, will take the lot free of any claims for unpaid assessments and fees, late charges, fines or interest levied in connection therewith, against the lot which accrue prior to the time such holder comes into possession of the lot, except for claims for pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charge to all lots, including the mortgaged lots, and except for assessments liens recorded prior to the mortgage.

J. Distribution of Insurance or Condemnation Proceeds: No provision of the subdivision constituent documents gives a lot owner, or any other party, priority over any rights of first mortgagees of lots pursuant to their mortgages in the case of the distribution to lot owners of insurance proceeds or lot awards for losses to or taking of lots and/or common areas.

K. Restoration or Repair: Any restoration of the structures or Common Area, after partial condemnation or damage due to an insurarable

hazard, shall be performed substantially in accordance with the Declaration and the orignal plans and specification, unless other action is approved by eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible holder mortgages.

L. Reallocation of Interests: No reallocation of interest in the Common Areas resulting from a partial condemnation or partial destruction of the project may be affected without the prior approval of eligible mortgage holders holding mortgages on all remaining lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining lots subject to eligible holder mrtgages.

M. Termination of Professional Management: When professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to establish self management by the Association shall require the prior consent of the owners of lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the appproval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible mortgages.

8.7 Owner's Right and Obligation to Maintainand Repair: Except for those portions of the project which the Association is requied to maintain, repair, or rebuild, each lot owner shall, at his sole cost and expense, shall maintain, repair and rebuild his lot and the structures placed therein keeping the same in good condition, subject however to dispostion of insurance proceeds as set forth in Section 8.8.

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8.8(1) Insurance; Damage or Destruction : In the event of damage to or destruction of any structure, the same shall be reconstructed as soon as reasonably practicable and substantially in accord with the original plans and specifications therefore.

Each lot owner appoints the Association, or any insurance trustee to be designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining insurance, including: The collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association or any insurance trustee shall be required to receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for lot owners and their first mortgage holders, as their interests may appear.

The Association shall obtain and continue in effect a master policy of insurance covering all of the personal property and supplies of the Association; all of the real property and improvements of the project, including the common area and all fixtures and building service equipment therein; the structures and any fixtures, equipment, or property therein existing upon construction of the project; all for the protection of the interests of the Association and its members, including, without limitation, fire and extended coverage and special form insuring one hudred percent (100%) of current replacement costs of all improvements in the project, including the structures, according to the original as-built plans and specifications. The Association shall also obtain and continue in affect comprehensive general liability insurance insuring the Association and each owner for his liability for the common area only, and fidelity bond covering officers, directors and

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employees in an amount to be determined by the board, but in no event less than a sum equal to three (3) months' assessmets on all lots plus reserve funds.

All insurance shall contain "severability of interest provision", "cross liability endorsement" and "waiver of subrogation" as to the Association, officers, directors, members, guests, agents and employees.

The master policy shall be issued in the name of the Association for the use and benefit of the owners.

The minimum limits on the liability insurance policy shall be $1,000,000 single limit and shall include personal injury, bodily injury, property damage and liability for non-owned automobiles. In addition, the Association shall obtain and continue in effect additional umbrella coverage of $1,000,000 or as an alternative may carry a $2,000,000 single limit policy to the extent required to comply with any applicable law. Officers' and directors' liability insurance shall be carried by the Association to cover persons serving in such capacities and to cover committee members, if available.

Where the project is located within an area having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Association shall obtain and pay as a common expense, the premiums upon a master policy of flood insurance on the buildings and any other property covered by the required form policy (herein "insurable property"), in an amount deemed appropriate, but not less than the following: The lesser of: (1) the maximum coverage available under the NFIP for all buildings and other insurable property within any portion of the project located within a designated flood hazard area; or (2) one hundred percent (100%) of

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current "replacement costs" of all such buildings or other insurance property.

It is the responsibility of each owner to insure his personal property (if he desires) and the improvements and betterments added to his lot or structures since the time of the original sale, together with additional living expense coverage and public liability insurance for his lot. Each owner shall maintain a separate policy or policies of insurance to the extent he or she so chooses, except that by so doing, the duties imposed upon the Association shall not be defeated or superceded thereby. Any such policies of insurance maintained by an owner shall contain a waiver of subrogation provision. No owner shall commit or permit any act or acts on his lot or use his structure or suffer them to be used in any manner which will increase fire or other insurance policies maintained by the Association or which will cause cancellation of any said insurance policy or any part thereof. An owner shall, at the owner's expense, comply with any and all requirements of the Association's insurance carriers pertaining to the project or his structure necesary for the continued maintenance of the insurance policies required of it to be kept.

Insurance premiums for the master policy shall be a common expense to be included in the monthly assessments levied by the Association and the portion of such payment necessary for the insurance premiums shall be held in a separate account of the Association and shall be used solely for the payment of the master insurance policy premiums as such premiums become due.

Each buyer of a lot shall pay the portion of the premium(s) attributable to his lot (prorated to the date of close of escrow) for the policy or policies purchased by Declarant for the Association.

All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies are sufficient to make any necessary repairs and replacement of the property which may ave been destroyed.

8.8(2) Repair, and Reconstruction, Structures : If any of the structures are damaged or destroyed by fire or other casualty, they shall be repaired or reconstructed in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes in force at the time of such repair or reconstruction, or in accordance with such other plans and specifications as may be approved by the association and the respective first mortgagees. Any funds necessary to rebuild or reconstruct the damage or destroyed area which exceeds the applicable insurance proceeds available therefore, shall be deposited with a commercial lending institution pursuant to paragraph 8.8(3)C by the owner whose lot or structure is to be repaired or reconstructed within ninety (90) days from written notice by the Board of the amount of the excess required to rebuild or repair said owner's structure. If the owner fails to make the required deposit of funds necessary to rebuild or reconstruct his structure within said ninety (90) day period, then the insurance proceeds available for that structure shall be disbursed as follows:

First, to the mortgages in order of their priority to the extent of monies owed such mortgagees;

Second, to the cost of removing any remaining or destroyed portions of the project improvements and complying with all other applicable requirements of governmental agencies;

Third, to the applicable owner.

An owner shall be entitled to repair or reconstruct his structure

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at any time provided, however, any repair or reconstruction shall conform to the original as-built plans and specifications, subject to applicable building codes in force at the time of the repair or reconstruction, or otherwise based upon plans and specifications approved by the Board of Directors of the Association.

8.8(3) "Repair and Reconstruction, Common Area" If any common area improvements are materially damaged or destroyed by fire or other casualty (materially damage is defined for the purposes of this section as any damage for which the cost of repair and reconstruction is more than fifty percent (50%) of the full replacement value of the improvements), the improvements shall be repaired or reconstructed in accordance with the original as built plans and specifications unless the owners vote not to undertake such repair or reconstruction in a special election held in accordance with the following procedures:

A. In the event any portion of the Common Area improvements are materially damaged (as defined above) or destroyed, a special election shall be held, after not less than thirty (30) days written notice to all owners, and their first mortgagees of record, at a suitable location on the property, or as close thereto as practicable, which location shall be specified in such notice.

B. The Common Area shall be repaired or reconstructed in accordance with the original as-built plans and specifications as hereinafter provided, unless: (1) in such special election at least two-thirds (2/3) of the total voting power of the Association, residing in members other than the Declarant, votes against such repair or reconstruction; or (2) the available insurance proceeds plus reserves of the Association are inadequate to pay the cost of repair or

reconstruction and a special assessment in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year is required to provide such funds and assessments fails to pass by a majority vote as provided in Section 4.4.

C. In the event the requisite number of votes are not cast against such repair or reconstruction, and if a special assessments in excess of five percent (5%) (if required) passes, all of the insurance proceeds payable on account of such damage or destruction shall be made available for such repair or reconstruction and shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "Depository) together with all insurance proceeds available for the repair or reconstruction of a structure, if applicable. The Depository shall be appointed by the Association. Such funds shall be disbursed in accordance with the normal construction loan practices for the Depository, which are reasonably acceptable to the Association. The restoration or reconstrucion shall be substantially in accordance with the original as-built plans and specifications for the building, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction or in accordance with such other plans and specificatons as may be approved by the Association, and the respective first mortgagees.

D. In the event the insurance proceeds available for repair or reconstruction of the Common Area are less than the total cost of such repair or reconstruction the Association may use sums from its account or if necessary from levying special assessments on the members to restore or rebuild the area affected, provided that any assessments that exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year shall require the vote or written assent of a majority

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of the voting power of the Association residing in members other than the Declarant and provided, further, if such special assessment fails to be approved by the requisite majority, and the Common Area cannot be repaired or reconstructed without the funds from such special assessments, the provisions of paragraph E, below, shall apply, and if the first lenders are unable or unwilling to supply necessary funds, the provisions of paragraph F, below, shall apply.

E. In the event any portion of the Common Area has been damaged or destroyed and that portion of the insurance proceeds applicable to the damage or destruction is insufficient to reconstruct or repair the damaged or destroyed portion, the Association shall supply the excess funds required to restore or rebuild the affected area as provided in D, above; provided, however that in the event the Association and the members refuse or are unable to supply such excess funds, the first lenders of the lots shall have the option of supplying such excess funds or of applying that portion of the insurance proceeds allowable to that damaged or destroyed area to the debt secured by such mortgagee's mortgages or deeds of trust, as provided in paragraph F, below.

F. In the event the owners elect not to repair or reconstruct the Common Area or elect not to approve a special assessment to provide funds for rebuilding as provided in B and D above, the insurance proceeds payable on account of such damage or destruction shall be disbursed as follows; and in the event of partition and sale the proceeds of a sale shall be disbursed as follows:

First, to the mortgages in order of their priority to the extent of monies owed such mortgagees;

Second, to the cost of removing any remaining or destroyed portions of the project improvements and complying with all other

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applicable requirements of governmental agencies;

Third, to the owners in proportion to the respective fair market values of their structures and their interest in the common area at the time of destruction as determined by the Association, provided, however, that if any owner or mortgagee protests the proposed distribution based upon said fair market value as so determined, a licensed independent appraiser acceptable to the Association and to the protesting members or mortgagees shall be appointed by the Association to make the determination of the respective fair market values of the units at the time of the destruction. In the event of a failure to agree upon an appraiser, the appraiser shall be appointed by the then president of San Luis Obispo County Bar Association.

G. In the event there is any damage or destruction to the project improvements which is not material, as that term is defined above, the damaged improvements shall be repaired and reconstructed (without the necessity of any special election) in accordance with the application provisions of this section 8.8.

Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property shall require the approval of the eligible holders holding mortgages on lots which have at least fifty one percent (51%) of the votes of lots subject to eligible holder mortgages.

8.8(4) Adminstration of Construction and Construction Funds.

A. The Association shall designate a construction general contractor (the "General Contractor") and the architect (the "Architect") for the repair or reconstruction contemplated by this Section 8.8. In the event of a dispute regarding the selection of the General Contractor

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and the Architect, the selection of such individuals or firms shall be submitted to and be subject to the rules of the American Arbitration Association.

B. The insurance proceeds payable on account of such damage or destruction shall be deposited with the Depository and shall be disbursed in accordance with the normal construction loan practices of the Depsoitory and upon the certification of the general Contractor and Architect dated not more than ten (10) days prior to any such request for disbursement, setting forth the following:

(1) That all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

(2) That such disbursement request represents monies which either have been paid by or on behalf of the General Contractor or the Architect and/or are justly due to contractors, materialmen, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services of material for the work and giving a breif discription of such services and materials and the principal subdivisions or categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

(3) That the sum then requested to be disbursed plus all sums previously disbursed does not exceed the cost of the work insofar as actually accomplished up to the date of such certificate;

(4) That no part of the cost of the services and material described in the foregoing paragraph (1) has been or is being made based upon previously disbursed funds; and

(5) That the amount held by the Depository will, after

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payment of the amount requested in the pending disbursement request, be sufficient.

C. All such funds to be supplied by the Association, or individual owners, shall be depsoited with the Depository and shall be disbursed pursuant to the provisions of this Section. In the event that there is any dispute over the allocation of insurance proceeds or the amount of funds in excess of the insurance proceeds which any party is to deposit with the Depository such dispute shall be submitted to and be subject to the rules of the American Arbitration Association.

8.9 Condemnation: The Assocation shall represent the lot owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the project, or part thereof. In the event of taking or acquisitions of part or all or of the project by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or the trustee, for the use and benefit of the lot owners and their mortgagees as their interests may appear. In the event of an award for taking of any lot in the project by eminent domain, the owner of such lot shall be entitled to receive the award for such taking and after acceptance thereof he and his mortgagee shall be divested of all interest in the project if such owner shall vacate his lot as a result of such taking. The remaining owners shall decide by majority vote whether to rebuild or repair the project, or take other action. The remaining portion of the project shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such taking. In the event of taking by eminent domain of any part of the project, the association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where lots and strutures are not valued separately by the

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condemning authority or by the court. Proceeds of condemnation shall be distributed among owners of lots and their respective mortgagees according to the relative values of the lots and structures affected by the condemnation, said value to be determined by the method provided in Section 8.8(3)F.

8.10 Limitation of Restrictions on Declarant: Declarant is undertaking the work of construction of residential dwelling and incidental improvements upon the subject property. The completion of that work and the sale, rental, and other disposal of said lots is essential to the establishment and welfare of said property as a residental community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, its contractors or subcontractors from doing on the property or any lots, whatsoever is reasonably necessary or advisable in connection with the completion of said work; or

B. Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

C. Prevent Declarant from conducting on any part of the property its business of completing said work and disposing of said property by sale, lease or otherwise (including use of one or more lots as a sales office); or

D. Prevent Declarant from maintaining such sign or signs on

any of the property as may be necessary for the sale, lease or disposition thereof.

The foregoing limitations for the the application of the restrictions to Declarant shall terminate upon sale of Declarant's entire interest in the project, or three (3) years after the date of recordation of the deed of the first lot to be sold, whichever occurs first.

So long as Declarant, its successors and assigns, owns one or more of the lots described herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration. Declarant shall make reasonable efforts to avoid disturbing the use and enjoyment of their lots (and the common area) by owners, while completing any work necessary to said lots or common area.

8.11 Prior City Approval Regarding Common Area: Any other provisions of this Declaration, the Bylaws or Articles notwithstanding, the Association shall have no right either to: Partition, divide, subdivide, sell, convey, transfer, alienate, lease, rent, abandon, segregate for tax purposes, hypothecate, encumber, lien, charge, obstruct or dedicate the common area or any other portion thereof, or to make any amendment to this Declaration, Bylaws or Articles without the prior written approval of the City of Atascadero, which approval shall not be unreasonably withheld as long as the same are in conformance with all applicable City laws and policies and are not contrary to the public health, safety or welfare; or to in any manner negate or defeat the obligation of the Association to maintain the Common Area in a first class condition and good state of repair, and/or defeat any provison providing for assessment and collection of funds for the maintenance and upkeep of the Common Area.

8.12 Right of Entry: The City of Atascadero shall have the

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reasonable right of entry over and upon the property for operation, maintenance, repair and reconstruction of the City sewer mains and facilities, and also for any and all purposes relating to public safety, including inspection. Such right shall not be deemed to give any person or entity or to the general public any right of entry thereon. Said city shall also have the right to remove any vehicles from any portion of the project as necessary to maintain access for emergency vehicles.

8.13 Termination of any Responsibility of Declarant: In the event Declarant shall convey all of its right, title and interest in and to the property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relievecd of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

8.14 Owners' Compliance: Each tenant or occupant of a lot shall comply with the provisions of this Declaration, and the extent they are not in conflict with the Declaration, the Articles, or the Bylaws, decisions and resolutions of the Association or its duly authorized representative as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due for damages, or for injunctive relief.

All agreements and determinations lawfully made by the association in accordance with the voting percentages established in the Declaration or in the Bylaws shall be deemed to be binding on all owners of the lots, their successors and assigns.

8.15 Where the project includes common area or other

improvements which have not been completed prior to the close of escrow on the sale of the first lot, and where the Association is obliged under a bond or other arrangement (hereafter "Bond") to secure performance of the commitment of Declarant to complete said improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvement for which a notice of completion has not been filed within sixty (60) days after the completion date specified fo that improvement in the planned construction statement appended in the bond. If the Association has given an extension in writing for the completion of any common area improvement, the board shall consider and vote on the aforesaid quesion if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. A special meeting of members of the association for the purpose of voting to override a decision by the board not to initiate action to enforce the obligations under the bond or on the failure of the Board to consider and vote on the question shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by members representing five percent (5%) or more of the total voting power of the Association. At a special meeting a vote of a majority of members of the association other than the Declarant shall be required to take action to enforce the obligation under the bond and a vote of a majority of the voting power of the Association, excluding Declarant shall deemed to be the decision of the Association, and the board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

8.16 Notice: Any notice permitted or required by the Declaration, the Bylaws or Articles may be delivered either personally or

by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or given addressed to the lot of such person if no address has been given to the Secretary.

8.17 Fair Housing: No owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of his unit to any person of a specified race, sex, marital status, color, religion, ancestry, physical handicap,or national origin.

8.18 Density Bonus Project; City Approval of Alienation and First Right of Refusal: The Project is to be developed under approval prescribed by Section 9-3.175, City of Atascadero Ordinances, which sets forth certain criteria for maintaining availability of units for persons and families of low or moderate income, as defined in Section 50093 of the California Health and Safety Code. To meet the intent of said Section 9-3.175, as determined by the City of Atascadero Planning Commission on January 16, 1984 and approved by the Atascadero City Council on January 23, 1984, the following restraint on alienation of any unit shall apply:

> For a period of 15 years after the date of recording of this Declaration of Covenants, Conditions and Restrictions, a lot may be conveyed only to persons who have been certified as having any one of the following median household incomes within the County of San Luis Obispo, as such median income is determined from time to time by the Housing Authority of the County of San Luis Obispo:

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1. Households of one person: 120% or less of County median;

2. Households of two or more persons: 135% or less of County median;

3. Households of four or more persons: 150% or less of County median;

Eligibility according to the above criteria shall be determined by the Planning Director of the City of Atascadero, California upon application by any prospective purchaser and the director shall certify such eligibility in writing and in recordable form, referring to this section of this Declaration.

In the event a lot owner shall wish to sell his lot to a purchaser who does not meet the above criteria, and a lot owner has received a bona fide offer therefor from a prospective purchaser, the lot owner shall give written notice of such offer together with an executed copy of the offer, to the Planning Director for the City of Atascadero. The City of Atascadero may purchase said lot at the same price and on the same terms as offered by the proposed purchaser, provided written notice of such election to purchase is given to the selling owner, and a matching downpayment or deposit is provided to the selling owner during the fifteen (15) day period immediately following the delivery of the notice of the offer and a copy thereof to the Planning Director for said City.

In the event any owner shall attempt to sell his lot without offering the City of Atascadero the right of first refusal herein provided for, such sale shall be null and void. If said City fails to so notify the lot owner within said

fifteen (15) days, the lot Owner may sell to said purchaser in accordance with said terms.

The failure or refusal of the City of Atascadero to exercise the right of first refusal shall not constitute a waiver of such right to purchase the lot when the owner receives any subsequent bona fide offer from a prospective purchaser, or receives an offer containing different terms and conditions. However, should the City of Atascadero fail to exercise its right of first refusal, any sale of a lot shall be deemed in compliance with both Ordinance Section 9-3.175 and any condition imposed by Use Permit CUP 1-83 (Dunn) relating to density bonus lots.

The right of first refusal reserved herein shall not affect the right of any owner to subject his lot to a deed of trust, mortgage or any other security instrument. Any institutional lender coming into the possession of a lot pursuant to the remedies provided in a mortgage or foreclosure or deed in lieu of foreclosure, shall be exempt from any right of first refusal. A lot owner may sell or give his lot to his spouse, his children, his parents, or his brothers and sisters, or to a trust or trusts created for the benefit of any one or more of them, without first offering to sell the unit to the City of Atascadero.

No later than ten (10) days from a request to change the ownership of a lot on its books and records, the Board of Directors of the Association shall provide written notification to the Planning Director of the City of Atascadero of said request, stating the name, address and lot number of the party

who is to be reflected as the new owner of said lot. The Board of Directors of the Assocation shall also cause to be provided to the Planning Director of the City of Atascadero an annual report stating the names, addresses and lot numbers of all changes in ownership reflected on its books and records for the preceding fiscal year of the Association. Said report shall be provided to the Planning Director no later than forty-five (45) days from the end of each fiscal year.

These restrictions on transfer shall terminate automatically without further act of any party fifteen (15) years following the recording of this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 7th day of May, 1984.

L.W.D., INC., a California Corporation:

By: _____
LOIS A. DUNN, Its President

By: _____
WALLACE E. DUNN, Its Vice President

ACKNOWLEDGEMENTS

State of California
County of San Luis Obispo

On MAY 7, 1984, before me, the undersigned a Notary Public in and for said State, personally appeared LOIS A. DUNN and WALLACE E. DUNN known to me or proved to be the President and Vice President of the Corporation described in and that executed the within instrument, and acknowledged to me that such Corporation executed the same pursuant to its Bylaws or a Resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Luis Obispo, State of California.

Frances J. Dillon

Notary Public

OFFICIAL SEAL
FRANCES J. DILLON
Notary Public-California
Principal Office in
San Luis Obispo County
My Comm. Exp. Nov. 17, 1987

END OF DOCUMENT