If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

RECORDING REQUESTED BY CONTINENTAL LAWYERS TITLE

DOC # 1996-0154501
28-MAR-1996 02:58 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY SMITH, COUNTY RECORDER
RF: 57.00 FEES: 163.00
AF: 105.00
MF: 1.00

RECORDING REQUESTED BY:
Higgs, Fletcher & Mack LLP
401 West "A" Street, Suite 2000
San Diego, California 92101
Attention: Linda M. Woolcott

1885

AND WHEN RECORDED MAIL TO:
Higgs, Fletcher & Mack LLP
401 West "A" Street, Suite 2000
San Diego, California 92101
Attention: Linda M. Woolcott
196864-05

Space Above This Line For Recorder's Use

ENABLING DECLARATION

OF

REDEVELOPMENT AGENCY OF THE CITY OF SAN MARCOS

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Establishing A General Plan For Condominium Ownership

This Declaration is made this 25th day of March, 1996 by the Redevelopment Agency of the City of San Marcos, a public body corporate and politic, hereinafter referred to as "Declarant" with reference to the following facts.

A. Declarant is the Owner of a certain real property in the City of San Marcos, County of San Diego, State of California, more particularly described on the attached Exhibit "A" (the "Property").

B. Said Property has been improved by the construction thereon of one hundred ninety (190) mobile home spaces. Pursuant to the general plan set forth in this Declaration, Declarant intends to subdivide into units and lots, to improve the units and lots and to create a planned development common interest condominium project subject to the provisions of the Davis-Sterling Common Interest Development Act contained in Division II, Part 4, Title 6 of the California Civil Code (the "Act").

C. The development shall be referred to as the "Project" as defined in Article I herein. Each Owner will receive a separate interest in an individual space within the Project ("Unit") and an undivided interest as tenant in common in the land underlying the Units. In addition, each Owner shall receive as an appurtenant interest in his or her Unit, a membership in the Twin Oaks Valley Community Association, a nonprofit mutual benefit corporation, which corporation shall own the Common Area (as defined below) of the Project.

D. 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 Units and the Owners thereof.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, conveyed, divided, encumbered, leased, rented, used, occupied, sold, Mortgaged and improved only upon and subject to, the following uniform covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes, all of which are hereby declared, established, expressed and agreed: (1) to be in furtherance of a plan for the subdivision and sale or lease of Units in the Project; (2) to be for the benefit and protection of the Project, its desirability, value and attractiveness; (3) to be for the benefit of Owners, as hereinafter described, in the Project; (4) to run with the land and be binding upon all parties having or acquiring any right, title or interest in the Project or any portion thereof; (5) to inure to the benefit of every portion of the Project and any interest therein; and (6) to inure to the benefit of and be binding upon each successor and assignee in interest of each Owner. Any conveyance, transfer, sale, assignment, lease or sublease made by each current or future Owner of a Unit in the Project, will and hereby is, deemed to incorporate by reference, the provisions of this Declaration, including, but not limited to, covenants, conditions, restrictions, limitations, grants of easements, rights-of-way, rights, liens, charges and equitable servitudes contained herein. The Association or any Owner shall have a right of action against any Owner and any Owner shall have a right of action against the Association to enforce by proceedings at law or in equity all restrictions, conditions, covenants and reservations now or hereafter imposed by the provisions of this Declaration or any of the other Project Documents (hereinafter defined), except that only the Association shall have a right of enforcement with respect to Assessment liens.

ARTICLE I

DEFINITION OF TERMS

1.1 Definition of Terms. Whenever used in this Declaration, the following terms shall mean:

"Agency" means the Redevelopment Agency of the City of San Marcos or its successors and assigns.

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

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

"Association" shall mean and refer to Twin Oaks Valley Community Association, a non-profit mutual benefit corporation, incorporated under the laws of the State of California for the purpose of managing the Property. Each Owner shall become a Member of the Association contemporaneously with the acquisition of his or her Unit, without further documentation of any kind.

"Association Property" shall mean all real property and the improvements thereon, owned in fee, by easement or leased from time to time by the Association for the common use and enjoyment of the Owners. The Association Property shall include, without limitation, the easement for the benefit and use of the Owners for ingress and egress to the Property but shall specifically not include Units that may be owned by the Association, if any, for sale or lease to the public.

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

"Bonds" means $6,000,000 San Marcos Public Facilities Authority Revenue Bonds, Series 1994 (Rancheros Mobile Home Park).

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

"**Common Area**" shall mean Lot A of the Project owned by the Association for the common use and enjoyment of the Owners and those portions of Lot B of the Project which the Association has the obligation to manage and maintain.

"**Common Expense**" shall mean and include the actual and estimated expenses of maintaining, managing, repairing and operating the Common Area and Management Units, if any, and any reasonable reserve for such purpose as found and determined by the Board, management and administration services and expenses of the Association, taxes, insurance and fidelity bonds maintained by the Association, security and utility systems or services, including without limitation, costs of water, electricity, propane and trash collection provided to the Association and the Owners to the extent not billed to the Owners, or any other expenses in connection with the Common Area or the Association.

"**Condominium Plan**" shall mean and refer to the recorded plan of the Units on the Project which identifies the Common Area and each Unit and shows its dimensions pursuant to Civil Code Section 1351, a copy of which Plan was recorded on the _____ day of ____________________, as Instrument No. _________ of Official Records San Diego County.

"**Declarant**" shall mean and refer to Redevelopment Agency of the City of San Marcos, and any successor and assignee that expressly assumes the rights and duties of the Declarant hereunder in a recorded written document.

"**Declaration**" means this Enabling Declaration of the Redevelopment Agency of the City of San Marcos, and any amendments thereto.

"**First Mortgage**" shall mean and refer to a Mortgage which has priority over all other Mortgages encumbering a Unit.

"**Foreclosure**" shall mean and refer to the legal process by which the mortgaged property of a borrower in default under a Mortgage is sold, and the borrower's interest in such Property is sold, pursuant to California Civil Code Section 2924a et seq. or sale by the Court pursuant to California Code of Civil Procedure Section 725a et seq. and any other applicable law.

"**Management Unit(s)**" means one or two Units purchased by the Association pursuant to Section 4.3(p) for space for the manager's residence.

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

"**Mortgage**" means a mortgage or deed of trust encumbering a Unit.

"**Mortgagee**" **and** "**First Mortgagee**" means a Person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a Mortgage. "Mortgagee" also means a Mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on the security of real property or invests in such loans or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Government National Mortgage Association ("GNMA"). "First Mortgagee" means a Mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Unit or other portion of the Project. The term "beneficiary" shall be synonymous with the term "Mortgagee."

"Mortgagor" means a Person who mortgages.his, her or its property to another (i.e., the maker of a mortgage), and shall include the trustor of a deed of trust. The term "Trustor" shall be synonymous with the term "Mortgagor."

"Owner" shall mean and refer to the record holder or holders of title, if more than one, of a Unit in the Project. This shall include any Person having a fee title to any Unit, including contract Sellers, but shall exclude Persons or entities having any interest merely as security for the performance of an obligation. The team "Owner" or "Owners" shall include the Association if it owns any Units. If a Unit is sold under a contract of sale and the contract of sale is recorded, the purchaser, rather than the fee Owner, shall be considered the "Owner" from and after the date the Association receives written notice of the recorded contract.

"Person" shall mean a natural person, corporation, a partnership, a trust, or other legal entity.

"Planned Development" means that certain common interest condominium project subject to the provisions of the Davis-Sterling Common Interest Development Act contained in Division II, Part 4, Title 6 of the California Civil Code.

"Project" shall mean and refer to the Property as it shall be developed pursuant to the Subdivision Map and all improvements on the Property.

"Project Documents" shall mean this Declaration, as amended from time to time, the exhibits, if any, attached hereto, together with the other basic documents used to create and govern the Project, including the Map, the Articles, the Bylaws, and the Condominium Plan (but excluding unrecorded Rules and Regulations adopted by the Board or the Association).

"Property" means and includes the real property described in Exhibit "A," attached hereto, and all improvements erected thereon and all property, real, personal or mixed intended for or used in connection with the Project.

"Rating Agency" means Standard & Poors Ratings Group, its successors and assigns.

"Subdivision Map" means the Certificate of Compliance recorded on August 13, 1995 as File No. 1995-0335159, in the records of San Diego County, State of California.

"Unit" shall mean the elements of the Condominium Plan which are owned by the Owner as a separate interest. Each Unit is defined and identified by a separate number on the Condominium Plan.

ARTICLE II

DESCRIPTION OF LAND AND IMPROVEMENTS

2.1 Condominium Plan Best Authority. The following description is intended for information purposes only and in the event of any conflict between this description and the Condominium Plan, said Plan shall be deemed to conclusively control.

2.2 Property Description. The Property is a Planned Development project consisting of the Property, the Units, the Common Area, and all other improvements located thereon. Reference is made to the Condominium Plan for further details.

2.3 Division of Property. Reference is made to the Condominium Plan for further details.

(a) Units. Each of the Units is separately shown, numbered and designated in the Condominium Plan. Each Unit consists of space the lateral boundaries of which are vertical planes at the limit of the horizontal dimensions shown on the Condominium Plan, and the upper and lower limits of which are horizontal planes as described in the Condominium Plan; each such space shall be defined and referred to herein as a "Unit." The space does not include those areas and those things which are defined as "Common Area" in Article I and 2.3(b), and is subject to the easements described in Section 10.2. Each Unit is subject to such encroachments as are contained in the Project, whether the same now exist or may be later caused or created in any manner referred to in Section 4.4(h). In interpreting deeds and the Condominium Plan, the then existing physical boundaries of a Unit, whether in its original state or reconstructed in substantial accordance with this Declaration, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan regardless of minor variance between boundaries shown on the plan or deed. Each Owner shall have, as appurtenant to his or her Unit an undivided 1/190th interest in Lot B on the Condominium Plan. The common interest appurtenant to each Unit is declared to be permanent in character, and cannot be altered without the consent of all of the Owners affected, as expressed in an amended Declaration in accordance with this Declaration. Each Unit also shall have appurtenant to it a membership in the Association, which is the owner of Lot A of the Common Area and which is responsible for operation and maintenance of Lot B of the Common Area.

(b) Common Areas. The remainder of the Property constitutes and shall be referred to herein as "Common Area" or "Common Areas," and includes, without limitation, all of the elements set forth in Article I. Upon the close of the first sale of a Unit in the Project, the Association shall have the obligation to operate and maintain Lot B of the Common Area as described herein. Prior to the closing of the first sale of a Unit in the Project, Declarant shall convey to the Association title and control of Lot A of the Common Area, free and clear of all liens and encumbrances, except current real property taxes and any reservations, easements, covenants, conditions and restrictions of record, including those contained in this Declaration. The ownership of each Unit shall include an easement for ingress, egress, and support through the Common Area appurtenant to each Unit. These easements shall pass with title to each Unit. Such easement cannot be separated from the Unit to which it is appurtenant, and any conveyance or transfer of the Unit includes the easement, the Owner's membership in the Association, and any other benefits or burdens appurtenant to that Owner's Unit. Each Owner may use the Common Areas in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other Owners as further described in Section 2.4 below.

(c) Parking. All Common Area parking spaces shall remain permanently available for guest parking.

2.4 Owners' Easements of Enjoyment. Every Owner shall have a right of enjoyment in and to the Common Area which shall be subject to the following:

(a) The right of the Association to suspend the voting rights and the right to use the recreational facilities by an Owner for any period during which the Assessment against his or her Unit remains unpaid; and for a period as set forth in the Bylaws for any infraction of its published Rules and Regulations after a hearing by the Board of Directors of the Association.

(b) The right of the Association to impose a monetary penalty upon an Owner for punitive damages and/or to reimburse the Association for costs incurred by it to repair any damage to the Common Areas or facilities as a result of a condition caused by violation of any of the limitations, restrictions, conditions and covenants of the Project Documents. This right shall be in addition to charges and other reasonable late-payment penalties imposed against an Owner because of delinquent Assessments and/or other charges to reimburse the Association for loss of interest and for costs reasonably incurred (including attorneys fees) in its efforts to collect delinquent Assessments and/or any other payment due.

(c) The right of the Association to adopt Rules and Regulations for the use of the Common Area.

2.5 Rights of Entry and Use. The Units and Common Area shall be subject to the following rights of entry and use:

(a) The right of the Association agents or employees to enter any Unit to cure any violation of this Declaration or the Bylaws, provided that the Owner has received notice and a hearing as required by the Bylaws (except in the case of an emergency) and the Owner has failed to cure the violation within thirty (30) days after the finding of a violation by the Association.

(b) The access rights of the Association to maintain, repair or replace improvements or property located in the Common Area described in Section 4.4(r).

(c) The rights of the Owners, the Association, and the Declarant to install, maintain, repair or replace utilities as described in Article X.

(d) The encroachment easements described in Section 10.4.

2.6 Partition Prohibited. The Common Areas shall remain undivided as set forth above. Except as provided by California Civil Code Section 1359, 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 Project. Judicial petition by sale of a single Unit owned by two (2) or more persons and division of the sale proceeds is not prohibited hereby but petition of the title to a single Unit is prohibited.

ARTICLE III

OWNERS' ASSOCIATION

3.1 Creation of Association. The management of the Common Area shall be vested in the Association in accordance with its Bylaws. The Owners of all the Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, and of the Articles and Bylaws of the Association. The Owner of a Unit shall automatically, upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as the ownership ceases for any reason, at which time the membership in the Association shall automatically cease. Membership shall be held in accordance with the Articles and Bylaws.

3.2 Transfer of Membership. The Association membership of each Owner shall be appurtenant to the Unit giving rise to such membership, and shall not be assigned, transferred, pledged or alienated in any way, except upon the sale or encumbrance of the Unit 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 Unit. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit, including a transfer on the death of an Owner, shall operate automatically to transfer membership in the Association appurtenant thereto to the new Owner thereof. A Mortgagee does not have membership rights until it obtains title to the Unit by Foreclosure or deed in lieu thereof. No Member may resign his or her membership. On notice of a transfer, the Association shall record the transfer on its books.

3.3 Membership Classes. 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 Unit owned.

Class B. The Class B Member shall be the Declarant. The Class B Member is entitled to three (3) votes for each Unit owned. The Class B membership shall cease and be irreversibly 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 closing of the first escrow in the Project.

3.4 Voting Rights. All voting rights of the Owners shall be subject to the following restrictions, limitations and requirements:

(a) Any action by the Association which must have the approval of the Members before being undertaken shall require the vote or written assent of a majority of each class of membership during the time that there are two (2) 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. After the conversion of Class B membership to Class A membership, any provision herein requiring the approval of Members other than the Declarant, shall mean the vote or written assent of a majority of the total voting power of the Association (including Declarant's vote(s)) and the vote or written assent of a majority of the total voting power of Members other than the Declarant. However, any Unit or Units utilized by the Association as manager residence(s) are not entitled to any vote. Voting rights attributable to Units shall not vest until Assessments have been levied against those Units by the Association.

(b) When more than one (1) person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit. No vote shall be cast for the Unit on a particular matter if a majority of the co-owners present in person or by proxy cannot agree on a vote.

(c) Except as provided in Section 3.3 with respect to Declarant's votes, on each matter submitted to a vote of the Owners, each Owner shall be entitled to cast one vote for each Unit owned. Fractional votes shall not be allowed.

(d) The Board shall fix, in advance, a record date or dates for the purpose of determining the Owners entitled to notice of and to vote at any meeting of Members. The record date for notice of a meeting shall not be more than ninety (90) or less than ten (10) days before the date of the meeting. The record date for voting shall not be more than sixty (60) days before the date of the meeting or before the date on which the first written ballot is mailed or solicited. The Board may also fix, in advance, a record date for the purpose of determining the Owners entitled to exercise any rights in connection with any other action. Any such date shall not be more than sixty (60) days prior to the action.

(e) Every Owner entitled to vote at any election of the Directors may accumulate the Owners' votes and give one candidate a number of votes equal to the number of Directors to be elected multiplied by the number of votes to which the Owner is entitled, or distribute the Owners' votes on the same principle among as many candidates as the Owner thinks fit. No Owner shall be entitled to accumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to voting and an Owner has given notice at the meeting prior to the voting of the Owner's intention to accumulate votes. If any one owner has given this notice, all Owners may accumulate their votes for candidates in nomination.

ARTICLE IV

DUTIES AND POWERS OF OWNERS' ASSOCIATION

4.1 Administration of Project. The Owners, and each of them, together with all parties bounded by this Declaration, covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Bylaws and such Rules and Regulations as may be adopted by the Board, and amendments, changes and modifications thereto, as may come into effect from time to time. In the event of any inconsistency between the provisions of this Declaration and the provisions of the Bylaws, or said Rules and Regulations, the provisions of the Declaration shall prevail.

4.2 Authority of Board and Incorporator. Prior to the organizational meeting and thereafter, until their successors are elected, the initial Board or its duly appointed successors, shall manage the affairs of the Association. The Association, acting through the Board, as constituted from time to time, shall at all times be responsible for the day-to-day operation and management of the affairs of the Association, and shall have the sole power and duty to perform and carry out the powers and duties of the Association as set forth in this Declaration and the Bylaws, together with the powers and duties otherwise expressly delegated to the Board by this Declaration or by the Bylaws, except for action or activity expressly set forth herein or in the Bylaws, or the California Corporations Code, as requiring the vote or assent of Members of the Association, or given percentage thereof.

4.3 Commencement of Association's Duties and Powers. Until incorporation of the Association, all duties and powers of the Association as described herein, including all rights of consent and approval, shall be and remain the duties and powers of Declarant. From and after the date of incorporation of the Association, the Association shall assume all duties and powers, and Declarant shall be relieved of any further liability therefor.

4.4 Powers of the Association and Board.

(a) **General.** The Association shall have all of the powers of a non-profit mutual benefit corporation organized under the California Non-profit Mutual Benefit Corporation law, subject to any limitation set forth in this Declaration or in the Articles and Bylaws of the Association. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it by this Declaration or the other Project Documents.

(b) **Adoption of Rules.** Subject to the provisions of the Project Documents, the Board shall have the right to adopt reasonable Rules and Regulations and to amend the same from time to time, relating, without limitation, to the use, management and control of the Common Area and any recreational and other facilities situated thereon, by Owners and their tenants or guests, and conduct of such Persons with respect to automobile parking, outside storage of boats, trailers, bicycles and other objects, disposal of waste materials, drying of laundry, control of pets and other activities, which, if not so regulated, might detract from the appearance of the Project or offend or cause inconvenience or danger to Persons residing or visiting therein. Such rules may provide that a Special Assessment may be levied against the

Owner whose occupants leave property on the Common Area in violation of the rules. The Board may provide in such rules for reasonable rental and cleanup charges to be made with respect to the use of any storage areas or facilities which may exist upon the Common Area, provided that such charge shall, in no way, impose liability upon the Board or any of its Members for damage or loss to property so stored, it being intended that the use of any such storage area or facility be solely at the risk of the Person using the same. A copy of such rules and all amendments thereto, shall be provided to each Owner and a copy shall be posted in one or more places on the Common Area, where the same may be conveniently inspected. If an Owner shall fail to make repairs or replacements to his or her Unit which are the responsibility of such Owner, as provided in the Rules and Regulations, Bylaws or this Declaration, then after thirty (30) days' notice (except in the case of an emergency) to the Owner and a public hearing, the Association shall enter the Unit (if necessary) and make such repairs or replacements, and the cost thereof shall be levied to such Owner as a Special Assessment.

(c) 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:

(i) To make expenditures for capital additions or improvements chargeable against the reserve funds;

(ii) To conduct hearings concerning compliance by an Owner or his or her tenant, lessee, guest or invitee with the Declaration, Bylaws or Rules and Regulations promulgated by the Board;

(iii) To make a decision to levy monetary fines, impose special Assessments against individual Units, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline;

(iv) To make a decision to levy annual or special Assessments; or

(v) To make a decision to bring suit, record a claim of lien or institute Foreclosure proceedings for default in payment of Assessments.

(d) Contracts. The Association shall have the power to contract for materials and/or services for the Common Area and facilities, or the Association with the term of any service contract limited to a duration of one year, except as provided in the Bylaws. 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 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. The Association shall not enter into any contracts with an independent contractor until it meets the workers' compensation insurance requirements of Section 9.1(c) herein. With respect to each contract made by the Board for work and/or materials related to the maintenance, repair, rebuilding or replacement of any building, structure or other improvement situated upon the Common Area, in which the amount to be paid, by the Board exceeds five thousand dollars

($5,000.00), the Board shall secure at least three bids from responsible contractors and shall enter into contracts which it reasonably anticipates will adequately protect the interests of the Association.

X (e) Assessments, Liens and Fines. The Association shall have the power to levy and correct and enforce Assessments in accordance with the provisions of Article V hereof. The Association may impose fines or take disciplinary action against any Owner for failure to pay Assessments or for violation of any provision of the Project Documents and the unrecorded Rules and Regulations adopted by the Board or the Association. Penalties may include, but are not limited to, fines, temporary suspension of voting rights, rights to the use of recreational facilities or other appropriate discipline, (provided the Member is given notice and a hearing as provided in the Bylaws before the imposition of any fine or disciplinary action)

(f) 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 real property shall be by document signed or approved by two-thirds (2/3) of the total voting power of the Association which shall include two-thirds (2/3) of the Members other than Declarant, or where the two class voting structure is still in effect, two-thirds (2/3) of the voting power of each class of Members.

(g) Utility Service. The Association shall have the authority (but not the obligation) to obtain, for the benefit of all of the Units, all water, gas and electric service and refuse collection. In this connection; if the providers of such services provide an invoice for such services to the Association, the Association shall provide an itemized invoice for such services to the Owners and the Owners agree to pay the amount specified in the invoice to the Association. The Association shall promptly remit the payment made by the Owners to the service provider.

(h) Easements. The Association shall have authority, by document signed or approved by two-thirds (2/3) of the total voting power of the Association, including two thirds (2/3) of the Members other than Declarant, to grant easements in addition to those shown on the Subdivision Map, where necessary for utilities, cable television, and sewer facilities over the Common Area to serve the common and open space areas and the Units.

(i) Loans. The Association shall have the power to borrow money, and, only with the assent (by vote or written consent) of two-thirds (2/3) of the total voting power of the Association including two-thirds (2/3) of the Members other than Declarant, or where the two (2) class voting structure is still in effect, two-thirds (2/3) 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 security for money borrowed or debts incurred.

(j) Manager. The Association may employ a manager or other persons and 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 fees, 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 terminate the same for cause on thirty (30) days' written notice, or without cause or payment of a termination fee on ninety (90) days' written notice. Any decision by the Board to establish self management instead of professional management, any change in the criteria established for the professional management company in the Bylaws, and any change in managers must be approved in writing by the Agency as long as the Bonds are outstanding or as long as any financing remains unpaid which is issued by the Agency, the City or a joint powers authority of which either is a party or which is secured by any Units in the Project, or revenues from the Project or a pledge or the Agency's revenues.

(k) Security. The Association shall have the power (but not the obligation) to contract for security service of the Common Area.

(l) Appointment of Trustee. The Association, or the Board acting on behalf of the Association, has the power to appoint or designate a trustee to enforce Assessment liens by sale as provided in Section 5.19 and California Civil Code Section 1367(b).

(m) Litigation. The Association shall have the right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to the following:

(i) Enforcement of this Declaration, the Articles, Bylaws, and Rules and Regulations.

(ii) Damage to the Common Area.

(iii) Damage to the Units that the Association is obligated to maintain or repair.

(iv) Damage to the Units that arises out of, or is integrally related to, damage to the Common Area or Units that the Association is obligated to maintain or repair.

The Association may enforce payment of Assessments in accordance with the provisions of Article V of this Declaration.

(n) 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-quarters (3/4) of the total voting power of the Association agreeing to such dedication.

(o) Use of Recreational Facilities. The Association shall have the power to limit the number of Owners' 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 of hearing.

(p) Management Units. Anything in this Declaration or the Bylaws or Articles to the contrary notwithstanding, the Association, upon appropriate resolution of the Board, shall have the power and authority, with the vote or written consent of a majority of the voting power of Members, to purchase, acquire or retain one or two Management Units as space for a manager. No Assessments shall be levied against said Management Units during the period the Units are owned by the Association. No right to vote shall be exercised on behalf of the Management Units. Each other Unit shall be charged, in addition to its usual Assessment, its share of the Assessment that would have been charged to the Management Units, but for the provisions of this Section.

(q) Authority to Sell or Lease Units. Anything in this Declaration, Bylaws or Articles to the contrary notwithstanding, the Declarant and the Board of Directors shall have the authority, without the vote of the Association or Mortgagees, to execute all documents, delegate authority, and take all other actions which it deems to be reasonable to subdivide and purchase the Project and to sell and lease Units, including without limitation, obtaining necessary governmental approvals, assuming and exercising rights and obligations to purchase the Project and execute promissory notes secured by deeds of trust encumbering the Project and portions thereof, and entering into agreements related to the sale or lease of Units. All agreements and documents entered into prior to the sale of Units with respect to any of the foregoing entered into by the Board of Directors shall be binding upon the Association as provided above.

(r) Right of Entry for Repair. The Board shall have the authority to designate one or more qualified repairman or other Persons, to enter upon and within any individual Unit, in the presence of the Owner thereof, or otherwise, for the purpose of making emergency repairs therein or for necessary maintenance or repair to portions of the Common Area; or to abate any nuisance being conducted or maintained in said Unit in order to protect the property rights and best interests of the remaining Owners.

4.5 Limitation on Powers. The Board may not, without the vote or written assent of a majority of the total voting power of the Association, (a) incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5 %) of the Common Expense of the Association for that fiscal year; (b) sell during any fiscal year, property of the Association having an aggregate fair market value greater than five percent (5 %) of the Common Expenses of the Association for that fiscal year.

4.6 Duties. Without limiting the generality of the foregoing, the Association shall have the following powers:

(a) Maintenance. The Association shall maintain, repair, replace (when necessary), restore, operate and manage all of the Common Area and all facilities, (including utility facilities to the extent described in Section 10.3), improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association. Maintenance shall include without limitation, painting, maintaining, cleaning, repairing and replacing of all Common Areas. 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 act or omission of an Owner, or his or her guests, tenants or invitees, except if the repair is covered by the insurance carried by the Association, the Association shall be responsible for making the repairs, and the responsible Owner shall pay any deductible pursuant to the insurance policy. If the Owner fails to make such payment, then the Association may make such payment and shall charge the responsible Owner, which charge shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate allowed by law) until paid in full. Any repairs arising out of or caused by the willful or negligent act of an Owner, or his or her guests, tenants or invitees, or the Owner's pets, the cost of which is not covered by insurance carried by the Association, shall be made by the responsible Owner, provided the Board approves the person actually making the repairs and the method of repair. If the responsible Owner fails to take the necessary steps to make the repairs within a reasonable time under the circumstances, the Association shall make the repairs and charge the cost thereof to the responsible Owner, which cost shall bear interest at the rate of twelve percent (12%) per annum (but no greater than the maximum rate authorized by law) until paid in full. If an Owner disputes his or her responsibility for the repairs, the Owner shall be entitled to notice and a hearing as provided in the Bylaws before any charge may be imposed.

(b) Inspections; Landscaping. The Association shall have the Common Area periodically inspected for wood destroying pests and organisms and shall take appropriate collective measures therefor. The Association shall keep all landscaping on the Common Area to a height that does not impede the view of the Unit Owners; however, the Association shall not be required to alter landscaping that existed on the date that this Declaration was recorded in order to improve the view or other amenity of a Unit Owner. The Association shall not cause to be placed or built any structure on the Common Area that impedes the view of any Unit Owner unless just compensation is paid for such view infringement.

(c) Quality Repair. Each Owner shall maintain, repair, replace and restore to clean sanitary and attractive condition all portions of all of the improvements within his or her Unit. The Association shall have the responsibility to manage and maintain or cause to be maintained all of the Common Area in a state of high quality so as to keep the whole Project in a first-class condition and in good state of repair. In addition to its general responsibility to maintain the Common Area, the Association hereby covenants and agrees to manage, maintain or cause to be maintained in a state of high quality and first-class condition and in compliance with all applicable law, regulations, ordinances and use permits, all streets and related improvements on easements granted to the Association for ingress, egress and related purposes.

(d) Enforcement. The Association shall enforce the applicable provisions of the Project Documents, Articles and other instruments for the management and control of the Project.

(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) Insurance. The Association shall maintain such policy or policies of insurance as are required by Section 9.1 of this Declaration.

(g) Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and charge the cost thereof to the Member or Members responsible for the existence of the lien (after notice and a hearing, as provided in the Bylaws).

(h) Pre-Sale Agreements by Board of Directors. Anything in this Declaration, the Bylaws or Articles to the contrary notwithstanding, the Association shall be bound by all leases, development agreements, trust deeds encumbering the Project and other written or oral agreements into which the Board of Directors has entered on its behalf prior to the sale of individual Units (and therefore without vote of the Members and without consent of Mortgagees), and shall abide by the provisions of such agreements whether they relate to the period prior or subsequent to such sales.

(i) Maintenance of Easements. The Association shall maintain all drainage facilities within the private drainage easements within the Common Area, if any, in proper order, including keeping the facility free from debris and obstructions.

(j) Financial Reports. The Association shall cause the Chief Financial Officer to perform the duties described in Section 9.02 of the Bylaws and shall do the following not less frequently than quarterly:

(1) Cause a current reconciliation of the Association's operating accounts to be made and reviewed the same.

(2) Cause a current reconciliation of the Association's reserve accounts to be made and reviewed the same.

(3) Review the current year's actual reserve revenues and expenses compared to the current year's budget.

(4) Review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts.

(5) Review an income and expense statement for the Association's operating and reserve accounts.

(k) Litigation/Arbitration. The Association, subject to Subsection (l) below, shall have the power to institute, defend, settle or intervene in litigation, arbitration, mediation or administrative proceedings on behalf of the Association pursuant to Civil Code Section 383. Except in the case of an action to enforce the Project Documents or to collect Assessments (in which case the Board may act by majority vote), the Board has authority to file a suit, or file a demand for arbitration, or incur litigation costs, or enter into a contingent fee contract with an attorney, whether pursuant to Civil Code Section 383, or on behalf of Members, only after getting the vote at a duly noticed and properly held membership meeting, of a majority of a quorum of the Members other than Declarant. This Section shall not be construed to limit the power of the Board to defend the Association and its officers, directors and members against any suit. In any case where the Board determines that the Association's claim will be barred by an applicable statute of limitations by reason of the delay in obtaining the vote required above, and in any case where a quorum of Members other than Declarant was not obtained despite two (2) attempts to call a special meeting following proper notice requirements contained in applicable provisions of the Bylaws, a vote of Members approving the action described above shall not be required, provided that in such case a majority of the entire Board shall approve the action, and the Board shall notify the Members promptly in the manner required in the Declaration for notices, of the action taken by the Board. In the event the Board files an action in advance of a vote by the Members, in order to avoid the running of a statute of limitations, the Board shall call a special meeting of the Members within thirty (30) days after action is taken to file the suit, for the purpose of obtaining the approval of the Members of the action taken by the Board. The vote of at least a majority of a quorum of Members shall be required to ratify the Board's action, and in the event of the failure to obtain such approval, the Board shall immediately take all possible steps to settle any suit that has been filed and/or to cause any action that has been filed to be dismissed.

If, and to the extent that, there is any inconsistency between this Section 4.6(k) and applicable provisions of the Civil Code and/or the Code of Civil Procedure, the applicable provisions of the California statutes shall control.

(l) **Alternative Dispute Resolution**. The Board is authorized to resolve any civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or non-binding arbitration proceedings. The Board may provide, or in good faith attempt to provide, one hundred twenty (120) days advance notice of the Board's intent to initiate the prosecution of any civil action stating the nature and basis of the claim, to every member of the Association and every entity or person who is a prospective party to the civil action, provided that such notice can be given more than one hundred twenty (120) days prior t the expiration of any pertinent statute of limitations, and such notice can be given without prejudice to the Association's right to enforce the Project Documents, and further provided that no such notice need be given prior to the filing of an action in small claims or an action solely to enforce Assessment obligations.

Prior to initiating the prosecution of a civil action solely for declaratory relief or injunctive relief to enforce the Project Documents, or for declaratory relief or injunctive relief to enforce the Project Documents in conjunction with a claim for monetary damages not in excess of Five Thousand Dollars ($5,000.00), the Board shall endeavor to submit the matter to alternative dispute resolution in compliance with the provisions of Section 1354(b) of the California Civil Code.

Immediately after initiating the prosecution or defense of any civil action, the Board shall made a reasonable effort, in good faith, to meet and confer with every person who is a party concerning appropriate processes for resolving the civil action, including available alternative dispute resolution proceedings; concerning appropriate processes for avoiding or reducing costs or losses by the parties associated with the action; providing an opportunity to cure any alleged defect in the Common Areas or facilities which is the basis for the action; and providing an opportunity to cure any alleged defect in the Common Areas or facilities which is the basis for action; and providing for the scope of discovery, if any, to be conducted prior to the inception of any alternative dispute resolution procedure. The Board is authorized to consider diversion of the prosecution or defense of any civil action to alternative dispute resolution proceedings such as mediation, non-binding arbitration, or binding arbitration and is authorized to agree to participate and to participate fully and in good faith in the resolution of any civil action through any alternative dispute resolution proceedings, including, but not limited to, mediation, non-binding arbitration, and binding arbitration, and paying costs reasonably incurred by the Association on account of those alternative dispute resolution proceedings.

The Board shall comply with the requirements of California Civil Code Section 1354(i) by providing Members of the Association annually with a summary of the provisions of California Civil Code Section 1354, including the following language: "Failure by any Member of the Association to comply with the pre-filing requirements of Section 1354 of the Civil Code may result in the loss of your rights to sue the Association or another Member of the Association regarding enforcement of the governing documents."

(m) Cooperate with Financing. The Board and Association shall cooperate to meet the reasonable requirements of the Agency, the Rating Agency or any rating agency relating to the Bonds, or other financing or refinancing of the Project.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 **Creation of Lien - Personal Obligation of Assessments**. The Declarant, for each Unit within the Project, hereby covenants, and each Owner of any Unit within the Project, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) Regular Assessments; (2) Special Assessments for capital improvements and other purposes as provided in the Project Documents; and (3) Reconstruction Assessments. All of the foregoing Assessments shall be fixed, established and collected from time to time, as hereinafter provided. The Regular, Special, and Reconstruction Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Unit against which such Assessment is made. A lien shall be created and enforced in accordance with the provisions of this Article V. Each such Assessment (and all other Assessments levied in accordance with this Declaration), together with late charges, interest, costs, penalties and reasonable attorneys' fees, as provided for herein, shall also be the joint and several personal obligation of each Person who was an Owner of such Unit at the time the Assessment fell due. No Owner shall be exempt from liability for payment of Assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of the Owner's Unit. However, any Unit or Units utilized by the Association as manager residence(s) are exempt from the payment of any and all Assessments. Declarant and Declarant's successors in interest is an Owner subject to the payment of all Assessments.

5.2 Purpose of Assessment. The Assessments levied by the Association shall be used exclusively to promote the economic interests, recreation, health, safety and welfare of all the residents in the Project and to enable the Association to perform its obligations hereunder.

5.3 Assessment.

(a) Initial Regular Assessment. A Regular Assessment shall be levied against each Owner for such Owner's proportionate share of the estimated Common Expenses for the forthcoming fiscal year, which Regular Assessments shall be paid in monthly installments as established by the Board. To ensure that the Project has sufficient operating cash and reserves at the time the Units are initially offered for sale, each Owner shall be obligated to pay to the Association an amount equal to three (3) months' Regular Assessments at the time of the sale by Declarant to each Owner. Said amount will be collected through the purchase escrow and paid by the escrow holder to the Association. On or before six (6) months from the close of the first escrow to an Owner, Declarant shall deposit with the Association, in the form of either a bond or cash deposit, an amount equal to three (3) months' Regular Assessments for each Unit which is unsold at the time the deposit is made. The initial Regular Assessments shall be as reviewed by the California Department of Real Estate and shown in the original Final Subdivision Public Report.

(b) Annual Assessments. The Board shall establish and levy annual Assessments in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year.

(c) Special Assessments. The Board, at any time, may levy a special Assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. Special Assessments shall be allocated among the Units in the same manner as annual Assessments, provided that:

(i) Any special Assessments against Owners to raise funds for the repair, replacement or addition of that portion of the Common Area that contains the Units shall be levied on all Units in equal shares; and

(ii) The Board may levy a special Assessment against a Member to reimburse the Association for costs incurred in bringing the Member and his or her Unit into compliance with the provisions of the Project Documents.

5.4 Increase of Regular and Special Assessments by Board.

(a) The Board may not impose an annual Assessment on any Unit which is more than twenty percent (20%) greater than the annual Assessment for the immediately preceding fiscal year or levy a Special Assessment to defray the cost of any action or undertaking on behalf of the Association which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of Members casting a majority of the votes at a meeting of the Association at which a quorum is present. For purposes of this Section 5.4 a "quorum" means more than fifty percent (50%) of the

Members of the Association. Any meeting of the Association for purposes of complying with this Section 5.4 shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title I of the California Corporations Code and Section 7613 of the California Corporations Code. The Board may increase annual Assessments by up to twenty percent (20%) over the annual Assessment for the immediate preceding fiscal year only if the Board has complied with the provisions of California Civil Code Section 1365(a), or has obtained the approval of such increase by the Members in the manner set forth above in this Section 5.4.

(b) Notwithstanding the foregoing, the Board, without membership approval, may increase annual Assessments or levy special Assessments necessary for an emergency situation. For purposes of this Section, an emergency situation is one of the following:

(i) An extraordinary expense required by an order of a court.

(ii) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible where a threat to personal safety on the property is discovered.

(iii) An extraordinary expense necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget. However, prior to the imposition or collection of an Assessment under this subdivision, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Members with the notice of Assessment. This Section 5.4 incorporates the statutory requirements of California Civil Code Section 1366. If this Section of the California Civil Code is amended in any manner, this Section 5.4 automatically shall be amended in the same manner without the necessity of amending this Declaration. The Association shall provide notice by first-class mail to the Owners, of any increase in the Regular or Special Assessments of the Association, not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due.

5.5 <u>Reserve Funds.</u>

(a) <u>**Amount of Reserve Funds**</u>. As part of the Regular Annual Assessments 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, including fixtures and personal property related thereto. 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 reserve funds. The Board shall fix the method of payment of such Assessments and shall be empowered to permit either lump sum or monthly payments. The Board shall set the amount of reserve funds for maintenance, replacement and repair at a level that is adequate to keep the Project in first class condition as required by Section 4.6(a).

(b) Use of Reserve Funds. The Board of Directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement or maintenance of, major components which the Association obligated to repair, restore, replace or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash flow requirements or other expenses. The transferred funds shall be restored to the reserve fund within three years of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a delay would be in the best interests of the Project, delay the restoration until the time which the Board reasonably determines to be necessary. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special Assessment to recover the full amount of the expended funds within the time limits required by this Section. This Special Assessment is not subject to the limitation imposed by Section 5.4.

(c) Reserve Study. At least once every three years the Board of Directors shall cause a study of the reserve account requirements of the Project to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the Association for any fiscal year. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

The study required by this subsection shall at a minimum include:

(i) Identification of the major components which the Association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than 30 years.

(ii) Identification of the probable remaining useful life of the components identified in paragraph (i) above as of the date of the study.

(iii) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (i) above during and at the end of their useful life.

(iv) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (i) above during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

(d) Withdrawal of Funds. Withdrawal of funds from the Association's reserve account shall require the signatures of either:

(i) Two members of the Board of Directors; or

(ii) One member of the Board of Directors and an officer of the Association who is not also a member of the Board of Directors.

5.6 Notice and Quorum for Any Action Authorized Under Section 5.4. Any action authorized under Section 5.4, which requires a vote of the membership, shall be taken at a meeting called for that purpose, written notice of which shall be sent to all Members not less than ten (10) 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. The action may also be taken without a meeting pursuant to the provisions of California Corporations Code Section 7513.

5.7 Division of Assessments. All Assessments, both annual and special, shall be levied equally among the Units except as provided in Section 5.3. Annual Assessments shall be collected on a monthly basis unless the Board directs otherwise. Special Assessments may be collected in one (1) payment or periodically as the Board shall direct.

5.8 Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for Assessments, a certificate in writing signed by two officers of the Association, setting forth whether the Assessments on a specified Unit have been paid and amount of delinquency, if any. A reasonable charge per certificate may be made by the Board for issuance of said certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

5.9 Date of Commencement of Regular Assessments. Regular Assessments provided for herein shall commence as to all Units covered by the Declaration, including those owned by the Association or Declarant, on the first day of the month following conveyance of the first Unit to an individual Owner. Subject to the provisions of Section 5.3 hereof, the Board of Directors shall use its best efforts to determine and fix the amount of the annual Assessment against each Unit and send written notice thereof to every Owner at least forty-five (45) days in advance of each annual Assessment period; failure to comply with the foregoing shall not affect the validity of any Assessment levied by the Board.

5.10 Payment of Assessment by Owners. Regular Assessments shall be paid by each Owner, including the Association to the extent it is an Owner, in equal monthly installments in advance, on the first day of each month. After Assessments have commenced, such Assessments shall be pro rated between the seller and buyer through escrow for the month in which escrow closes. Special Assessments shall be paid within thirty (30) days of receipt of a request to pay same. The voting rights attributable to each Unit shall not vest until Assessments against those interests have been levied by the Association.

5.11 Maintenance Fund. Assessment charges so collected shall be promptly deposited in a commercial bank account in a bank to be selected by the Board, which account shall be clearly designated in the name of the Association. The Board shall have exclusive control of said account and shall be responsible to the Owners for the maintenance of accurate reports thereof at all times.

5.12 **Effect of Non-Payment of Assessments; Lien Rights; Remedies of the Association.** Any Assessment not paid within fifteen (15) days after the due date shall be considered delinquent and shall bear interest at the rate of twelve percent (12%) per annum commencing thirty (30) days after the due date until paid and shall incur a late payment penalty in an amount to be determined by the Board, from time to time, but not in excess of the maximum permitted by applicable law. The Board shall have authority to create and enforce a lien with power of sale in each Unit to secure payment of the amount of any Assessment, whether Regular, Reconstruction or Special, assessed to the Owner(s) thereof, plus reasonable late payment penalties for delinquent Assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred including attorney's fees in its efforts to collect delinquent Assessments to the full extent permitted by applicable law, by complying with provisions of Sections 1366 and 1367 of the California Civil Code and other applicable law. An action may be brought to foreclose or exercise the power of sale by the Board only. Reasonable attorneys' fees, expenses in connection with the collection of the debt secured by such lien or Foreclosure of lien, and interest charges and late charges not exceeding the amount permitted by Civil Code Section 1366 or successor statutes shall be determined by the Board and paid by the Owner against whom such action is brought and secured by the lien. A Certificate, signed and acknowledged by any officer of the Association confirming the existence of the indebtedness secured by the lien on any Unit hereunder, shall be conclusive on the Board and the Owners as to the amount of such indebtedness on the date of the certificate, and shall likewise be conclusive as to all Persons who rely thereon in good faith and such certificate shall be furnished to any Owner upon request at a reasonable fee.

5.13 **Curing of Default.** Upon the timely payment or other satisfaction of all delinquent Assessments set forth in the notice of Assessment filed and recorded in accordance with applicable law, and all other Assessments which have become due and payable with respect to the Unit as to which such notice of Assessment was filed and recorded, following the date of such recordation, together with all costs (including reasonable attorneys' fees) and all late charges and interest which have accrued thereon, the Board shall cause to be filed and recorded a further notice, stating the satisfaction and release of the lien created by the notice of Assessment. The notice may be executed by any officer of the Association or by any authorized representative of the Board. A reasonable fee covering the cost of preparation and recordation of the notice of release and satisfaction shall be paid to the Association prior to execution, filing and recordation of such notice of release and satisfaction of the lien created by the notice of Assessment. For purposes of this paragraph, the term, "costs" shall include costs and expenses actually incurred or expended by the Association in connection with the cost of preparation and recordation of the notice of Assessment and in efforts to collect the delinquent Assessments secured by the lien created by the notice of Assessment, and shall also include a reasonable sum for attorneys' fees actually incurred.

5.14 **Priority of Assessment Lien; Subordination of Lien.** Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the lien of any First Mortgage upon a Unit as provided in Section 7.2 of this Declaration.

5.15 **Rights of Board; Waiver of Owners.** Each Owner hereby vests in and delegates to the Board, or its duly authorized representatives, the right and power to bring all actions at law or lien Foreclosures, whether judicially or by power of sale or otherwise, against any Owner or Owners for the collection of delinquent Assessments in accordance herewith, and hereby expressly waives any objection to the enforcement in accordance with this Declaration of the obligation to pay Assessments as set forth herein.

5.16 Unallocated Taxes. In the event that any taxes are assessed against the Common Area or Association Property or the personal property of the Association, rather than against the Units, said taxes shall be included in the Regular Assessments made under the provisions of Article V of this Declaration or, if necessary, a Special Assessment may be levied against the Units in any amount equal to said taxes, to be paid in two (2) installments thirty (30) days prior to the due date of each tax installment.

5.17 Exemption from Assessments. All property dedicated to, and accepted by a local public authority or public agency shall be exempt from the Assessments created herein. However, no Unit owned by any public authority shall be exempt from said Assessments.

5.18 Transfer of Unit by Sale or Foreclosure.

(a) Sale or transfer of any Unit shall not affect the Assessment lien. However, the sale of any Unit pursuant to Foreclosure of a Mortgage shall extinguish the lien of such Assessments (including attorney's fees, late charges, or interest levied in connection therewith) as to payments which became due prior to such sale or transfer (except for Assessment liens recorded prior to the Mortgage). No sale or transfer shall relieve such Unit from liability for any Assessments thereafter becoming due or from the lien thereof.

(b) Where the Mortgagee of a Mortgage of record or other purchaser of a Unit obtains title to the same as a result of a Foreclosure of any such Mortgage, such acquirer of title, his or her successor and assigns, shall not be liable for the share of the Assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer (except for Assessment liens recorded prior to the Mortgage). No amendment of the preceding sentence may be made without the consent of Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, and the consent of the Mortgagees holding First Mortgages on Units comprising fifty-one percent (51%) of the Units subject to First Mortgages. Such unpaid share of Assessments shall be deemed to be Common Expenses collectible from all of the Unit Owners including such acquirer, his or her successors or assigns.

(c) If a Unit is transferred, the grantor shall remain liable to the Association for all unpaid Assessments against the Unit through and including the date of the transfer. The grantee shall be entitled to a statement from the Association, dated as of the date of transfer, setting forth the amount of the unpaid Assessments against the Unit to be transferred and the Unit shall not be subject to a lien for unpaid Assessments in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any Assessments that become due after the date of transfer.

5.19 Priorities; Enforcement; Remedies.

(a) If an Assessment is delinquent, the Association may record a notice of delinquent Assessment and establish a lien against the Unit of the delinquent Owner 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 Mortgage of record made in good faith and for value. The notice of delinquent Assessment shall state the amount of the Assessment, collection costs, attorney's fees, late charges and interest, a description of the Unit against which the Assessment and other sums are levied, the name of the record Owner, and the name and address of the Trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association.

(b) An Assessment lien may be enforced in any manner permitted by law, including sale by the court, sale by the Trustee designated in the notice of delinquent Assessment, or sale by a Trustee substituted pursuant to California Civil Code Section 2934a. Any sale by the Trustee shall be conducted in accordance with the provisions of Section 2924 2924b, 2924c, 2924f, 2924g and 2924h of the California Civil Code, including any successor statutes thereto, applicable to the exercise of powers of sale in Mortgages and deeds of trust, or in any other manner permitted by law. Nothing herein shall preclude the Association from bringing an action directly against an Owner for breach of the personal obligation to pay Assessments.

(c) Fines and penalties for violation of restrictions are not "Assessments," and are not enforceable by Assessment lien.

(d) The Association, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at Foreclosure sale, and to acquire and hold, lease, Mortgage and convey the same. Where the purchase of a Foreclosure Unit through Foreclosure 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. During the period a Unit is owned by the Association following Foreclosure: (1) No right to vote shall be exercised on behalf of the Unit; (2) No Assessment shall be assessed or levied on the Unit; and (3) Each other Unit shall be charged, in addition to its usual Assessment, its pro rata share of the Assessment that would have been charged to such Unit 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.

(e) After acquiring title to the Unit at Foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the Unit which deed shall be binding upon the Owners, successors, and all other parties.

(f) The Board may temporarily suspend the voting rights of a Member who is in default in payment of any Assessment, after notice and hearing, as provided in the Bylaws.

5.20 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including without limitation, as a result of a claim that the Association is not properly exercising its duties and powers as provided in this Declaration.

5.21 Assessments Which May Not Become a Lien. Any monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the governing instruments or a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas and facilities for which the Member was allegedly responsible or in bringing the Member and his or her Unit into compliance with the Project Documents and rules and regulations of the Association may not be characterized nor treated as an Assessment which may become a lien against the Member's Unit enforceable by a sale of the interest in accordance with the provisions of Section 2924, 2924(b) and 2924(c) of the Civil Code. However, the following shall be considered Assessments which may become liens: charges imposed on owner consisting of reasonable late payment penalties for delinquent Assessments and/or charges to reimburse the Association for loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments.

ARTICLE VI

USE RESTRICTIONS

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

6.1 Unit Use.

(a) Except as otherwise provided in this Declaration, and except for Association, no Unit shall be occupied and used for other than residential purposes by the Owners, their tenants, and social guests, and no trade or business shall be conducted, except a residential Unit may be used as a combined residence and office by the Association to the extent permitted by applicable law, ordinances and current use permit, so long as such use does not interfere with the quiet enjoyment by other Owners and does not include visiting clients. No tent, shack, trailer, basement, garage, outbuilding, or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

(b) No more than two (2) Persons per bedroom plus one additional Person in any Unit shall be permitted as permanent residents. A "permanent resident" means any person residing in a Unit more than sixty (60) days out of any twelve (12) consecutive month period.

(c) No Unit or Units or any portion thereof in the Project shall be leased, subleased, occupied, rented, let, sublet, or used for or in connection 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 "timesharing" as used herein shall be deemed to include, but shall not be limited to, any agreement, plan, program, or arrangement which the right to use, occupy, or possess the Unit or Units 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 floating

CITY OF SAN MARCOS

MEMORANDUM

TO: Twin Oaks Valley Park Board Members

FROM: Leah Rose-Goodwin LRG

DATE: November 4, 1999

SUBJECT: Mobilehome Use issue

As we discussed previously, the parks' CC&Rs state in section 6.1(b) that:

> "No more than two (2) persons per bedroom plus one additional person in any unit shall be permitted as permanent residents. A "permanent resident" means any person residing in any unit more than sixty (60) days out of any twelve (12) consecutive month period."

A question was raised as to whether or not this conflicts with any provision of other laws and codes governing the use of mobilehomes.

I checked Title 25 and the Civil Code before verifying with Sue Loftin that there is no provision that overrides this rule. It is completely enforceable.

If there are any other questions, please feel free to reach me at (760) 744-1050, extension 3112.

interval or period of time of twenty-five (25) consecutive calendar days or less. To the extent permitted by applicable law, regulations and use permits, the "Management Units," as defined in Article I above, shall be used by the Association thereof for management purposes. If such uses are not used for management purposes, they will revert to residential or other legally permitted uses.

(d) All private access ways, easements and street parkways shall be maintained by the Association unless any other entity is responsible for such maintenance. Driveways within Units must be maintained by the Owner of the Unit in first class condition.

(e) Owner acknowledges that the Declarant and its successors and assigns may hold for rent on a long term basis some spaces in the Park.

6.2 Nuisances. No noxious, illegal, or seriously offensive activities shall be carried on upon any Unit, or in any part of the Property, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his or her respective Unit, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be canceled or to cause a refusal to renew the same, or which will impair the structural integrity of any building or which will endanger the lives or health of occupants.

6.3 Vehicle Restrictions and Towing.

(a) The Association may cause the removal of any vehicle wrongfully parked on the Project, including a vehicle owned by an Owner. The Association shall adopt rules and regulations regarding use of and parking of vehicles in the Park. The Association shall not be liable for any damages incurred by the vehicle owner because of the removal or for any damage to the vehicle caused by the removal, unless such damage resulted from the intentional or negligent act of the Association or any person causing the removal of or removing the vehicle. If requested by the owner of the vehicle, the Association shall state the grounds for the removal of the vehicle.

(b) Garage or carport space shall not be converted into any use (such as a recreational room or storage) that would prevent its use as parking space for the number of vehicles the space was designed to contain. Owners are to use their assigned parking spaces for parking of their vehicles so that unassigned Common Area parking will be available for guest parking. The Association may establish rules and regulations from time to time for the parking of vehicles in the Common Areas.

6.4 Signs. No signs may be displayed in the Project without the written permission of the Board of Directors, but this provision does not prohibit or restrict the display upon any Unit of a sign of customary and reasonable dimensions advertising a Unit for sale. The display of any vehicle or any other article for sale will not be permitted.

6.5 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the Unit, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall be kept 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 maintained in accordance with the rules and regulations of the Association, as adopted from time to time. No toxic or hazardous materials shall be disposed of within the Project by dumping in the garbage containers or down the drains, or otherwise.

6.6 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 Declarant or a cable television franchisee and as maintained by the Association or said franchisee, shall be permitted, and no Owner may be permitted to construct and/or use and operate his or her own external radio and/or television antenna, satellite dish or related equipment without the consent of the Board. In considering whether to approve applications, the Board shall consider and give great weight to considerations of aesthetics and uniformity of appearance and potential structural damage and potential for water leaks in the Project. All fees for the use of any cable television system shall be borne by the respective Owners, and not by the Association.

6.7 Right to Lease. An Owner may lease his or her Unit; provided however, that the liability of any Owner under the Project Documents and under the covenants of his or her deed, shall continue, notwithstanding the fact the Owner may have leased his or her Unit for any period of time to another person or persons. If an Owner's tenant violates any of the Project Documents, the Owner will be deemed to be in violation of the relevant Project Document and the party entitled to enforce the relevant Project Document will be entitled to seek any remedy to which it would otherwise be entitled as a result of the breach from the Owner as described below. Any Owner who wishes to lease his or her Unit shall include the provisions of subparts (a), (b), (c) and (d) below in the lease and shall meet each and every one of the following rules and provisions including providing a copy of the Declaration, Bylaws, and all Rules and Regulations of the Association to each tenant of his or her Unit. The lease will be subject to these rules and regulations whether they are included within the lease nor not:

(a) All leases must be in writing;

(b) The lease must be for the entire Unit and not merely parts thereof;

(c) No lease shall be for a period of less than 90 days;

(d) All leases shall obligate the tenant to comply with the provisions of the Declaration, the Bylaws, and all Rules and Regulations made by the Board. The lease shall further provide that any violation of the provisions thereof shall constitute a default under the lease.

(e) All Owners who lease their Units shall promptly notify the secretary of the Association in writing of the names of any tenants and members of tenants' family occupying such Unit and shall provide the secretary of the Association with the address and telephone number where such Owner can be reached.

(f) If a tenant violates this Declaration, the Bylaws or the Rules and Regulations, the Association shall provide notice in writing of the violation to the Owner and an opportunity to cure in accordance with the Project Documents.

(g) Any failure of the tenant to comply with the Declaration, Bylaws and Association Rules and Regulations shall be a default under the lease, regardless of whether the lease so provides. In the event of any such default, the Owner immediately shall take all actions to cure the default including, if necessary, eviction of the tenant.

(h) A tenant lawfully in possession of a Unit shall have the same right to use the Common Area as an Owner in possession of the Unit would have, subject to all of the provisions of the Project Documents and any Rules and Regulations adopted by the Board.

6.8 <u>Use of Recreational Facilities by Tenants</u>. All Common Area recreational facilities are for the use of Owners or their tenants and their respective guests; however, Owners who do not reside within the Project and who have rented or leased their Unit(s), are not permitted to use the recreational facilities except as guests under the same rules and regulations applicable to all guests. Tenants are subject to all the rules and regulations and are responsible for any damage to the Common Area. Owners are also responsible for their tenants' violations of rules and damage to the Common Area.

6.9 <u>Architectural Control</u>.

(a) The Architectural Control Committee shall consist of at least three (3) but not more than five (5) Members appointed by the Board. Members appointed to the Architectural Control Committee by the Board shall be from the membership of the Association and the Chairman shall be a member of the Board.

(b) In the event of death or resignation of any member of the Committee, the successor shall be appointed by the Board. Members of the Committee shall not be entitled to any compensation for services performed pursuant to this Section. In the event the Committee fails to approve or disapprove plans and specifications within twenty (20) days after the same have been submitted to it, then the applicant shall submit a request to the Board to act in lieu of the Committee. If the Board fails to act within ten (10) days of such request, approval will not be required and the requirements of this Declaration shall be deemed to have been fully complied with.

(c) Except for those which currently exist, no building, fence, wall, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, antenna system, cable dish, improvement or structure of any land shall be commenced, installed, erected, painted, repainted or maintained upon the Property or any Unit, nor shall any alterations or improvements be made thereto until the same has been approved in writing by the Board or an Architectural Control Committee appointed by the Board and by governmental agencies with jurisdiction, if any. Notwithstanding the foregoing, Owners may improve or alter any improvements within the interior of the Owner's mobile home provided such improvement or alteration does not impair the integrity of any Common Area, the utilities, or other systems servicing the Common Area or other Units, and does not involve altering any Common Area.

(d) Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the Architectural Control Committee for approval as to 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 Declarant's original color scheme, or to rebuild in accordance with Declarant's original plans and specifications. No permission or 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 his or her mobile home any color desired.

(e) No landscaping of patios or yards visible from the street or from the Common Area involving the use of synthetic materials, or of concrete, rock and similar materials shall be undertaken by any Owner until plans and specifications showing the nature, land, shape and location of the materials have been submitted to and approved in writing by the Board or by an Architectural Control Committee appointed by the Board.

(f) Upon the future placement, or replacement, of any mobile home on any Unit in the Project, the Owner shall, within three (3) months after such placement, do the following:

(i) Place a home which is at least double wide or larger as the space will accommodate;

(ii) Transfer the home to the real property rolls;

(iii) Install a permanent foundation system;

(iv) Remove any hitches and wheels;

(v) Install exterior improvements including, but not limited to, skirting and roof overhangs; provided, however, the siding and skirting shall not be made of aluminum; and

(vi) Install landscaping approved by the Architectural Control Committee.

(g) All Owners (<u>except</u> Owners who were both (1) residents in the Park at the time the subdivision public report was issued for the initial sale to residents in the Park and (2) who became Owners within eight (8) months from the issuance of the subdivision public report for the initial sales) shall, within three (3) months after the purchase of the lot and home, do the following:

(i) Place a home which is at least double wide or larger as the space will accommodate;

(ii) Transfer the home to the real property rolls;

(iii) Install a permanent foundation system;

(iv) Remove any hitches and wheels;

(v) Install exterior improvements including, but not limited to, skirting and roof overhangs; provided, however, the siding and skirting shall not be made of aluminum;

(vi) Have landscaping approved by the Architectural Control Committee.

(h) The Architectural Control Committee shall adopt guidelines specifying the procedures to be followed for submitting plans for which approval is required and standards to be applied in reviewing such plans.

(i) The Committee, members and the Board and its members shall not be responsible for or liable for the improvements built after approval of the plans, and the Owner whose plans are approved shall defend, indemnify and hold the Committee and the Board, and the members thereof, harmless from any and all liability arising out of such approval.

(j) Before commencement of any alteration or improvements approved by the Architectural Control Committee, the Owner shall comply with all appropriate governmental laws and regulations. Owners acknowledge that approval by the Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

6.10 Power Equipment and Car Maintenance. The use of power equipment, operation of hobby areas and/or performance of car maintenance shall only be permitted on the Property in accordance with the Rules and Regulations as adopted by the Board from time to time.

6.11 Liability of Owners for Damage to Common Area. Each Owner shall be liable to the Association for any damage to the Common Area or improvements thereon caused by such Owner or any occupant of his or her Unit or guest or by such Person's pet. Liability of an Owner shall be established only after notice to the Owner and hearing before the Board.

6.12 Drainage.

(a) The ground surface within any Unit or part of a Unit in the Project shall not be regraded without the prior consent of the Architectural Control Committee. The Owner will be responsible for the drainage of his or her Unit. The Unit must not drain onto any other Unit, or to any Common Area except the street or except as existing as of the date of the recordation of this Declaration. Mobile homes, patios and carport areas must have down-drain gutters so that drainage extends to the street.

(b) The owner of a Unit shall permit free access by Owners of adjacent Units to slopes or drainage ways located on his or her Unit which affect the adjacent Unit, when such access is essential for the maintenance or permanent stabilization of said slopes, or maintenance of the drainage facilities for the protection and use of property other than the Unit on which the slopes or drainage way is located.

(c) The Owner of any Unit shall not interfere with the established drainage pattern over his or her Unit from adjoining or other Units and will make adequate provisions for proper drainage in the event it is necessary to change the established drainage over his or her Unit. For the purpose herein, "established" drainage is defined as the drainage in existence as of the date of recordation of this Declaration.

6.13 Number of Mobile Homes Per Unit. Not more than one mobile home shall be placed within each Unit.

6.14 Requirements for Mobile Home Placement. From and after the date of recordation of this Declaration no mobile home may be placed on any Unit until approved in writing by the Architectural Control Committee or the Board as to size, condition and appearance. Said mobile home must have complete sanitary facilities, including among others: A toilet, wash basin, tub or shower, kitchen sink, and must be connected to sewage outlets in conformity with State and local health requirements. The minimum size of any mobile home shall be at least 12' double-wide and no higher than single story.

6.15 Owner's Right and Obligation to Maintain and Repair. Except for those portions of the Project which the Association is required to maintain and repair, each Unit Owner shall, at his or her sole cost and expense, maintain and repair his or her Unit, keeping the same in good condition. Each Owner shall bear the cost of maintenance, repair and replacement of the following items within or serving such Owner's Unit: All portions of the Owner's mobile home coach and any accessory structures (including but not limited to storage shed, dog house, awning, carport, garage, porch, and patio); all plumbing fixtures, landscaping within the Unit, and all entrances and stairways, and driveway surfaces within the Unit. Utilities serving the Common Area shall be a Common Expense of the Association. Each Owner shall repair, maintain and replace any pipes, wires, cables and conduits supplying utilities to the Unit beginning from the point that they leave the utility pedestal. The Association shall repair, maintain and replace all underground utilities located in each Unit as well as the utility pedestals serving each Unit. Each Owner shall have the exclusive right to paint, plaster, panel, title, wallpaper and otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, and doors of his or her mobile home coach. In the event an owner fails to maintain the Unit (not including the interior of the mobile home coach) in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board of Directors may notify Owner of the work required and request it be done within 60 days from the giving of such notice. In the event Owner fails to carry out such maintenance within the 60 day period, the Board shall have the right, either itself or through any other Person, to furnish the labor and/or materials necessary to bring said Unit, including landscaping and/or improvements thereon (not including the interior of the mobile home coach) into compliance with the standards for maintenance and repair set by the Board to preserve the appearance and value of the Property as determined by the Board of Directors in its sole discretion. In such event, in addition to other penalties and disciplinary measures imposed by the Board of Directors, the Board shall levy a Special Assessment against such Owner in the amount equal to all direct and indirect costs and expenses incurred by the Board of Directors to furnish such labor and/or materials, or have the same furnished. The amount that the Owner of any such Unit is obligated to pay hereunder shall be payable within ten (10) days after the charge is made. Any such charge which is not paid within (30) days of the due date shall be subject to late charges and shall bear interest thereafter at the rate of twelve percent (12%) per annum. This paragraph shall constitute a request by each Owner, under the conditions stated herein, for the Board of Directors to furnish any labor and/or materials which are furnished hereunder. Any claim against the Board of Directors shall not constitute a defense or offset in any action of the Board of Directors for nonpayment of any amounts which may be assessed hereunder. If an Owner rents or leases his or her Unit, the Owner shall be liable and responsible to the Association in seeing that the Owner's tenants perform promptly all maintenance and repair work as required in this Section 6.15. If an Owner fails to see that his or her tenants perform such maintenance and repairs, the Association may take action as provided in the Project Documents.

6.16 Compliance with Law. Each Owner shall comply with all applicable laws and regulations of governmental agencies and municipal authorities affecting the use of his or her Unit, and the mobile home and other improvements therein, including but not limited to zoning ordinances as amended or replaced from time to time.

ARTICLE VII

AMENDMENTS AND CONSENTS; RIGHTS OF MORTGAGEES

7.1 Amendments. Prior to close of escrow on the sale of the first Unit, Declarant may amend this Declaration with the consent of the Department of Real Estate of the State of California, if required. Except as provided in Section 7.2(a), after sale of the first Unit this Declaration may be amended or revoked only by the affirmative vote (in person or by proxy) or written consent of Members representing a majority of the total voting power of the Association and a majority of the affirmative votes or written consent of Members other than the Declarant, or where two (2) class voting structure is still in effect, a majority of each class of membership and, if required, the consent of the California Department of Real Estate. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be certified in a writing executed and acknowledged by the President or Vice President of the Association and recorded in the Recorder's Office of the County of San Diego. Notwithstanding anything herein to the contrary, any amendment to the Condominium Plan shall satisfy the requirement of California Civil Code Section 1351(e) or any successor statute thereto. Any amendments which would defeat the obligation of the Association to maintain the Common Area in a first-class condition and in a good state of repair, or which would defeat the assessment procedure to insure such maintenance must first be approved by the City of San Marcos.

7.2 Rights of First Mortgagees; Approval by First Mortgagees and Others of Material Amendments and Significant Activities.

(a) Rights of First Mortgagees. 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 on any Condominium 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 Project Documents to the contrary, First Mortgagees shall have the following rights:

(i) Financial Statement. Any First Mortgagee shall be entitled, on written request, to have a copy of the Association's financial statement for the immediately preceding fiscal year, free of charge to the party so requesting prepared by an independent accountant or, if not prepared by an independent accountant, accompanied by a certificate of an authorized officer of the Association that the statement was prepared form the books and records of the Association without independent audit or review. Such statement shall be furnished within a reasonable time following such request.

(ii) Notice of Action. Upon written request to the Association, identifying the name and address of the First Mortgagee, and the Unit number or address, such First Mortgagee will be entitled to timely written notice of: (1) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a First Mortgage held, insured, or guaranteed by such First Mortgagee, as applicable; (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 Unit subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, 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 Mortgagees as specified in Section 7.2(b). The Association shall discharge its obligation to notify First Mortgagees by sending written notices required herein to such parties, at the address given on the current request for notice, in the manner prescribed by Section 14.11.

(iii) Copies of Project Documents. The Association shall make available to Owners and First Mortgagees, current copies of the Declaration, Bylaws and Articles 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. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

(iv) Reserves. Unit 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 Assessments.

(v) Priority of Liens. Each holder of a Mortgage lien on a Unit who comes into possession of the Unit by virtue of Foreclosure of the Mortgage, or any purchaser at a Foreclosure sale under a deed of trust, will take the Unit free of any claims for unpaid Assessments and fees, late charges, fines or interest levied in connection therewith, against the Unit which accrue prior to the time such holder comes into possession of the Unit, except for claims for a pro rata share of such Assessments or charges to all Units including the Mortgaged Unit, and except for Assessment liens recorded prior to the Mortgage.

(b) **Consent to Action.** Notwithstanding Subsection 7.2(a) above, and except as provided by statute or by other provision of the Project Documents in case of substantial destruction or condemnation, any addition or amendment of a material nature or which affect the rights of the Agency, the security or the rating on the Bonds (so long as the Bonds are outstanding) shall require the consent of the following: (i) 67% of the Owners to whom votes are allocated in the Association; (ii) the Agency as long as the Bonds are outstanding or so long as any financing remains unpaid which is issued by the Agency, the City or a joint powers authority in which the Agency or City are a party; and (iii) during any period when at least 25% of the Units owned by Owners entitled to vote are encumbered by First Mortgages, by 75% of the First Mortgagees. Any amendment or additions of the Project Documents which establish, provide for or govern any of the following would be considered amendments of a material nature: (i) voting; (ii) Assessments, Assessment liens or priority of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area(s) (or Units if applicable); (iv) insurance requirements or fidelity bond requirements; (v) rights to use of Common Areas; (vi) responsibility for maintenance and repair of the several portions of the Project; (vii) expansion or contraction of the Project or the addition, annexation, or withdrawal of property to or from the Project; (viii) redefinition of boundaries of any Unit; (ix) reallocation of the interests in the Common Area; (x) convertibility of Units into Common Areas or of Common Areas into Units; (xi) leasing of Units; (xii) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit; (xiii) any provisions which are for the express benefit of Mortgagee; (xiv) restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than specified herein; (xv) vote to abandon or terminate the Project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain); (xvi) changing the pro rata interest or obligations of any individual Unit for the purpose of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; (xvii) partitioning or subdividing any Unit; (xviii) any action 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); (ix) using hazard insurance proceeds for losses to the Project (whether to Units or to Common Area) for other than the repair, replacement or reconstruction of such property; and (xx) any decision to establish self management instead of professional management by the Association or any change in the criteria established for the professional management company in the Bylaws.

(c) Response. A Mortgagee who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request, provided the notice was delivered by certified or registered mail, with a return receipt requested.

(d) Notice to Rating Agency. The Board of Directors shall notify the Rating Agency (as long as the Bonds are outstanding) in the event the Association changes management companies or in the event of an amendment to the Project Documents of a material nature (as defined in Subsection 7.2(b)).

ARTICLE VIII

CONDEMNATION

8.1 Condemnation.

(a) The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area(s), or part thereof. In the event of a taking or acquisition of part or all of the Common Area(s) by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their Mortgagees as their interests may appear. In the event of an award for the taking of any Unit in the Project by eminent domain, the Owner of such Unit shall be entitled to receive the award for such taking and after acceptance thereof the Owner and the Owner's Mortgagee shall be divested of all interest in the Project if such Owner shall vacate the Unit 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 the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project. In the event of a taking by eminent domain of the Common Area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Units are not valued separately by the condemning authority or by the court. Proceeds of condemnation shall be distributed among Owners and their respective Mortgagees according to the relative values of the Units affected by the condemnation, said values to be determined by the method provided in Section 11.3

(b) If there is a substantial taking of the Project (more than fifty percent (50%)), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California Civil Code Section 1359 or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association residing in Members other than Declarant and the approval of fifty-one percent (51%) of Mortgagees. The proceeds from the partition sale shall be distributed to the Owners and their respective Mortgagees in proportion to the fair market values of the their Units as determined under the method described in Section 11.3.

ARTICLE IX

INSURANCE

9.1 **Insurance.**

(a) **Fire and Casualty Insurance.** The Association shall obtain and maintain a policy or policies of fire hazards included within the term "Extended Coverage" and other such hazards, casualties, liabilities and contingencies as are commonly included in association insurance policies, including, without limitation, loss caused by wind. The fire insurance policy shall contain an extended coverage endorsement for the full insurable replacement value of the improvements in the Common Area (less foundations). This insurance shall be maintained for the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Declaration.

(b) **General Liability Insurance.** The Association shall obtain and maintain a policy or policies insuring the Association, Declarant, the property manager, and Owners of the Units, against any liability for bodily injury, death, and property damage arise the activities of the Association and its Members, with respect to the real property to be maintained by the Association. Limits of liability under the insurance shall not be less than $3,000,000 combined single limit covering all claims for death, personal injury, and property damage. Such insurance may provide a deductible, which may not exceed ten percent (10%) of the policy limit per occurrence.

(c) **Other Association Insurance.** The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association also shall purchase and maintain fidelity bond coverage which names the Association as an obligee, for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. This coverage shall be in an amount that is at least equal to the estimated maximum of funds, including reserve funds, in the custody of the Association at any given time during the term of each bond. However, the aggregate amount of these bonds must not be less than 150 percent of each year's estimated annual operating expenses and reserves. The Association also may purchase and maintain a blanket policy of flood and demolition insurance in an amount that is sufficient to cover any demolition that occurs following the total or partial destruction of the Project and a decision not to rebuild. The Association shall purchase rental interruption insurance or other insurance (at Declarant's cost) which may be required by any rating agency or Declarant. In this connection, the Association shall cause Declarant to be added as an additional insured on the Association's policy (at Declarant's cost). If Declarant requires the Association to purchase rental interruption insurance, the Association shall be entitled to that portion of the proceeds paid by the insurance company which is applicable to the assessments owed to the Association during the covered period and the Declarant shall be entitled to that portion which is applicable to rent owed to the Declarant during the covered period. If the proceeds are not sufficient to pay for all amounts which would be owing for both rent and assessments, the Declarant shall receive proceeds equal to the full amount of rent owed during the coverage period and the Association shall receive the balance, but not to exceed the amount which would otherwise be owing for assessments during the covered period.

(d) Trustee for Insurance Policies. The Association, acting through its Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. During the time the Bonds are outstanding and thereafter if the Board so decides, all insurance proceeds under any of those policies shall be paid to an insurance trustee appointed by the Board. The Board shall direct the trustee to use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article XI of this Declaration. The trustee also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

(e) Individual Insurance. Each Owner shall provide fire and casualty insurance for the improvements in his or her Unit. An Owner may separately insure his or her personal property, and may obtain and maintain personal liability and property damage liability insurance for his or her Unit, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association, Declarant, and the institutional First Mortgagees of the Owner's Unit.

(f) General Requirements. During the time the Bonds are outstanding, insurance shall be obtained from insurance companies rated BBB- or better by the Rating Agency unless directed otherwise by the Agency. If all or a portion of the Bonds are redeemed, paid off or refinanced, during the time other financing is outstanding for which the Project, the Project revenues or the Agency or City revenues are security for said financing, insurance shall be obtained from insurance companies in amounts and coverage and with a rating acceptable to the Agency. At least thirty (30) days prior to the expiration date of a policy, the Association shall renew insurance coverage on the terms and conditions required by this Article IX.

ARTICLE X

UTILITIES AND EASEMENTS

10.1 Owners' Rights and Duties. The rights and duties of the Owners with respect to sanitary sewer, water, drainage, electric, gas, television receiving, telephone equipment, cables and lines, exhaust flues, and similar facilities (hereinafter referred to, collectively, as "utilities facilities") shall be as follows:

(a) Whenever utilities facilities are installed within the Property, which utilities facilities or any portion thereof lie in or upon Units owned by other than the Owner of the Unit served by said utilities facilities, the Owners of any Unit served by said utilities facilities shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain said utilities facilities as and when necessary, due to failure or inability of the Board to take timely action to make such repairs or perform such maintenance.

(b) Whenever utilities facilities are installed within the Property which utilities facilities serve more than one (1) Unit, the Owner of each Unit served by said utilities facilities shall be entitled to the full use and enjoyment of such portions of said utilities facilities that service his or her Unit.

(c) In the event of a dispute between Owners with respect to the repair or rebuilding of said utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one (1) Owner addressed to the other Owner(s), the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction.

10.2 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 units and facilities, heating and air conditioning facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown of record on the title report for the recorded map of the Property as of the date this Declaration is recorded, and as may be hereafter required or needed to service the Property, are hereby reserved by Declarant and its successors and assigns, until the sale of the first Unit, and thereafter are reserved by and for the benefit of the Association and its Members, together with the right to grant and transfer the same. The Association shall have an easement as to all underground utilities located in each Unit and all utility pedestals servicing each Unit for the purposes of operation, installation, repair and maintenance.

10.3 Association's Duties. The Association shall maintain all utility facilities located in the Common Area except for those utilities maintained by utility companies, public, private or municipal and those maintained by the Owners as described in Section 6.15. The Association shall also maintain all underground utilities located in each Unit as well as the utility pedestals servicing each Unit. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units.

10.4 Encroachment Easement.

(a) Each Owner within the Property is hereby declared to have an easement appurtenant to his or her Unit over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to minor engineering errors, minor errors in original placement, construction, reconstruction, repair, settlement, shifting, or movement of the mobile home or other improvements on the Units. There shall be a valid easement for the maintenance of said encroachment as long as it 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 occur due to the intentional conduct of any Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each affected Unit agree that the repair will be accomplished in such a way as to eliminate the encroachment as long as it is practical to do so.

(b) In the event that an error in engineering, design or construction results in an encroachment of a building into the Common Area, or into or onto an adjoining Unit, or into a required setback area, a correcting modification may be made in the Subdivision Map and/or Condominium Plan. Said modification shall be in the form of a certificate of correction and shall be executed by Declarant (so long as Declarant is the sole Owner of the Property) and by Declarant's engineer. If the correction occurs after title to the Common Area has been conveyed to the Association, the Association shall also execute the certificate of correction. The Board of Directors may, by vote or written approval of a majority of the Directors, authorize the execution of the certificate of correction.

ARTICLE XI

DAMAGE OR DESTRUCTION OF IMPROVEMENTS

11.1 Reconstruction.

(a) Subject to subpart (b) below, if Project improvements are damaged or destroyed by fire or other casualty, the improvements shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Architectural Control Committee, unless either of the following occurs: (1) The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement costs of all Project improvements, available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction, and seventy-five percent (75%) of the Members and seventy-five percent (75%) of their First Mortgagees vote against such repair and reconstruction; or (2) available insurance proceeds are not sufficient to substantially repair or reconstruct the improvements within a reasonable time as determined by the Board, a Special Assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in Section 5.4, and the Board, without the requirement of approval by the Owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

(b) Subpart (a) above will not apply during any period of time in which the Agency, the City of San Marcos ("City") or a joint powers authority in which either the Agency or the City is a member holds title to any Units ("Agency Ownership"). During any Agency Ownership period, any proceeds of any insurance policy paid as a result of any damage or destruction to any of the real property and improvements under the control of the Association must be paid to an insurance trustee to be disbursed to pay the cost of repair and reconstruction of the damage or destroyed property. Such repair or reconstruction shall be done, to the extent reasonably possible, substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Architectural Control Committee, unless insurance funds are not available for upgrades.

11.2 Payment and Procedure Re: Consultants, Contractors and Architects.

(a) If the improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of twenty-five percent (25%) of the current replacement cost of all the Common Area improvements, the Board shall designate a construction consultant, a general contractor, and an architect, all state licensed, for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general contractor and architect certify within ten (10) days prior to any disbursement substantially the following:

(i) 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;

(ii) That such disbursement request represents monies which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, subcontractors, materialmen, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work and given a brief description 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 stated the progress of the work up to the date of said certificate;

(iii) 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;

(iv) That no part of the cost of the services and materials described in the foregoing paragraph (a) has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

(v) That the amount held by the depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

(b) If the cost of repair or reconstruction is less than twenty-five percent (25%) of the current replacement cost of all the Common Area improvements, the Board shall disburse the available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

(c) The repair or reconstruction shall commence no later than ninety (90) days after the date of such damage or destruction and shall be completed no later than one hundred eighty (180) days after commencement of reconstruction, subject to delays that are beyond the control of the party responsible for making the repairs. The Owner of the damaged or destroyed improvement immediately shall take such steps as may be reasonably necessary to secure any hazardous condition and to screen any unsightly views resulting from the damage or destruction.

11.3 Determination Not to Rebuild.

(a) Subject to the terms of Section 7.2, if the improvements are not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among the Owners and their respective Mortgagees in proportion to the respective fair market values of their Units as of the date immediately preceding the date of damage or destruction as determined by a qualified independent appraiser selected by the Board, after first applying the proceeds to the cost of mitigating hazardous conditions on the Property, making provision for the continuance of public liability insurance to protect the interests of the Owners until the Property can be sold, and complying with all other applicable requirements of governmental agencies.

(b) Subject to the terms of Section 7.2, if the failure to repair or reconstruct results in a material alteration of the use of the Project from its use immediately preceding the damage or destruction as determined by the Board (a material alteration shall be conclusively presumed if repair or reconstruction costs exceed twenty-five percent (25%) of the current replacement cost of all Project improvements), the Project shall be sold in its entirety under such terms and conditions as the Board deems appropriate. If any Owner or First Mortgagee disputes the Board's determination as to a material alteration, the dispute shall be submitted to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the arbitrator shall be conclusive and binding on all Owners and their Mortgagees.

(c) If the Project is sold, the sales proceeds shall be distributed to all Owners and their respective Mortgagees in proportion to their respective fair market values of their Units as of the date immediately preceding the date of damage or destruction as determined by the independent appraisal procedure described above. For the purpose of effecting a sale under this Section 11.3, each Owner grants to the Association an irrevocable power of attorney to sell the entire Project for the benefit of the Owners, to terminate the Declaration and to dissolve the Association. In the event the Association fails to take the necessary steps to sell the entire Project as required hereunder within sixty (60) days following the date of a determination by the Board or arbitrator of a material alteration, or within one hundred twenty (120) days following the date of damage or destruction if the Board has failed to make a determination as to a material alteration, any Owner may file a partition action as to the entire Project under California Civil Code Section 1359, or any successor statute, and the court shall order partition by sale of the entire Project and distribution of the sale proceeds as provided herein.

(d) Notwithstanding anything herein to the contrary, any Owner or group of Owners shall have a right of first refusal to match the terms and conditions of any offer made to the Association in the event of a sale of the Project under this Section 11.3, provided this right is exercised within ten (10) days of receipt by the Owners of a notice from the Association containing the terms and conditions of any offer it has received. If the Owner or group of Owners subsequently default on their offer to purchase, they shall be liable to the other Owners and their respective Mortgagees for any damages resulting from the default. If more than one

(1) Owner or group elects to exercise this right, the Board shall accept the offer that in its determination is the best offer.

11.4 Destruction of Unit Improvements. The repair and restoration of any improvements within the Unit shall be accomplished by the Owner of such Unit.

ARTICLE XII

PROHIBITIONS AGAINST SEVERABILITY OF COMPONENT INTEREST IN UNIT

12.1 Prohibition of Severance. No Owner shall be entitled to sever his or her interest in any Unit from his or her undivided interest in Lot B or from his or her membership in the Association for any purpose. Neither of said component interests may be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with.

12.2 Conveyance of Entire Unit. The elements of a Unit and any easement rights appurtenant thereto are inseparable and each Owner agrees that he or she shall not, while this Declaration or any similar declaration is in effect, make any conveyance of less than the entire Unit and such appurtenances. Any deed, Mortgage or other conveyance that purports to convey less than all of the interests in a Unit shall be deemed to transfer and convey the entire Unit, including the omitted interests even though such omitted interests are not expressly mentioned in such conveyance document.

ARTICLE XIII

TERM OF DECLARATION

13.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Project, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until this Declaration is revoked pursuant to Section 7.1.

ARTICLE XIV

GENERAL PROVISIONS

14.1 Continuing Liability for Assessments. No Owner may exempt himself or herself from liability for his or her specified contribution to maintenance fund by waiver of the use or enjoyment of the Common Area or by the abandonment of his or her Unit.

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

14.3 Taxes. Each Owner shall, before delinquency, pay any real and personal property taxes separately assessed against his or her respective Unit and all utility and other charges separately metered or charged against his or her Unit and such payment shall be made by each Owner in addition to and separately from Assessments otherwise payable to the Association by each such Owner.

14.4 Enforcement of Declaration and Bylaws. The Owners or any one of them, or the Board acting on behalf of the Owners, shall be entitled (but not obligated) to bring legal action for damages against any Owner who shall default in the performance of any of the provisions of this Declaration, the Bylaws or rules and regulations promulgated by the Board for the protection of the Project; provided however, that only the Board may bring legal action to enforce Assessment liens. Furthermore, said Persons shall be entitled to enjoin any violation of the Project Documents, Rules and Regulations and shall further be entitled to pursue any other legal or equitable action that may be necessary to protect the Project. If any Owner, member of the Board or the Board shall deem it necessary to initiate any legal or equitable action for the protection of the Project against any Owner, and if the initiator shall be the prevailing party of said action, then said Person(s) shall be entitled to reasonable attorneys' fees and costs of said action from said Owner for expenses incurred in bringing or initiating said action; any judgment rendered against any such defaulting Owner shall include costs of said action, together with reasonable attorneys' fees in an amount to be fixed by the court. Notwithstanding the foregoing, the Association is not empowered to cause a forfeiture or abridgment of any Owner's right to the full use and enjoyment of his or her Unit on account of the failure by the Owner to comply with any provision of the Project Documents or the Rules and Regulations adopted by the Board except by judgment of a court or a decision arising out of arbitration or on account of a Foreclosure or sale under a power of sale for failure of the Owner to pay Assessments duly levied by the Association.

14.5 Liberal Interpretation of Declaration. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Project for the mutual benefit of all Owners.

14.6 Severability of Provisions. The provisions of this Declaration herein shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any of the provisions hereof, shall not affect the validity of the remaining provisions.

14.7 Cumulative Remedies. Each and all legal or equitable remedies provided for herein shall be deemed to be cumulative, whether so expressly provided or not.

14.8 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of all heirs, personal representatives, grantees, lessees and assignees of Owners.

14.9 Waiver or Breach of Declaration. No waiver of any breach of any of the covenants or conditions of this Declaration shall constitute a waiver of any succeeding or preceding breach of the same, or any other covenant or condition herein contained.

14.10 Delivery of Notices and Documents. Any written notice or other documents required by this Declaration may be delivered personally or by mail. If by mail, such notice, unless expressly provided for herein or in the Bylaws to the contrary as to the type of notice being given, shall be deemed to have been delivered and received forty-eight (48) hours after a copy thereof has been deposited in the United States Mail, postage prepaid, addressed as follows:

(a) If to an Owner, to the address appearing on the books of the Association given by the Member to the Association, for the purpose of giving notice and delivering documents. Each Owner shall file in writing with the Board promptly upon becoming an Owner, his or her address for the purpose of giving notice and delivering documents and shall promptly notify the Board in writing of any subsequent change of address.

(b) Notices to the Board shall be addressed to the Secretary and the Board shall cause the address of the Secretary to be posted at all times in a conspicuous place within the Common Area.

14.11 Notification of Sale of Unit. Concurrently with the consummation of the sale of any Unit under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board, in writing, of such sale. Such notification shall set forth: (1) the name of the transferee and his or her transferor; (2) the street address of the Unit purchased by the transferee; (3) the transferee's mailing address; and (4) the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by the Board or the Architectural Control Committee or any agent or representative thereof, shall be deemed to be duly made and given to the Owner whose name is listed with the Secretary of the Board.

14.12 Joint and Several Liability. In the case of joint ownership of a Unit, the liability of each of the Owners set forth in or imposed by this Declaration, shall be joint and several.

14.13 Singular and Plural. The singular and plural number, and the masculine, feminine and neuter gender, and capitalized and lower cases shall each include the other where the context requires.

14.14 Determination of Costs and Expenses. Whenever the Association is entitled to recover costs and expenses from a Member, a determination of the amount thereof by the Association, the Board of Directors or a committee of two or more officers which is made in accordance with the Declaration or the Bylaws, shall be conclusive and binding upon the Members.

14.15 Termination of Any Responsibility of Declarant. In the event Declarant shall convey all of its right, title and interest in and to the Project to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved 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.

14.16 Owners' Compliance and Penalties for Violation. Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles and Bylaws, and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action (1) to recover sums due, (2) for damages, (3) for injunctive relief, (4) for costs and attorneys fees, or (5) any combination of the foregoing. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or the Bylaws, shall be deemed to be binding on all Owners of Units, their successors and assigns.

14.17 **Estoppel Certificates**. Upon the written request of any Owner, the Board shall provide the Owner with a written certificate stating that, to the best of its actual knowledge, the Owner is not in violation of any of the provisions of this Declaration and the Board has not received written notice from any Owners stating that the Owner is in violation of this Declaration, or if there are any such violations or the Board has received such notices, setting forth in sufficient detail the nature of such violations. The certificate shall be delivered to the Owner no later than thirty (30) days after such request by an Owner. The Board may charge the Owner a reasonable fee to recover its costs in researching and preparing the certificate. Any prospective purchaser or Mortgagee shall be entitled to rely on the information contained in the certificate; provided, however, that such reliance may not extend to any violations of this Declaration of which the Board does not have actual knowledge, or which have not been brought to its attention by written notice of an Owner. To the fullest extent permitted by law and provided the Board, the Association, any committee of the Association or Board, and any Members thereof, and any officers of the Association or Board, acted in good faith and consistent with what they reasonably believed to be within the scope of their authority and duties, then neither the Board, the Association, any committees of the Association or Board shall be liable to the Owner, Owner's Mortgagee or prospective purchaser requesting or relying on the certificate or any other Owner for any damage, loss, or prejudice suffered or claimed on account of the failure to supply such certificate or on the account of any information contained in the certificate being incomplete or inaccurate and said information was actually unknown to any of the above entities or persons.

14.18 **Limitation of Restrictions on Declarant**. Declarant is undertaking the conversion of a mobile home park Project to residential Units and may be making some incidental improvements upon the Project. The completion of conversion and the sale, rental, and other disposal of said Units is essential to the establishment and welfare of said Project as a residential Unit community. In order that said conversion may be completed 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 Project or any Unit, whatever is reasonably necessary or advisable in connection with the completion of said conversion; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on the Project (except upon Units owned by others), such structures as may be reasonable and necessary for the conduct of its business or completing said conversion and establishing said Project as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on the Project (except upon Units owned by others) its business of completing said conversion and of establishing a plan of Unit ownership and of disposing of said Project as Units by sale, lease or otherwise.

14.19 <u>Number; Gender</u>. The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

14.20 **<u>Headings</u>**. The subject headings of the Sections and Subsections of this Declaration are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

14.21 **<u>Counterparts</u>**. This Declaration may be executed in several counterparts, and all counterparts so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the day and year first hereinbefore written, and hereby certifies that Declarant consents to the recordation of the Condominium Plan pursuant to the requirements of the California Civil Code.

REDEVELOPMENT AGENCY OF
THE CITY OF SAN MARCOS

By: Paul Malone
Deputy Executive Director

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

On March 25, 1995 before me, the undersigned, a Notary Public in and for said county and State, personally appeared PAUL MALONE xxxx, known to me (~~or proven to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~) or the entity on behalf of which the person(~~s~~) acted , executed the instrument.

WITNESS my hand and official seal.

SUSIE VASQUEZ
Commission #1056145
Notary Public - California
San Diego County
My Commission Expires May 10, 1999
VRS4

Signature Susie Vasquez

SAN MARCOS/TWIN OAKS/53939v7 (3/13/96)

EXHIBIT A

Parcel 1:

Lot B of Cerificate of Compliance recorded August 3, 1995, as File\Page No. 1995-0335159 of Official Records of San Diego County, State of California and more particularly described as follows:

Lot 10 in block 54, and that portion of Carmel Street 66.00 feet wide, as vacated lying between the Northerly line of Discovery Street and the Southerly right of way line of the San Diego Northerly Railway (Formerly known as the Atchison, Topeka and Santa Fe Railroad Company), also Lots 1, 2 and 3 of block 59, all in Rancho Los Vallecitos De San Marcos, per Map No. 806, on file in the office of the county recorder of San Diego County, State of California excepting therefrom that portion of said Lot 10 block 54, the vacated street and lot 1 block 59 described as follows:

Beginning at the Southeasterly corner of said lot 10; Thence Southwesterly along the Southeasterly line of said lot 10 South 72° 58' 06" West 320.20 feet to the True Point of Beginning; Thence continuing along said Southeasterly line South 72° 58' 06" West 179.09 feet; Thence leaving said line North 17° 00' 20" West 240.74 feet to the beginning of a 20.00 foot radius curve concave Southeasterly; Thence Northerly and Northeasterly along the arc of said curve through a central angle of 84° 07' 12" a distance of 29.36 feet to a point of compound curvature with a tangent 984.50 foot radius curve concave Southeasterl a radial line to said point bears North 22° 52' 08" West; Thence Northeasterly along the arc of said curve through a central angle of 05° 09' 08" a distance of 88.53; Thence North 72° 16' 00" East 52.56 feet to the beginning of a 20.00 foot radius curve, concave Southwesterly; Thence Southeasterly along the arc of said curve through a central angle of 90° 44' 07" a distance of 31.67 feet; Thence South 16° 59' 53" West 246.32 feet to the True Point of Beginning.

Parcel 2:

Lot A of Certificate of Compliance recorded August 3, 1995, as File\Page No. 1995-0335159 of Official Records of San Diego County, State of California and more particularly described as follows:

All that portion of lot 10 in block 54 and that portion of Carmel Street 66.00 feet wide, as vacated lying between the Northerly line of Discovery Street and the Southerly right of way line of the San Diego Northerly Railway (Formerly known as the Atchison, Topeke and Santa Fe Railroad Company), also lots 1 of block 59, all in Rancho Los Vallecitos De San Marcos per Map No. 806, on file in the office of the county recorder of San Diego County, State of California described as follows:

Beginning at the Southeasterly corner of said lot 10; Thence southwesterly along the Southeasterly line of said lot 10 South 72° 58' 06" West 320.20 feet to the True Point of

(v) Priority of Liens. Each holder of a Mortgage lien on a Unit who comes into possession of the Unit by virtue of Foreclosure of the Mortgage, or any purchaser at a Foreclosure sale under a deed of trust, will take the Unit free of any claims for unpaid Assessments and fees, late charges, fines or interest levied in connection therewith, against the Unit which accrue prior to the time such holder comes into possession of the Unit, except for claims for a pro rata share of such Assessments or charges to all Units including the Mortgaged Unit, and except for Assessment liens recorded prior to the Mortgage.

(b) Consent to Action. Notwithstanding Subsection 7.2(a) above, and except as provided by statute or by other provision of the Project Documents in case of substantial destruction or condemnation, any addition or amendment of a material nature or which affect the rights of the Agency, the security or the rating on the Bonds (so long as the Bonds are outstanding) shall require the consent of the following: (i) 67% of the Owners to whom votes are allocated in the Association; (ii) the Agency as long as the Bonds are outstanding or so long as any financing remains unpaid which is issued by the Agency, the City or a joint powers authority in which the Agency or City are a party; and (iii) during any period when at least 25% of the Units owned by Owners entitled to vote are encumbered by First Mortgages, by 75% of the First Mortgagees. Any amendment or additions of the Project Documents which establish, provide for or govern any of the following would be considered amendments of a material nature: (i) voting; (ii) Assessments, Assessment liens or priority of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area(s) (or Units if applicable); (iv) insurance requirements or fidelity bond requirements; (v) rights to use of Common Areas; (vi) responsibility for maintenance and repair of the several portions of the Project; (vii) expansion or contraction of the Project or the addition, annexation, or withdrawal of property to or from the Project; (viii) redefinition of boundaries of any Unit; (ix) reallocation of the interests in the Common Area; (x) convertibility of Units into Common Areas or of Common Areas into Units; (xi) leasing of Units; (xii) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit; (xiii) any provisions which are for the express benefit of Mortgagee; (xiv) restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than specified herein; (xv) vote to abandon or terminate the Project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain); (xvi) changing the pro rata interest or obligations of any individual Unit for the purpose of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; (xvii) partitioning or subdividing any Unit; (xviii) any action 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); (ix) using hazard insurance proceeds for losses to the Project (whether to Units or to Common Area) for other than the repair, replacement or reconstruction of such property; and (xx) any decision to establish self management instead of professional management by the Association or any change in the criteria established for the professional management company in the Bylaws.

(c) Response. A Mortgagee who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request, provided the notice was delivered by certified or registered mail, with a return receipt requested.

(d) Notice to Rating Agency. The Board of Directors shall notify the Rating Agency (as long as the Bonds are outstanding) in the event the Association changes management companies or in the event of an amendment to the Project Documents of a material nature (as defined in Subsection 7.2(b)).

ARTICLE VIII

CONDEMNATION

8.1 Condemnation.

(a) The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area(s), or part thereof. In the event of a taking or acquisition of part or all of the Common Area(s) by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or any trustee appointed by the Association, for the use and benefit of the Owners and their Mortgagees as their interests may appear. In the event of an award for the taking of any Unit in the Project by eminent domain, the Owner of such Unit shall be entitled to receive the award for such taking and after acceptance thereof the Owner and the Owner's Mortgagee shall be divested of all interest in the Project if such Owner shall vacate the Unit 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 the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project. In the event of a taking by eminent domain of the Common Area, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Units are not valued separately by the condemning authority or by the court. Proceeds of condemnation shall be distributed among Owners and their respective Mortgagees according to the relative values of the Units affected by the condemnation, said values to be determined by the method provided in Section 11.3

(b) If there is a substantial taking of the Project (more than fifty percent (50%)), the Owners may terminate the legal status of the Project and, if necessary, bring a partition action under California Civil Code Section 1359 or any successor statute, on the election to terminate by fifty-one percent (51%) of the total voting power of the Association residing in Members other than Declarant and the approval of fifty-one percent (51%) of Mortgagees. The proceeds from the partition sale shall be distributed to the Owners and their respective Mortgagees in proportion to the fair market values of the their Units as determined under the method described in Section 11.3.

ARTICLE IX

INSURANCE

9.1 Insurance.

(a) Fire and Casualty Insurance. The Association shall obtain and maintain a policy or policies of fire hazards included within the term "Extended Coverage" and other such hazards, casualties, liabilities and contingencies as are commonly included in association insurance policies, including, without limitation, loss caused by wind. The fire insurance policy shall contain an extended coverage endorsement for the full insurable replacement value of the improvements in the Common Area (less foundations). This insurance shall be maintained for the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Declaration.

(b) General Liability Insurance. The Association shall obtain and maintain a policy or policies insuring the Association, Declarant, the property manager, and Owners of the Units, against any liability for bodily injury, death, and property damage arise the activities of the Association and its Members, with respect to the real property to be maintained by the Association. Limits of liability under the insurance shall not be less than $3,000,000 combined single limit covering all claims for death, personal injury, and property damage. Such insurance may provide a deductible, which may not exceed ten percent (10%) of the policy limit per occurrence.

(c) Other Association Insurance. The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association also shall purchase and maintain fidelity bond coverage which names the Association as an obligee, for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. This coverage shall be in an amount that is at least equal to the estimated maximum of funds, including reserve funds, in the custody of the Association at any given time during the term of each bond. However, the aggregate amount of these bonds must not be less than 150 percent of each year's estimated annual operating expenses and reserves. The Association also may purchase and maintain a blanket policy of flood and demolition insurance in an amount that is sufficient to cover any demolition that occurs following the total or partial destruction of the Project and a decision not to rebuild. The Association shall purchase rental interruption insurance or other insurance (at Declarant's cost) which may be required by any rating agency or Declarant. In this connection, the Association shall cause Declarant to be added as an additional insured on the Association's policy (at Declarant's cost). If Declarant requires the Association to purchase rental interruption insurance, the Association shall be entitled to that portion of the proceeds paid by the insurance company which is applicable to the assessments owed to the Association during the covered period and the Declarant shall be entitled to that portion which is applicable to rent owed to the Declarant during the covered period. If the proceeds are not sufficient to pay for all amounts which would be owing for both rent and assessments, the Declarant shall receive proceeds equal to the full amount of rent owed during the coverage period and the Association shall receive the balance, but not to exceed the amount which would otherwise be owing for assessments during the covered period.

(d) **Trustee for Insurance Policies**. The Association, acting through its Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. During the time the Bonds are outstanding and thereafter if the Board so decides, all insurance proceeds under any of those policies shall be paid to an insurance trustee appointed by the Board. The Board shall direct the trustee to use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article XI of this Declaration. The trustee also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

(e) **Individual Insurance**. Each Owner shall provide fire and casualty insurance for the improvements in his or her Unit. An Owner may separately insure his or her personal property, and may obtain and maintain personal liability and property damage liability insurance for his or her Unit, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association, Declarant, and the institutional First Mortgagees of the Owner's Unit.

(f) **General Requirements**. During the time the Bonds are outstanding, insurance shall be obtained from insurance companies rated BBB- or better by the Rating Agency unless directed otherwise by the Agency. If all or a portion of the Bonds are redeemed, paid off or refinanced, during the time other financing is outstanding for which the Project, the Project revenues or the Agency or City revenues are security for said financing, insurance shall be obtained from insurance companies in amounts and coverage and with a rating acceptable to the Agency. At least thirty (30) days prior to the expiration date of a policy, the Association shall renew insurance coverage on the terms and conditions required by this Article IX.

ARTICLE X

UTILITIES AND EASEMENTS

10.1 **Owners' Rights and Duties**. The rights and duties of the Owners with respect to sanitary sewer, water, drainage, electric, gas, television receiving, telephone equipment, cables and lines, exhaust flues, and similar facilities (hereinafter referred to, collectively, as "utilities facilities") shall be as follows:

(a) Whenever utilities facilities are installed within the Property, which utilities facilities or any portion thereof lie in or upon Units owned by other than the Owner of the Unit served by said utilities facilities, the Owners of any Unit served by said utilities facilities shall have the right of reasonable access for themselves or for utility companies to repair, replace and generally maintain said utilities facilities as and when necessary, due to failure or inability of the Board to take timely action to make such repairs or perform such maintenance.

(b) Whenever utilities facilities are installed within the Property which utilities facilities serve more than one (1) Unit, the Owner of each Unit served by said utilities facilities shall be entitled to the full use and enjoyment of such portions of said utilities facilities that service his or her Unit.

(c) In the event of a dispute between Owners with respect to the repair or rebuilding of said utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one (1) Owner addressed to the other Owner(s), the matter shall be submitted to binding arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, or any successor thereto, and the decision of the arbitrator(s) shall be final and conclusive on the parties, and judgment may be entered thereon in any court having jurisdiction.

10.2 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 units and facilities, heating and air conditioning facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown of record on the title report for the recorded map of the Property as of the date this Declaration is recorded, and as may be hereafter required or needed to service the Property, are hereby reserved by Declarant and its successors and assigns, until the sale of the first Unit, and thereafter are reserved by and for the benefit of the Association and its Members, together with the right to grant and transfer the same. The Association shall have an easement as to all underground utilities located in each Unit and all utility pedestals servicing each Unit for the purposes of operation, installation, repair and maintenance.

10.3 Association's Duties. The Association shall maintain all utility facilities located in the Common Area except for those utilities maintained by utility companies, public, private or municipal and those maintained by the Owners as described in Section 6.15. The Association shall also maintain all underground utilities located in each Unit as well as the utility pedestals servicing each Unit. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units.

10.4 Encroachment Easement.

(a) Each Owner within the Property is hereby declared to have an easement appurtenant to his or her Unit over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to minor engineering errors, minor errors in original placement, construction, reconstruction, repair, settlement, shifting, or movement of the mobile home or other improvements on the Units. There shall be a valid easement for the maintenance of said encroachment as long as it 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 occur due to the intentional conduct of any Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each affected Unit agree that the repair will be accomplished in such a way as to eliminate the encroachment as long as it is practical to do so.

(b) In the event that an error in engineering, design or construction results in an encroachment of a building into the Common Area, or into or onto an adjoining Unit, or into a required setback area, a correcting modification may be made in the Subdivision Map and/or Condominium Plan. Said modification shall be in the form of a certificate of correction and shall be executed by Declarant (so long as Declarant is the sole Owner of the Property) and by Declarant's engineer. If the correction occurs after title to the Common Area has been conveyed to the Association, the Association shall also execute the certificate of correction. The Board of Directors may, by vote or written approval of a majority of the Directors, authorize the execution of the certificate of correction.

ARTICLE XI

DAMAGE OR DESTRUCTION OF IMPROVEMENTS

11.1 **Reconstruction.**

(a) Subject to subpart (b) below, if Project improvements are damaged or destroyed by fire or other casualty, the improvements shall be repaired or reconstructed substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Architectural Control Committee, unless either of the following occurs: (1) The cost of repair or reconstruction is more than fifty percent (50%) of the current replacement costs of all Project improvements, available insurance proceeds are not sufficient to pay for at least eighty-five percent (85%) of the cost of such repairs or reconstruction, and seventy-five percent (75%) of the Members and seventy-five percent (75%) of their First Mortgagees vote against such repair and reconstruction; or (2) available insurance proceeds are not sufficient to substantially repair or reconstruct the improvements within a reasonable time as determined by the Board, a Special Assessment levied to supplement the insurance fails to receive the requisite approval (if such approval is required) as provided in Section 5.4, and the Board, without the requirement of approval by the Owners, is unable to supplement the insurance by borrowing on behalf of the Association sufficient monies to enable the improvements to be substantially repaired or reconstructed within a reasonable time.

(b) Subpart (a) above will not apply during any period of time in which the Agency, the City of San Marcos ("City") or a joint powers authority in which either the Agency or the City is a member holds title to any Units ("Agency Ownership"). During any Agency Ownership period, any proceeds of any insurance policy paid as a result of any damage or destruction to any of the real property and improvements under the control of the Association must be paid to an insurance trustee to be disbursed to pay the cost of repair and reconstruction of the damage or destroyed property. Such repair or reconstruction shall be done, to the extent reasonably possible, substantially in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction and subject to such alterations or upgrades as may be approved by the Architectural Control Committee, unless insurance funds are not available for upgrades.

11.2 Payment and Procedure Re: Consultants, Contractors and Architects.

(a) If the improvement is to be repaired or reconstructed and the cost for repair or reconstruction is in excess of twenty-five percent (25%) of the current replacement cost of all the Common Area improvements, the Board shall designate a construction consultant, a general contractor, and an architect, all state licensed, for the repair or reconstruction. All insurance proceeds, Association monies allocated for the repair or reconstruction, and any borrowings by the Association for the repair or reconstruction shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "depository") as selected by the Board. Funds shall be disbursed in accordance with the normal construction loan practices of the depository that require as a minimum that the construction consultant, general contractor and architect certify within ten (10) days prior to any disbursement substantially the following:

(i) 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;

(ii) That such disbursement request represents monies which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, subcontractors, materialmen, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work and given a brief description 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 stated the progress of the work up to the date of said certificate;

(iii) 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;

(iv) That no part of the cost of the services and materials described in the foregoing paragraph (a) has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

(v) That the amount held by the depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair or reconstruction.

(b) If the cost of repair or reconstruction is less than twenty-five percent (25%) of the current replacement cost of all the Common Area improvements, the Board shall disburse the available funds for the repair and reconstruction under such procedures as the Board deems appropriate under the circumstances.

(c) The repair or reconstruction shall commence no later than ninety (90) days after the date of such damage or destruction and shall be completed no later than one hundred eighty (180) days after commencement of reconstruction, subject to delays that are beyond the control of the party responsible for making the repairs. The Owner of the damaged or destroyed improvement immediately shall take such steps as may be reasonably necessary to secure any hazardous condition and to screen any unsightly views resulting from the damage or destruction.

11.3 Determination Not to Rebuild.

(a) Subject to the terms of Section 7.2, if the improvements are not repaired or reconstructed in accordance with the foregoing, all available insurance proceeds shall be disbursed among the Owners and their respective Mortgagees in proportion to the respective fair market values of their Units as of the date immediately preceding the date of damage or destruction as determined by a qualified independent appraiser selected by the Board, after first applying the proceeds to the cost of mitigating hazardous conditions on the Property, making provision for the continuance of public liability insurance to protect the interests of the Owners until the Property can be sold, and complying with all other applicable requirements of governmental agencies.

(b) Subject to the terms of Section 7.2, if the failure to repair or reconstruct results in a material alteration of the use of the Project from its use immediately preceding the damage or destruction as determined by the Board (a material alteration shall be conclusively presumed if repair or reconstruction costs exceed twenty-five percent (25%) of the current replacement cost of all Project improvements), the Project shall be sold in its entirety under such terms and conditions as the Board deems appropriate. If any Owner or First Mortgagee disputes the Board's determination as to a material alteration, the dispute shall be submitted to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the arbitrator shall be conclusive and binding on all Owners and their Mortgagees.

(c) If the Project is sold, the sales proceeds shall be distributed to all Owners and their respective Mortgagees in proportion to their respective fair market values of their Units as of the date immediately preceding the date of damage or destruction as determined by the independent appraisal procedure described above. For the purpose of effecting a sale under this Section 11.3, each Owner grants to the Association an irrevocable power of attorney to sell the entire Project for the benefit of the Owners, to terminate the Declaration and to dissolve the Association. In the event the Association fails to take the necessary steps to sell the entire Project as required hereunder within sixty (60) days following the date of a determination by the Board or arbitrator of a material alteration, or within one hundred twenty (120) days following the date of damage or destruction if the Board has failed to make a determination as to a material alteration, any Owner may file a partition action as to the entire Project under California Civil Code Section 1359, or any successor statute, and the court shall order partition by sale of the entire Project and distribution of the sale proceeds as provided herein.

(d) Notwithstanding anything herein to the contrary, any Owner or group of Owners shall have a right of first refusal to match the terms and conditions of any offer made to the Association in the event of a sale of the Project under this Section 11.3, provided this right is exercised within ten (10) days of receipt by the Owners of a notice from the Association containing the terms and conditions of any offer it has received. If the Owner or group of Owners subsequently default on their offer to purchase, they shall be liable to the other Owners and their respective Mortgagees for any damages resulting from the default. If more than one

(1) Owner or group elects to exercise this right, the Board shall accept the offer that in its determination is the best offer.

11.4 Destruction of Unit Improvements. The repair and restoration of any improvements within the Unit shall be accomplished by the Owner of such Unit.

ARTICLE XII

PROHIBITIONS AGAINST SEVERABILITY OF COMPONENT INTEREST IN UNIT

12.1 Prohibition of Severance. No Owner shall be entitled to sever his or her interest in any Unit from his or her undivided interest in Lot B or from his or her membership in the Association for any purpose. Neither of said component interests may be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with.

12.2 Conveyance of Entire Unit. The elements of a Unit and any easement rights appurtenant thereto are inseparable and each Owner agrees that he or she shall not, while this Declaration or any similar declaration is in effect, make any conveyance of less than the entire Unit and such appurtenances. Any deed, Mortgage or other conveyance that purports to convey less than all of the interests in a Unit shall be deemed to transfer and convey the entire Unit, including the omitted interests even though such omitted interests are not expressly mentioned in such conveyance document.

ARTICLE XIII

TERM OF DECLARATION

13.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Project, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until this Declaration is revoked pursuant to Section 7.1.

ARTICLE XIV

GENERAL PROVISIONS

14.1 Continuing Liability for Assessments. No Owner may exempt himself or herself from liability for his or her specified contribution to maintenance fund by waiver of the use or enjoyment of the Common Area or by the abandonment of his or her Unit.

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

14.3 Taxes. Each Owner shall, before delinquency, pay any real and personal property taxes separately assessed against his or her respective Unit and all utility and other charges separately metered or charged against his or her Unit and such payment shall be made by each Owner in addition to and separately from Assessments otherwise payable to the Association by each such Owner.

14.4 Enforcement of Declaration and Bylaws. The Owners or any one of them, or the Board acting on behalf of the Owners, shall be entitled (but not obligated) to bring legal action for damages against any Owner who shall default in the performance of any of the provisions of this Declaration, the Bylaws or rules and regulations promulgated by the Board for the protection of the Project; provided however, that only the Board may bring legal action to enforce Assessment liens. Furthermore, said Persons shall be entitled to enjoin any violation of the Project Documents, Rules and Regulations and shall further be entitled to pursue any other legal or equitable action that may be necessary to protect the Project. If any Owner, member of the Board or the Board shall deem it necessary to initiate any legal or equitable action for the protection of the Project against any Owner, and if the initiator shall be the prevailing party of said action, then said Person(s) shall be entitled to reasonable attorneys' fees and costs of said action from said Owner for expenses incurred in bringing or initiating said action; any judgment rendered against any such defaulting Owner shall include costs of said action, together with reasonable attorneys' fees in an amount to be fixed by the court. Notwithstanding the foregoing, the Association is not empowered to cause a forfeiture or abridgment of any Owner's right to the full use and enjoyment of his or her Unit on account of the failure by the Owner to comply with any provision of the Project Documents or the Rules and Regulations adopted by the Board except by judgment of a court or a decision arising out of arbitration or on account of a Foreclosure or sale under a power of sale for failure of the Owner to pay Assessments duly levied by the Association.

14.5 Liberal Interpretation of Declaration. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Project for the mutual benefit of all Owners.

14.6 Severability of Provisions. The provisions of this Declaration herein shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any of the provisions hereof, shall not affect the validity of the remaining provisions.

14.7 Cumulative Remedies. Each and all legal or equitable remedies provided for herein shall be deemed to be cumulative, whether so expressly provided or not.

14.8 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of all heirs, personal representatives, grantees, lessees and assignees of Owners.

14.9 Waiver or Breach of Declaration. No waiver of any breach of any of the covenants or conditions of this Declaration shall constitute a waiver of any succeeding or preceding breach of the same, or any other covenant or condition herein contained.

14.10 Delivery of Notices and Documents. Any written notice or other documents required by this Declaration may be delivered personally or by mail. If by mail, such notice, unless expressly provided for herein or in the Bylaws to the contrary as to the type of notice being given, shall be deemed to have been delivered and received forty-eight (48) hours after a copy thereof has been deposited in the United States Mail, postage prepaid, addressed as follows:

(a) If to an Owner, to the address appearing on the books of the Association given by the Member to the Association, for the purpose of giving notice and delivering documents. Each Owner shall file in writing with the Board promptly upon becoming an Owner, his or her address for the purpose of giving notice and delivering documents and shall promptly notify the Board in writing of any subsequent change of address.

(b) Notices to the Board shall be addressed to the Secretary and the Board shall cause the address of the Secretary to be posted at all times in a conspicuous place within the Common Area.

14.11 <u>Notification of Sale of Unit</u>. Concurrently with the consummation of the sale of any Unit under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board, in writing, of such sale. Such notification shall set forth: (1) the name of the transferee and his or her transferor; (2) the street address of the Unit purchased by the transferee; (3) the transferee's mailing address; and (4) the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by the Board or the Architectural Control Committee or any agent or representative thereof, shall be deemed to be duly made and given to the Owner whose name is listed with the Secretary of the Board.

14.12 <u>Joint and Several Liability</u>. In the case of joint ownership of a Unit, the liability of each of the Owners set forth in or imposed by this Declaration, shall be joint and several.

14.13 <u>Singular and Plural</u>. The singular and plural number, and the masculine, feminine and neuter gender, and capitalized and lower cases shall each include the other where the context requires.

14.14 <u>Determination of Costs and Expenses</u>. Whenever the Association is entitled to recover costs and expenses from a Member, a determination of the amount thereof by the Association, the Board of Directors or a committee of two or more officers which is made in accordance with the Declaration or the Bylaws, shall be conclusive and binding upon the Members.

14.15 <u>Termination of Any Responsibility of Declarant</u>. In the event Declarant shall convey all of its right, title and interest in and to the Project to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved 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.

14.16 <u>Owners' Compliance and Penalties for Violation</u>. Each Owner, tenant or occupant of a Unit shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles and Bylaws, and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action (1) to recover sums due, (2) for damages, (3) for injunctive relief, (4) for costs and attorneys fees, or (5) any combination of the foregoing. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or the Bylaws, shall be deemed to be binding on all Owners of Units, their successors and assigns.

14.17 **Estoppel Certificates**. Upon the written request of any Owner, the Board shall provide the Owner with a written certificate stating that, to the best of its actual knowledge, the Owner is not in violation of any of the provisions of this Declaration and the Board has not received written notice from any Owners stating that the Owner is in violation of this Declaration, or if there are any such violations or the Board has received such notices, setting forth in sufficient detail the nature of such violations. The certificate shall be delivered to the Owner no later than thirty (30) days after such request by an Owner. The Board may charge the Owner a reasonable fee to recover its costs in researching and preparing the certificate. Any prospective purchaser or Mortgagee shall be entitled to rely on the information contained in the certificate; provided, however, that such reliance may not extend to any violations of this Declaration of which the Board does not have actual knowledge, or which have not been brought to its attention by written notice of an Owner. To the fullest extent permitted by law and provided the Board, the Association, any committee of the Association or Board, and any Members thereof, and any officers of the Association or Board, acted in good faith and consistent with what they reasonably believed to be within the scope of their authority and duties, then neither the Board, the Association, any committees of the Association or Board shall be liable to the Owner, Owner's Mortgagee or prospective purchaser requesting or relying on the certificate or any other Owner for any damage, loss, or prejudice suffered or claimed on account of the failure to supply such certificate or on the account of any information contained in the certificate being incomplete or inaccurate and said information was actually unknown to any of the above entities or persons.

14.18 **Limitation of Restrictions on Declarant**. Declarant is undertaking the conversion of a mobile home park Project to residential Units and may be making some incidental improvements upon the Project. The completion of conversion and the sale, rental, and other disposal of said Units is essential to the establishment and welfare of said Project as a residential Unit community. In order that said conversion may be completed 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 Project or any Unit, whatever is reasonably necessary or advisable in connection with the completion of said conversion; or

(b) Prevent Declarant or its representatives from erecting, constructing and maintaining on the Project (except upon Units owned by others), such structures as may be reasonable and necessary for the conduct of its business or completing said conversion and establishing said Project as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

(c) Prevent Declarant from conducting on the Project (except upon Units owned by others) its business of completing said conversion and of establishing a plan of Unit ownership and of disposing of said Project as Units by sale, lease or otherwise.

14.19 <u>Number; Gender</u>. The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

14.20 <u>Headings</u>. The subject headings of the Sections and Subsections of this Declaration are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

14.21 <u>Counterparts</u>. This Declaration may be executed in several counterparts, and all counterparts so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the day and year first hereinbefore written, and hereby certifies that Declarant consents to the recordation of the Condominium Plan pursuant to the requirements of the California Civil Code.

REDEVELOPMENT AGENCY OF
THE CITY OF SAN MARCOS

By: Paul Malone
Deputy Executive Director

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

On March 25, 1995 before me, the undersigned, a Notary Public in and for said county and State, personally appeared PAUL MALONE xxxx, known to me (~~or proven to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~) or the entity on behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

SUSIE VASQUEZ
Commission #1056145
Notary Public - California
San Diego County
My Commission Expires May 10, 1999
VRS4

Signature Susie Vasquez

ORDER NO.: 196864-05

1936

EXHIBIT A

Parcel 1:

Lot B of Cerificate of Compliance recorded August 3, 1995, as File\Page No. 1995-0335159 of Official Records of San Diego County, State of California and more particularly described as follows:

Lot 10 in block 54, and that portion of Carmel Street 66.00 feet wide, as vacated lying between the Northerly line of Discovery Street and the Southerly right of way line of the San Diego Northerly Railway (Formerly known as the Atchison, Topeka and Santa Fe Railroad Company), also Lots 1, 2 and 3 of block 59, all in Rancho Los Vallecitos De San Marcos, per Map No. 806, on file in the office of the county recorder of San Diego County, State of California excepting therefrom that portion of said Lot 10 block 54, the vacated street and lot 1 block 59 described as follows:

Beginning at the Southeasterly corner of said lot 10; Thence Southwesterly along the Southeasterly line of said lot 10 South 72° 58' 06" West 320.20 feet to the True Point of Beginning; Thence continuing along said Southeasterly line South 72° 58' 06" West 179.09 feet; Thence leaving said line North 17° 00' 20" West 240.74 feet to the beginning of a 20.00 foot radius curve concave Southeasterly; Thence Northerly and Northeasterly along the arc of said curve through a central angle of 84° 07' 12" a distance of 29.36 feet to a point of compound curvature with a tangent 984.50 foot radius curve concave Southeasterly a radial line to said point bears North 22° 52' 08" West; Thence Northeasterly along the arc of said curve through a central angle of 05° 09' 08" a distance of 88.53; Thence North 72° 16' 00" East 52.56 feet to the beginning of a 20.00 foot radius curve, concave Southwesterly; Thence Southeasterly along the arc of said curve through a central angle of 90° 44' 07" a distance of 31.67 feet; Thence South 16° 59' 53" West 246.32 feet to the True Point of Beginning.

Parcel 2:

Lot A of Certificate of Compliance recorded August 3, 1995, as File\Page No. 1995-0335159 of Official Records of San Diego County, State of California and more particularly described as follows:

All that portion of lot 10 in block 54 and that portion of Carmel Street 66.00 feet wide, as vacated lying between the Northerly line of Discovery Street and the Southerly right of way line of the San Diego Northerly Railway (Formerly known as the Atchison, Topeke and Santa Fe Railroad Company), also lots 1 of block 59, all in Rancho Los Vallecitos De San Marcos per Map No. 806, on file in the office of the county recorder of San Diego County, State of California described as follows:

Beginning at the Southeasterly corner of said lot 10; Thence southwesterly along the Southeasterly line of said lot 10 South 72° 58' 06" West 320.20 feet to the True Point of

SCHEDULE A (continued)

Beginning; Thence continuing along said Southeasterly line South 72° 58' 06" West 179.09 feet; Thence leaving said line North 17° 00' 20" West 240.74 feet to the beginning of a 20.00 foot radius curve concave Southeasterly; Thence Northerly and Northeasterly along the arc of said curve through a central angle of 84° 07' 12" a distance of 29.36 feet to a point of compound curvature with a tangent 984.50 foot radius curve concave Southeasterly, a radial line to said point bears North 22° 53' 08" West; Thence Northeasterly along the arc of said curve through a central angle of 05° 09' 08" a distance of 88.53 feet; Thence North 72° 16' 00" East 52.56 feet to the beginning of a 20.00 foot radius curve, concave Southwesterly; Thence Southeasterly along the arc of said curve through a central angle of 90° 44' 07" a distance of 31.67 feet; Thence South 16° 59' 53" West 246.32 feet to the True Point of Beginning.

Parcel 3:

An easement and right of way for road purposes over the Southerly 30.00 feet of the Northerly 130.00 feet of Lot 4 in Block 59 in Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County.

Parcel 4:

An easement and right of way for road purposes over, along and across the Easterly 20.00 feet, except the Northerly 130.00 feet of Lot 4 in Block 59 of Rancho Los Vallecitos De San Marcos in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County.

Recording Requested By
Continental Lawyers Title Company
When Recorded Mail to:

Higgs, Fletcher & Mack LLP
401 West A Street, Ste. 2000
San Dieog, CA 29101

Attn: Linda Woolcott

196864-05

THE ORIGINAL OF THIS DOCUMENT WAS RECORDED ON 10-APR-1996, DOCUMENT NUMBER 1996-0177749. GREGORY SMITH, COUNTY RECORDER SAN DIEGO COUNTY RECORDER'S OFFICE

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CERTIFICATE UNDER CALIFORNIA CIVIL CODE SECTION 1351

THIS CONDOMINIUM PLAN SUPERSEDES, CANCELS AND RESCINDS THOSE CERTAIN CONDOMINIUM PLANS WHICH ON RECORDED NOVEMBER 15, 1995 AS RECORDER'S FILE NO. 1995-0519465 AND ON MARCH 28, 1996 AS RECORDER'S FILE NO. 1996-0154500

WE, THE UNDERSIGNED, BEING THE RECORD OWNER OF AND RECORD HOLDER OF SECURITY INTEREST IN THE REAL PROPERTY DESCRIBED IN THE DOCUMENTS HEREINAFTER MENTIONED, DO HEREBY CERTIFY THAT:

WE HEREBY CONSENT TO THE RECORDATION OF THE PLAN OF CONDOMINIUM PURSUANT TO CHAPTER 1, TITLE 6, PART 4, DIVISION SECOND, CALIFORNIA CIVIL CODE, CONSISTING OF:

(1) THE DESCRIPTION OR SURVEY MAP OF THE SURFACE OF THE LAND INCLUDED WITHIN THE PROJECT, AS SUCH DESCRIPTION OR SURVEY MAP IS SET FORTH UPON OR CONSTITUTED BY:

Lot B of Certificate of Compliance recorded August 3, 1995, as File/Page No. 1995-0335159 of Official Records of San Diego County, State of California and more particularly described as follows:

Lot 10 in Block 54, and that portion of Carmel Street 66.00 feet wide, as vacated lying between the Northerly line of Discovery Street and the Southerly right of way line of the San Diego Northerly Railway (Formerly know as the Atchison, Topeka and Santa Fe Railroad Company), also Lots 1, 2 and 3 of Block 59, all in the Rancho Los Vallecitos De San Marcos, per Map No. 806, on file in the Office of the County Recorder of San Diego County, State of California excepting therefrom that portion of said Lot 10, Block 54, the vacated street and Lot 1, Block 59 described as follows:

Beginning at the Southeasterly corner of said Lot 10; Thence Southwesterly along the Southeasterly line of said Lot 10 South 72°58'06" West 320.00 feet to the True Point of Beginning; Thence continuing along said Southeasterly line South 72°58'06" West 179.09 feet; Thence leaving said line North 17°00'20" West 240.74 feet to the beginning of a 20.00 foot radius curve concave Southeasterly; Thence Northerly and Northeasterly along the arc of said curve through a central angle of 84°07'12" a distance of 29.36 feet to a point of compound curvature with a tangent 984.50 foot radius curve concave Southeasterly, a radial line to said point bears North 22°52'08" West; Thence Northeasterly along the arc of said curve through a central angle of 05°09'08" a distance of 88.53; Thence North 72°16'00" East 52.56 feet to the beginning of a 20.00 foot radius curve, concave Southwesterly; Thence Southeasterly along the arc of said curve through a central angle of 90°44'07" a distance of 31.67 feet; Thence South 16°59'53" West 246.32 feet to the True Point of Beginning.

AND WHICH MAP IS HEREBY REFERENCED INCORPORATED HEREIN;

(2) THE DIAGRAMMATIC FLOOR PLANS OF THE BUILDING OR BUILDINGS BUILT OR TO BE BUILT ON SAID LAND, IF ANY, AS SAID DIAGRAMMATIC FLOOR PLANS ARE ATTACHED TO THIS CERTIFICATE, AND WHICH DIAGRAMMATIC FLOOR PLANS ARE HEREBY BY REFERENCE INCORPORATED HEREIN; AND

(3) THIS CERTIFICATE.

DATED: 4/9/96

RECORD OWNER:

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN MARCOS,

BY: Paul Malone

Paul Malone, Deputy Executive Director

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

On April 9, 1996, before me, a notary public in and for said state, personally appeared PAUL MALONE personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Susie Vasquez

Notary Public in and for said County and State

SUSIE VASQUEZ
Commission #1056145
Notary Public - California
San Diego County
My Commission Expires May 10, 1999

TWIN OAKS VALLEY PARK
SALES NOTEBOOK

Index Of Documents

Steve -
Here's info
I promised
Jan Bessi
Twin Oaks

1. Background Information for Prospective Purchasers
2. Articles of Incorporation of Twin Oaks Valley Community Asso
3. Bylaws
4. Declaration of Restrictions
5. Superseding Condominium Plan
6. Certificate of Compliance
7. Budget
8. Receipt for Public Report or California Permit
9. Final Subdivision Public Report
10. Rules and Regulations
11. Deposit Receipt/Sales Contract

TWIN OAKS VALLEY PARK
CONDOMINIUM PLAN

CERTIFICATE

THE UNDERSIGNED, BEING THE RECORD OWNER OF THE LAND INCLUDED WITHIN THIS PROJECT, AND RECORD HOLDER OF SECURITY INTEREST THEREIN, HEREBY CONSENT TO THE RECORDATION OF THE ATTACHED CONDOMINIUM PLAN PURSUANT TO THE PROVISIONS OF CHAPTER 1, TITLE 6, PART 4, DIVISION 2 OF THE CIVIL CODE.

DATED: October 25, 1995

OWNER:
REDEVELOPMENT AGENCY OF THE CITY OF SAN MARCOS, A POLITICAL SUBDIVISION OF A CALIFORNIA MUNICIPALITY.

BY: R.W. Gittings
TITLE: Executive Director

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) SS

ON 10/25/95 BEFORE ME Susie Vasquez, NOTARY PUBLIC, PERSONALLY APPEARED R. W. GITTINGS PERSONALLY KNOWN TO ME ~~(OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE)~~ TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL

SIGNATURE
Susie Vasquez, Notary Public

SUSIE VASQUEZ
Commission #1056145
Notary Public - California
San Diego County
My Commission Expires May 10, 1999

NOTES

1. THE TOTAL NUMBER OF "UNITS" IS 190.
2. "COMMON AREA" SHALL MEAN THE ENTIRE PROJECT, EXCEPTING ALL "UNITS" THEREIN GRANTED OR RESERVED, SUBJECT TO ALL EASEMENTS AND RIGHTS DESCRIBED IN PERTINENT DEEDS AND COVENANTS, CONDITIONS AND RESTRICTIONS MADE APPLICABLE THERETO.
3. THE LATERAL BOUNDARIES OF EACH "UNIT" ARE VERTICAL PLANES AT THE LIMITS OF THE HORIZONTAL DIMENSIONS SHOWN ON THE UNIT PLANS, SHEETS 3 THROUGH 6.
4. THE UPPER AND LOWER LIMITS OF EACH "UNIT" ARE HORIZONTAL PLANES AT THE LIMITS OF THE DIMENSIONS AS SHOWN ON THE UNIT PLANS, THE ELEVATIONS OF WHICH ARE DEFINED AS FOLLOWS:
   A) LOWER LIMIT: THE FINISHED GROUND LEVEL THAT EXISTED AT THE TIME OF RECORDATION OF THIS PLAN MINUS 1.00'
   B) UPPER LIMIT: 35.0' ABOVE THE LOWER LIMIT DESCRIBED AT (A) OF THIS PARAGRAPH 4.
5. EACH "UNIT" SHALL BE SUBJECT TO ALL EASEMENTS DESCRIBED IN PERTINENT DEEDS AND COVENANTS, CONDITIONS AND RESTRICTIONS MADE APPLICABLE THERETO, INCLUDING BUT NOT LIMITED TO AN EASEMENT IN FAVOR OF THE HOMEOWNERS ASSOCIATION AS TO ALL UNDERGROUND UTILITIES LOCATED IN EACH UNIT AND ALL UTILITY PEDESTALS SERVING EACH UNIT FOR THE PURPOSES OF OPERATION, INSTALLATION, REPAIR AND MAINTENANCE.

PROPERTY DESCRIPTION

LOT 10 IN BLOCK 54, AND THAT PORTION OF CARMEL STREET 66.00 FEET WIDE AS VACATED LYING BETWEEN THE NORTHERLY LINE OF DISCOVERY STREET AND THE SOUTHERLY RIGHT OF WAY LINE OF THE SAN DIEGO NORTHERN RAILWAY (FORMERLY KNOWN AS THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY), ALSO LOTS 1, 2 AND 3 OF BLOCK 59, ALL IN RANCHO LOS VALLECITOS DE SAN MARCOS, PER MAP NO. 806, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA.
MORE PARTICULARLY DESCRIBED IN CERTIFICATE OF COMPLIANCE RECORDED ____________ AS FILE NO. ____________

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS MAP IS THE CENTERLINE OF VALPREDA ROAD AS SHOWN ON MAP NO. ________
IE: N17°00'20"W

LEGEND

———	INDICATES CONDOMINIUM PROJECT BOUNDARY
———	INDICATES BOUNDARY OF "UNIT"
- - - - -	INDICATES TIE LINE
[000]	INDICATES "UNIT" NUMBER

SURVEYOR'S STATEMENT

I HEREBY STATE THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA AND THAT THIS DIAGRAMMATIC PLAN CORRECTLY SHOWS THE BOUNDARIES OF THE LAND AND THE RELATIONSHIP THERETO OF THE UNIT SHOWN HEREON.

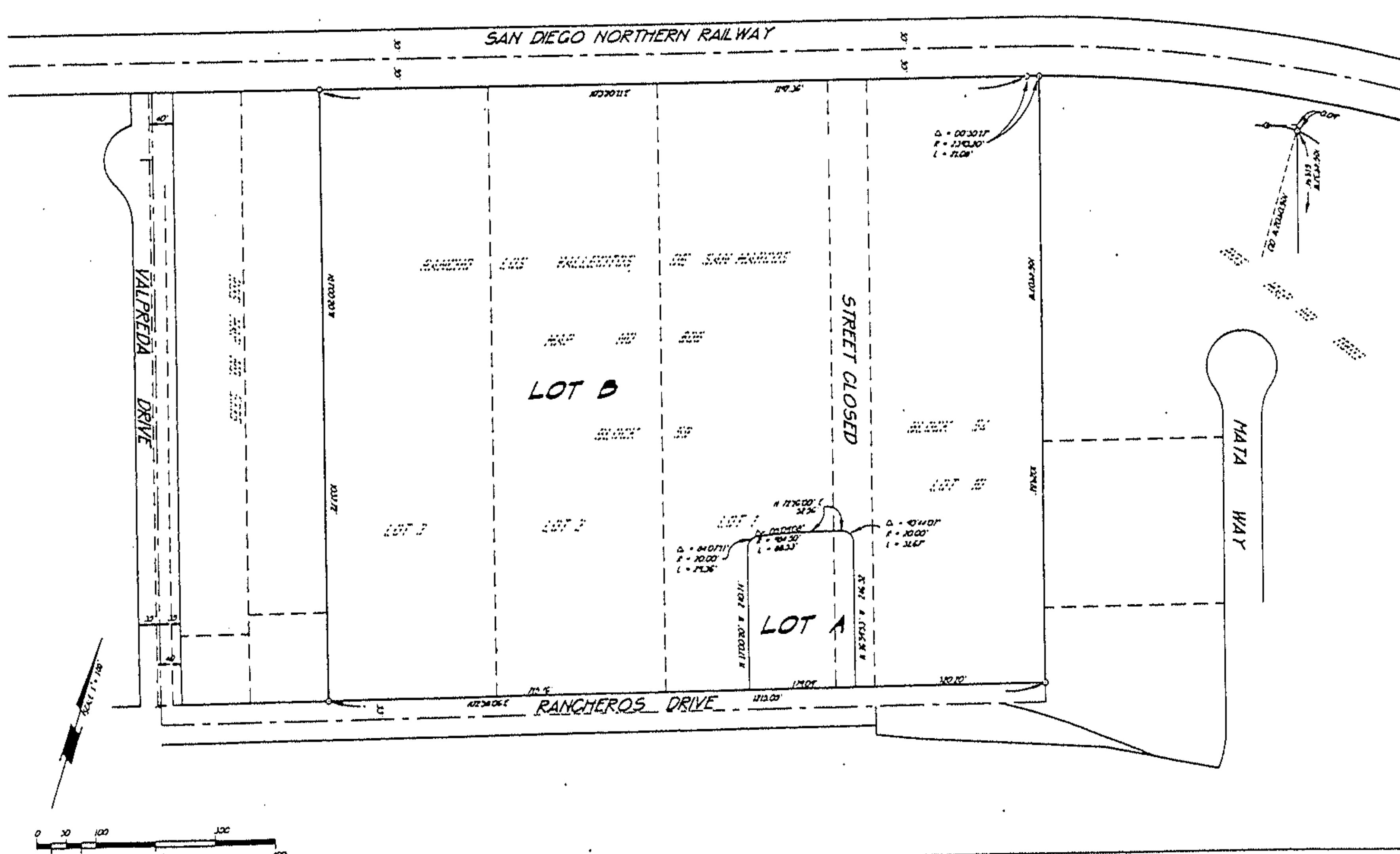
DALE K. BREWER LS 5653
EXP. 9-30-99

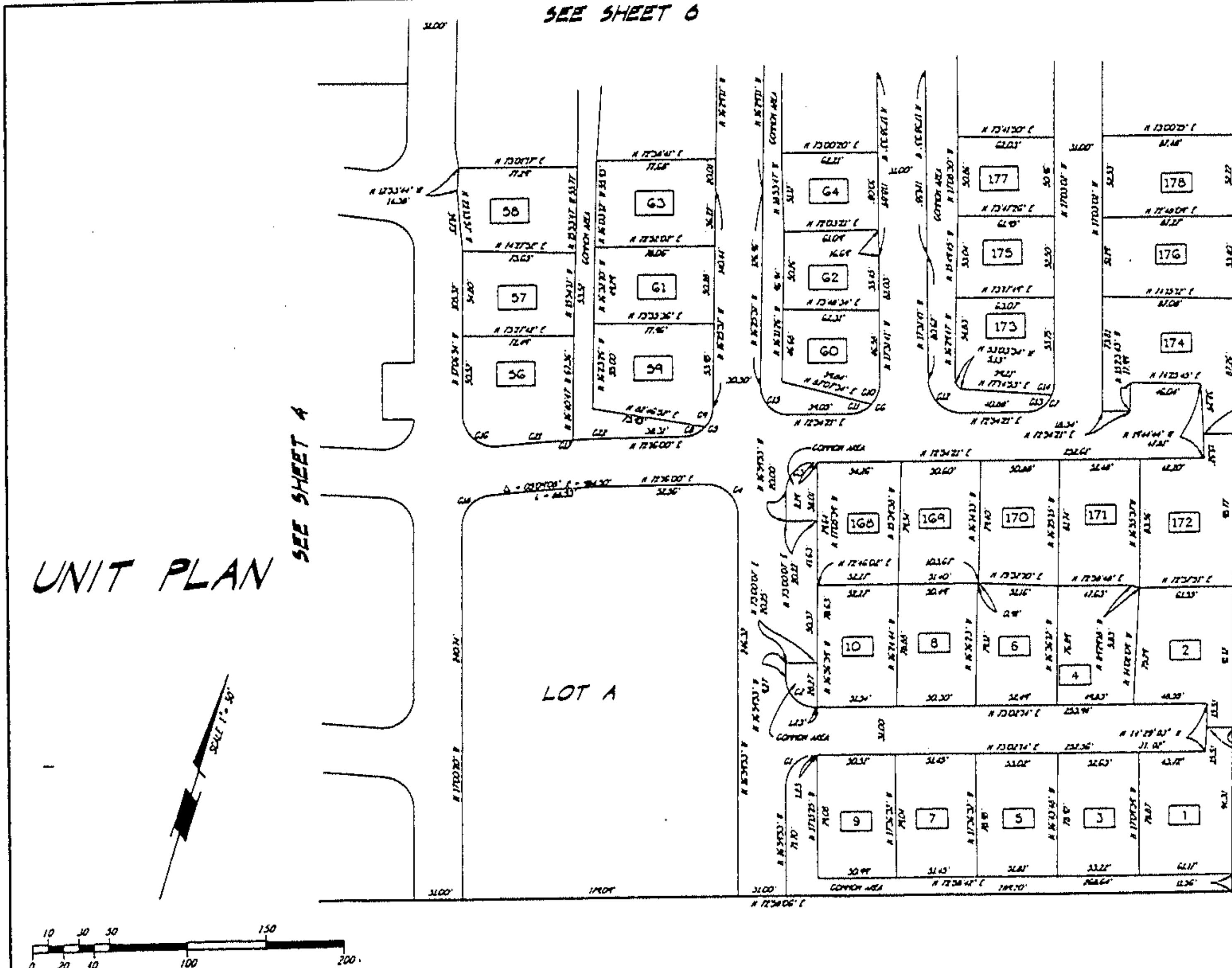
10-25-95
DATE

LICENSED LAND SURVEYOR
DALE KEITH BREWER
Exp. 9-30-99
NO. 5653
STATE OF CALIFORNIA

LAND SURVEYING CONSULTANTS, INC.
1075 LINDA VISTA DR., SUITE G
SAN MARCOS, CA 92069
PHONE: (619) 744-8014

PROJECT SITE PLAN



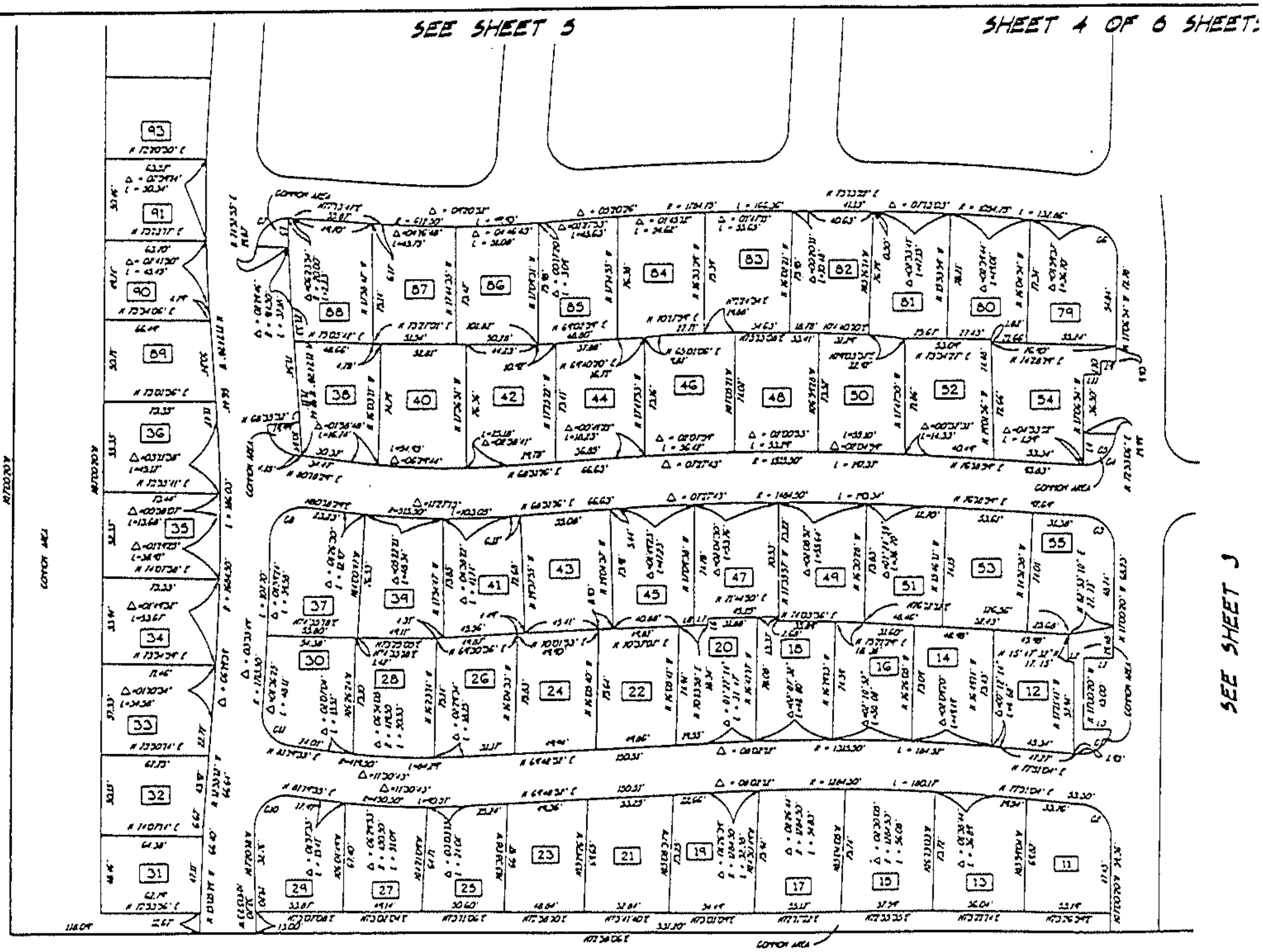


CURVE	RADIUS	LENGTH	DELTA
C1	19.00'	29.66'	90°02'08"
C2	19.00'	29.53'	89°57'52"
C3	18.00'	28.24'	89°54'15"
C4	20.00'	31.67'	90°44'07"
C5	19.00'	29.41'	88°41'21"
C6	20.00'	31.57'	90°26'07"
C7	18.00'	28.26'	89°57'24"
C8	19.00'	15.79'	46°06'12"
C9	19.00'	14.12'	42°35'17"
C10	20.00'	13.38'	43°29'24"
C11	20.00'	16.38'	46°56'08"
C12	22.00'	34.39'	89°33'58"
C13	18.00'	20.15'	64°03'23"
C14	18.00'	7.58'	23°24'00"
C15	18.00'	28.46'	90°40'08"
C16	21.00'	34.43'	93°57'28"
C17	1053.30'	82.83'	04°30'22"
C18	20.00'	29.56'	84°07'11"
C21	1013.30'	49.56'	02°46'23"
C22	1013.30'	33.66'	01°53'55"

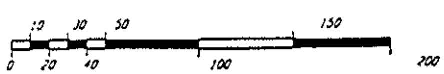
LAND SURVEYING CONSULTANTS, INC.
1075 LINDA VISTA DR. STE. G
SAN MARCOS, CA. 92069
(619) 744-8014

LINE	DIRECTION	DISTANCE
	N17°13'38"W	4.03'
L1	N73°39'40"E	13.00'
L2	[illegible]	2.69'
L3	N73°39'40"E	[illegible]
L4	[illegible]	[illegible]
L5	N[illegible]20'20"W	2.69'
L6	N17°13'38"W	4.03'
L7	N10°13'38"E	4.04'
L8	N10°13'38"E	4.21'
L9	N[illegible]	4.50'
L10	N[illegible]	8.07'
L11	N[illegible]	10.31'

CURVE	RADIUS	LENGTH	DELTA
C1	20.00'	[illegible]	[illegible]
C2	20.00'	[illegible]	83°08'36"
C3	20.00'	[illegible]	86°40'41"
C4	20.00'	[illegible]	[illegible]
C5	20.00'	[illegible]	[illegible]
C6	20.00'	[illegible]	[illegible]
C7	20.00'	[illegible]	[illegible]
C8	20.00'	[illegible]	[illegible]
C9	20.00'	[illegible]	[illegible]
C10	20.00'	[illegible]	[illegible]
C11	20.00'	[illegible]	[illegible]

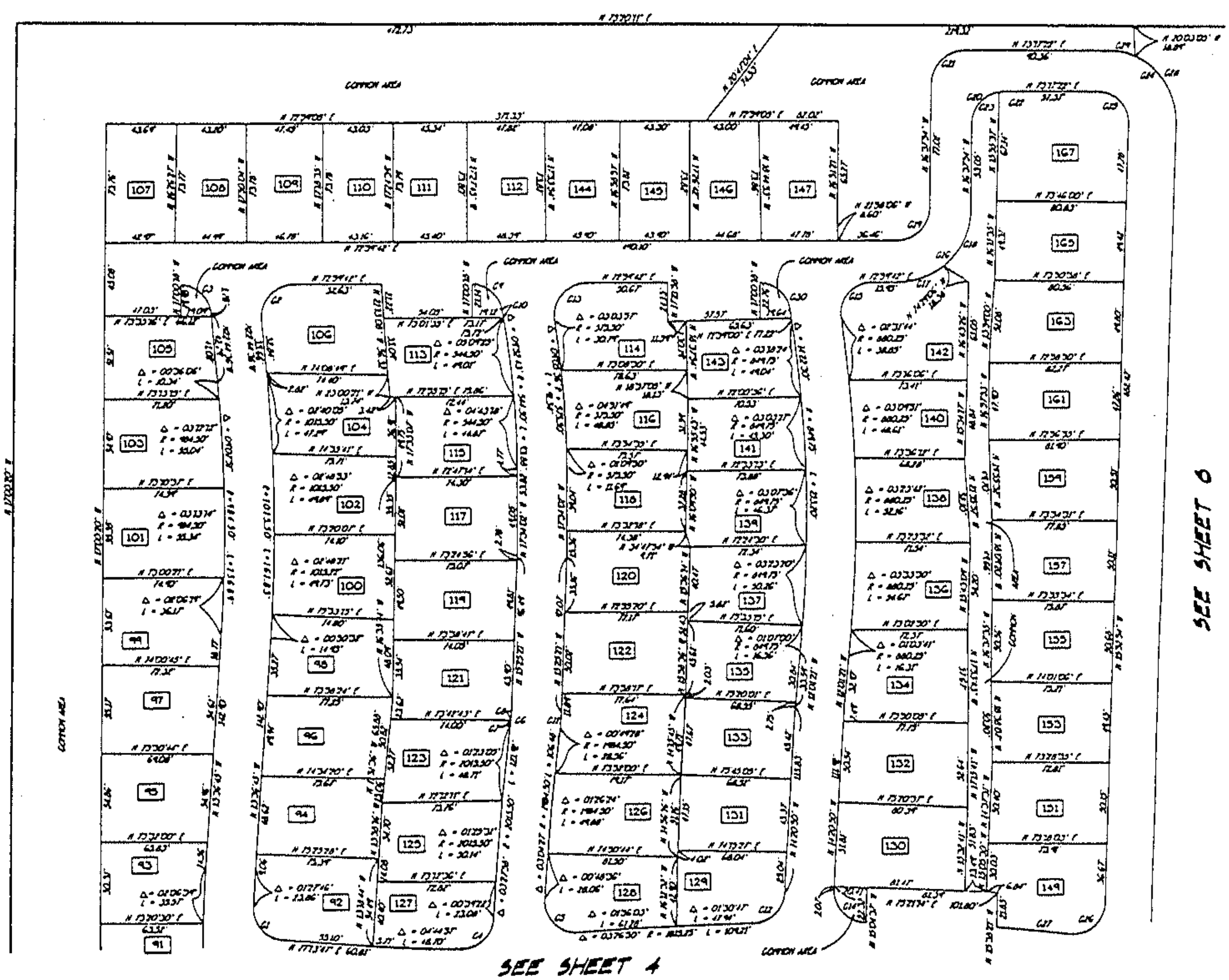


UNIT PLAN

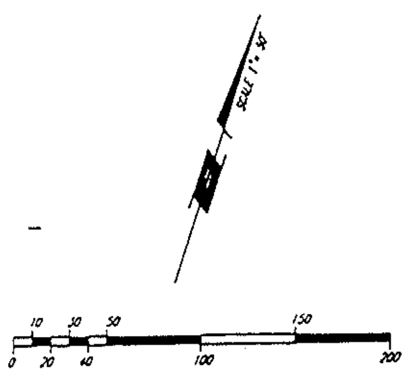


LAND SURVEYING CONSULTANTS, INC.
1075 LINDA VISTA DR. STE. G
SAN MARCOS, CA 92069
(619) 744-6014

CURVE	RADIUS	LENGTH	DELTA
C1	20.00'	30.61'	87°41'41"
C2	20.00'	33.42'	95°44'17"
C3	20.00'	28.47'	81°33'32"
C4	20.00'	30.25'	86°39'03"
C5	20.00'	34.04'	97°30'19"
C6	84.30'	6.46'	04°43'06"
C7	84.30'	1.64'	01°06'41"
C8	84.30'	3.38'	03°36'29"
C9	20.00'	26.12'	74°49'35"
C10	344.30'	3.10'	00°30'56"
C11	113.30'	9.31'	04°43'06"
C12	20.00'	30.30'	86°30'39"
C13	20.00'	34.19'	97°59'21"
C14	20.00'	32.11'	91°58'43"
C15	19.00'	32.14'	96°43'30"
C16	43.00'	70.39'	93°51'31"
C17	43.00'	30.94'	39°23'33"
C18	43.00'	29.43'	39°14'04"
C19	20.00'	31.39'	89°51'31"
C20	20.00'	31.39'	89°33'16"
C21	20.00'	31.39'	89°33'16"
C22	20.00'	3.25'	09°18'00"
C23	20.00'	28.16'	80°39'21"
C24	43.00'	68.17'	90°49'45"
C25	20.00'	31.77'	90°49'45"
C26	20.00'	33.37'	95°32'06"
C27	1083.25'	43.77'	02°24'39"
C28	43.00'	51.02'	67°59'37"
C29	43.00'	16.33'	21°46'48"
C30	20.00'	27.14'	77°44'48"

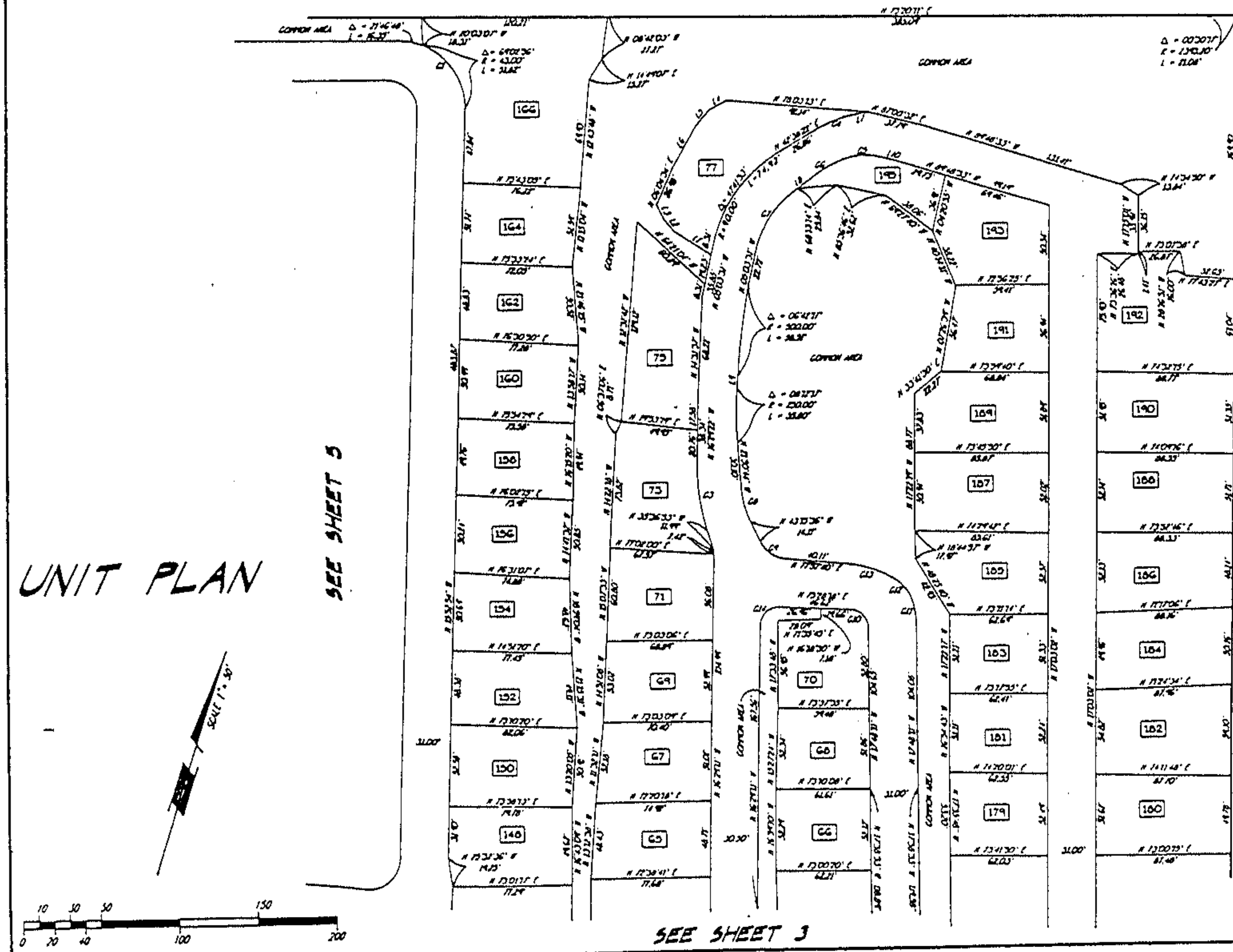


UNIT PLAN



LAND SURVEYING CONSULTANTS, INC.
1075 LINDA VISTA DR. STE. G
SAN MARCOS, CA. 92069
(619) 744-3011

UNIT PLAN



LINE	DIRECTION	DISTANCE
L1	N 14°11'05" W	28.73'
L2	N 31°29'36" W	9.79'
L3	N 44°37'55" W	11.10'
L4	N 44°20'28" E	12.37'
L5	N 24°05'37" E	13.66'
L6	N 17°13'41" E	29.61'
L7	N 61°20'33" E	11.11'
L8	N 33°41'20" E	11.33'
L9	N 13°36'27" W	7.56'
L10	N 06°31'07" E	14.83'

CURVE	RADIUS	LENGTH	DELTA
C1	43.00'	68.17'	90°49'44"
C2	43.00'	32.00'	64°16'33"
C3	140.00'	46.13'	19°01'31"
C4	75.00'	24.49'	18°42'31"
C5	40.00'	24.00'	34°22'38"
C6	19.75'	27.33'	79°40'29"
C7	63.00'	46.34'	40°30'31"
C8	60.00'	22.43'	21°24'32"
C9	20.00'	20.32'	58°46'43"
C10	12.00'	18.16'	86°43'31"
C11	60.00'	16.60'	15°51'15"
C12	26.00'	19.48'	42°55'12"
C13	75.00'	33.33'	25°27'42"
C14	12.00'	19.26'	91°57'29"

LAND SURVEYING CONSULTANTS, INC.
1075 LINDA VISTA DR. STE. C
SAN MARCOS, CA 92069
(619) 744-6014

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Sheila A. Kennedy
City Clerk
City of San Marcos
1 Civic Center Drive
San Marcos CA 92069

2057

DOC # 1995-0335159
03-AUG-1995 11:41 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY SMITH, COUNTY RECORDER
FEES: 0.00

Space Reserved for Recorder's Use

PLEASE RECORD THIS DOCUMENT FOR NO FEE AS A BENEFIT TO THE CITY OF SAN MARCOS

CERTIFICATE OF COMPLIANCE

(Section 66499.35 of the Government Code)

The City Engineer has determined that the real property described below has been divided or has resulted from a division or combining of lots in compliance with the Subdivision Map Act and with the provisions of the San Marcos Municipal Code pursuant thereto.

OWNER(S): THE REDEVELOPMENT AGENCY OF THE CITY OF SAN MARCOS

DESCRIPTION: (See Exhibit "A" attached)

NOTE: SEE ATTACHED BOUNDARY ADJUSTMENT PLAT

This Certificate of Compliance shall have no force and effect if the above owners or any subsequent transferee or assignee acquires any contiguous property other than a lot or lots shown on a recorded subdivision map, parcel map or record of survey map filed pursuant to and prior to repeat (Stats. 1955, Ch. 1593) of Section 11575 of the Business and Professions Code.

This Certificate of Compliance shall in no way affect the requirements of any other County, State or Federal agency that regulates development of real property.

Date: 7-26-95

By: Kenneth J. Gerdes
Kenneth J. Gerdes
City Engineer

Case No.: BA 95-84

Current Assessor's Parcel No.: 220-310-79

Address: 500 RANCHEROS DRIVE
SAN MARCOS, CA 92069

Adjustment Plat No.: BA 95-84

Doc. #12,752

EXHIBIT 'A' 2058

LOT A

ALL THAT PORTION OF LOT 10 IN BLOCK 54, AND THAT PORTION OF CARMEL STREET 66.00 FEET WIDE, AS VACATED LYING BETWEEN THE NORTHERLY LINE OF DISCOVERY STREET AND THE SOUTHERLY RIGHT OF WAY LINE OF THE SAN DIEGO NORTHERN RAILWAY (FORMERLY KNOWN AS THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY), ALSO LOTS 1 OF BLOCK 59, ALL IN RANCHO LOS VALLECITOS DE SAN MARCOS, PER MAP NO. 806, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHESTERLY CORNER OF SAID LOT 10; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERY LINE OF SAID LOT 10 SOUTH 72°58'06" WEST 320.20 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHEASTERLY LINE SOUTH 72°58'06" WEST 179.09 FEET; THENCE LEAVING SAID LINE NORTH 17°00'20" WEST 240.74 FEET TO THE BEGINNING OF 20.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 84°07'12", A DISTANCE OF 29.36 FEET TO A POINT OF COMPOUND CURVATURE WITH A TANGENT 984.50 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 22°53'08" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°09'08", A DISTANCE OF 88.53 FEET; THENCE NORTH 72°16'00" EAST 52.56 FEET TO THE BEGINNING OF A 20.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°44'07" A DISTANCE OF 31.67 FEET; THENCE SOUTH 16°59'53" WEST 246.32 FEET TO THE TRUE POINT OF BEGINNING.

LOT B

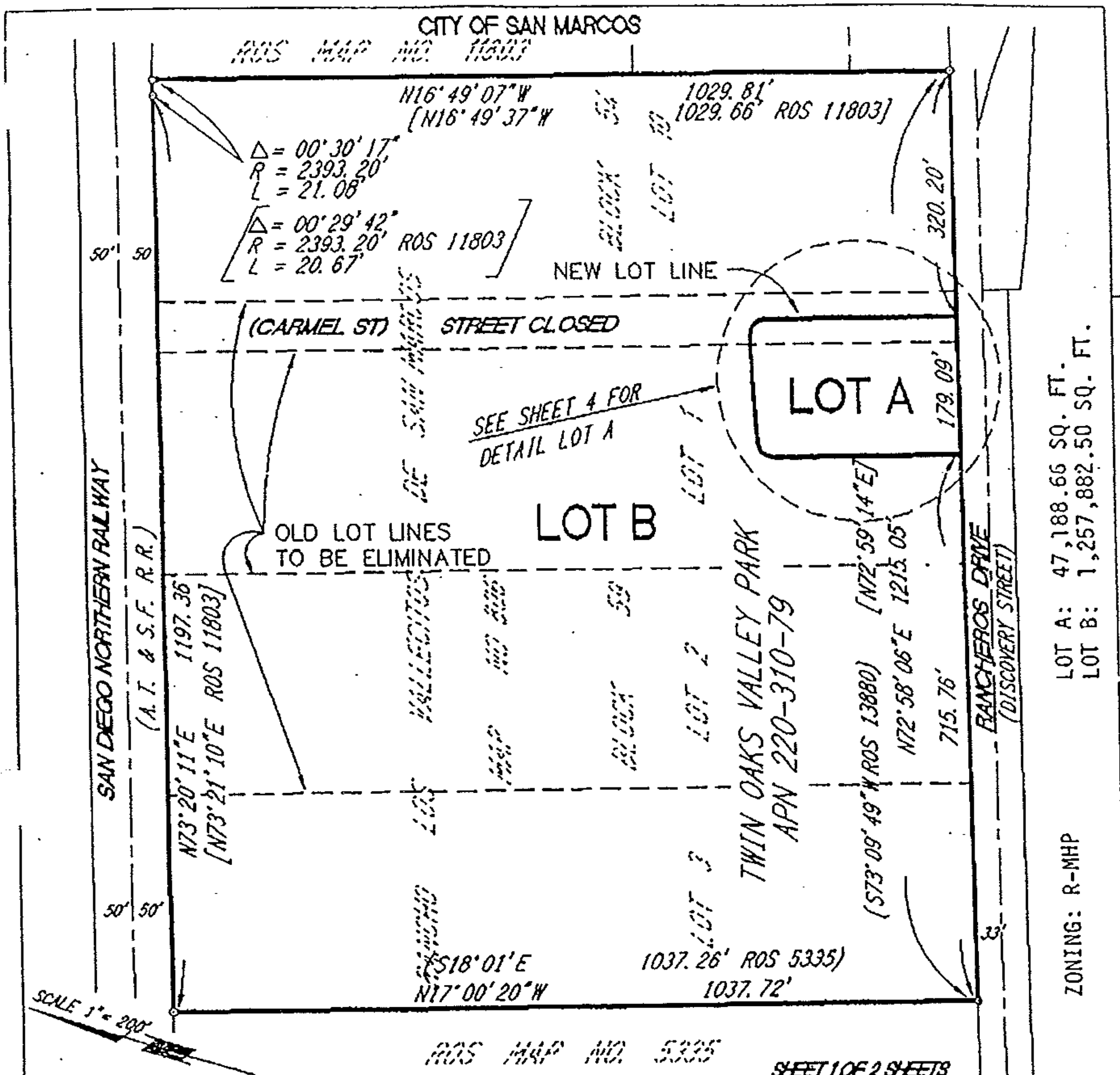
LOT 10 IN BLOCK 54, AND THAT PORTION OF CARMEL STREET 66.00 FEET WIDE, AS VACATED LYING BETWEEN THE NORTHERLY LINE OF DISCOVERY STREET AND THE SOUTHERLY RIGHT OF WAY LINE OF THE SAN DIEGO NORTHERN RAILWAY (FORMERLY KNOWN AS THE ATCHISON, TOPEKA AND SANTA FE RAILROAD COMPANY), ALSO LOTS 1, 2 AND 3 OF BLOCK 59, ALL IN RANCHO LOS VALLECITOS DE SAN MARCOS, PER MAP NO. 806, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA EXCEPTING THEREFROM THAT PORTION OF SAID LOT 10 BLOCK 54, THE VACATED STREET AND LOT 1 BLOCK 59 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 10; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERY LINE OF SAID LOT 10 SOUTH 72°58'06" WEST 320.20 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHEASTERLY LINE SOUTH 72°58'06" WEST 179.09 FEET; THENCE LEAVING SAID LINE NORTH 17°00'20" WEST 240.74 FEET TO THE BEGINNING OF 20.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 84°07'12", A DISTANCE OF 29.36 FEET TO A POINT OF COMPOUND CURVATURE WITH A TANGENT 984.50 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 22°53'08" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°09'08", A DISTANCE OF 88.53 FEET; THENCE NORTH 72°16'00" EAST 52.56 FEET TO THE BEGINNING OF A 20.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°44'07" A DISTANCE OF 31.67 FEET; THENCE SOUTH 16°59'53" WEST 246.32 FEET TO THE TRUE POINT OF BEGINNING.

Doc. #12,752

ADJUSTMENT PLAT

2059



HEALTH DEPARTMENT AND UTILITIES CERTIFICATION	
NO EXISTING EASEMENTS WILL BE AFFECTED BY THIS BOUNDARY ADJUSTMENT.	
HEALTH DEPARTMENT	
VALLECITOS WATER	
SDG & E	WAIVED
PACIFIC BELL	
COX CABLE	

FOR DEPARTMENTAL USE ONLY

FINAL APPROVAL IS SUBJECT TO THE RECORDATION OF THIS ADJUSTMENT PLAT TOGETHER WITH THE CERTIFICATE OF COMPLIANCE.

Prelim. Fee N/A Final Fee ______

Rec. No. ______ Rec. No. ______

OWNER SAN MARCOS REDEVELOPEMENT AGENCY ADDRESS 1 CIVIC CENTER DRIVE

PHONE NO. (619) 744-1050 CITY SAN MARCOS

OWNER'S SIGNATURE LAND SURVEYOR'S SIGNATURE LS 5653

APPLICANT TWIN OAKS VALLEY PARK MAP PREPARED BY LAND SURVEYING CONSULTANTS, INC.

ADDRESS 500 RANCHEROS DRIVE ADDRESS 1075 LINDA VISTA DR STE G SAN MARCOS

PHONE NO. 744-2500 PHONE NO. (619) 744-8014

DATE FILED

REC'D BY

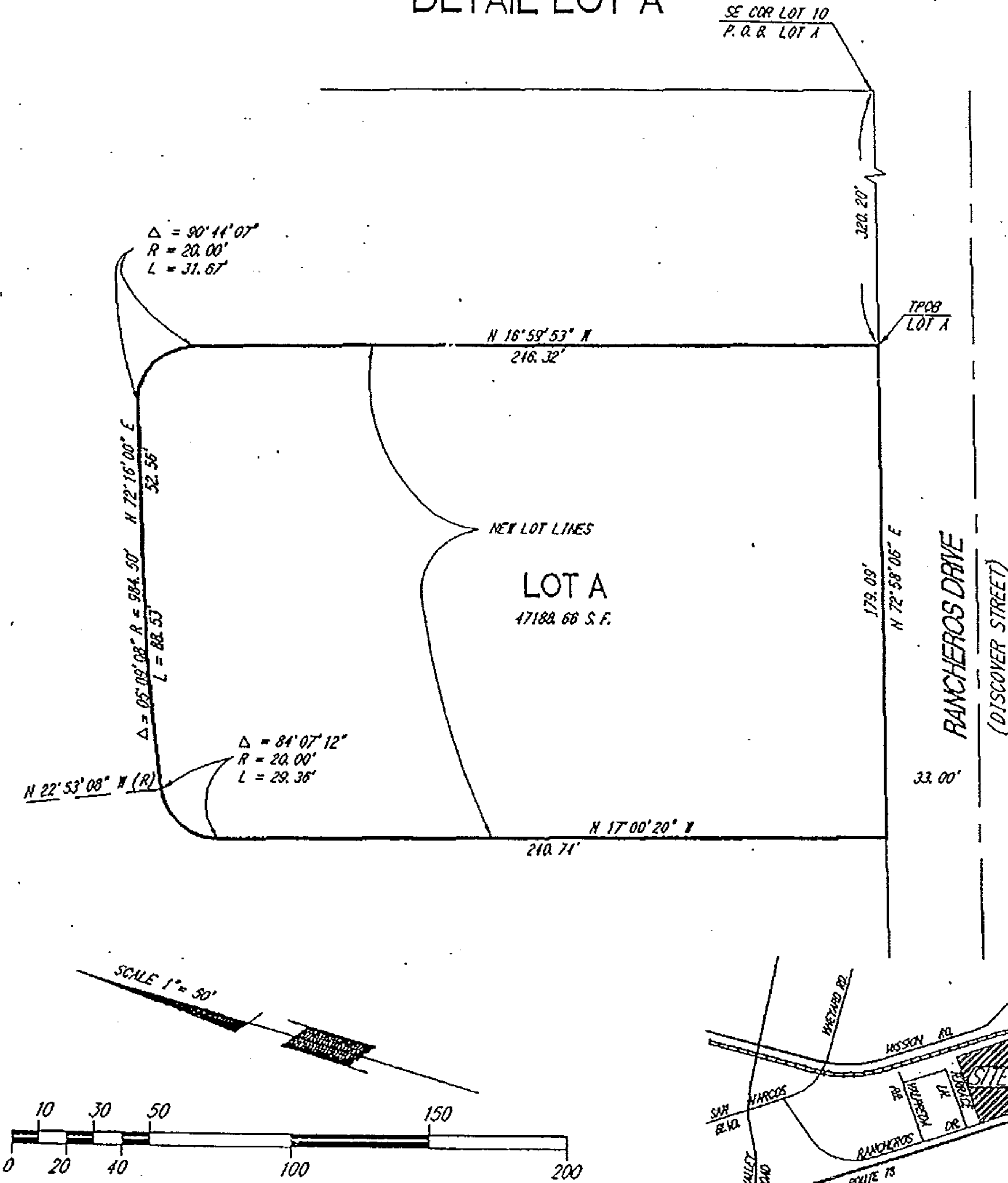
REVIEWED BY Planning Division DATE 7-6-95

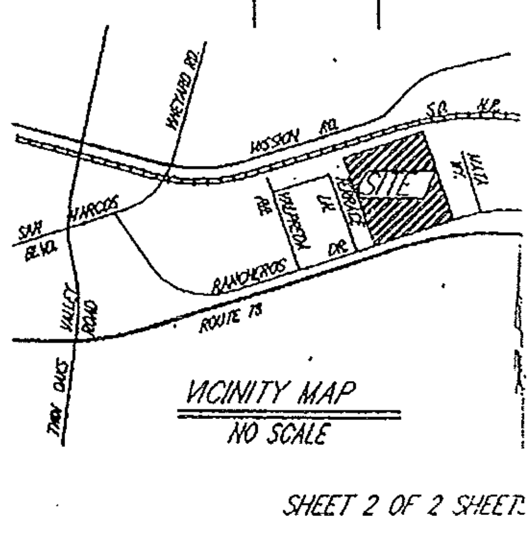
REVIEWED BY Engineering Division DATE 7/26/95

FINAL ACTION BY City Engineer Date 7/26/95

PLAN NO. BA 95-84

DETAIL LOT A





SHEET 2 OF 2 SHEETS