

**The following notice is pursuant to California Government Code
Section 12956.1(b)(1))**

Notice

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, 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 by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. 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.

DocuSigned by:

8/16/2023 | 9:35 AM PDT
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Restrictive Covenant Modification

Under current state law, including AB1466 effective January 1, 2022, homeowners can request to modify property documents that contain unlawful discriminatory covenants. Government Code Section 12956.2 allows a person who holds an ownership interest of record in property that the person believes is the subject of an unlawfully restrictive covenant to record a Restrictive Covenant Modification document to have the illegal language stricken. Unlawful restrictions include those restrictions based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, national origin, source of income as defined in Government Code Section 12955 subdivision (p), ancestry, or genetic information.

To Record a Restrictive Covenant Modification, you must:

- Complete a Restrictive Covenant Modification Form; this must be signed in front of a notary public.
- Attach a copy of the original document containing the unlawful restrictive language with the unlawful language stricken.
- Submit the completed document to the County Recorder.

This document requires the following:

1. Name(s) of current owner(s)
2. Identification of document page number and language in violation
3. Recording reference of document with unlawful restrictive covenant
4. Copy of referenced document attached complete with unlawful restrictive language stricken out
5. Signature(s) of owner(s)
6. Signature(s) acknowledged
7. Approval by County Counsel provided to County Recorder

Upon receipt, the Recorder's office will submit the document to County Counsel who will determine whether the original document contains any unlawful restrictions, as defined in Government Code Section 12956.2 subdivision (b). Only those determined to be in violation of the law will be recorded and those that are not, will be returned to the submitter unrecorded.

Please note that the County Recorder is not liable for modification not authorized by law. This is the sole responsibility of the holder of ownership interest who caused the modified recordation per Government Code Section 12956.2 subdivision (f).

Pursuant to the requirements of AB1466, and no later than July 1, 2022, the Assessor-County Clerk-Recorder will post an implementation plan outlining our strategy to identify records with discriminatory restrictions.

Recording Requested By

When recorded mail document to

Above Space for Recorder's Use Only

RESTRICTIVE COVENANT MODIFICATION

I (We) _____ have an ownership interest of record in the property located at _____ that is covered by the document described below.

The following referenced document contains a restrictive covenant based on race, color, religion, sex, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry that violates state and federal fair housing laws and that restriction is void. Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of eliminating that restrictive

covenant as shown on page(s) _____ of the document recorded on _____ (date)

In book _____ and page _____, or Document No. _____ of the Official records of the County of _____, State of California.

The document referenced above was originally indexed in the following manner _____ and this document shall be indexed in like manner pursuant to Section 12956.2 (e).

The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original document referenced above.

Dated _____

Printed Name(s)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF _____ }

On _____ before me, _____, a Notary Public, personally appeared _____ who 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/their/her authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Recorded in Official Records, Solano County

4/11/2006
9:56 AM
AR23
41

Marc C Tonnesen
Acting Assessor/Recorder

RECORDED AT THE REQUEST OF AND
WHEN RECORDED, RETURN TO:

P Terra Nova Development

JEFFREY G. WAGNER
Law Office of Jeffrey G. Wagner
1777 N. California Blvd., Suite 200
Walnut Creek, CA 94596-4150

Doc#: 200600044809

Titles: 1 Pages: 94



Fees 286.00
Taxes 0.00
Other 0.00
PAID \$286.00

OAKS SENIOR COMMONS

DocuSigned by:
Carol M. Stevens
8/16/2023 9:35 AM PDT

DECLARATION

OF

RESTRICTIONS (CC&Rs)

(A SENIOR CITIZEN HOUSING DEVELOPMENT)

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void and may be removed pursuant to Section 12956.1 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.

This Declaration contains alternative dispute resolution procedures. These procedures bind subsequent purchasers as well as the initial purchasers. See Claims Procedures in Exhibit D. You are advised to read these procedures carefully and consult with legal counsel if you have any questions.

OAKS SENIOR COMMONS

DECLARATION

OF

RESTRICTIONS (CC&Rs)

(A SENIOR CITIZEN HOUSING DEVELOPMENT)

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**OAKS SENIOR COMMONS
DECLARATION
OF
RESTRICTIONS (CC&Rs)
(A SENIOR CITIZEN HOUSING DEVELOPMENT)**

THIS DECLARATION OF RESTRICTIONS (CC&Rs) is executed by THE OAKS SENIOR APARTMENTS, LLC, a California limited liability company (the "Declarant") with reference to the following facts:

- A. Declarant is constructing a condominium development for seniors located on certain real property in Vacaville, California. The first phase consists of Condominium Units 101 through 142 and 243 through 278 situated on Parcel 2, more particularly described on the subdivision map entitled "Final Map for Condominium Purposes" filed in the records of Solano County, California, on March 22, 2006, in Book 82 of Maps at page 39 (the "Map") and the Condominium Plan attached as Exhibit A to this Declaration (the "Condominium Plan"). Declarant may, but has no obligation to annex additional condominiums as described in this Declaration.
- B. Declarant desires to impose certain restrictions on the condominiums in the development that will benefit and bind each condominium, and each owner and successive owner thereto, as covenants running with the land and equitable servitudes, to grant and describe certain easements that will be appurtenant to the condominiums, and to establish a condominium project within the meaning of Civil Code section 1351(f).
- C. The property in the first phase and the property that may be annexed as described in Exhibit C will benefit and be bound by the provisions of **Section 2.16** of this Declaration on the recordation of this Declaration and the conveyance of title to a Condominium in Phase 2 to a third party. The other restrictions, rights and duties described herein will benefit and bind Phase 1 on the recordation of this Declaration and each subsequent phase on the recordation of a declaration of annexation annexing that phase into the development.

DECLARANT DECLARES AS FOLLOWS:

ARTICLE 1 - Definitions

Unless the context indicates otherwise, the following terms shall have the following definitions:

- Section 8.1.** 1.1 Architectural Committee or Committee. The Architectural Committee described in
- 1.2 Articles. The Articles of Incorporation of the Association and any amendments thereto.

1.3 Association. Oaks Senior Commons Homeowners Association, a California nonprofit mutual benefit corporation.

1.4 Association Common Area. All of the real property shown as Parcel 2 on the Map and the Improvements thereon except the Condominium Building Envelopes and the Units within the Buildings. The Association Common Area includes the land, private streets, walkways, parking spaces, recreational facilities, and airspace outside the Condominium Building Envelopes. The Association Common Area also includes any additional association property that is subsequently annexed into the Development as described in **Article 15**.

1.5 Board. The Board of Directors of the Association.

1.6 Building Common Area. The element of a Condominium that is owned in undivided interests in common, consisting of the airspace, land and Improvements within the Condominium Building described in **Section 1.10** but excluding the Units located therein. The Building Common Area for each Condominium Building is separate and distinct so that the Owner of an undivided interest in the Common Area owns an undivided interest only in the Building Common Area of the Condominium Building in which the Owner's Unit is located and in no other Condominium Building. The Building Common Area of each Condominium Building includes the foundations; structural beams; columns; exterior walls and trim; windows; roofs; exterior doors; bearing walls; sprinklers; sprinkler pipes and vents (including portions that protrude into the Unit); exterior staircases; fireplaces, chimneys and flues (if any); life safety systems; reservoirs; tanks; pumps; meters; ducts; flues; chutes; conduits; pipes; plumbing; wires; and other utilities (except the fixtures located within the boundaries of a Unit); and all other Improvements permanently affixed to the Condominium Building except the Improvements located within the boundaries of a Unit as described in **Section 1.26**. The Building Common Area also includes any additional common area that is subsequently annexed into the Development as described in **Article 15**.

1.7 Bylaws. The Bylaws of the Association and any amendments thereto.

1.8 Common Area. The Association Common Area and Building Common Area.

1.9 Condominium. A fee (perpetual) estate in real property as defined in Civil Code section 1351(f) consisting of two elements: (i) a separate interest in space, called a "Unit" as described in **Section 1.26**, and (ii) an undivided interest in common in the Building Common Area as described in **Section 1.6**.

1.10 Condominium Building. The building, land, airspace and all other Improvements located within the three-dimensional condominium building envelope shown on the Plan, including any Improvement permanently affixed to the building structure regardless of whether the Improvement is located in whole or in part outside the Condominium Building envelope. The Condominium Building does not include the land, the garage underneath, the airspace or any other Improvements situated outside the Condominium Building envelope as shown on the Plan unless the Improvement (such as a deck) is permanently affixed to the building located within the envelope. These items are part of the Association Common Area as described in **Section 1.4**. Each Condominium Building separately numbered as a Condominium Building on the Condominium Plan is a separate Condominium Building.

1.11 Condominium Plan. The condominium plan for the Development that was prepared in accordance with the requirements of Civil Code section 1351(e) and that was recorded with this Declaration as Exhibit A. The Condominium Plan also includes any additional condominium plans that are recorded against any property that is annexed into the Development as described in **Article 15**. A Condominium Plan for a Condominium Building is a separate and distinct condominium plan regardless of whether the plans for two or more Condominium Buildings are recorded in a single document.

1.12 Declarant. The Oaks Senior Apartments, LLC, a California limited liability company, or any successor or assign that assumes in writing all or a portion of the rights and duties of the Declarant hereunder. There may be more than one Declarant.

1.13 Declaration. This Declaration of Restrictions (CC&Rs) and any amendments or corrections thereto.

1.14 Development. The residential development that is constructed on the Property and made subject to this Declaration, including the Condominiums and all other Improvements thereon.

1.15 Exclusive Use Common Area. The portion or portions of the Common Area described in **Section 2.12** subject to rights for the exclusive use of one or more, but fewer than all, of the Owners.

1.16 Governing Documents. This Declaration, the Articles of Incorporation, the Bylaws and the Rules, provided that the Claims Procedure Addendum attached as Exhibit D is not a part of the Governing Documents.

1.17 Improvements. Any fixtures affixed to any Property in the Development within the meaning of Civil Code section 660.

1.18 Map. The subdivision map entitled "Map for Condominium Purposes" filed for record in Solano County, California, on March 6, 2006, in Book 82 of Maps at page 39, including any subsequently-recorded amended final maps, parcel maps, certificates of correction, lot-line adjustments, and/or records of survey. "Map" also shall mean any other recorded subdivision maps describing property that may be subsequently annexed into the Development as described in **Article 15**.

1.19 Member. A member of the Association.

1.20 Mortgage. A recorded mortgage or deed of trust against one or more Condominiums in the Development.

1.21 Mortgagee. A mortgagee under a Mortgage or a beneficiary under a deed of trust recorded against a Condominium in the Development.

1.22 Owner. The owner or owners of the fee (perpetual) estate of a Condominium in the Development.

1.23 Person. Any natural person, partnership, trust, corporation, limited liability company, or other legal entity.

1.24 Property. Parcel 2 shown on the Map, together with all Improvements thereon and any additional land, together with all Improvements thereon, that is subsequently annexed into the Development as described in **Article 15**.

1.25 Rules. Rules or regulations adopted by the Board from time to time pursuant to the authority of **Section 6.6.2**.

1.26 Unit. The element of a Condominium that is owned separately, consisting of a separate interest in space, the boundaries of which are described as the area designated "unit" in the Condominium Plan Plans. The dimensions of the Unit are measured from the interior unfinished perimeter walls and ceilings, floor, windows, window frames, and perimeter doors and door frames, provided that the Unit includes the wall boards, sheet rock, paint on the interior surfaces, wallpaper, paneling, outlets, stain, tile, hardwood floors, carpet and other ceiling, floor or wall finishes. The Unit does not include the structural component of any bearing wall or other structure member necessary to the support or structural rigidity of any portion of the Common Area. The Unit includes all Improvements and personal property situated within its boundaries, including, but not limited to, interior walls (except interior bearing walls), appliances, cabinets, interior doors, and all electrical, heating, plumbing and other utility fixtures. Any utility fixtures that are located partially within the Unit and partially in the Common Area, such as electrical outlets, and that exclusively serve the Unit are part of the Unit. Areas within a dropped ceiling, duct or utility chase that traverses a Unit and that contain utilities that serve another Condominium or two or more Condominiums are Building Common Areas and not part of the Unit. In interpreting deeds and plans, the existing physical boundaries of the Unit or Unit reconstructed in substantial accordance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the Condominium Plan or any other recorded document,

regardless of minor variances between boundaries shown on the Condominium Plan or in any other recorded document and those of the Building and regardless of settling or lateral movement of the Building.

ARTICLE 2 - Property Rights and Easements

2.1 Type of Development. This Development is a condominium project within the meaning of Civil Code section 1351(f) and a senior citizen housing development within the meaning of Civil Code section 1351.3 and consists of 78 Condominiums and Association Common Area in the first phase. Declarant may develop additional Condominiums on Parcel 1 and annex Condominiums into the Development. Declarant has no obligation to annex any subsequent phase into the Development. The Association Common Area is subject to the easements in favor of Parcel 1 as described in **Section 2.16.2** regardless of whether Parcel 1 is annexed into the Development.

Notwithstanding the foregoing, all Condominiums are subject to the provisions of **Section 2.16**.

2.2 Condominium. Each Owner owns a fee (perpetual) estate in a Condominium consisting of a separate interest in a Unit as defined in **Section 1.26** and an undivided equal interest in common in the Building Common Area described in **Section 1.6**. No Owner shall have any interest in any Condominium Building other than the Condominium Building in which the Owner's Unit is located. In addition, each Owner shall be a Member of the Association. The Association owns the fee (perpetual) estate in the Association Common Area.

The Unit and the Building Common Area appurtenant thereto may not be separated. Any transfer of a Unit automatically shall transfer the Building Common Area appurtenant thereto regardless of whether the instrument of transfer describes the Building Common Area. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an interest in the Building Common Area shall be void unless the Unit appurtenant thereto is also transferred.

2.3 Common Area Rights. Each Owner or tenant and their family members and guests have nonexclusive rights to use, enjoy, ingress and egress in, to and throughout the Common Area and any Improvements thereon, subject to the provisions of **Section 2.9** and the Exclusive Use Common Area rights as described in **Section 2.12**. The Association Common Area is subject to the easements reserved in this Declaration.

2.4 Encroachment Easement. Each Condominium, or portion thereof, and the Association Common Area as the dominant tenement has an easement over any other Condominium, or portion thereof, or Association Common Area as the servient tenement for the purpose of accommodating any encroachment of roof overhangs, porches, decks, staircases, windows, chimneys or other Condominium Building Improvements resulting from the original construction of the Improvements, settlement or shifting of structures, or minor construction changes during the course of construction, and any encroachment authorized under **Section 2.10**. The extent of the encroachment easement shall be the location of the encroaching structure as originally constructed by Declarant. If a structure is partially or totally destroyed, the structure may be repaired or rebuilt in accordance with the original plans, including the replacement of any encroaching Improvement.

2.5 Utility Easement. Each Condominium as the servient tenement is subject to an easement in favor of each other Condominium as the dominant tenement for the installation, retention, maintenance, repair and replacement of any utility shafts, vents, ducts, lines and equipment that traverse the Unit of the servient tenement and provide utility service to the dominant tenement. The location of the easement is the location of the utility shafts, vents, ducts, lines and equipment installed as a part of the original construction of the Unit or as subsequently installed with the consent of the Owner of the servient tenement. The easement right granted hereunder includes access to the Unit as may be necessary to inspect, maintain, repair, replace and/or upgrade the utility lines and equipment. The occupants of the servient tenement shall not take any action that would in any manner interfere with the operation of the utility lines and equipment.

2.6 Other Rights. Each Condominium and the Association Common Area is entitled to the benefit and/or subject to the burdens of any easements, rights-of-way, or dedications as may be granted or reserved on the Map, any deed to the Condominium or Association Common Area, or in any other appropriate public record.

2.7 Condominium Building Easements. The Condominium Building envelopes shown on the Plans extend outside the exterior walls of the residential building situated within the envelope. Each Condominium as the servient tenement is subject to an easement in favor of each other Condominium as the dominant tenement for non-exclusive access and use of any walkways situated within the envelope and outside the residence and for the right to inspect, retain, maintain, repair and/or replace any utilities that serve the dominant tenement and are situated within the envelope and outside the residential structure and not below or above the residential structure. The location of the easements is the location of the walkways and utilities installed by or on behalf of Declarant as a part of the original construction of the Improvements within the Development.

2.8 Appurtenant Rights. Each right or easement described in this **Article 2** is a right or easement that is appurtenant to the Condominium or Association Common Area; and any transfer of the Condominium or Association Common Area automatically transfers the easement appurtenant thereto regardless of whether the instrument of transfer describes the right or the easement.

2.9 Reservation of Rights. Notwithstanding any property rights, including easements, described herein, each Condominium and the Association Common Area, as the case may be, are subject to each of the following:

(i) the right of Declarant or its agents to enter on any portion of the Development to construct and sell the Improvements that Declarant intends to construct on the Property, to make repairs, and to correct any construction problems thereon, provided that such entry does not unreasonably interfere with the use or occupancy of any occupied Condominium unless authorized by its Owner, which authorization shall not be unreasonably withheld;

(ii) the right of the Association's agents to enter any Condominium to cure any violation or breach of this Declaration or the Bylaws or the Rules, provided that at least 30 days' prior written notice of such violation or breach (except in the cases of emergency) has been given to the Owner and provided that within the 30-day period such Owner has not acted to cure such violation or breach;

(iii) the right of the Association's agents to enter any Condominium to perform its obligations and duties under this Declaration, including the obligations and the duties with respect to maintenance or repair of any Condominium;

(iv) the right of the Association to suspend an Owner's right to use any recreational facilities as described in **Section 6.6**; limit the number of guests to use any Association Common Area; adopt and enforce the Rules; and assign, rent, license or otherwise designate and control the use of any recreational facilities located within the Association Common Area; and

(v) the rights reserved in **Sections 2.10, 2.12, 10.9 and 14.11.**

2.10 Authority Over Common Area. The Board or Declarant (as long as Declarant owns 25% or more of the Condominiums in the Development) shall have the power and the right in the name of the Association and all of the Owners as their attorney-in-fact to grant, convey or otherwise transfer to any Owner or any other Person fee title, easements, leasehold estates, exclusive use easements or rights, licenses, lot-line adjustments, rights-of-way and/or dedications in, on, over or under the Common Area or other property interests in order to: (i) construct, erect, operate, maintain or replace lines, cables, wires, conduits or other devices for electricity, cable television, internet services, fiber optics, telecommunication equipment, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any similar public or quasi-public Improvements or facilities; (ii) accommodate any encroachment that in the sole discretion of the Board or Declarant does not unreasonably interfere with the use and enjoyment of the Common Area; or (iii) accomplish any other purpose that in the sole discretion of the Board or Declarant is in the interest of the Association and its Members and

does not unreasonably interfere with the use and enjoyment of the Common Area. Each Owner in accepting a deed to a Condominium expressly consents to such action and authorizes and appoints the Association and Declarant (as long as Declarant owns 25% or more of the Condominiums in the Development) as attorney-in-fact of such Owner to execute and deliver all documents and interests to accomplish the action, including, but not limited to, grant deeds, easements, subdivision maps, and lot-line adjustments. Notwithstanding anything herein to the contrary, in no event shall the Board or Declarant: (i) take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of his or her Condominium or any Exclusive Use Common Area or the use of any recreational facilities located on the Common Area without the prior written consent of that Owner; or (ii) grant exclusive use of any portion of the Common Area to any Owner without the affirmative vote of a majority of the Members present in person or by proxy at a duly held meeting, unless Member approval is not required as described in Civil Code section 1363.07. If Member approval is required, the Board in placing the measure before the Members shall describe whether the Association will receive a monetary consideration for the grant and whether the Association or the transferee is responsible for providing insurance coverage for the Exclusive Use Common Area and shall comply with the secret balloting requirements of Civil Code section 1363.03(b). Furthermore, the conveyance of fee title to any portion of the Common Area as authorized in this **Section 2.10** (other than conveyances made as a part of lot-line adjustments) shall require the consent of a majority of the total voting power of the Association other than Declarant and such consent of the Mortgagees as may be required by **Article 10**.

2.11 Delegation of Use Rights. An Owner's family members who occupy the Condominium or any guests and any such Persons as may be permitted by the Rules may use and enjoy any Common Area Improvements including any recreational facilities. All such use shall be subject to restrictions contained in this Declaration and the Rules. If an Owner rents his or her Condominium, the Owner, members of the Owner's family, and the Owner's guest shall not be entitled to use any Common Area Improvements, including the recreational facilities other than such use as is directly related to the Owner's rights and duties as a landlord. Such rights may be enjoyed by the tenant and the tenant's family members and guests during the term of the rental agreement.

Any Owner who rents his or her Condominium must comply with requirements of **Section 4.2**.

2.12 Exclusive Use Common Area. Portions of the Common Area are set aside for the exclusive use of the occupants of certain Units and constitute Exclusive Use Common Areas. The areas are shown on the Condominium Plan with the designations set forth below and are set aside for the exclusive use of the occupants of the Unit as indicated. The designated areas include the following:

(i) balconies designated "B" are reserved for the exclusive use of the occupants of the Condominiums directly abutting the balcony and directly accessible to the balcony.

(ii) covered parking spaces designated "CP" as shown in Exhibit A are reserved for the exclusive use of the Owners of Condominiums as shown in Exhibit B.

(ii) outside porches designated "OP" are reserved for the exclusive use of the occupants of the Condominiums directly abutting the porch and directly accessible to the porch.

Except as described herein, no other portion of the Common Area is Exclusive Use Common Area. Exclusive Use Common Area rights are appurtenant to the Condominium to which the rights are assigned and may not be separated therefrom. Any transfer of the Condominium automatically transfers the exclusive use rights appurtenant thereto regardless of whether the instrument of transfer describes the Exclusive Use Common Area rights."

2.13 Restrictions on Partition. Except as authorized in **Sections 2.10, 10.7** and **10.9**, the Common Area shall remain undivided, and there shall be no judicial partition thereof except as may be authorized by Civil Code section 1359 or any successor statute thereto.

Any proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums as of the date

immediately preceding the date of the event giving rise to the right of the Owners to partition the Common Area, provided that any proceeds for Common Area recreational facilities shall be disbursed equally among the Condominiums.

2.14 Conveyance of Association Common Area. The Association Common Area in each phase shall be conveyed to the Association on or before the date the Declarant first conveys title to a Condominium in that phase. The Association Common Area as the servient tenement is subject to an easement in favor of each Condominium as the dominant tenement for ingress and egress over the private streets and walkways situated on the servient tenement, for support from the land under and adjacent to each Condominium Building, for access to and use of any recreational facilities located on the servient tenement, for access to and use of the Exclusive Use Common Areas located therein, for access to and use of (including the right to install, maintain, repair or replace) any utility or related lines and equipment installed within, on or over the servient tenement in order to provide utility or related service to the dominant tenement, including water, electricity, telephone, gas, cable television, fiber optic cable, and sanitary sewer or storm drainage lines and equipment, and for access to and use of the Association Common Area by Declarant and its subcontractors and agents to construct, maintain and sell the Condominiums and all related Improvements in the subsequent phases and the easements described in **Section 2.16.2**. The rights retained by Declarant and its subcontractors and agents include the right to restrict access to any portion of the Association Common Area that is undergoing construction or development activity for safety or other reasons by the construction of fences or other barriers, or by the adoption of such other measures that restrict access to authorized personnel only, and the right to use portions of the Association Common Area as a staging or storage areas for materials and equipment to be used in connection with the construction of Improvements within the Development and to restrict access thereto by means of a fence or otherwise. The Board may adopt Rules regulating the use of the Association Common Area, provided such Rules do not interfere with the exercise of the foregoing easement rights and are consistent with the restrictions contained in this Declaration. Subject to the provisions of **Section 2.16.2**, the easements reserved herein that run to the benefit of any dominant tenement shall become effective automatically on annexation of the dominant tenement into the Development.

2.15 Construction Activity. Each Owner acknowledges that: (i) the construction of the Development may occur over an extended period of time; (ii) the quiet use and enjoyment of the Owner's Condominium may be disturbed as a result of the noise, dust, vibrations and other effects of construction activities; and (iii) the disturbance may continue until the completion of the construction of the Development.

2.16 Phasing.

2.16.1 Additional Phases. The property that may be annexed into the Development as a part of a subsequent phase is described in Exhibit C attached hereto. Declarant reserves the right to determine the number of phases, the number of condominiums in a phase, and the building types in a phase. Declarant makes no representation or warranty that any subsequent phase will be annexed into the Development and has no obligation to annex any subsequent phase into the Development. All phases shall benefit and be bound by the provisions of this **Section 2.16** on recordation of this Declaration and the conveyance by Declarant of the first Condominium in Phase 1. The other restrictions, rights and duties described herein shall benefit and bind Phase 1 on recordation of this Declaration and the conveyance by Declarant of the first Condominium in Phase 1 and each subsequent phase on the recordation of a declaration of annexation annexing that phase into the Development as described in **Article 15**.

2.16.2 Reservation of Easements. Declarant reserves easements over the Association Common Area as the servient tenement in favor of the property described in Exhibit C as the dominant tenements for ingress and egress over the private streets and walkways situated on the servient tenement; for support from the land under and adjacent to each residential structure; for access to and use of (including the right to install, maintain, repair or replace) any utility lines, equipment installed within, on or over the servient tenement in order to provide utility or related service to the dominant tenement, including water, electricity, telephone, gas, cable television, sanitary sewer or storm drainage lines or equipment; for support for any building or other structures located thereon; and for such access over the private streets as may be reasonably necessary to construct, maintain, repair and replace the Condominium Buildings and Units.

2.16.3 Allocation of Maintenance and Repair Costs. If any subsequent phase is developed and used for residential or other purposes, the easement rights reserved in **Section 2.16.2** above are

exercised, and the phase has not been annexed and assessments commenced against the Condominiums in that phase, the Owner of the property in that phase shall pay an equitable share of the cost of the maintenance, repair, replacement and insurance of any Improvements located on or within the Common Area that are used by the Owner or occupants of the property in that phase. The Owner shall remit to the Association its share of the costs within 30 days after receipt of demand for same. If Owner fails to pay its share when due, the Association may bring an action in any court of competent jurisdiction to recover the cost, together with interest thereon at the rate of 12% per annum, but in no event greater than the maximum rate authorized by law. In such action, the prevailing party shall be entitled to recover costs and attorneys' fees. The Owner's obligations hereunder shall terminate at such time as the phase is annexed into the Development (if annexed) and assessments are commenced against the Condominiums in the phase.

If there are any disputes regarding the Owner's allocable share of the cost, the dispute shall be submitted to mediation and, if necessary binding arbitration, to the Judicial Arbitration and Mediation Services (JAMS), any successor thereto or any other alternative dispute resolution provider acceptable to the parties for resolution. If the mediation is unsuccessful, the dispute shall be resolved by binding arbitration in accordance with JAMS' commercial rules. The mediation and arbitration shall be held in the county where the Development is located. The parties shall be entitled to the discovery rights provided by Code of Civil Procedure section 1283.05. The arbitrator may award costs and attorneys' fees to the prevailing party. The arbitrator's decision shall be binding on the parties and may be enforced in any court of competent jurisdiction. If the Owner fails to initiate mediation within the 30-day period after receipt of written demand from the Association for payment of the Owner's share of the cost, it shall be presumed conclusively that the Owner has waived its mediation and arbitration rights with respect to that demand, and the Association may commence legal action to collect the Owner's share of the costs.

2.17 Noise Transmissions. The Development has been designed to meet the acoustical building code standards in effect at the time the Development was constructed. The standards establish minimum performance criteria and do not eliminate all noise transmissions. Occupants will hear noise from other Units and noises from outside the Condominium Building, including, but not limited to, noise from music, television sets, stereo and other audio equipment, foot traffic from other units, plumbing fixture operations, trash disposals, entry gate operations, truck traffic, sirens and other street noises and aircraft noise.

ARTICLE 3 - Senior Housing Restrictions

3.1 Senior Housing Definitions. For purposes of this **Article 3**, the following terms shall have the definitions set forth in this **Section 3.1**.

3.1.1 Cohabitants: Persons living together as husband or wife or persons who are domestic partners within the meaning of Family Code section 297.

3.1.2 Permitted Healthcare Resident: A person hired to provide live-in, long-term or terminal healthcare to a Senior Citizen or a family member of the Senior Citizen providing that care. The care must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment, or both.

3.1.3 Qualified Disabled Resident: A disabled person or person with a disabling illness or injury who is a child or grandchild of the Senior Citizen or a Qualified Permanent Resident who needs to live with the Senior Citizen or Qualified Permanent Resident because of the disabling condition, illness or injury. A "disabled" person means a person with a disability as defined in Civil Code section 54(b). A "disabling injury or illness" means an illness or injury which results in a condition meeting the definition of disability as defined in Civil Code section 54(b).

3.1.4 Qualified Permanent Resident: A person who satisfies both of the following requirements: (a) the person was residing with the Senior Citizen prior to the Senior Citizen's death, hospitalization, or other prolonged absence or prior to the dissolution of marriage with the Senior Citizen; and

(b) the person is 45 years of age or older was the spouse of the Senior Citizen, was a Cohabitant with the Senior Citizen, or was providing the primary physical or economic support to the Senior Citizen.

3.1.5 Senior Citizen: A person 55 years of age or older.

3.2 Age Restriction Occupancy Requirements. This Development is a development designed to provide housing for Senior Citizens and is intended to qualify as housing for senior citizens under Civil Code sections 51.2 and 51.3. On commencement of occupancy of the residence, at least one resident must be a Senior Citizen who intends to reside in the residence as his or her primary residence on a permanent basis. All other residents must qualify under one of the following categories: (i) the resident is 45 years or older; (ii) the resident is the spouse of the Senior Citizen; (iii) the resident and the Senior Citizen are Cohabitants; (iv) the resident is providing the primary physical or economic support to the Senior Citizen; (v) the resident is a Qualified Disabled Resident; or (vi) the resident is a Permitted Healthcare Resident.

Upon the death or dissolution of marriage or upon hospitalization or other prolonged absence of the Senior Citizen, a Qualified Permanent Resident or Qualified Disabled Resident may continue to reside in the dwelling Unit as long as at least 80% of the occupied residences in the Development are occupied by a person age 55 or older and the continued occupancy by the Qualified Permanent Resident or Qualified Disabled Resident does not reduce the percentage to less than 80% so as to disqualify the Development as "housing for older persons" under federal law.

3.3 Termination of Disability. For any person who is a Qualified Disabled Resident and the disabling condition ends and the Qualified Disabled Resident does not otherwise qualify to reside in the residence under **Section 3.2**, the Board may require the formerly disabled resident to cease residing in the Development upon receipt of six months' written notice; provided that the Board may allow the person to remain a resident for up to one year after the disabling condition ends.

3.4 Termination of Occupancy Rights of a Qualified Disabled Resident. The Board may take action to prohibit or terminate the occupancy by a person who is a Qualified Disabled Resident solely because of a disability if the Board, based on credible and objective evidence, finds that the person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation; provided that the action to prohibit or terminate the occupancy may be taken only after satisfying each of the following conditions:

(i) the Board provides reasonable notice to and an opportunity to be heard for the disabled person whose occupancy is being challenged and reasonable notice to the co-resident parent or grandparent of that person; and

(ii) the Board gives due consideration to the relevant, credible and objective information provided at the hearing. The evidence shall be taken and held in a confidential manner pursuant to a closed session by the Board in order to preserve the privacy of the affected person. The affected persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.

3.5 Occupancy by a Permitted Healthcare Resident. A Permitted Healthcare Resident may occupy a dwelling Unit during any period that the Permitted Healthcare Resident is actually providing live-in, long-term or terminal healthcare to the Senior Citizen for compensation. Compensation shall include provisions of lodging and food in exchange for care. A Permitted Healthcare Resident shall be entitled to continue his or her residency if the Senior Citizen is absent from the dwelling Unit on satisfaction of each of the following conditions:

(i) the Senior Citizen became absent due to hospitalization or other necessary medical treatment and expects to return to the dwelling unit within 90 days from the date the absence began; and

(ii) the absent Senior Citizen or an authorized person acting for the Senior Citizen submits a written request to the Board stating that the Senior Citizen desires that the Permitted Healthcare Resident be allowed to remain in order to be present when the Senior Citizen returns to reside in the dwelling Unit.

3.6 Temporary Residency. Nothing in this **Article 3** shall prohibit the temporary residency of any person under the age of 55 as a guest of the Senior Citizen or Qualified Permanent Resident. For purposes herein, "temporary residency" shall mean occupancy of a dwelling Unit for no more than 60 days in any 12 consecutive-month period.

3.7 Federal Law Requirements. The Development also is intended to qualify as "housing for older persons" exempt from the age restriction prohibition contained in the Federal Fair Housing Amendments Act of 1988 as amended by the Housing for Old Persons Act of 1995 (the "Acts"). In order to satisfy the requirements of the Acts, at least 80% of the occupied Units must be occupied by at least one person 55 years of age or older; and the Association shall:

(i) publish and adhere to policies and procedures which demonstrate an intent by the Association to provide housing for persons 55 years of age or older; and

(ii) adopt and implement procedures for the periodic verification of compliance with the age restrictions, including procedures for routinely determining the occupancy of each Lot, including the identification of whether at least one occupant is a Senior Citizen. The procedures shall provide for regular updates and no less than once every two years.

3.8 Applicable Law and Amendment Requirements. The provisions in this **Article 3** are intended to comply with applicable State and federal laws regulating housing for senior citizens in effect as of the date this Declaration was recorded in the records of Solano County, California. To the extent of any conflict between the provisions of this **Article 3** and applicable law regulating age restrictions in senior housing developments, the applicable law shall control. If the applicable law is subsequently modified or amended in any manner, the provisions of this **Article 3** automatically shall be considered modified and amended in a like manner if necessary in order to remain in compliance with applicable laws.

ARTICLE 4 - Restrictions

4.1 Residential Use. Each Condominium shall be used for residential purposes only; and no part of the Development shall be used or caused, allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Owners or occupants of the Condominiums may use a room or rooms in the residence as an office, provided that the primary use of the Condominium is as a residence, no advertising or signage is used in any manner in connection with the office use, no customers, clients or patients enter the Condominium on any regular basis, and the use is in compliance with all local ordinances. The Board shall have the authority to adopt Rules regarding the use of offices within the Development in order to maintain the residential characteristics of the Development. The use of Condominiums or other Improvements in the Development by the Declarant or its designees as models and sales and construction offices for purposes of developing, improving and selling the Condominiums in the Development shall not be a violation of this restriction, provided that such use shall terminate no later than three years after the date of recordation of this Declaration or any declaration of annexation annexing property in any additional phase into this Development, whichever occurs later.

4.2 Renting. The Owner may rent his or her Condominium provided each of the following conditions is satisfied:

(i) the agreement must be in writing;

(ii) the rental agreement must contain a provision that the rental agreement is subject to this Declaration, the Bylaws and the Rules and that any violation of any of the foregoing shall be a default under the rental agreement; and

(iii) before commencement of the rental agreement, the Owner shall provide the Association with the names of the tenants and each family member who will reside in the Condominium and the address and telephone number of the Owner.

Any Owner that rents his or her Condominium shall keep the Association informed at all times of the Owner's address and telephone number. Any rental agreement shall be subject to this Declaration, the Bylaws and the Rules; and any breach of any of the foregoing shall constitute a breach by the Owner and also a default under the rental agreement, regardless of whether it so provides in the rental agreement. If any tenant breaches any restriction contained in this Declaration, the Bylaws or the Rules, the Owner, on demand from the Association, immediately shall take such steps as may be necessary to correct the breach, including, if necessary, eviction of the tenant.

4.3 Nuisance. No activity shall be conducted in any Unit or Common Area that constitutes a nuisance or unreasonably interferes with the use or quiet enjoyment of the occupants of any other Condominium.

4.4 Vehicle and Parking Restrictions. No mobile home, camper or recreational vehicle, boat, truck or similar equipment shall be parked within the Development unless parked within an enclosed garage. For purposes herein, "truck" does not include a pickup truck that does not exceed three-quarter ton or a sports utility vehicle. In addition, trucks may park on a temporary basis while in the process of loading or unloading.

Occupants shall park their vehicles in their assigned parking spaces so that unassigned Association Common Area parking spaces are available primarily for guest parking. No parking space may be converted into any use that would prevent its use as a parking space. The Board may adopt Rules regulating parking in the unassigned spaces, including regulations that prohibit occupants from parking in all or parts of these areas, so that the spaces are available exclusively for guest parking.

4.5 Towing Authority. The Association may install a sign at each vehicular entrance to the Development containing a statement that public parking is prohibited and that all vehicles not authorized to park within the Development will be removed at the owner's expense. The sign shall contain the telephone number of the local traffic law enforcement agency and shall not be less than 17 inches by 22 inches in size and the lettering not less than one inch in height.

The Association may cause the removal of any vehicle wrongfully parked within the Development, including a vehicle owned by an occupant. If the identity of the registered owner of the vehicle is known or readily ascertainable, the President of the Association or his or her designee, within a reasonable time thereafter, shall notify the owner of the removal in writing by personal delivery or first-class mail. In addition, notice of the removal shall be given to the local traffic law enforcement agency immediately after the vehicle has been removed. The notice shall include a description of the vehicle, the license plate number, and the address from where the vehicle was removed. If the identity of the owner is not known or readily ascertainable and the vehicle has not been returned to the owner within 120 hours after its removal, the Association immediately shall send or cause to be sent a written report of the removal by mail to the California Department of Justice in Sacramento, California, and shall file a copy of the notice with the proprietor of the public garage in which the vehicle was stored. The report shall be made on a form furnished by the Department of Justice and shall include a complete description of the vehicle, the date, time and place from which the vehicle was removed, the amount of mileage on the vehicle at the time of removal, grounds for removal, and the name of the garage or place where the vehicle is stored. Notwithstanding the foregoing, the Association may cause the removal, without notice, of any vehicle parked in a marked fire lane, within 15 feet of a fire hydrant, in a parking space designated for handicapped without proper authority, or parked in a manner which interferes with any entrance to, or exit from, the Development or any Condominium, parking space or garage located thereon. The Association shall not be liable for any damages incurred by the vehicle owner because of the removal in compliance with this **Section 4.5** or for any damage to the vehicle caused by the removal unless such damage resulted from the intentional act of any agent of the Association. If requested by the owner of the vehicle, the Association shall state the grounds for the removal of the vehicle.

Unless the Board provides otherwise, any director or officer, any manager or manager's agent or any Owner authorized to do so by any director or officer shall have the authority to act on behalf of the Association to cause the removal of any vehicle wrongfully parked within the Development.

4.6 Animals. Normal and customary household pets may be maintained within the Development in compliance with all local ordinances and the following conditions:

- (i) there shall be no more than (a) two dogs; or (b) two cats; or (c) one dog and one cat maintained by the occupants of any one residence unless otherwise authorized in writing by the Board;
- (ii) no animal shall be maintained for any commercial purposes;
- (iii) the use of the Common Area by animals shall be subject to such Rules as may be adopted by the Board;
- (iv) the owner of the animal immediately shall clean up after his or her animal; and
- (v) the Owner shall be responsible for any damage to any Common Area caused by any animal maintained within the Owner's Condominium.

The Board, after notice and a hearing, may require the permanent removal from the Development of any animal that the Board, in its discretion, determines is a nuisance, a danger to the health or safety of any occupant, or otherwise interferes with the quiet use and enjoyment of occupants of any Condominium. The Board may find that an animal is a nuisance if the animal or the animal's owner continue to violate the Rules regulating animals after receipt of a demand from the Board to comply with the Rules.

4.7 Television or Radio Equipment. No television, video or radio poles, antennae, satellite dishes, cables or other transmission and/or reception fixtures or personal property (individually and collectively the "Antenna Equipment") shall be installed or maintained on any Condominium except as follows:

- (i) Antenna Equipment that is one meter or less in length or diameter or diagonal measurement, provided that the location, color and screening requirements shall be in accordance with any guidelines imposed by the Architectural Committee, which guidelines shall comply with applicable State and federal laws regulating restrictions on Antenna Equipment; and
- (ii) Antenna Equipment not covered under subparagraph (i) above, the installation of which is approved in advance by the Architectural Committee in accordance with the procedures described in **Article 8**.

Under no circumstances shall any Antenna Equipment be installed within any Association Common Area or the exterior of any Condominium building, including any exterior wall, railing, deck or floor without the prior written approval of the Board.

Nothing herein shall be construed to restrict in any manner Declarant's or the Board's right to authorize a cable television franchisee or other provider of similar services to provide cable television, satellite dish, radio or other similar services to the Development.

4.8 Signs. Subject to the provisions of **Section 14.11**, the posting or displaying of any signs within the Development is subject to each of the following:

4.8.1 Non-Commercial Signs: The Association may not prohibit posting or displaying of non-commercial signs, posters, flags or banners on or in an Owner's Unit, except as required for the protection of public health or safety or if the posting or display would violate any local, state or federal law. For purposes herein, a non-commercial sign, poster, flag or banner may be made of paper, cardboard, cloth, plastic or fabric and may be posted or displayed from the yard, window, door, balcony or outside wall of the separate interest but may not be made of lights, roofing, siding, paving materials, flora or balloons or any other similar building, landscaping or decorative component or include the painting of architectural surfaces. No non-commercial sign and poster in excess of nine square feet in size or non-commercial flag or banner in excess of 15 square feet in size shall be permitted anywhere in the development without the prior written approval of the Board.

4.8.2 Commercial Signs: Except as otherwise expressly authorized by law and subject to the provisions of **Section 14.11**, no commercial signs of any nature shall be posted or displayed anywhere

within the Development without the prior written consent of the Board and pursuant to such guidelines as may be adopted by the Board which guidelines shall be in compliance with all applicable laws.

4.9 Clothesline. No exterior clothesline shall be erected or maintained on any Condominium; and there shall be no exterior drying or laundering of clothes on any balcony, patio, porch or other outside area of any Condominium.

4.10 Window Coverings. The interior surfaces of all windows shall be covered with normal and customary window coverings such as curtains, drapes, shutters or blinds. The exterior side of window coverings shall be white or off-white unless approved otherwise in writing by the Architectural Committee.

4.11 Automobile Maintenance. There shall be no maintenance (other than vehicle washing and cleanup) or repairs performed on any automobile except within an enclosed garage or except for any emergency repairs that are necessary in order to remove the vehicle to a proper repair facility.

4.12 Alterations, Modifications or Additions. There shall be no alterations, modifications or additions made to any Condominium or any Improvement thereon except in compliance with the provisions of **Article 8**.

4.13 Compliance with Law. No Owner shall permit anything to be done or kept in his or her Condominium that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal agency. Nothing shall be done or kept in any Condominium that might increase the rate of or cause the cancellation of any insurance maintained by the Association.

4.14 Drilling. No drilling, mining, or quarrying operation shall be conducted anywhere within the Development at anytime.

4.15 Sound Transmissions. No Unit shall be altered in any manner that would increase sound transmissions, resonances or reverberations to any adjoining or other Unit, including, but not limited to, the replacement, modification or penetration of any floor, ceiling or wall or floor, ceiling or wall insulation or underlayment material wall or the penetration of any wall, floor or ceiling that increases sound transmissions, resonances or reverberations to any other Unit. All floors in any Unit situated above another Unit shall be covered with carpets and carpet pads or an equivalent form of noise insulation material except the kitchens, bathrooms, entry areas, and such other areas as may be approved by the Architectural Committee. The Committee shall not grant approval unless the installation includes an appropriate level of acoustical separation designed and approved by a licensed engineer competent in acoustics to ensure that the floor will not increase sound transmissions, resonances or reverberations to any other Unit.

ARTICLE 5 - Maintenance and Repair Obligations

5.1 Owner's Maintenance and Repair Obligations. Each Owner shall maintain his or her Unit and all Improvements therein in good condition and repair at all times, including, but not limited to, interior doors and walls (including exterior surfaces of bearing walls located within the Unit), floors, cabinets, appliances, and all electrical, heating, plumbing and other utility fixtures situated within the Unit or partially within the Unit and partially within the Common Area and exclusively serving the Unit, such as electrical outlets. Each Owner, at that Owner's cost, shall periodically clean, maintain and repair any windows, fireplace, chimney, flue exterior door hardware, and screens and screen doors that serve the Owner's Unit, including repair or replacement of any window, exterior door hardware, and screens and screen doors and garage door opening equipment and hardware that serve the Owner's Unit. If damage to any of the foregoing is covered by insurance maintained by the Association, the Association, on request from the Owner, shall submit an appropriate claim if the claim exceeds the deductible and shall remit any available insurance proceeds to the Owner on receipt of satisfactory evidence that the proceeds are or will be used for repair. Any deductible amount shall be borne by the Owner. The Association shall repair any damage to any exterior doors serving a Unit (other than the hardware thereon), provided that if the damage is covered by insurance maintained by the Association, the Owner shall be responsible for paying any deductible amount. Each Owner shall maintain any Exclusive Use

Common Areas appurtenant to that Owner's Condominium, including any landscaping within any exclusive use porch area in a neat and clean condition at all times. Unless the Association elects to provide chimney sweeping services, each Owner shall have the chimney that services the Owner's Unit swept periodically and no less than one time every two years.

Each Owner shall be responsible for the maintaining the elastomeric membrane on the balcony surface within the Exclusive Use Common Area balcony appurtenant to the Owner's Condominium. Maintenance must include periodic inspection of the balcony surface for evidence of leaks and the immediate repair of any balcony surface that is damaged or penetrated in any manner. Owner must take appropriate precautions to prevent the membrane from being penetrated by sharp objects.

Each Owner shall be responsible for the removal of all the trash and refuse from that Owner's Unit to the central collection points located within the Development for trash collection. The Board may adopt Rules regulating the trash collection sites.

Each Owner shall be responsible for maintaining and repairing any HVAC system equipment that serves the Owner's Unit, wherever located, provided that the Owner may not disturb or modify any Common Area in any manner without the prior written consent of the Board.

Each Owner shall maintain, repair and replace any smoke detectors located in the Owner's Unit. The Association shall maintain any automatic fire sprinkler heads located in any Unit, provided that each Owner immediately shall notify the Association of any problems with any automatic sprinkler heads located in the Owner's Unit.

Any electrical wiring, plumbing pipes, drains, flues, heating ducts or other utility equipment that exclusively serves one Unit but is located in the Common Area shall be maintained and repaired by the Association; however, the maintenance, repair and/or replacement costs shall be paid by the Owner of the Unit. If the Owner fails to pay the cost, the Association may levy a reimbursement assessment against the Owner's Condominium. If the utility equipment serves two or more Units, the costs shall be borne by the Association. If the maintenance, repair and/or replacement involves equipment that exclusively benefits one Unit and equipment that benefits two or more Units, the Board shall allocate the cost between the Unit Owner and the Association in a fair and equitable manner.

If any Owner fails to maintain his or her Unit or Exclusive Use Common Area as required herein, the Association, after notice and hearing as described in the Bylaws, may, but is not obligated to, enter the Condominium or Exclusive Use Common Area and perform the necessary maintenance and repair. The Association may levy a reimbursement assessment against the Condominium in the manner described in **Section 7.5**.

In order to reduce the potential for water damage (including mold growth) within the Unit, each Owner shall perform each of the following steps: (i) periodically inspect the Unit for water leaks, other evidence of water intrusion (such as condensation on the windows or walls, water stains or other types of water damage) and for the presence of molds, fungi and their spores (collectively "Mold"); (ii) if any water leaks, water intrusion and/or Mold are detected, immediately take appropriate corrective steps to repair the leak and/or reduce water intrusion and repair any resulting water damage (including the removal of any Mold); (iii) maintain proper ventilation (particularly in the bathrooms) and humidity levels to reduce the risk of water damage (including Mold growth); (iv) periodically inspect refrigerator condensation pans, air conditioners (if applicable) and any other water-retaining appliances to ensure they are properly functioning and not leaking water or otherwise creating water damage to the Unit (including Mold growth); (v) periodically inspect carpeting or similar types of floor covering in bathrooms that may be conducive to Mold growth; (vi) replace heating and air conditioning filters not less frequently than quarterly or as recommended by the manufacturer; and (vii) take such other prudent steps as may be appropriate to prevent water leaks and water intrusion and to repair all leaks, sources of water intrusion and water damage (including Mold growth) within the Unit.

In addition to the foregoing, the Owner shall comply with each of the following in performing the Owner's maintenance obligations: (i) the Guidelines described in **Section 5.5** and (ii) commonly-accepted homeowners' maintenance obligations.

5.2 Owner's Landscaping Obligations. Except for such landscaping as may be maintained by the Association, each Owner shall maintain the landscaping within any Exclusive Use Common Area patio or yard appurtenant to the Owner's Condominium in a healthy and weed-free condition and shall be responsible for the periodic pruning of any trees and the removal of any diseased or overgrown trees or any trees with root systems that are damaging any Common Area Improvement. Maintenance shall include regular fertilization, irrigation, pruning and other prudent landscaping practices. All lawns shall be kept neatly mown and trees neatly trimmed and pruned at all times.

5.3 Association's Maintenance, Repair and Landscaping Obligations. The Association shall maintain in good condition and repair at all times the Common Area Improvements, including, but not limited to, foundations, siding, trim, roofs, exterior doors (other than the hardware thereon), exterior staircases, private streets, trash collection areas, walkways, parking spaces, carport structures, recreational facilities, and landscaping (except landscaping within the Exclusive Use Common Area porches).

Unless otherwise maintained or repaired by governmental entity or public or private utility company, the Association shall maintain in good condition and repair all utilities and sanitary sewer and storm drainage facilities situated within the Common Area, including, but not limited to, meters, distribution lines, catch basins, storage tanks, wires, ducts, flues, pumps, boilers and pipes, but excluding any utility equipment and fixtures located within a Unit or partially within the Common Area and within the Unit, such as electrical outlets.

The Association shall have the Common Area periodically inspected for wood-destroying pests and organisms and shall take appropriate corrective measures therefor.

The maintenance and repair of windows shall be the responsibility of each Owner to the extent described in **Section 5.1**.

All landscaping to be maintained by the Association shall be maintained in a healthy and weed-free environment. Maintenance shall include regular fertilization, mowing, irrigation, pruning, elimination of pests or diseases, and other prudent landscaping practices. All lawns shall be kept neatly mown and trees neatly trimmed and pruned at all times. The Association immediately shall remove and replace all dying or dead vegetation. The Association shall take appropriate steps to maintain the irrigation of the landscaping and to prevent damage resulting from misdirected and/or excessive watering.

In order to reduce the potential for water damage (including mold growth), the Association shall perform each of the following steps: (i) periodically inspect all portions of the Building Common Area and other areas maintained by the Association that are accessible from areas maintained by the Association for water leaks, other evidence of water intrusion (such as condensation on windows or walls, water stains or other types of water damage) and for the presence of molds, fungi and their spores (collectively "Mold"); (ii) if any water leaks, water intrusion and/or Mold are detected, immediately take appropriate corrective steps to repair the leak and/or reduce water intrusion and repair any resulting water damage (including the removal of any Mold); (iii) maintain proper ventilation within enclosed areas and humidity levels to reduce the risk of water damage (including Mold growth); (iv) periodically inspect any water-retaining equipment to ensure that they are properly functioning and not leaking water or otherwise creating water damage (including Mold growth) to the Building Common Area; and (v) take such other prudent steps as may be appropriate to prevent water leaks and water intrusion and to repair all leaks, sources of water intrusion and water damage (including Mold growth).

In addition to the foregoing, the Association shall comply with each of the following in performing the Association's maintenance obligations: (i) the Guidelines described in **Section 5.5** and (ii) commonly-accepted homeowners' maintenance obligations.

5.4 Maintenance Responsibility List. Attached to this Declaration as Appendix I is a list that identifies whether the Association or the Condominium Owner is responsible for the maintenance and repair of certain items located in or in close proximity to a Unit. The purpose of this List is to identify the specific items maintained either by the Association or the Owner as described in **Section 5.1** and **5.3**. It is not intended to change the allocations. The Board from time to time may update Appendix I by recording an amended Appendix I in the records of Solano County, California. The consent of the Members is not required

as long as the allocation of the maintenance and repair responsibilities as reflected in the amended Appendix I is consistent with the allocation responsibilities described in **Sections 5.1 and 5.3**.

5.5 Inspection and Maintenance Guidelines and Schedules. Declarant shall provide each Owner and the Association with inspection and maintenance guidelines and schedules, including manufacturers' guidelines and schedules, for the inspection and maintenance of certain Improvements and personal property situated within the Development (collectively the "Guidelines"). Each Owner and the Association shall retain the Guidelines and shall take all appropriate steps to implement and comply with the Guidelines as required herein. Each Owner, on the transfer of the Owner's Residential Condominium, shall deliver the Guidelines or complete copies thereof to the transferee on or before title is transferred. Replacement copies of the original Guidelines prepared by Declarant may be obtained from Declarant as described in Section 4 of the Claims Procedure described in Exhibit D attached to this Declaration. Declarant may charge a reasonable fee for providing replacement copies.

The Board periodically and at least once every three years shall review and update the Guidelines for Improvements maintained by the Association, which may be done in conjunction with the preparation of the reserves study described in **Section 7.3**. The Board shall retain copies of the Guidelines, including all revisions, and shall provide copies of Guidelines pertaining to Improvements maintained by the Owner to any new Owner within the Development within 60 days of the date of the transfer of title to the new Owner.

5.6 Cooperation and Access. Each Owner and occupant shall fully cooperate with the agents of the Association in the performance of the Association's maintenance and repair obligations described in **Section 5.3** above. Such cooperation shall include, but is not limited to, immediate notification to the Board or its managing agent of any maintenance or repair problems for which the Association is responsible and access to the Owner or occupant's Condominium and Exclusive Use Common Area as may be necessary to inspect and, if appropriate, to perform any necessary maintenance or repairs.

5.7 Reimbursement. If the Association incurs any maintenance or repair costs because of the willful or negligent act or omission of any Owner or occupant or their family members, guests, agents or pets (including, but not limited to, any damage to the Common Area caused by a water leak or overflow from the Owner's Unit), the Association shall charge the cost to the Owner of the Condominium responsible for the costs and may levy a reimbursement assessment as described in **Section 7.5**. The Owner immediately shall pay the charge or reimbursement assessment to the Association, together with interest thereon at the rate of 12% per annum, but not in excess of the maximum rate authorized by law. If the Owner disputes the charge, the Owner shall be entitled to notice and a hearing as provided in **Section 6.6.4**. The Association shall not charge the Owner to the extent that the cost is met through insurance maintained by the Association, provided that any deductible amount shall be paid by the Owner.

ARTICLE 6 - The Association

6.1 Formation of the Association. The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California. The Association shall commence operations no later than the date that assessments commence. Pending the commencement of the Association's operations, Declarant shall perform the duties and shall have the rights of the Association as described herein.

6.2 Governing Body. The governing body of the Association shall be the Board. It shall be the responsibility of the Board to ensure that the Association exercises its rights and performs its duties as described within the Declaration, the Articles, the Bylaws and any amendments thereto.

The Board shall adopt Rules in accordance with procedures required by Civil Code sections 1357.100 through 1357.150 regarding the elections to the Board and related matters that satisfy the requirements set forth in Civil Code section 1363.03.

6.3 Membership. Each Owner of a fee (perpetual) estate in a Condominium automatically shall be a Member of the Association. If there is more than one fee title Owner of a Condominium, each Owner

shall be a Member. The holder of a security interest in a Condominium shall not be a Member of the Association except and until that holder obtains both the legal and equitable interest in the Condominium. If any Owner executes an installment contract of sale for the sale of that Owner's Condominium, the purchaser shall become the Member if the contract is recorded in the public records and if the Association is notified in writing of the contract; and the Owner no longer shall be a Member. If the purchaser's rights are terminated under the contract without transfer of title to the purchaser, the Board, upon receipt of satisfactory evidence of the termination of the purchaser's rights, shall reinstate the Owner as the Member; and the purchaser shall no longer be a Member.

Membership shall be appurtenant to the Condominium and may not be separated therefrom. Any transfer of an Owner's interest in a Condominium (other than a security interest), by operation of law or otherwise, automatically transfers the membership to the Owner's successor in interest. No Owner may resign or revoke his or her membership for any reason.

6.4 Membership Classes and Voting Rights. The Association shall have the following two classes of voting memberships:

6.4.1 Class A. Class A Members are all Owners except the Declarant. Class A Members shall be entitled to one vote for each Condominium in which he or she owns an interest. If more than one Owner owns an interest in a Condominium, only one vote may be cast with respect to that Condominium.

6.4.2 Class B. The Class B Member shall be the Declarant, who shall be entitled to three votes for each Condominium owned by the Declarant. Class B membership shall cease and be irreversibly converted to Class A on the first to occur of the following:

(a) the second anniversary of the first conveyance of a Condominium in the most recent phase of the Development; or

(b) the fourth anniversary of the first conveyance of a Condominium in the Development.

Voting rights shall vest at the time that assessments are levied against the Owner's Condominium.

Except as set forth below, all matters requiring the approval of the Members shall be approved if: (i) approved by a majority of the votes cast either in person or by proxy at a duly-held regular or special meeting at which a quorum was present; (ii) approved by a majority of the written ballots cast in compliance with the requirements of Corporations Code section 7513 or any successor statute thereto; or (iii) approved by unanimous written consent of all the Members. Notwithstanding the foregoing, approval by the Members shall be subject to each of the following:

(1) Two Membership Classes. As long as two classes of voting membership exist, any action by the Association that requires approval by the Members shall require approval by the members of each class.

(2) Single Membership Class/Declarant-Owned Condominiums. If one class of voting membership exists and Declarant owns any Condominiums, any action by the Association that requires approval by the Members shall require approval by the Members including Declarant's vote(s) and approval by the Members excluding Declarant's votes.

(3) Greater Than a Majority. If, under the terms of this Declaration, a particular action requires approval by more than a majority, the action shall be approved by the Members only if the required percentage of votes approves the action.

(4) Completion Bond Voting Requirements. Votes of the Declarant shall be excluded as provided in **Section 6.12** of this Declaration.

(5) Amendments. Member approval requirements for any amendments to the Declaration, Bylaws or Articles shall comply with the amendment requirements set forth in the applicable document.

(6) Legal Requirements. If the voting requirements and/or procedures conflict with any applicable statutory requirements, the statutory requirements shall control.

6.5 Joint Ownership Votes. The vote that is attributed to each Condominium may not be cast on a fractional basis. If the Condominium has more than one Owner and the Owners are unable to agree as to how the vote shall be cast, the vote shall be forfeited on the matter in question. Any vote cast by an Owner for any Condominium is presumed conclusively to be the vote cast by all the Owners of that Condominium. If more than one Owner casts a vote attributed to a Condominium on any matter on which only one vote could be cast for that Condominium, the votes cast by such Owners shall be counted as one vote if the votes are the same; and if the votes are different, the vote cast by such Owners shall not be counted and shall be forfeited.

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

6.6.1 Levying Assessments: The Board shall establish, fix and levy assessments against the Condominiums and collect and enforce payment of such assessments in accordance with the provisions of **Article 7** of this Declaration.

6.6.2 Adopting Rules: The Board may adopt, amend and repeal Rules as it considers appropriate. Rules shall apply generally to the management and operation of the Development and/or the conduct of the business and affairs of the Association and may regulate the use and enjoyment of the Common Area, the use of any commonly-metered utilities that are paid by the Association and such other matters as are authorized in this Declaration. The Rules shall satisfy the requirements of Civil Code section 1357.110 and, to the extent applicable, the procedural requirements for the adoption, amendment or repeal of the Rules as set forth in Civil Code section 1357.130 and for the reversal of Rules as set forth in Civil Code section 1357.140. A copy of the Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner; and a copy shall be posted in a conspicuous place within the Development if an appropriate space is available for such posting. If any provision of this Declaration, the Articles or the Bylaws is inconsistent with or materially alters any Rules, the Declaration, the Articles and the Bylaws shall control to the extent of any such inconsistencies. Members shall have the same access to the Rules as they have to the accounting books and records of the Association.

Any Rules adopted by the Board shall apply to all Owners or occupants in a uniform and nondiscriminatory manner. The Board may adopt a Rule as the result of an act or omission of any Owner or occupant or their family members or guests or a Rule that does not directly affect all Owners or occupants in the same manner as long as the Rule applies to all Owners or occupants.

6.6.3 Borrowing Money: The Board may borrow money to meet any anticipated or unanticipated cost of the Association and, subject to the provisions of **Section 6.12(ix)**, may mortgage, encumber or pledge Association assets (including, but not limited to, assessments) as security for such borrowing.

6.6.4 Imposing Disciplinary Action: In addition to any other enforcement rights described in this Declaration and the Bylaws or as may be authorized by law and subject to the due process requirements imposed by this Declaration, the Bylaws or by law, the Board may take any of the following actions against any Person whose act or failure to act violates or threatens to violate any provisions of this Declaration, the Bylaws or Rules: (a) impose monetary penalties, including late charges and interest; (b) suspend voting rights in the Association; (c) commence any legal or equitable action for damages,

injunctive relief or both; and (d) suspend use privileges for any recreational facilities within the Development. Subject to the provisions of **Section 14.9**, the determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Board. Any legal action may be brought in the name of the Association on its own behalf and on behalf of any Owner who consents; and, except as otherwise provided herein, the prevailing party in such action shall be entitled to recover costs and reasonable attorneys' fees. The Board, in its sole discretion, may resolve or settle any dispute, including any legal action in which the Association is a party, under such terms and conditions as it considers appropriate.

(i) If the Board adopts a policy imposing monetary penalties, including any fee on any Member for a violation of the governing documents or the Rules, including any monetary penalty relating to the activity of a guest or invitee of a Member, the Board shall adopt and distribute to each Member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed. The Board may change the schedule from time to time and shall distribute a notice of such changes to the Members in the same manner as the schedule of penalties.

(ii) The imposition of any disciplinary action, including, but not limited to, the imposition of monetary penalties or the suspension of use and/or voting privileges except as otherwise noted herein, shall be subject to the following procedures and requirements:

(a) **Notice of Hearing:** Prior to the time the Board meets to consider or impose discipline upon a Member, the Board shall notify the Member, by either personal delivery or first-class mail, at least 15 days prior to the meeting. The notice shall contain, at a minimum, the date, time and place of the meeting, the nature of the alleged violation for which the Member may be disciplined, and a statement that the Member has a right to attend and may address the Board at the meeting.

(b) **Hearing:** If requested by the Member, the Board shall conduct the disciplinary proceeding in executive session. The Member, the Member's legal counsel, and the Association's legal counsel shall be entitled to attend the executive session meeting. The Board may interview witnesses and other interested parties in executive session.

(c) **Notice of Action Taken:** If the Board elects to impose discipline on the Member, the Board shall notify the Member of the disciplinary action within ten days following the election to impose the disciplinary action.

(d) **No Forfeiture:** Under no circumstances may the Association cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's Unit on account of the failure of the Owner to comply with the provisions of the Declaration, Articles, Bylaws or Rules, except by judgment of a court or decision of an arbitrator or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessments duly levied by the Association.

(e) **Assessment Charges:** The provisions of this **Section 6.6.4** do not apply to charges imposed against a Member for reasonable late payment penalties or charges to reimburse the Association for loss of interest and for costs reasonably incurred (including attorneys' fees) in collecting delinquent assessments.

6.6.5 Delegating Duties: Except as may be limited by the Bylaws, the Board may delegate any of the Association's powers and duties to its employees, committees or agents, including a professional management agent.

6.6.6 Implementing Special Fees: The Board may implement special fees to reimburse the Association for special costs incurred as a result of actions taken by Owners. By way of example, the Association may establish a moving fee to reimburse the Association for excess trash collection costs resulting from the move. Fees not paid in a timely manner may be collected through a reimbursement assessment levied against the Owner's Condominium.

6.6.7 Dispute Resolution Procedures: The Board shall implement dispute resolution procedures for disputes between the Association and a Member involving the rights, duties or liabilities under the Governing Documents, the Davis-Stirling Common Interest Development Act (Civil Code sections 1350-

1376) or the Nonprofit Mutual Benefit Corporation Law (Corporations Code sections 7110-8910) that comply with the requirements of Civil Code sections 1363.810 through 1363.850.

6.7 Duties of the Association. In addition to the duties described in the Articles or Bylaws, or elsewhere in this Declaration, the Association shall have the duty to manage the Common Area; comply with the senior citizen housing requirements set forth in **Article 3**; perform the maintenance as described in **Section 5.3**; prepare, periodically update, and comply with the maintenance and inspection guidelines described in **Section 5.5**; prepare and distribute financial statements, reports and the other documents and notices described in **Section 6.10**; enforce bonded obligations as described in **Section 6.11**; levy and collect assessments as described in **Article 7**; prepare when required the reserve studies described in **Section 7.3** and annually review and implement adjustments as required; and procure, maintain and review the insurance as described in **Article 9**. The Association shall perform such other acts as may be reasonably necessary to exercise its powers to perform its duties under any of the provisions of this Declaration, the Articles, Bylaws, Rules or Board resolutions.

6.8 Taxes and Assessments. The Association shall pay all real and personal property taxes and assessments and all other taxes levied against the Association, the Common Area or the personal property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

Until such time as real property taxes against the Property are segregated so that real property taxes are assessed against each Condominium (in addition to any supplemental tax assessments levied against any Condominium), the non-segregated tax amount shall be allocated among all the Condominiums in the same manner that regular assessments are allocated as described in **Section 7.9** and if any portion of the regular assessments are prorated among the Condominiums, the non-segregated tax amount shall be allocated in the same manner. The Association shall take all appropriate steps to collect each Condominium's allocable share so that the non-segregated taxes may be paid in a timely and proper manner. The Association may levy a special assessment against the Condominiums to collect the non-segregated tax amount. Any Owner who breaches the Owner's duty to pay the Owner's allocable share in a timely and proper manner shall be liable for any penalties, interests, fees or other such costs incurred as a result of the breach.

6.9 Utility Service to the Common Area. The Association shall acquire, provide and pay for water, refuse and rubbish collection, electrical, and other necessary utility services for the Common Area.

6.10 Reporting and Notice Requirements. The Association shall prepare and distribute the documents described in this **Section 6.10**.

6.10.1 Pro Forma Operating Budget. A pro forma operating budget for each fiscal year shall be distributed not less than 30 days nor more than 90 days before the beginning of the fiscal year consisting of at least the following:

- (1) Estimated revenue and expenses on an accrual basis.
- (2) A summary of the Association's reserves based on the most recent reserves review or study conducted pursuant to **Section 7.3**, based only on assets held in cash or cash equivalents, which shall be printed in bold type and shall include the following:
 - (A) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component which the Association is obligated to maintain (collectively the "Major Components");
 - (B) as of the end of the fiscal year for which the study was prepared:
 - (i) the current estimate of cash reserves necessary to repair, replace, restore or maintain the Major Components;

(ii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain the Major Components; and

(iii) if applicable, the amount of funds received from either a compensatory damage award or settlement to the Association from any Person for injuries to property, real or personal, arising out of any construction or design defects and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. These amounts shall be reported at the end of the fiscal year for which the study is prepared as separate line items under cash reserves pursuant to **Section 6.10.1(2)(B)(ii)**. In lieu of complying with the foregoing requirements, if the Association is obligated to issue a review of its financial statement pursuant to **Section 6.10.2** below, the Association may include in the review a statement containing all of the information required by this **Section 6.10.1(2)(B)(iii)**; and

(C) the percentage that the amount in **Section 6.10.1(2)(B)(ii)** is to the amount in **Section 6.10.1(2)(B)(i)**;

(3) A statement as to both of the following:

(A) whether the Board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace or restore any Major Component or to provide adequate reserves therefor; and if so, the statement shall also set out the estimated amount, commencement date and duration of the assessment; and

(B) the mechanism or mechanisms by which the Board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacement or repair, or alternative mechanisms.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement or additions to the Major Components. The report shall include, but need not be limited to, reserve calculations made using the formula described in Civil Code section 1365.2.5(b)(4) and may not assume a rate of return on cash reserves in excess of 2 percent above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.

In lieu of the distribution of the pro forma operating budget, the Board may elect to distribute a summary of the budget to all its Members with a written notice in at least 10-point bold type on the front page of the summary that the budget is available at the Association's business office or another suitable location within the boundaries of the Development and that copies will be provided on request and at the expense of the Association. If any Member requests a copy of the pro forma operating budget to be mailed to the Member, the Association shall provide the copy to the Member by first-class mail at the expense of the Association, which copy shall be mailed within five days of the receipt of the request.

6.10.2 Financial Statement Review. A review of the financial statement of the Association shall be prepared in accordance with Generally Accepted Accounting Principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income of the Association exceeds \$75,000. A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

6.10.3 Policies and Practices Statement. A statement of the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of assessments. A copy of this statement shall be distributed to each Owner and any Mortgagee no less than 30 days nor more than 90 days immediately preceding the beginning of each fiscal year.

6.10.4 Governing Documents. Copies of this Declaration, the Articles, Bylaws, Rules and other applicable documents as required by Civil Code section 1368(a) shall be provided any Owner within ten days of the mailing or delivery of a written request. The items required to be made available pursuant to this **Section 6.10.4** may be maintained in electronic form and requesting parties shall have the option of receiving them by electronic transmission or machine readable storage media if the Association maintains these items

in electronic form. The Board may impose a fee to provide these materials but not to exceed the Association's reasonable costs in preparing and reproducing the material.

6.10.5 Minutes. A statement describing the Members' rights to obtain copies of the minutes of meetings of the Board, including a description of how and where these minutes may be obtained shall be distributed to the Members at the time the Pro Forma Operating Budget described in **Section 6.10.1** is distributed to the Members.

6.10.6 Dispute Resolution Summary. A dispute resolution summary shall be provided to the Members either at the time the Pro Forma Operating Budget described in **Section 6.10.1** is distributed to Members or in the manner set forth in Corporations Code section 5016 and shall include a description of the Association's internal dispute resolution procedures required by Civil Code section 1363.850 and the following statement:

Failure by any member of the Association to comply with the dispute resolution requirements of Civil Code section 1369.520 may result in the loss of your rights to sue the Association or another member of the Association regarding enforcement of the governing documents.

6.10.7 Insurance Summary. A summary of the Association's property, general liability, earthquake, flood and fidelity policies, if any (individually and collectively referred to as the "Policy" or "Policies"), shall be distributed to the Members not less than 30 days nor more than 90 days preceding the beginning of the Association's fiscal year. The summary shall include the following information on the Policies:

- (A) the name of the insurer;
- (B) the type of insurance;
- (C) the Policy limits of the insurance; and
- (D) the amount of deductibles, if any.

The Association, as soon as reasonably practical, shall notify its Members by first-class mail if any of the Policies have been cancelled and not immediately renewed or restored or if there is a significant change such as a reduction in coverage or limits or an increase in the deductible for any Policy. If the Association receives any notice of non-renewal of a Policy, the Association immediately shall notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

To the extent that the information required to be disclosed as described in this **Section 6.10.7** is specified in the insurance policy declaration page, the Association may meet its disclosure obligations by making copies of that page and distributing copies to all its Members.

The summary required in this **Section 6.10.7** shall contain, in at least 10-point boldface type, the following statement:

This summary of the Association's policies of insurance provides only certain information as required by subdivision (e) of section 1365 of the Civil Code and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association member, upon request and reasonable notice, may review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property, or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for

paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.

6.10.8 Assessment/Foreclosure Notice. A written notice regarding assessments and foreclosures required by Civil Code section 1365.1(b) shall be distributed to each Member during the 60-day period immediately preceding the beginning of the Association's fiscal year. The notice shall be printed in at least 12-point type.

6.10.9 Architectural Approval/Dispute Resolution Procedure Notices. The Association shall annually provide the Members with notice of the requirements for approval by the Architectural Committee in accordance with the procedures described in **Article 8** for physical changes to the Condominiums. The notice shall describe the types of changes that require approval, shall include a copy of the procedure used to review and approve or disapprove a proposed change, and shall include a description of the dispute resolution procedures implemented by the Board as required under **Section 6.6.7**.

6.10.10 Secondary Notice Address. A Member may provide written notice by facsimile transmission or United States mail to the Association of a secondary address. If a secondary address is provided, the Association shall send any and all correspondence and legal notices required, pursuant to Civil Code sections 1365 through 1365.1, 1365.2, 1365.2.5 and 1365.5, to both the primary and the secondary address.

6.11 Enforcement of Bonded Obligations. If the Association is the obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of the Declarant or a successor or assign to complete the Common Area Improvements not completed at the time the California Department of Real Estate issued a final subdivision report for the latest phase of the Development, the Board will consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any Improvement for which a notice of completion has not been filed by the later of: (i) 60 days after the completion date specified for that Improvement in the "planned construction statement" appended to the Bond; or (ii) 30 days after the expiration of any written extension given by the Association. If the Board fails to consider and vote on the action to enforce the obligations under the Bond, or if the Board decides not to initiate action to enforce the obligations under the Bond, then on receipt of a petition signed by Owners representing not less than 5% of the total voting power of the Association, the Board shall call a special meeting of Owners for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the Bond. The Board shall give written notice of the meeting to all Owners entitled to vote in the manner provided in this Declaration or in the Bylaws for notices of special meetings of Owners. The meeting shall be held not less than 35 days nor more than 45 days after receipt of the petition. At the meeting, the vote in person or by proxy by a majority of the Owners entitled to vote (other than Declarant) in favor of taking action to enforce the obligations under the Bond shall be considered the decision of the Association; and the Board shall implement this decision by initiating and pursuing appropriate action in the name of the Association.

Upon satisfaction of the Declarant's obligation to complete the Common Area Improvements, the Board shall acknowledge in writing that it approves the release of the bond and shall execute any other documents or instruments as may be necessary or advisable to effect the release of the Bond. The Board shall not condition its approval to release the Bond on the satisfaction of any condition other than the completion of the Common Area Improvements as described on the "planned construction statement". Any dispute between the Declarant and the Association regarding the release of the Bond shall be resolved in accordance with the Bond escrow instructions or, if these instructions are not operative for any reason, in accordance with the procedures of **Article 13**.

6.12 Limitations on Authority of the Board. The Association is prohibited from taking any of the following actions:

(i) except as otherwise provided in law, or order of the court, or an order pursuant to a final and binding arbitration decision, the Association shall not deny an Owner or occupant physical access to his or her Unit, either by restricting access through the Common Areas to the Owner's Unit or by restricting access solely to the Owner's Unit;

(ii) the Association may not voluntarily assign or pledge the Association's right to collect payments or assessments or to enforce or foreclose a lien to a third party except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or State law when acting within the scope of that charter or license as security for a loan obtained by the Association; however, the foregoing provision may not restrict the right or ability of the Association to assign any unpaid obligations of a former Member to a third party for purposes of collection;

(iii) adopt a Rule or regulation that arbitrarily or unreasonably restricts an Owner's ability to market the Owner's Condominium; or

(iv) establish an exclusive relationship with a real estate broker through which the sale or marketing of Condominiums is required to occur. This restriction does not apply to the sale or marketing of Common Areas owned by the Association.

Furthermore, the Board shall not take any of the following actions except with the consent, by vote at a meeting of the Association or by written ballot without a meeting pursuant to Corporations Code section 7513 or any successive statute thereto, of a simple majority of the Members other than Declarant constituting a quorum of more than 50% of the voting power of the Association residing in Members other than the Declarant:

(v) incur aggregate expenditures for capital Improvements to the Common Area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year;

(vi) sell during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year;

(vii) pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse a member or officer for expenses incurred in carrying on the business of the Association;

(viii) enter into a contract with a third Person to furnish goods or services for the Common Area or the Association for a term longer than one year with the following exceptions:

(a) a management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration;

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

(c) prepaid casualty or liability insurance policies not to exceed three years' duration, provided the policy permits for short rate cancellation by the insured;

(d) lease agreements for laundry room fixtures and equipment not to exceed five years' duration, provided the Declarant does not have a direct or indirect ownership interest of 10% or more in any lessor under such agreements;

(e) agreements for cable television services and equipment or satellite dish television services and equipment not exceeding five years in duration, provided the supplier is not an entity in which the Declarant has a direct or indirect ownership interest of 10% or more;

(f) agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services not exceeding five years' duration, provided that the supplier or suppliers are not entities in which the Declarant has a direct or indirect ownership interest of 10% or more; and

(g) a contract for a term not to exceed three years that is terminable by the Association after no longer than one year without cause, penalty or other obligation upon 90 days written notice of termination to the other party; or

- (ix) borrow money secured by any Association assets as authorized under **Section 6.6.3**.

6.13 Notice of Significant Legal Proceedings. Notwithstanding anything herein to the contrary, not later than 30 days prior to the filing of any civil action against the Declarant or other developer for alleged damage to the Common Area, alleged damage to the separate interests that the Association is obligated to maintain or repair, or alleged damage to the separate interests that arises out of, or is integrally related to, damage to the Common Area or separate interests that the Association is obligated to maintain or repair, the Board shall provide written notice to each Member of the Association. The notice shall specify the date and location of the meeting and both of the following:

- (i) that a meeting will take place to discuss problems that may lead to the filing of a civil action; and
- (ii) the options, including civil actions, that are available to address the problems.

If the Board in good faith determines that there is insufficient time to provide prior notice to the Members as required herein prior to the expiration of any applicable statute of limitations, the Board may take the necessary steps to commence the proceeding to preserve the rights of the Association, provided that as soon as is reasonably practical thereafter, and not later than 30 days following the commencement of the proceeding, the Board shall provide the Members with notice as required herein.

6.14 Access to Association Records. The Association shall comply with the requirements of Civil Code section 1365.2 in making the "Association Records" and "Enhanced Association Records", as defined in Civil Code section 1365.2(a), available for copy and inspection.

ARTICLE 7 - Assessments

7.1 Obligations to Pay Assessments. The Owner of each Condominium is obligated to pay any assessments levied against that Owner's Condominium on or before the due date of the assessment. If there is more than one Owner of the Condominium, the obligation is joint and several. Each Owner on acceptance of a deed to a Condominium automatically personally assumes the obligation to pay any assessments against the Owner's Condominium (including, but not limited to, any portion of the annual regular assessment not yet due and payable) and agrees to allow the Association to enforce any assessment lien established hereunder by nonjudicial proceedings under the power of sale or by any other means authorized by law. The Owner shall be liable for the full assessment levied against that Owner's Condominium regardless of the Owner's possession or use of the Condominium, the Common Area or any services rendered by the Association. The Owner has no right or power to commit or omit any act, such as waiving the right to use the Common Area in an attempt to eliminate or reduce the assessments against that Owner's Condominium. An assessment shall be both a personal obligation of the Owners of the Condominium against which the assessment is levied and, on the recordation of a notice of delinquent assessment, a lien against the Condominium. Any Owner who transfers a Condominium shall remain personally liable for any unpaid assessments that accrued on or before the date of the transfer. No Owner shall be liable for any defaults of the Owner's predecessor in interest in the payment of any assessment that has accrued prior to the Owner taking title to the Property unless that Owner expressly assumes the obligation to cure the delinquent assessments. Notwithstanding the foregoing, any Owner who takes title to a Condominium on which a lien for a delinquent assessment has been established will take title subject to the lien and the Association's enforcement remedies as a result thereof unless the Owner takes title under a foreclosure or trustee sale resulting from a foreclosure or exercise of a power of sale under a Mortgage, deed of trust, or other lien recorded before the recordation of the notice of delinquent assessment and except as provided in **Section 11.3**.

Declarant's obligation to pay regular assessments for Condominiums owned by Declarant may be reduced or abated pursuant to a maintenance or subsidy agreement between Declarant and the Association and approved by the California Department of Real Estate.

7.2 Annual Regular Assessment. Prior to the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the annual regular assessment for the forthcoming fiscal year. At such meeting, the Board shall review the preliminary pro forma operating budget prepared for the forthcoming fiscal year, any written comments received from Members and Mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate and subject to such Member approval as may be required by **Section 7.6**, the Board will establish an annual regular assessment for the forthcoming fiscal year. Each annual regular assessment shall include a portion for reserves as described in **Section 7.3**.

If the Board for any reason fails to take the appropriate steps to establish the annual regular assessment for the next fiscal year, the annual regular assessment for the preceding fiscal year shall continue in effect subject to the Board's right at anytime during the next fiscal year to adjust the assessment pursuant to the procedures described herein.

7.3 Reserves, Reserve Accounts and Reserves Study. Each annual regular assessment shall include a portion for reserves in such amount as the Board in its discretion considers appropriate to meet the cost of the future repair, replacement or additions to the Major Components as described in **Section 6.10.1** that the Association is obligated to maintain and repair. For all purposes in this Declaration and in the Bylaws, reserve accounts shall mean: (i) the funds that the Board has identified for the foregoing purposes ("Regular Reserve Funds") and (ii) the funds received and not yet expended or disposed from either a compensatory damage award or settlement to the Association from any Person for injuries to property, real or personal arising from any construction or design defects (the "Construction Reserve Funds"). Construction Reserve Funds shall be separately itemized from funds designated as Regular Reserve Funds.

Reserve funds shall be deposited in a separate account; and the signatures of at least two persons, who shall either be members of the Board or one officer who is not a member of the Board and a member of the Board, shall be required to withdraw monies from the reserve account. Reserve funds may not be expended 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 is obligated to maintain.

Notwithstanding the foregoing, 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, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reason that the transfer is needed and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, provided that the Board, on the making of a finding supported by documentation that a temporary delay is in the best interest of the Development, may delay temporarily the restoration. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account and, if necessary, shall levy a special assessment to recover the full amount of the expended funds within the time limits required herein. This special assessment shall be subject to the assessment increase restrictions set forth in **Section 7.6** and Civil Code section 1366(b).

If the Board elects to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of that decision in the next available mailing to all Members pursuant to Corporations Code section 5016. The notice shall inform Members of the availability of an accounting of these expenses. The Board shall distribute a written accounting of this expense to the Members on at least a quarterly basis, with the first accounting to be delivered no later than the 30th day following the Board's decision to use reserve funds for litigation, either directly or through a transfer to operating funds. In any proposed litigation in which the amount in controversy is expected to exceed \$25,000, the first accounting shall include a description of expenses paid to date, a description of the principal terms and conditions of any contract with any Person providing services in connection with the litigation, including attorneys and expert witnesses, a good faith estimate of the total legal fees, expert fees and other litigation costs that may be incurred, and a sample disclosure that Members should provide prospective purchasers, lenders and other parties that have obtained or may obtain an interest in the Owner's Condominium regarding the litigation. In each subsequent accounting, the information required in the first accounting shall be appropriately updated.

At least once every three years, the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Components which the Association is obligated to repair, replace, restore or maintain as a part of a study of the reserve account requirements of the Development if the current replacement value of the Major Components is equal to or greater than one-half of the gross budget of the Association, which excludes the Association's reserve account for that period. **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, at a minimum, shall 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 Major Components identified in subparagraph (i) as of the date of the study;
- (iii) an estimate of the cost of repair, replacement, restoration, or maintenance of the Major Components identified in subparagraph (i) during and at the end of its useful life; and
- (iv) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the Major Components during and at the end of its useful life after subtracting total reserve funds as of the date of the study.

As used herein, "reserve accounts" means moneys that the Board has identified for use to defray the future repair or replacement of, or additions to, those Major Components which the Association is obligated to maintain; and "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace, or restore those Major Components which the Association is obligated to maintain.

7.4 Special Assessments. Subject to the restrictions described in **Section 7.6**, the Board may levy a special assessment if the Board in its discretion determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including, but not limited to, expenses resulting from inadequate reserves, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital Improvements, inadequate insurance proceeds, or other unanticipated expenses. The Board may levy the entire special assessment immediately or levy it in installments over a period the Board considers appropriate.

7.5 Reimbursement Assessments. The Board shall have the authority to levy reimbursement assessments against one or more Condominium Owners to reimburse the Association for any costs incurred or to be incurred by the Association as the result of any act or omission of any Owner or occupant of any Condominium or their family members, guests, agents or pets. The levy shall not include any portion that is paid or will be paid by any insurer under a policy maintained by the Association. Payment of the deductible amount shall be the responsibility of the Owner. If the reimbursement assessment is levied and paid before all or any portion of the costs have been incurred by the Association and the amount paid exceeds the costs incurred, the Association promptly shall refund the excess to the Owner. If the costs exceed the amount, the Owner shall reimburse the Association within 30 days thereafter. If payment is not made when due, the payment shall be considered a delinquent assessment and the Association may enforce the delinquent assessment as described in **Section 7.10**, subject to the nonjudicial foreclosure restrictions described in this **Section 7.5**.

In addition to reimbursing the Association for costs necessary to repair any Common Area or other Property that is maintained by the Association, the Association may seek reimbursement for any costs incurred by the Association, including attorneys' fees, to bring the Owner or occupant or the Owner's Condominium into compliance with this Declaration, the Articles, Bylaws or Rules. A reimbursement assessment may not be levied against any Condominium until notice and hearing have been provided the Owner as described in **Section 6.6.4**, and under no circumstances may a reimbursement assessment (or a monetary penalty imposed by the Association as a disciplinary measure for violation of the Declaration or Rules) become a lien

against the Owner's Condominium that is enforceable by nonjudicial foreclosure proceedings under a power of sale. The foregoing restriction on enforcement is not applicable to late payment penalties or interest for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees, for delinquent assessments.

7.6 Assessment Increase Restrictions. The Association shall provide notice by personal delivery or by first-class mail to the Owners of any increase in the regular or special assessments not less than 30 days nor more than 60 days prior to the due date of the increased assessment.

The Board may not (i) impose an annual regular assessment for any fiscal year more than 20% above the annual regular assessment for the Association's preceding fiscal year or (ii) impose special assessments which in the aggregate exceed 5% of the budgeted gross expenses of the Association for that fiscal year without the approval of a majority of the votes of Owners at a meeting of the Members of the Association at which a quorum is present. For purposes of this **Section 7.6**, a "quorum" means more than 50% of the Owners, and the meeting must be conducted in accordance with Corporations Code sections 7510 through 7527 and 7613. The foregoing restrictions on assessment increases do not apply to increases necessary for emergency situations. An emergency situation is any one of the following:

- (i) an extraordinary expense required by an order of court;
- (ii) an extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain where a threat to personal safety on the Property is discovered; or
- (iii) an extraordinary expense necessary to repair or maintain the Development or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under Civil Code section 1365, provided that before the imposition or collection of any assessment under this subparagraph the Board must 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 been reasonably foreseen in the budgeting process and shall distribute the resolution to the Members with the notice of the assessment.

If the Board fails to distribute the Pro Forma Operating Budget as required by **Section 6.10.1** for any fiscal year, the Association may not increase its annual regular assessment for that fiscal year, as authorized by Civil Code section 1366(b), unless the Board has obtained the approval of a majority of the votes of the Owners at a meeting of the Members at which a quorum was present. For the foregoing purposes, a quorum means more than 50% of the Owners of the Association; and the meeting must be conducted in accordance with Corporations Code sections 7510 through 7527 and 7613 or any successor statute thereto.

7.7 Commencement of Regular Assessments. Annual regular assessments shall commence for all Condominiums in a phase on the first day of the month coinciding with or immediately following the date of the first transfer of title of a Condominium in a phase by the Declarant to a purchaser under the authority of a final subdivision public report issued by the California Department of Real Estate or at an earlier date at the discretion of the Declarant. Annual regular assessments for each subsequent phase that has been annexed into the Development by the recordation of a declaration of annexation shall commence on the first day of the month coinciding with or immediately following the first to occur of either of the following: (i) the date that Declarant first transfers title to a Condominium in that phase to a purchaser under the authority of a final subdivision public report issued by the California Department of Real Estate; or (ii) the date that a Condominium in that phase is first occupied and used either by an Owner or by a tenant of the Owner. Owners shall be liable only for that portion of the annual regular assessment that becomes due and payable from and after the date assessments commence against the Owner's Condominium.

Notwithstanding anything herein to the contrary, if assessments are commenced against any Condominium, assessments shall commence automatically against all the Condominiums in the same Condominium Building.

7.8 Due Dates of Assessments. Unless otherwise directed by the Board or unless accelerated as described herein, the annual regular assessment shall be collected in 12 equal monthly installments; and

each installment shall be due and payable on the first day of each month. If any monthly installment is delinquent, the Board, at its election, may accelerate the remaining installment payments so that the entire remaining balance of the annual regular assessment is immediately due and payable. Special assessments shall be due on such date or dates as selected by the Board. Reimbursement assessments shall be due and payable ten days after the Owner receives the notice of the reimbursement assessment. The notice shall be deemed received on the date described in **Section 14.14**.

Any annual regular assessment installment (including any accelerated installments), special assessment or reimbursement assessment not paid within 15 days after the due date shall be delinquent, shall bear interest at the rate of 12% per annum from 30 days after the due date until paid, and shall incur a late penalty in an amount to be set by the Board from time to time, not to exceed the maximum amount permitted by law.

7.9 Allocation of Regular and Special Assessments. Regular and special assessments levied by the Board shall be allocated in equal amounts among the Condominiums.

Notwithstanding anything herein to the contrary, if the use of any Condominium, the equipment or facilities maintained in any Condominium or any related reason results in an increase in the Association costs, including, but not limited to, increases in maintenance and repair costs, trash removal costs, commonly-metered utility costs or insurance costs, the Board may allocate the amount of the increase to the Condominium or Condominiums responsible for the increase.

7.10 Enforcement of Delinquent Assessments. The Association may elect to pursue one or both of the following remedies in the event of a delinquent assessment:

7.10.1 Personal Obligation. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the assessment and in such action shall be entitled to recover the delinquent assessment or assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in **Section 7.10.2**.

7.10.2 Assessment Lien. Except as otherwise provided in **Section 7.5** and subject to the provisions of **Section 7.10.3**, the Association may impose a lien against the Owner's Condominium for the amount of the delinquent assessment or assessments, plus any costs of collection (including attorneys' fees), late charges and interest by taking the following steps:

(a) At least 30 days prior to recording a lien upon the Owner's Condominium to collect a delinquent assessment, the Association shall notify the Owner in writing by certified mail of the following (the "Delinquency Notice"):

(1) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the Condominium has the right to inspect the Association records, pursuant to section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION".

(2) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any.

(3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association.

(4) The right to request a meeting with the Board as provided by **Section 7.10.2(b)(3)**.

(5) The right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850.

(6) The right to request alternative dispute resolution with a neutral third party pursuant to Civil Code sections 1369.510 through 1369.590 before the Association may initiate foreclosure against the Owner's Condominium, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(b) Any payments made by the Condominium Owner toward the delinquent assessment shall first be applied to the assessments owed; and only after the assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the Person who received it. The Association shall provide a mailing address for overnight payment of assessments.

(1) Prior to recording a lien for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850.

Prior to initiating a foreclosure for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, shall participate in dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850 or alternative dispute resolution with a neutral third party pursuant to Civil Code sections 1369.510 through 1369.580. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(2) The decision to record a lien for delinquent assessments shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board members in an open meeting. The Board shall record the vote in the minutes of that meeting.

(3) An Owner may submit a written request to meet with the Board to discuss a payment plan for the delinquent assessment. The Association shall provide the Owners the standards for payment plans if any exist. The Board shall meet with the Owner in executive session within 45 days of the postmark of the request if the request is mailed within 15 days of the date of the postmark of the Delinquency Notice unless there is no regularly-scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans shall not impede an Association's ability to record a lien on the Owner's Condominium to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

(c) The amount of the assessment, plus any costs of collection, late charges, and interest assessed in accordance with **Section 7.8**, shall be a lien on the Owner's Condominium from and after the time the Association causes to be recorded with the county recorder of the county in which the Condominium is located a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with Civil Code section 1366, a legal description of the Owner's interest in the Development against which the assessment and other sums are levied, and the name of the record owner of the Owner's interest in the Development against which the lien is imposed. The itemized statement of the charges owed by the Owner described in **Section 7.10.2(a)(2)** shall be recorded together with a notice of delinquent assessment. In order for the lien to be enforced by nonjudicial foreclosure as provided in **Section 7.10.2(e)**, the notice of delinquent assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice of delinquent assessment shall be signed by any officer of the Association or by the Person designated by the Association for that purpose. A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name

is shown as an Owner in the Association's records, and the notice shall be mailed no later than ten calendar days after recordation. Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the Association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the Condominium Owner a copy of the lien release or notice that the delinquent assessment has been satisfied.

A monetary charge imposed by the Association: (i) as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Area Improvements or landscaping for which the Member or the Member's guests or tenants were responsible; or (ii) as a disciplinary measure for failure of a Member to comply with the Governing Documents, except for the late payments, may not be characterized nor treated as an assessment that may become a lien against the Member's Condominium enforceable by the sale of the interest under Civil Code sections 2924, 2924b and 2924c.

(d) A lien created pursuant to **Section 7.10.2(c)** shall be prior to all other liens recorded subsequent to the notice of assessment, except as described in **Article 11**.

(e) Subject to the limitations of this **Section 7.10**, after the expiration of 30 days following the recording of a lien created pursuant to **Section 7.10.2(c)**, the 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 Civil Code section 2934a. Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trusts. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924c and 2924d.

(f) If it is determined that a lien previously recorded against a Condominium was recorded in error, the party who recorded the lien, within 21 calendar days, shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the Condominium Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

(g) In addition to the requirements of Civil Code section 2924, a notice of default shall be served by the Association on the Owner's legal representative in accordance with the manner of service of summons in Code of Civil Procedure sections 415.10 through 415.95.

(h) Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any notices required by this section to the secondary address provided. The Association shall notify Owners of their right to submit secondary addresses to the Association, at the time the Association issues the Pro Forma Operating Budget pursuant to Civil Code section 1365. The Owner's request shall be in writing and shall be mailed to the Association in a manner that shall indicate the Association has received it. The Owner may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send notices to the indicated secondary address from the point the Association receives the request.

(i) This **Section 7.10.2** is subordinate to and shall be interpreted in conformity with **Section 7.10.3**.

(j) If the Association fails to comply with the procedures set forth in this **Section 7.10.2**, prior to recording a lien, the Association shall recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Condominium Owner.

7.10.3 Assessment Enforcement Restrictions.

(a) If the Association seeks to collect delinquent regular or special assessments of an amount less than one thousand eight hundred dollars (\$1,800), not including any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, may not collect that debt

through judicial or nonjudicial foreclosure, but may attempt to collect or secure that debt in any of the following ways:

(1) By a civil action in small claims court, pursuant to Code of Civil Procedure sections 116.110 through 116.950. If the Association chooses to proceed by an action in small claims court, and prevails, the Association may enforce the judgment as permitted under Code of Civil Procedure sections 116.810 through 116.880. The amount that may be recovered in small claims court to collect upon a debt for delinquent assessments may not exceed the jurisdictional limits of the small claims court and shall be the sum of the following:

(A) The amount owed as of the date of filing the complaint in the small claims court proceeding.

(B) In the discretion of the court, an additional amount to that described in **Section 7.10.3(a)(1)** equal to the amount owed for the period from the date the complaint is filed until satisfaction of the judgment, which total amount may include accruing unpaid assessments and any reasonable late charges, fees and costs of collection, attorneys' fees, and interest, up to the jurisdictional limits of the small claims court.

(2) By recording a lien on the Owner's Condominium upon which the Association may not foreclose until the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, equals or exceeds one thousand eight hundred dollars (\$1,800) or the assessments are more than 12 months delinquent. If the Association chooses to record a lien under these provisions, prior to recording the lien, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution as set forth in Civil Code sections 1363.810 through 1363.850.

(3) Any other manner provided by law, except for judicial or nonjudicial foreclosure.

(b) If the Association seeks to collect delinquent regular or special assessments of an amount of one thousand eight hundred dollars (\$1,800) or more, not including any accelerated assessments, late charges, fees and costs of collection, attorneys' fees, or interest, or any assessments that are more than 12 months delinquent, the Association may use judicial or nonjudicial foreclosure subject to the following conditions:

(1) Prior to initiating a foreclosure on an Owner's Condominium, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850 or alternative dispute resolution as set forth in Civil Code sections 1369.510 through 1369.580. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(2) The decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by the Board and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board members in an executive session. The Board shall record the vote in the minutes of the next meeting of the Board open to all members. The Board shall maintain the confidentiality of the Owner or Owners of the Condominium by identifying the matter in the minutes by the parcel number of the property, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least 30 days prior to any public sale.

(3) The Board shall provide notice by personal service to an Owner of a Condominium who occupies the Condominium or to the Owner's legal representative, if the Board votes to foreclose upon the Condominium. The Board shall provide written notice to an Owner who does not occupy the Condominium by first-class mail, postage prepaid, at the most current address shown on the books of the

Association. In the absence of written notification by the Owner to the Association, the address of the Owner's Condominium may be treated as the Owner's mailing address.

(4) A nonjudicial foreclosure by the Association to collect upon a debt for delinquent assessments shall be subject to a right of redemption. The redemption period within which the Condominium may be redeemed from a foreclosure sale under this paragraph ends 90 days after the sale.

7.10.4 Erroneous Liens. If it is determined, through dispute resolution pursuant to the Association's "meet and confer" program required in Civil Code sections 1363.810 through 1363.850 or alternative dispute resolution with a neutral third party pursuant to Civil Code sections 1369.510 through 1369.590, that the Association has recorded a lien for a delinquent assessment in error, the Association shall promptly reverse all late charges, fees, interest, attorneys' fees, costs of collection, costs imposed for the notice prescribed in Civil Code sections 1367.1(a) and 1367.1(b) and pay all costs related to the dispute resolution or alternative dispute resolution.

The provisions of this Section 7.10 are intended to comply with the requirements of Civil Code sections 1367.1, 1367.4 and 1367.5 in effect as of January 1, 2006. If these sections are amended or rescinded in any manner, the provisions of this Section 7.10 automatically shall be amended or rescinded in the same manner. Civil Code sections 1367.1, 1367.4 and 1367.5 may have been amended by the State Legislature, and the Board should confirm the current statutory requirements.

7.11 Assessment Exemption. Any Condominium having no structural Improvement for human occupancy shall be exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the structural Improvement. Exemption may include, but is not limited to:

- (i) roof replacement;
- (ii) exterior maintenance;
- (iii) walkway and carport lighting;
- (iv) refuse disposal;
- (v) cable television; and
- (vi) domestic water supply to Units.

The foregoing exemptions shall be in effect until the earliest of the following events:

- (i) a notice of completion of the structural Improvements has been recorded;
- (ii) occupation or use of the Condominium; or
- (iii) completion of all elements of the residential structures that the Association is obligated to maintain.

The Declarant and any other Owner of a Condominium are exempt from the payment of that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility that is not complete at the time assessments commence. This exemption from the payment of assessments shall be in effect until the earliest of the following events:

- (i) a notice of completion of the common facility has been recorded; or
- (ii) the common facility has been placed into use.

7.12 Estoppel Certificate. Within ten days of the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (i)

whether to the knowledge of the Association, the Owner or occupant of the Owner's Condominium is in violation of any of the provisions of this Declaration, the Articles, Bylaws or Rules; (ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year in which the request is received; and (iii) the amount of any assessments levied against the Owner's Condominium that are unpaid as of the date of the statement, including any late charges, interest or costs of collection, and that, as of the date of the statement, are or may be made a lien against the Owner's Condominium as provided by this Declaration. The Association may charge a fee to provide this information provided the fee shall not exceed the Association's reasonable cost to prepare and reproduce the requested items.

7.13 Restrictions on Association Funds. Pursuant to the requirements of Civil Code section 1363.04, no Member funds shall be used for campaign purposes in connection with any election of members to the Board or for company purposes in connection with any other Association election, except to the extent necessary to comply with duties of the Association imposed by law.

ARTICLE 8 - Architectural Review

8.1 Architectural Committee. An Architectural Committee may be established by the Declarant or by the Board. The Committee shall consist of three members. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the original final subdivision public report for the Development. Declarant's appointees need not be Members of the Association. Declarant shall have the right to appoint a majority of the members of the Committee until 90% of all the Condominiums in the Development have been sold or until the fifth anniversary of the issuance of the final public report for the first phase of the Development, whichever occurs first. On the first anniversary date of the issuance of the original public report for the first phase of the Development, the Board shall have the power to appoint one member to the Committee until 90% of the Condominiums of the Development have been sold or until the fifth anniversary date of the issuance of the final public report for the first phase of the Development, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Committee. The Board appointees shall be Members of the Association and shall serve at the will of the Board. The term of the members shall be as designated by the Declarant or by the Board. If a member is removed from the Committee for any reason, the Person appointing the member immediately shall appoint a replacement for the balance of the removed member's term. Until a replacement is named, the remaining members of the Committee shall have full authority to act on behalf of the Committee. No member of the Committee shall be entitled to any compensation for serving as a member, provided that member shall be entitled to be reimbursed by the Committee for any expenses incurred by the member in performing its duties, provided the member received prior authorization for the incurrence of the expense. All actions of the Committee shall be governed by a majority vote of the members. The Committee shall meet at such times and places as it shall designate. Meetings of the Committee shall be open to all Members of the Association. The Committee may adopt guidelines regarding the type, location, quality, size, height and other matters relating to any Improvements or landscaping to be constructed or installed in the Condominiums and may establish a procedure for reviewing all plans and specifications submitted to it for prior approval and shall be responsible for periodic review and modification of the guidelines. The guidelines shall comply with the use restrictions described in **Article 4**. Factors that shall be considered in approving proposed plans and specifications shall include without limitation: (i) conformity and harmony of external design with other Condominiums in the Development; (ii) effect of the proposed location on neighboring Condominiums; (iii) relation of the topography, grade and finished ground elevation to that of adjoining Condominiums; (iv) proper facing of elevations with respect to nearby streets and adjoining Condominiums; (v) overall conformity with the general purpose of the Development and the restrictions in this Declaration; and (vi) the guidelines.

8.2 Approval. None of the following actions shall take place anywhere within the Development without the prior written approval of the Committee:

(i) any construction, installation, addition, repair (including exterior painting), replacement, alteration or removal of any Unit Improvement that is part of a building structure (including flooring, interior and exterior walls) or any portion of any Unit Improvement that can be seen from the Common Area or any other Unit;

(ii) any planting or landscaping (including the removal of any tree) except in Exclusive Use Common Area patios or yards; or

(iii) any replacement or modification to any floor coverings or wall or ceiling materials or any penetration or other disturbance of any wall, floor, or ceiling if the replacement, modification, penetration or disturbance could result in any increase in the sound transmissions, resonances or reverberations from the Unit to any other Unit.

Approval shall require the applicant to submit to the Committee plans and specifications in a manner and form satisfactory to the Committee. All plans and specifications shall conform with any guidelines established by the Committee. Plans shall adequately describe the proposed Improvements; plot layout; all exterior elevations; materials and colors; signs, landscaping plans (including the type of sodding, seeding, trees, hedges, shrubs and irrigation); number, size and layout of parking; storage areas; trash enclosures; grading and excavation plans; easements and utility locations; proposed fencing; construction schedule; and such other information as the Committee shall require. The Committee, in its sole discretion, may grant variances or exceptions from any guidelines it has established for approving plans and specifications, which variances or exceptions may contain such conditions and time limitations as the Committee deems appropriate.

Notwithstanding anything herein to the contrary, any Owner may repaint the interior of the Owner's Unit in any color the Owner desires or remodel the Unit with the prior written approval of the Committee, which approval shall be granted if the Committee finds the remodeling does not in any manner remove or adversely affect any bearing wall, affect the structural integrity of the Common Area, alter the exterior appearance of any Condominium Building or increase the sound transmissions, resonances or reverberations from the Unit to any other Condominium.

The Committee may establish reasonable fees to reimburse the Committee for any out-of-pocket costs incurred by the Committee in reviewing plans and specifications. Except as paid or reimbursed by the applicant, any costs incurred by the Committee in the performance of its duties shall be paid by the Association. If the Committee fails to approve or disapprove any plans or specifications within 60 days of receipt of either the plans and specifications or any advance payments required by the Committee, whichever shall occur later, the plans and specifications shall be deemed approved unless a written extension is executed by the Person submitting the plans and by the Committee. The burden shall be on the applicant to establish that the Committee did receive the plans and specifications and/or advance payments and to establish the date of receipt.

The Committee shall be entitled to determine that the proposed work is unacceptable even if the same or similar work previously had been approved for another Condominium as long as the Committee finds that reasonable factors exist to distinguish this application from the approved work. The Committee shall be entitled to make subjective judgments and to consider the aesthetics of a proposal when the proposed work will result in Improvements and/or landscaping that can be seen from any other Condominium, Common Area or public right-of-way as long as the Committee acts in good faith and not unreasonably, arbitrarily or capriciously.

Any member of the Committee or any authorized agent of the Committee from time to time and anytime during normal business hours may enter any Condominium for the purpose of inspecting any construction to confirm compliance with the plans and specifications as approved by the Committee.

In reviewing and approving plans, the Committee shall comply with the requirements of Civil Code section 1378, the restrictions contained in **Article 4** and with all federal, State and local laws regulating the rights of handicapped persons. If there is any conflict between this **Article 8** and Civil Code section 1378, Civil Code section 1378 shall control to the extent of the conflict.

8.3 Architectural Committee's Decision. The decision on any proposed work shall be in writing. If a proposed change is disapproved by the Committee, the written decision shall include both an explanation of why the proposed change is disapproved and a description of the procedure for reconsideration of the decision by the Board. If disapproved, the applicant is entitled to reconsideration by the Board at an open meeting of the Board unless the disapproval decision was made by the Board instead of the Committee or

unless the Architectural Committee has the same members as the Board. Reconsideration by the Board does not constitute a dispute resolution procedure described in **Section 6.6.7**.

8.4 **Completion of Work.** On receipt of approval, the Owner shall commence the work as soon as reasonably practicable and shall diligently pursue the completion of the work. If the work is not commenced within 90 days after receipt of approval or completed within 180 days or such later date as the Committee shall approve in writing, the approval automatically shall be deemed revoked and no further work shall be done without again obtaining the written approval of the Committee as described herein. The work shall be done in strict compliance with the approved plans except for minor non-material changes as may be necessary during the course of construction.

8.5 **Non-liability.** The Association, the Committee, the Declarant, or the other Condominium Owners, or their respective successors or assigns, shall not be liable to any Person submitting plans to the Committee for approval or to any other Condominium Owners or occupants by reason of any act or omission arising out of or in connection with the approval or disapproval of any plans or specifications. Approval shall not constitute any warranty or representation by the Committee or its members that the plans satisfy any applicable governmental law, ordinance or regulation or that any Improvement constructed in accordance with the plans shall be fit for the use for which it was intended and safe for use and occupancy. Applicants shall make their own independent verifications of the foregoing and shall not rely on the Committee or its members in any manner in this regard.

8.6 **Enforcement.** If any Owner or occupant violates the provisions of this **Article 8**, the Declarant or the Association, in addition to any other remedy available at law or equity, may bring an action to compel compliance, including an action for a court order mandating the removal of any Improvement or other property constructed or installed in violation of the provisions of this **Article 8**. In such action, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

8.7 **Board's Authority.** If for any reason the Committee is not established or not active, the Board shall perform the duties and shall have the rights of the Committee as described in this **Article 8**. Notwithstanding anything herein to the contrary, modifications, changes or additions to any Common Area Improvements authorized by the Board shall not require approval from the Committee.

8.8 **Governmental Approval.** Before commencement of any alteration or Improvement approved by the Committee, the Owner shall comply with all the appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required from any governmental entity with appropriate jurisdiction.

8.9 **Declarant Exemption.** Declarant, or its successor or assign, shall not be subject to the approval requirements of this **Article 8** in connection with the construction or alteration of any Improvement within the Development or the installation of any landscaping, provided that this exemption shall expire on the third anniversary date of the recordation of this Declaration. In addition Declarant, or its successor or assign shall not be subject to the approval requirements of this **Article 8** in connection with any repairs or modifications made to any Improvements as may be required by law or pursuant to an agreement with any Unit Owner or the Association.

ARTICLE 9 - Insurance

9.1 **Liability and Fidelity Insurance.** The Association shall obtain and maintain the following liability policies:

9.1.1 **Commercial General Liability Policy.** A commercial general liability insurance policy insuring the Association, any manager, Declarant, the Association's directors and officers, and the Owners and occupants of the Condominiums and their respective family members against any liability incident to any bodily injury or property damage from any accident or occurrence within the Common Area. The policy shall include coverage for contractual liability, personal injury, broad form property coverage, and products and

completed operations. The policy shall also cover any liability incident to any bodily injury or property damage from any accident or occurrence within any Condominium related to any maintenance or repair work required to be performed on any Condominium by the Association pursuant to this Declaration, including, but not limited to, work performed in any Common Area. The policy shall include, if obtainable, a cross liability or severability of interest endorsement insuring each insured against the liability to each other. The limits of such insurance shall not be less than \$2,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance also shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and other liability or risk customarily covered with respect to projects similar in construction, location and use and shall require at least 30 days' written notice to the Association before the policy can be cancelled or substantially modified unless the policy is being replaced with a policy of equivalent coverage. The policy shall be primary and noncontributing with any other liability policy covering the same liability.

9.1.2 Directors and Officers Liability Policy: A directors and officers liability policy containing such terms and conditions as are normally and customarily carried for directors and officers of a residential condominium association.

9.1.3. Fidelity Policy. A blanket fidelity insurance policy covering any Person who either handles or administers (or is responsible for) Association funds, whether or not that Person receives compensation for services. The Association shall be the insured under the policy and the policy shall provide that ten days' written notice be provided to the Association before the policy can be canceled or substantially modified for any reason. The policy amounts shall satisfy the Federal National Mortgage Association ("FNMA") requirements and in no event shall be less than the sum of three months of assessments on all Condominiums subject to assessments.

9.2 Association Property Insurance. The Association shall obtain and maintain a master property insurance policy that satisfies each of the following conditions:

9.2.1 Property Covered. The policy shall cover the following real and personal property:

(a) Common Area. All Common Area Improvements, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the building; windows; fences; monuments; lighting fixtures; exterior signs; and personal property owned or maintained by the Association; and recreational facilities; but excluding land; foundations; excavations; and other items typically excluded from property insurance coverage;

(b) Units. The standard fixtures originally installed by the Declarant and any equivalent replacements thereto, including, but not limited to, interior walls and doors; ceiling, floor and wall surface materials (e.g., paint, wallpaper, mirrors, carpets, and hardwood floors); utility fixtures (including gas, electrical and plumbing); cabinets; built-in appliances; heating and air-conditioning systems; water heaters installed as a part of the original construction of the residence and any equivalent replacements thereto; but excluding any personal property located in the Unit; and excluding any Improvements or upgrades to any of the foregoing to the extent the replacement cost of any such Improvement or upgrade made after completion of the original construction of the Unit exceeds the replacement cost of the original Improvements as determined on the date that immediately precedes the date of the damage or destruction of the Improvement or upgrade; and

(c) Landscaping. Lawn, trees, shrubs and plants located in the Common Area.

9.2.2 Covered Cause of Loss. The policy shall provide coverage against losses caused by fire and all other hazards normally covered by a "special form" policy or its equivalent.

9.2.3 Dollar Limit. The dollar limit of the policy shall not be less than the full replacement value of the covered property described in **Section 9.2.1** above, provided that there may be lower dollar limits for specified items as is customarily provided in property insurance policies.

9.2.4 Primary. The policy shall be primary and noncontributing with any other insurance policy covering the same loss.

9.2.5 Endorsements. The policy shall contain the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent applicable), inflation guard, ordinance or law, and replacement cost, and such other endorsements as the Board in its discretion shall elect.

9.2.6 Waiver of Subrogation. The policy shall waive all subrogation rights against any Owner or occupant and their family members and invitees.

9.2.7 Deductible. The amount of any deductible shall be paid by the Association and/or Owner as provided herein or pursuant to guidelines adopted by the Board.

9.3 Cancellation. All of the policies of insurance maintained by the Association shall contain a provision that such policy or policies shall not be cancelled or terminated, or expired by their terms, or not renewed without 30 days' prior written notice to the Board, the Owners and their respective first Mortgagees (provided that such Owners or Mortgagees have filed written requests with the carrier for such notice) and every other Person in interest who shall have requested such notice of the insurer.

9.4 Board's Authority to Revise Insurance Coverage. Subject to the provisions of **Section 9.6**, the Board shall have the power and right to deviate from the insurance requirements contained in this **Article 9** in any manner that the Board, in its discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this **Article 9**, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least 30 days prior to the effective date of the reduction.

The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

Each Owner, by acceptance of a deed to a Condominium, irrevocably appoints the Association or the Insurance Trustee, described in **Section 9.7**, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

9.5 Periodic Insurance Review. The Board periodically (and not less than once every three years) shall review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Board considers to be in the best interests of the Association. If applicable, the review shall include an appraisal by a qualified appraiser of the current replacement costs of all covered property under the Association's property insurance policy unless the Board is satisfied that the current dollar limit of the property insurance policy, coupled with the amount of actual reserves on hand, is equal to or greater than the current replacement costs.

9.6 FNMA and FHLMC Requirements. Notwithstanding anything herein to the contrary, the Association shall maintain such policies, containing such terms, amount of coverage, endorsements, deductible amounts, named insureds, loss payees, standard mortgage clauses, notice of changes or cancellation, and an appropriate insurance company rating that shall satisfy the minimum requirements imposed by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor thereto. If the FNMA or FHLMC requirements conflict, the more stringent requirements shall be met.

9.7 Insurance Trustee. All property insurance proceeds payable to the Association under any property insurance policy procured by the Association as described in **Section 9.2**, subject to the rights of Mortgagees under **Article 11**, may be paid to a trustee as designated by the Board to be held and expended for the benefit of the Owners and Mortgagees as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the county in which the Development is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Association will have the duty to contract for such work as provided for in this Declaration.

9.8 **Owners' Property Insurance.** Each Condominium Owner shall maintain property insurance against losses to personal property located within the Owner's Unit and to any upgrades or additions to any fixtures or Improvements located within the Unit and liability insurance against any liability resulting from any injury or damage occurring within the Unit. **The Association's insurance policies will not provide coverage against any of the foregoing.** In addition, the Condominium Owner shall maintain a general liability insurance policy in an amount not less than \$100,000, and unit owner building insurance in an amount not less than \$25,000. The policy shall cover any liability for damage to any Improvements or personal property within the Development caused by any act or omission of Owner or tenant of the Owner's Condominium, or their family members, employees, agents or invitees.

The liability and property insurance policies shall contain a waiver of subrogation rights by the insurer as to the other Owners, the Association and any first Mortgagee of the Owner's Unit. The Association shall be named as an additional insured under the policy. The Board may from time to time increase the liability coverage amounts under such terms and conditions as the Board shall elect and may require each Owner to periodically submit appropriate evidence that the required policies are in full force and effect.

No Owner shall separately insure any property covered by the Association's property insurance policy as described in **Section 9.2** above. If any owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association to the extent of the diminution. The Association may levy a reimbursement assessment against the Owner's Condominium to collect the amount of the diminution.

Each Owner is strongly advised to seek the advice of a qualified insurance consultant regarding: (i) the amount of personal liability insurance coverage the Owner should maintain because of the Owner's ownership interest in the Common Area and Unit and (ii) the availability of loss assessment insurance coverage.

9.9 **Other Insurance.** In addition to the policies described in **Sections 9.1** and **9.2**, the Association may obtain and maintain the following insurance:

- (i) Workers Compensation Insurance to the extent required by law;
- (ii) Flood insurance on Common Area Improvements if the Development is located in an area designated by an appropriate governmental agency as a special flood hazard area and the Improvements are of the nature on which hazard insurance is normally maintained; and
- (iii) such other insurance as the Board in its discretion considers necessary or advisable.

ARTICLE 10 - Damage, Destruction or Condemnation

10.1 **Restoration Defined.** As used in this **Article 10**, the term "restore" shall mean repairing, rebuilding or reconstructing Improvements damaged or destroyed as a result of a fire or other casualty to substantially the same condition and appearance in which they existed prior to fire or other casualty damage.

10.2 **Insured Casualty.** If any Improvement is damaged or destroyed from a risk covered by the insurance required to be maintained by the Association and the insurance proceeds are sufficient to cover the loss, then the Association, to the extent permitted under existing laws and except as otherwise authorized under this **Article 10**, shall restore the Improvement to the same condition as it was in immediately prior to the damage or destruction subject to such changes as may be approved by the architectural committee or required by law. The Association shall proceed with the filing and adjustment of all claims arising under the existing insurance policies. The insurance proceeds shall be paid to and held by the Association or an insurance trustee selected under the provisions of **Section 9.7**. If the insurance proceeds exceed the costs of restoration, the excess proceeds shall be paid into reserves and held for the benefit of the Association.

10.3 Inadequate Insurance Proceeds or Uninsured Loss. If the insurance proceeds are insufficient to restore the damaged Improvement or the loss is uninsured, the Board shall add to any available insurance proceeds all reserve account funds designated for the repair or replacement of the damaged Improvement. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. If the aggregate amount of insurance proceeds and such reserve account funds are insufficient to pay the total costs of restoration, a special assessment shall be levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in this Declaration and by law. If the total funds then available are sufficient to restore the damaged Improvement, the Improvement shall be restored. Any special assessment levied to cover a shortfall in available repair proceeds shall be allocated among the Condominiums without regard to the extent of damage or destruction to the individual Condominiums.

If the total funds available to the Association are still insufficient to restore the damaged Improvement, then the Board first shall attempt to impose an additional special assessment pursuant to **Section 10.4** below and, second, use a plan of alternative reconstruction pursuant to **Section 10.5** below. Any special assessment levied to cover a shortfall in available repair proceeds shall be allocated among the Condominiums without regard to the extent of damage or destruction to the individual Condominiums. If the Members do not approve such actions, then the provisions of **Section 10.6** shall apply.

10.4 Additional Special Assessment. If the total funds available to restore the damaged Improvement as provided in **Section 10.3** are insufficient, then a meeting of the Members shall be called for the purpose of approving a special assessment to make up all or a part of the deficiency ("Additional Special Assessment"). If the amount of the Additional Special Assessment approved by the Members and the amounts available pursuant to **Section 10.3** above are insufficient to restore the damaged Improvement or if no Additional Special Assessment is approved, the Association shall consider a plan of alternative reconstruction in accordance with **Section 10.5**.

10.5 Alternative Reconstruction. The Board shall consider and propose plans to reconstruct the damaged Improvement making use of whatever funds are available to it pursuant to **Section 10.3** and **Section 10.4** above ("Alternative Reconstruction"). All proposals shall be presented to the Owners. If two-thirds of the voting power of the Owners whose residences were materially damaged as determined by the Association ("Affected Owners") and a majority of the voting power of the Members, including the Affected Owners, agree to any plan of Alternative Reconstruction, then the Board shall contract for the reconstruction of the damaged Improvement in accordance with the plan of Alternative Reconstruction making use of whatever funds are then available to it. If no plan of Alternative Reconstruction is agreed to, then the provisions of **Section 10.6** shall apply.

10.6 Sale of Condominiums. If the damaged Improvement is part of a Condominium Building (the "Damaged Building"), the damage renders one or more of the Condominiums within the Damaged Building uninhabitable, and the Improvements will not be restored in accordance with the provisions of **Sections 10.3, 10.4** and/or **10.5**, the Board, as the attorney-in-fact for each Owner of a Condominium in the Damaged Building, shall be empowered to sell the Condominiums in the Damaged Building in their then present condition on terms to be determined by the Board, provided that the Board receives adequate assurances that the purchaser shall, and has the financial capability to: (i) restore the Damaged Building (either by renovation or removal and rebuilding); (ii) remove the Damaged Building and restore any remaining Improvements as may be necessary; (iii) remove the Damaged Building (including foundations), grade the area, and appropriately landscape or otherwise improve the area in any manner as may be acceptable to the Board; or (iv) perform any combination of the foregoing. Any work to be performed by the purchaser with respect to any of the foregoing shall be subject to the provisions of **Article 8**.

The proceeds from the sale, together with the insurance proceeds for the Damaged Building received and any reserve funds allocated to the Damaged Building, after deducting therefrom the Association's sale expenses, including commissions, title and recording fees, legal costs, and that portion of the proceeds allocated for the removal of the Damaged Building, shall be distributed among the Owners of Condominiums in the Damaged Building and their respective Mortgagees in proportion to the respective fair market values of these Condominiums immediately prior to the date of the event causing the damage as determined by an independent appraisal made by a qualified real estate appraiser selected by the Board.

If a Damaged Building is removed and not restored so that the new Building contains the same number of Condominiums as the removed Building, the Board shall take appropriate steps to adjust the property interests of the remaining Condominium Owners and to effect such amendments as may be necessary to the Declaration, the Condominium Plan, and the Map to reflect the revised property interests and other related changes.

10.7 Restoration of Partition Rights. Notwithstanding anything herein to the contrary, if the damage has rendered any Condominium uninhabitable and (i) within one year of the date of the occurrence of the damage, the Association has not elected to repair the damage under the provisions of **Sections 10.2, 10.3, 10.4 or 10.5** or if so has not commenced and diligently pursued the repair work or (ii) the Association has not commenced and diligently pursued the sale of the Development as authorized under **Section 10.6**, the restriction against partition described in **Section 2.13** shall be null and void and any Owner may bring a partition action under the authority of Civil Code section 1359 or any successor statute thereto.

10.8 Rebuilding Contract. If there is a determination to restore, the Board or its authorized representative shall obtain bids from at least two licensed and reputable contractors and shall accept the repair and reconstruction work from whomever the Board determines to be in the best interests of the Members. The Board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the repair and reconstruction funds shall be disbursed to the contractor according to the terms of the contract. The Board shall take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date. Such construction shall be commenced no later than 180 days after the event requiring reconstruction and shall thereafter be diligently prosecuted to completion. Such construction shall return the Development to substantially the same condition and appearance in which it existed prior to the damage or destruction.

10.9 Authority to Effect Changes. If any Condominium Building or portion thereof containing Condominiums is damaged or destroyed or in need of renovation or rehabilitation and the Condominium Building is repaired or reconstructed, the Condominium Building may be repaired or reconstructed in a manner that alters the boundaries of the Units, Common Area, and/or Exclusive Use Common Area, provided the following conditions are satisfied:

(i) the alteration has been approved by the Board, by Members holding a majority of the total voting power of the Association, and by the holders of any first Mortgages to the extent required herein;

(ii) the Board has determined that the alteration is necessary in order to comply with current building code requirements, to meet current building construction standards and procedures, or to improve the conditions and quality of the Condominium Building;

(iii) the alteration does not materially change the location of any Unit or materially increase or decrease the size of any Unit without the consent of the Unit Owner and the holders of any first Mortgages thereon. For purposes herein, a material change in the size of the Unit shall mean any alteration that increases or decreases the square footage of the interior floor space of the Unit by more than 10% from the square footage as shown on the Condominium Plan;

(iv) the Board has determined that any alteration that will relocate or reduce the Common Area will not unreasonably interfere with the rights of the Owners and occupants to use and enjoy the Common Area; and

(v) the Condominium Plan is amended to reflect the alteration to the Units or Common Area.

Each Owner irrevocably appoints the Association as that Owner's attorney-in-fact and irrevocably grants to the Association the full power in the name of the Owner to effect any alteration to any Unit or Common Area as authorized above, including, but not limited to, the execution, delivery and recordation of any Condominium Plan, amendments, deeds or other instruments.

10.10 Condemnation. If there is a total sale or taking of the Development, meaning a sale or taking (i) that renders more than 50% of the Condominiums uninhabitable (such determination to be made by the

Board in the case of a sale and by the Court in the case of a taking) or (ii) that renders the Development as a whole uneconomical as determined by the vote or written consent of 75% of those Owners and their respective first Mortgagees whose Condominiums will remain habitable after the taking, the right of any Owner to partition through legal action as described in **Section 2.13** shall revive immediately. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Development, together with the proceeds of any sale pursuant to any partition action, after payment of all expenses relating to the sale, taking or partition action, shall be paid to all Owners and to their respective Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums, provided that proceeds for any recreational facilities shall be disbursed equally among the Condominiums.

In the case of a partial sale or taking of the Development, meaning a sale or taking that is not a total taking as described above, the proceeds from the sale or taking shall be paid or applied in the following order of priority; and any judgment of condemnation shall include the following provisions as part of its terms:

(i) to the payment of the expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then

(ii) to Owners and their respective Mortgagees as their interests may appear whose Condominiums have been sold or taken in an amount up to the fair market value of such Condominiums as determined by the Court in the condemnation proceeding or by an independent, qualified appraiser selected by the Board, less such Owner's share of expenses paid pursuant to the preceding subsection (i) (which share shall be allocated on the basis of the fair market value of the Condominium). After such payment, the recipient shall no longer be considered an Owner, and the Board or individuals authorized by the Board acting as attorney-in-fact of all Owners shall amend the Condominium Plan, the subdivision map (if necessary), and this Declaration to eliminate from the Development the Condominium so sold or taken and to adjust the undivided ownership interests of the remaining Owners in the Common Area based on the ratio that each remaining Owner's undivided interest bears to all of the remaining Owners' undivided interest in the Common Area; then

(iii) to any remaining Owner and to his or her Mortgagees, as their interests may appear, whose Condominium has been diminished in fair market value as a result of the sale or taking disproportionately to any diminution in value of all remaining Condominiums but, as of a date immediately after any announcement of condemnation, in an amount up to the disproportionate portion of the total diminution in value; then

(iv) to all remaining Owners and to their respective Mortgagees, as their interests may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Condominium bears to the fair market value of all remaining Owners' Condominiums as determined by the Court in the condemnation proceeding or by an independent, qualified appraiser selected by the Board.

Notwithstanding the foregoing, if the amount from the sale or taking is less than \$50,000, the Board may elect to retain the amount as a part of the Association's operating or reserve funds in lieu of making a distribution to the Owners.

10.11 Dispute Resolutions. If there are any disputes regarding the rights and/or duties of the Owners or the Association under this **Article 10**, the dispute shall be submitted to mediation and, if necessary binding arbitration, to the Judicial Arbitration and Mediation Services (JAMS), any successor thereto or any other alternative dispute resolution provider acceptable to the parties for resolution. If the mediation is unsuccessful, the dispute shall be resolved by binding arbitration in accordance with JAMS' commercial rules. The mediation and arbitration shall be held in the county where the Development is located. The parties shall be entitled to the discovery rights provided by Code of Civil Procedure section 1283.05. The arbitrator may award costs and attorneys' fees to the prevailing party. The arbitrator's decision shall be binding on the parties and may be enforced in any court of competent jurisdiction.

ARTICLE 11 - Rights of Mortgagees

11.1 Lender Definitions. Unless the context indicates otherwise, the following terms as used in this **Article 11** shall have the definitions contained in this **Section 11.1**. An "institutional" Mortgagee is a first Mortgagee that is: (i) a federally or state chartered or licensed bank or savings and loan association; (ii) a mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property or investing in such loans; (iii) an insurance company; (iv) a federal or State agency or instrumentality including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; or (v) an insurer or governmental guarantor of a first Mortgage including the Federal Housing Authority and the Veterans Administration. A "first Mortgage" or "first Mortgagee" is one having a priority as to all other Mortgages encumbering the same Condominium or other portions of the Development. An "eligible Mortgage holder" shall mean a first Mortgagee who has requested the Association to notify the first Mortgagee of any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

11.2 Encumbrance. Any Owner may encumber his or her Condominium with a Mortgage or Mortgages.

11.3 Rights of Institutional Mortgagees. Any institutional Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the first Mortgage, including judicial foreclosure or nonjudicial foreclosure under a power of sale (but excluding voluntary conveyance to the first Mortgagee), shall take the Condominium free of any obligation to pay any assessments that were delinquent as of the date the institutional Mortgagee acquired title to the Condominium, including any interest, penalties or late charges in connection therewith. The institutional Mortgagee as Owner of the Condominium shall be obligated to pay any assessments that were not delinquent as of the date the institutional Mortgagee took title to the Condominium and all future assessments levied against the Condominium as long as the institutional Mortgagee remains in title, including any special assessments levied by the Association to raise operating or reserve funds needed because of uncollected delinquent assessments, as long as the special assessment is allocated among all the Condominiums as provided in **Section 7.9**.

11.4 Subordination. Any assessment lien established under the provisions of this Declaration is expressly made subject to and subordinate to the rights of any Mortgage that encumbers all or any portion of the Development or any Condominium made in good faith and for value and recorded before the recordation of a notice of delinquent assessment. No assessment lien shall in any way defeat, invalidate or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates in writing its interest to such lien. If any Condominium is encumbered by a Mortgage made in good faith and for value, the foreclosure of any assessment lien cannot operate to effect or impair the lien of any Mortgage recorded prior to the recordation of the notice of delinquent assessment. Upon the foreclosure of any prior-recorded Mortgage, any lien for delinquent assessment shall be subordinate to the Mortgage lien; and the purchaser at the foreclosure sale shall take title free of the assessment lien. By taking title, the purchasers shall be obligated to pay only assessments or other charges that were not delinquent at the time the purchaser acquired title to the Condominium. Any subsequently-levied assessments or other charges may include previously-unpaid assessments, provided all Owners, including the purchaser and its successors and assigns, are required to pay their proportionate share of such unpaid assessments.

11.5 Breaches. No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith or for value; but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee sale or otherwise.

11.6 Special Voting Requirements. Unless at least 67% of first Mortgagees (based on one vote for each Condominium secured by the first Mortgage) or 67% of the total voting power of the Members of the Association other than Declarant have given their prior written approval, the Association shall not:

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area. However, the granting of easements for public utilities or for any other public purposes

consistent with the intended use of the Common Area by the Association is not a transfer within the meaning of this clause;

(ii) change the method of determining the obligations, assessments, dues or other charges that may be levied against a Condominium;

(iii) by act or omission change, waive or abandon the provisions of the Declaration, or the enforcement of them, pertaining to architectural design or the exterior maintenance of Condominium structures, the maintenance of the Common Area walkways or common fences and driveways, or the upkeep of lawns and plantings within the Development;

(iv) fail to maintain fire and extended coverage insurance on insurable Association property, including any Common Area Improvements, on a current-replacement-cost basis in an amount not less than 100% of the insurable value (based on current replacement costs); or

(v) use property insurance proceeds for losses to any Association property, including Common Area Improvements, for other than the repair, replacement or reconstruction of such property.

Approval by Owners who represent at least 67% of the total allocated votes in the Owner's Association and by eligible Mortgage holders who represent at least 51% of the votes of Condominiums that are subject to Mortgages held by eligible Mortgage holders must be obtained prior to adoption of any amendment of a material nature affecting any of the following matters:

(i) voting rights;

(ii) increases in assessments that raise the previously-assessed amount by more than 25%, assessment liens, or the priority of assessment liens;

(iii) reductions in reserves for maintenance, repair or replacement of the Common Area Improvements;

(iv) responsibility for maintenance and repairs;

(v) reallocation of interests in the Common Area or Exclusive Use Common Area or rights to their use;

(vi) redefinition of any Unit boundary;

(vii) convertibility of Units into Common Area or vice versa;

(viii) expansion or contraction of the Development or the addition, annexation or withdrawal of property to or from the Development;

(ix) hazard or fidelity insurance requirements;

(x) imposition of any restrictions on the leasing of Units;

(xi) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;

(xii) a decision by the Association to establish self-management when professional management had been required previously by the Governing Documents or by an eligible Mortgage holder;

(xiii) restoration or repair of the Development (after damage or partial condemnation) in a manner other than that specified in this Declaration;

(xiv) any provisions that expressly benefit Mortgage holders, insurers, or guarantors; or

(xv) any action to terminate the legal status of the Development after substantial destruction or condemnation occurs.

If Owners are considering termination of the legal status of the Development for reasons other than substantial destruction or condemnation of the Property, eligible Mortgage holders that represent at least 67% of the votes of the mortgaged Condominiums must agree. If any eligible Mortgage holder fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail with a return receipt requested, the eligible Mortgage holder shall be considered to have granted approval.

11.7 Distribution of Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of any institutional Mortgagees pursuant to their Mortgages in case of distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of any Condominiums or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the Development is to such extent void.

11.8 Use of Amenities. All Common Area Improvements, such as parking, recreation and service areas, shall be available for use by Owners or occupants subject to the exclusive use rights of any Owner, the provisions on transfer of use rights to tenants and the Association's rights to suspend an Owner's or occupant's right to use Common Area recreational facilities (if any) for breach of the obligations in this Declaration, the Bylaws or the Rules.

11.9 Mortgagee Notice. If any Owner is in default under any provision of this Declaration or under any provision of the Articles, Bylaws or the Rules and the default is not cured within 60 days after written notice to that Owner, the Association, upon request, shall give to any first Mortgagee of such Owner a written notice of such default and of the fact that the 60-day period has expired.

Any Mortgage holder, insurer or guarantor may send a written request to the Association stating both its name and address and the address of the Condominium of which it holds, insures or guarantees a Mortgage to receive timely written notice of any of the following:

- (i) any condemnation or casualty loss that affects either a material portion of the Development or the Condominium securing the Mortgage;
- (ii) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Unit encumbered by the holder's, insurer's or guarantor's Mortgage;
- (iii) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (iv) any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

11.10 Tax Payments. First Mortgagees of any Condominium jointly or severally may pay taxes or other charges which are in default and which may be or have become a charge against the Common Area and may pay any overdue premiums on property insurance policies or secure new property insurance on the lapse of a policy for Common Area Improvements or other insured property of the Association; and, by making such payments, such Mortgagees shall be owed immediate reimbursement from the Association. The provisions shall constitute an agreement by the Association for the express benefit of all first Mortgagees; and, on request of any first Mortgagee, the Association shall execute and deliver to such Mortgagee a separate written agreement embodying this provision.

11.11 Right of First Refusal. No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium is imposed by this Declaration, the Articles, Bylaws or in any deed restriction of any deed from the Declarant to the first purchaser of the Condominium.

11.12 Professional Management Contracts. Any agreement for professional management by a manager, shall provide for termination by either party without cause and without payment of a termination fee

on 90 days' written notice or less and shall have a maximum term of one year, provided that the Association can renew any such contract on a year-to-year basis. Any agreement between the Association and the Declarant for professional management that is entered into before control of the Development has passed to the Owners (other than Declarant) shall provide that the Association may terminate the agreement without cause at anytime after transfer of control to the Owners (other than Declarant).

11.13 Audited Financial Statements. On receipt of a written request from a holder, insurer or guarantor of any first Mortgage on a Condominium, the Association shall provide the requesting party with an audited financial statement for the preceding fiscal year. The audited financial statement must be available within 120 days of the Association's fiscal year end.

11.14 Inspection of Governing Documents. The Association shall have current copies of the Declaration, Articles, and Bylaws, Rules and the books, records and financial statements available for inspection during normal business hours by Owners and holders, insurers or guarantors of first Mortgages.

11.15 Phased Projects. The Improvements to be constructed in any subsequent phase that is annexed into the Development shall be consistent with the initial Improvements in structure, type and quality of construction.

ARTICLE 12 - Amendments

12.1 Amendment Before Close of First Sale. Before the close of the first sale of a Condominium in the Development to a purchaser other than Declarant or an entity controlled by Declarant, this Declaration may be amended in any respect or rescinded by Declarant by recording an instrument amending or rescinding the Declaration. Before the close of the first sale of a Condominium in a subsequent phase of the Development to a purchaser other than Declarant or entity controlled by Declarant, any declaration of annexation recorded pursuant to **Article 15** with respect to such phase may be amended in any respect or rescinded by the Declarant by recording an instrument amending the declaration of annexation or rescinding the declaration of annexation. If the declaration of annexation is rescinded, the phase shall be de-annexed from the Development and no longer subject to the Declaration. The amending or rescinding instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the county in which the Development is located. For purposes herein, a Person is considered controlled by Declarant if the Declarant holds 50% or more of the capital and profit interests if a partnership or limited liability company, 50% or more of the voting shares if a corporation, and 50% or more of the beneficial interests if a trust.

12.2 Amendment After Close of First Sale. After the close of the first sale of a Condominium in the Development to a purchaser other than Declarant or an entity controlled by Declarant, this Declaration may be amended or revoked in any respect with the vote or written consent of the holders of not less than 51% of the voting rights of each class of Owners or, if a single class of Owners is then in effect, by the vote or written consent of not less than 51% of all votes and 51% of the votes excluding Declarant. If any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Owners in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Owners shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other Person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Notwithstanding anything herein to the contrary, any provision in this Declaration that specifically confers rights or benefits on Declarant as the Declarant and not on any other Owner may not be amended or rescinded without the prior written consent of Declarant except as expressly authorized by Civil Code section 1355.5. The amendment is effective when it has been approved by the appropriate percentage of Owners as required herein, the approval has been certified in a writing executed and acknowledged by the officer designated in the Declaration or by the Association for that purpose (or, if no one has been designated, the President of the Association), and the amendment and certification have been recorded in the county in which the Development is located.

12.3 Amendment of the Condominium Plan. The Condominium Plan for each Condominium Building may be amended by the consent of the Owners of Condominiums in that Building and their Mortgagees as required by Civil Code section 1351(e) and the consent of the Board. The consent of no other Owner or Mortgagee shall be required, provided that if the amendment involves the conversion of any Association Common Area into Building Common Area, the consent of Members holding a majority of the total voting power shall be required. The authorization of an encroachment into Association Common Area or the designation of Association Common Area as Exclusive Use Common Area under the provisions of **Section 2.9** shall not be considered a conversion of Association Common Area into Building Common Area for purposes of this **Section 12.3**, provided that the prior written consent of the Board shall be required as provided in **Section 2.9**.

12.4 Special Amendment Requirements. Notwithstanding anything herein to the contrary, no amendment affecting the dimensions of any Unit or the interests in the Common Area or Exclusive Use Common Area shall be effective without the consent of all Owners whose Units, Common Area interests, or Exclusive Use Common Area rights are affected by the amendment, except as authorized in **Sections 2.9** and **9.9**. The provisions of this **Section 12.4** may not be amended without the unanimous consent of the total voting power of the Association.

12.5 Corrections. Notwithstanding anything herein to the contrary, Declarant reserves the right as the attorney-in-fact for each Condominium Owner to record an amendment or appropriate instrument of correction to correct any errors in this Declaration, any Declarations of Annexation of any exhibits thereto, including any Condominium Plans, and the consent of neither the Association nor any Condominium Owner shall be required provided that if the correction affects the size, location or access or use rights to any Unit or any Exclusive Use Common Area appurtenant to that Unit, the consent of that Unit Owner shall be required.

ARTICLE 13 - Declarant Disputes

Any claim, dispute or other controversy between the Association and/or any Owner(s) and the Declarant or any director, officer, shareholder, partner, employee or agent of the Declarant or any contractor, subcontractor, design professional, engineer or other person that provided materials, labor or other services to the Development (collectively the "Declarant" for purposes of this **Article 13**) relating to this Declaration, the use, condition or operation of any Unit or Common Area Improvements or landscaping, (individually and collectively the "Claim") shall be subject to the claim procedures set forth in Exhibit D attached hereto and incorporated herein.

The claims procedures in Exhibit D do not apply to any action taken by the Association to enforce delinquent assessments, which shall be governed by **Section 7.10** of this Declaration.

ARTICLE 14 - Miscellaneous Provisions

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

14.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions or any portion thereof shall not invalidate any other provision or any portion of the provisions not found invalid or unenforceable.

14.3 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and nonexclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

14.4 Discrimination. No Owner shall execute or cause to be recorded any instrument that imposes a restriction on the sale, leasing or occupancy of the Owner's Condominium on the basis of race, sex, marital status, national ancestry, color or religion.

14.5 Access to Books. Any Owner, at any reasonable time and upon reasonable notice to the Board or manager and at the Owner's expense, may cause an audit or inspection to be made of the books and financial records of the Association.

14.6 Notification of Sale. No later than five days after the closing of the sale of any Condominium, the new Owner shall notify the Association of such sale. Such notification shall be in writing and shall set forth the name and address of the new Owner and the date of sale.

14.7 Reservation or Grant of Easements. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in any deed to any Condominium.

14.8 Incorporation of Exhibits. All exhibits referred to herein and attached to this Declaration are incorporated herein by reference as fully set forth herein.

14.9 Enforcement Rights and Remedies. The covenants, restrictions, rights and duties contained in this Declaration constitute covenants running with the land and equitable servitudes that benefit and bind each Condominium in the Development, each Owner, and each successive Owner thereto, and may be enforced by the Association or any Owner in any legal or equitable action pursuant to the procedures described herein.

Each Owner acknowledges and agrees that if any Person breaches any of the restrictions contained herein, money damages may not be adequate compensation. As a result, each Owner agrees that in the event of a breach, the non-breaching party, in addition to any other remedy available at law or equity, shall be entitled to equitable relief, including, but not limited to, an order compelling the breaching party to perform an act which the party is required to perform under this Declaration or which is necessary to bring the breaching party or the breaching party's Condominium into compliance with restrictions contained herein or prohibiting the breaching party from performing any act that violates the restrictions.

Notwithstanding anything herein to the contrary, the Association shall have the exclusive right to levy assessments and to take appropriate action to enforce delinquent assessments, including imposition of an assessment lien and the foreclosure of the lien. Furthermore, the Association shall have the primary responsibility for enforcing the senior citizen housing restrictions in **Article 3**, the restrictions contained in **Article 4** and the architectural provisions contained in **Article 8**. If any Owner or occupant desires the Association to take any enforcement action, the Owner or occupant shall notify the Association in writing of the alleged violation. On receipt, the Board shall review the matter and shall determine what action, if any, to take. Neither the Board nor the Association or any director, officer or agent thereof shall be liable if the Board in the exercise of its judgment elects not to take any action. To the extent applicable, the Board shall comply with the due process requirements described in this Declaration. If within 90 days after receipt of the notice the Board has failed to take any corrective action and the alleged violation has not been cured and is continuing, any Owner may bring an action on the Owner's behalf for appropriate legal and/or equitable relief. In such action, the Owner shall bear his or her own costs and attorneys' fees, provided that the prevailing party in such action shall be entitled to recovery of such costs and fees.

Prior to the commencement of any action by the Association or Owner to enforce the Governing Documents, the Davis-Stirling Common Interest Development Act (Civil Code sections 1350-1376) or the Nonprofit Mutual Benefit Corporation Law (Corporations Code sections 7110-8910), the Association or the Owner shall comply with the requirements of Civil Code sections 1369.510 through 1369.560 to the extent applicable.

14.10 Term. The term of this Declaration shall be for a period of 50 years from the date on which this Declaration is recorded in the records of the county in which the Development is located. After that time, this Declaration and each of its restrictions and covenants and other provisions automatically shall be extended for successive ten-year periods unless this Declaration is rescinded by the written consent of

Owners holding a majority of the total voting power of the Association. The rescission shall be effective on recordation of a notice of rescission in the records of the county in which the Development is located.

14.11 Reserved Rights of Declarant. Declarant is recording this Declaration as part of the construction of a residential development. No covenant or restriction contained herein shall be applied in any manner that would unreasonably interfere with Declarant's rights to complete the construction of the Improvements and to sell the Improvements. The rights retained by Declarant during the construction and sales period include, but are not limited to, the right to:

- (i) maintain construction equipment, personnel and materials on the Property;
- (ii) use such portions of the Property as may be necessary or advisable to complete the construction or sales;
- (iii) maintain construction and/or sales offices on the Property and appropriate parking to accommodate the foregoing;
- (iv) maintain sale signs or other appropriate advertisements on the Property;
- (v) maintain model homes for viewing by prospective purchasers; and
- (vi) allow prospective purchasers access to the Property to inspect any Common Area or any model homes.

14.12 Assignment by Declarant. Declarant may assign all or any portion of its rights and delegate all or any portion of its duties to any other Person; and from and after the date of such assignment and/or delegation, the Declarant shall have no further rights and/or duties hereunder with respect to the rights assigned and duties delegated. Any successor or assignee of the rights and duties of the Declarant shall execute an instrument assuming the rights and duties of the Declarant hereunder and thereafter shall be entitled to exercise all the rights of Declarant so assigned and shall be obligated to perform all the Declarant's duties so delegated, provided such successor or assignee shall not be liable in any manner for any act or omission committed or omitted by the Declarant before the date the successor or assignee succeeded to the rights of the Declarant hereunder.

14.13 Attorneys' Fees. Except as otherwise provided herein, in the event of any litigation or alternative dispute resolution procedure regarding the rights or obligations of the Declarant, the Association or any Person subject to this Declaration, the prevailing party in such proceeding, in the discretion of the judge or decision-maker, shall be entitled to recover costs, including reasonable attorneys' fees.

14.14 Notices. Any notice permitted or required by this Declaration, the Articles, Bylaws or Rules shall be considered received on the date the notice is personally delivered to the recipient or 48 hours after the notice is deposited in the United States mail, first-class, registered or certified, postage fee prepaid and addressed to the recipient at the address that the recipient has provided the Association for receipt of notice or, if no such address was provided, at the recipient's Condominium address in the Development.

14.15 No Enforcement Waiver. Failure to enforce a restriction in the past in and of itself shall not constitute a defense to any action brought against any Owner for violation of any restriction contained herein. Each Owner, by acceptance of a deed to a Condominium in the Development, acknowledges that the enforcement of these restrictions may vary as a result of different Owners, Boards or Architectural Committees, changing conditions, or other reasons and agrees that the failure of any Owner, Board or Committee to enforce any particular restriction, even if such failure is for an extended period of time, shall not in any manner restrict or estop the right of any Owner, Board or Committee to enforce these restrictions at any future time.

14.16 Condominium Plan Consent. Declarant, by its execution of this Declaration, and any beneficiary under a deed of trust encumbering the Property, by its subordination to this Declaration, certify that each consents to the recordation of the Condominium Plan attached hereto as Exhibit A and incorporated herein.

ARTICLE 15 - Annexation

15.1 Automatic Annexation. The real property described in Exhibit C or any portion of it may be annexed at anytime into the Development in one or more phases and made subject to this Declaration at the written election of the Declarant (or by the successors in title to such real property). Declarant reserves the right to determine the number of phases, the number of condominiums in a phase, and the building types in a phase. Declarant makes no representations or warranty that any subsequent phase will be annexed into the Development and has no obligation to annex any subsequent phase into the Development. Each election shall be made by the recording of a declaration of annexation. The declaration of annexation shall describe the real property to be annexed and shall state that it is being executed pursuant to the terms of this Declaration for the purpose of annexing the property described in the declaration of annexation into the Development and to subject the property to the terms of this Declaration. The declaration of annexation may contain a condominium plan for condominiums annexed into the Development under the declaration of annexation or any declaration of annexation to be recorded in the future. Any declaration of annexation recorded in accordance with the terms of this section shall be conclusively presumed valid in favor of all Persons who relied on it in good faith. In recording the declaration of annexation in accordance with the provisions of this Declaration, the real property described in the declaration of annexation shall be a part of the Development and subject to the provisions of this Declaration and to the rights and powers of the Association pursuant to the terms of this Declaration, the Articles and the Bylaws; and thereafter all Owners of Condominiums constituting a portion of the annexed real property shall automatically be Members of the Association with voting rights commencing on the date regular assessments commence. Regular and special assessments with respect to the annexed property shall commence at the time and to the extent described in **Section 7.7**.

Declarant reserves the right to rescind any declaration of annexation before Declarant has transferred title to any purchaser under the authority of a final subdivision public report issued by the California Department of Real Estate. The rescission shall be effective on the date a notice of rescission is recorded in the records of Alameda County, California. From and after this rescission, the property described in the declaration of annexation shall no longer be subject to the covenants, rights, duties, benefits or burdens set forth in this Declaration except as otherwise provided in the notice of rescission. Any declaration of annexation may be amended or corrected in the manner described in **Article 12**.

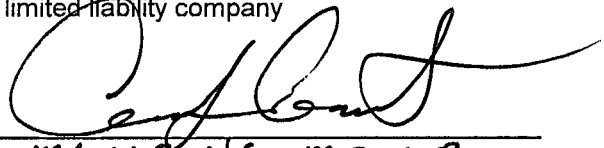
Declarant expressly reserves for the benefit of all property that may from time to time be covered by this Declaration reciprocal easements of use, enjoyment, access, ingress and egress. Such easements may be used by Declarant, its successors, purchasers and all Owners of Condominiums, their guests, tenants and invitees for sidewalks, walkways, vehicular access and such other purposes reasonably necessary to the use and enjoyment of all the Condominiums in the Development. The declaration of annexation may contain complementary additions, amendments and modifications to this Declaration necessary to reflect the different character, if any, of the real property being annexed which are not consistent with the general scheme of this Declaration or which are required by any institutional Mortgagee as defined in **Section 11.1** to make Condominiums in the Development eligible for mortgage, purchase, guarantee or insurance.

If the annexed property has been rented for at least one year before the closing of the first Condominium in the annexed phase, the Declarant shall pay the Association appropriate amounts for reserves for replacement or deferred maintenance of Common Area Improvements or other Improvements that the Association is required to maintain in the annexed phase.

15.2 Annexation by Approval. Except for the automatic annexation provision contained in **Section 15.1**, no additional real property shall be annexed into the Development without the approval of Members holding two-thirds of the total voting power of the Association other than Declarant and such approval of Mortgages as may be required herein.

Declarant has executed this Declaration as of 4/11, 2006.

THE OAKS SENIOR APARTMENTS, LLC
a California limited liability company

By: 
Its MANAGING MEMBER
CHRISTOPHER VALERIOTE

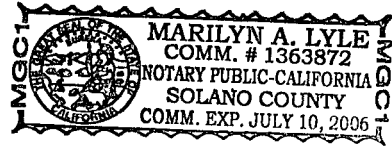
STATE OF CALIFORNIA)
)ss.
COUNTY OF SOLANO)

NOTARY PUBLIC

On 4/11/06 before me, MARILYN A LYLE, personally appeared CHRISTOPHER VALERIOTE, 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 Marilyn A Lyle



(Seal)

EXHIBIT A - Condominium Plan

[REPLACE WITH CONDOMINIUM PLAN]

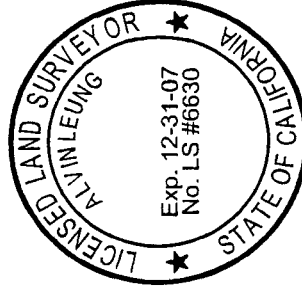
SHEET INDEX:

- 1: - NOTES
- 2&3: - BUILDING ENVELOPE TIES
- 4-20: BUILDING ENVELOPE
- 21: TYPICAL VERTICAL AIR SPACE
- 22-26: PARKING PLAN

GENERAL NOTES:

1. CONDOMINIUMS DEPICTED HEREIN ARE SUBJECT TO THE PROVISIONS OF THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT (SECTION 1351, ET SEQ. OF THE CALIFORNIA CIVIL CODE.)
2. ALL ANGLES SHOWN ARE RIGHT ANGLES (90°) UNLESS OTHERWISE NOTED.
3. DIMENSIONS SHOWN ARE TO THE MIDDLE OF PARTY WALLS, AND TO THE INSIDE OF EXTERIOR WALLS.
4. AREAS HAVE BEEN CALCULATED TO THE INSIDE SURFACE OF THE EXTERIOR WALLS OF THE BUILDING AND TO THE CENTERLINE OF INTERIOR/PARTY WALLS. AREAS SHOWN HEREON ARE APPROXIMATE VALUES AND ARE NOT INTENDED TO REPRESENT THE TRUE OR EXACT SIZE OF THE INDIVIDUAL UNITS.
5. IN INTERPRETING DEEDS AND OTHER DOCUMENTS IN CONNECTION WITH THIS PROJECT AND PLAN, THE THEN EXISTING PHYSICAL BOUNDARIES OF A UNIT, WHETHER IN IT'S ORIGINAL STATE OR RECONSTRUCTED IN SUBSTANTIAL ACCORDANCE WITH THE ORIGINAL PLANS THERE OF SHALL BE CONCLUSIVELY PRESUMED TO BE IT'S BOUNDARIES RATHER THAN THE BOUNDARIES EXPRESSED IN THE DEED OR IN THIS MAP OR PLAN, REGARDLESS OF SETTLING OR LATERAL MOVEMENT OF THE BUILDING AND REGARDLESS OF THE MINOR VARIANCE BETWEEN BOUNDARIES SHOWN ON THE PLAN OR DEED, AND THOSE OF THE BUILDING.
6. THIS CONDOMINIUM PLAN CONTAINS A DESCRIPTION OF THE PROJECT WHICH REFERS TO OR SHOWS MONUMENTATION ON THE GROUND AND A THREE-DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST.
7. THE CONDOMINIUM PLAN FOR EACH CONDOMINIUM BUILDING IS A SEPARATE AND DISTINCT PLAN. THE PLANS FOR THE NINE CONDOMINIUM BUILDINGS ARE BEING RECORDED TOGETHER AS A SINGLE DOCUMENT AS A MATTER OF CONVENIENCE ONLY.
8. PORTIONS OF THE COMMON AREA ARE SET ASIDE FOR THE EXCLUSIVE USE OF THE OCCUPANTS OF CERTAIN UNITS AND CONSTITUTE EXCLUSIVE USE COMMON AREAS AS DESCRIBED IN THE OAKS SENIOR COMMONS DECLARATION OF RESTRICTIONS (CC&RS) (A SENIOR CITIZEN HOUSING DEVELOPMENT).

[Signature]
 MAR 20, 2006



NOTES

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CONDOMINIUM PLAN
WHISPERING OAKS
 2001 EASTWOOD DRIVE
 VACAVILLE CALIFORNIA

SHEET 2 OF 26

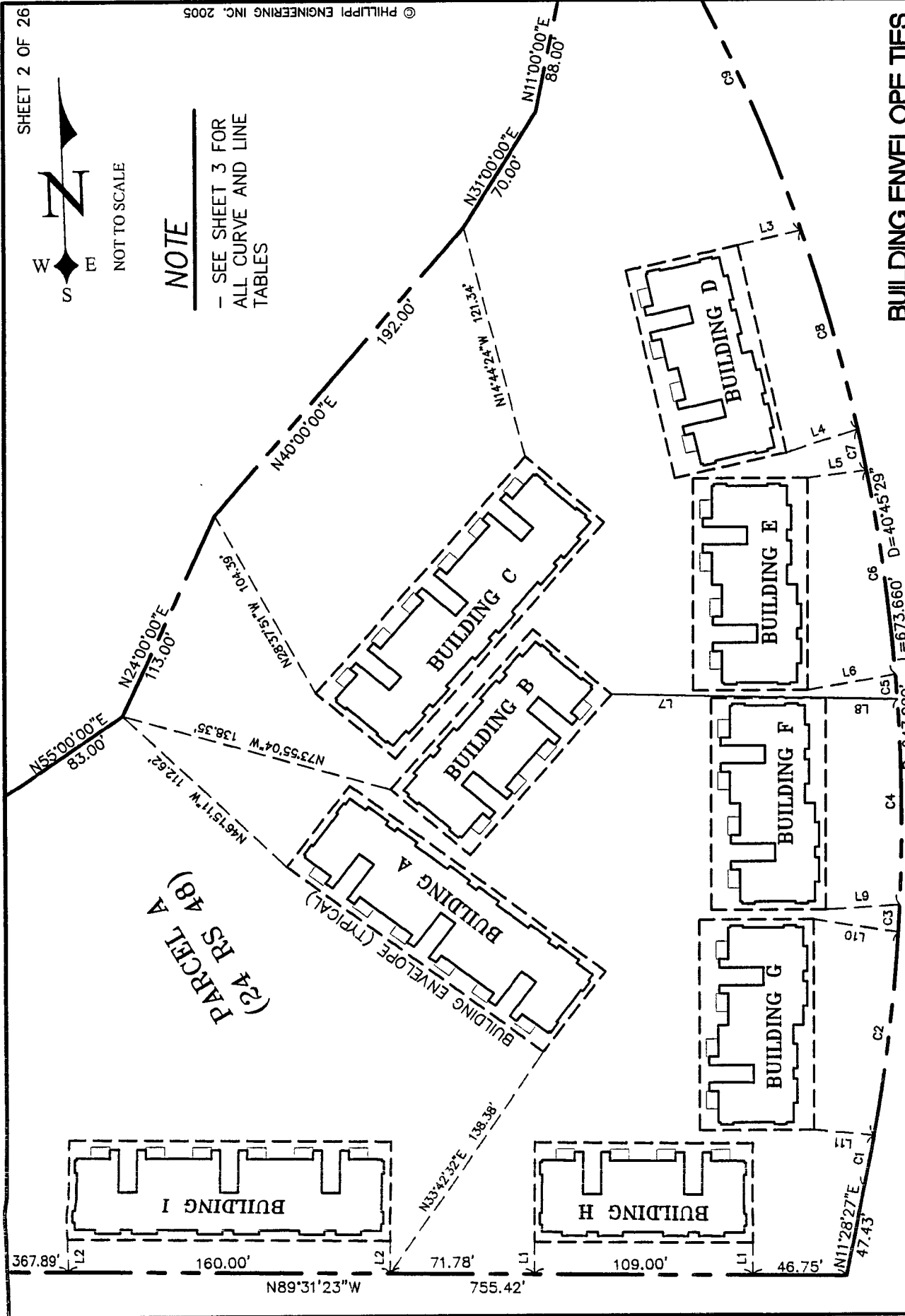


NOT TO SCALE

NOTE

- SEE SHEET 3 FOR ALL CURVE AND LINE TABLES

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BUILDING ENVELOPE TIES

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WHISPERING OAKS
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Line Table		
No.	Bearing	Length
L1	N00°28'37"E	16.68'
L2	N00°28'37"E	16.80'
L3	N76°30'03"E	32.54'
L4	N71°37'47"E	37.29'
L5	N82°49'47"E	29.42'
L6	N79°40'34"E	44.52'
L7	N88°40'52"W	142.66'
L8	N88°30'25"W	35.66'
L9	N86°45'19"E	37.10'
L10	N80°44'55"W	42.56'
L11	N84°20'57"W	29.91'

Curve Table			
No.	Radius	Delta	Length
C1	947.00'	01°37'39"	26.90'
C2	947.00'	06°24'19"	105.87'
C3	947.00'	00°51'15"	14.12'
C4	947.00'	06°24'54"	106.03'
C5	947.00'	00°46'50"	12.90'
C6	947.00'	06°23'59"	105.78'
C7	947.00'	01°18'26"	21.61'
C8	947.00'	06°24'37"	105.95'
C9	947.00'	10°33'30"	174.51'

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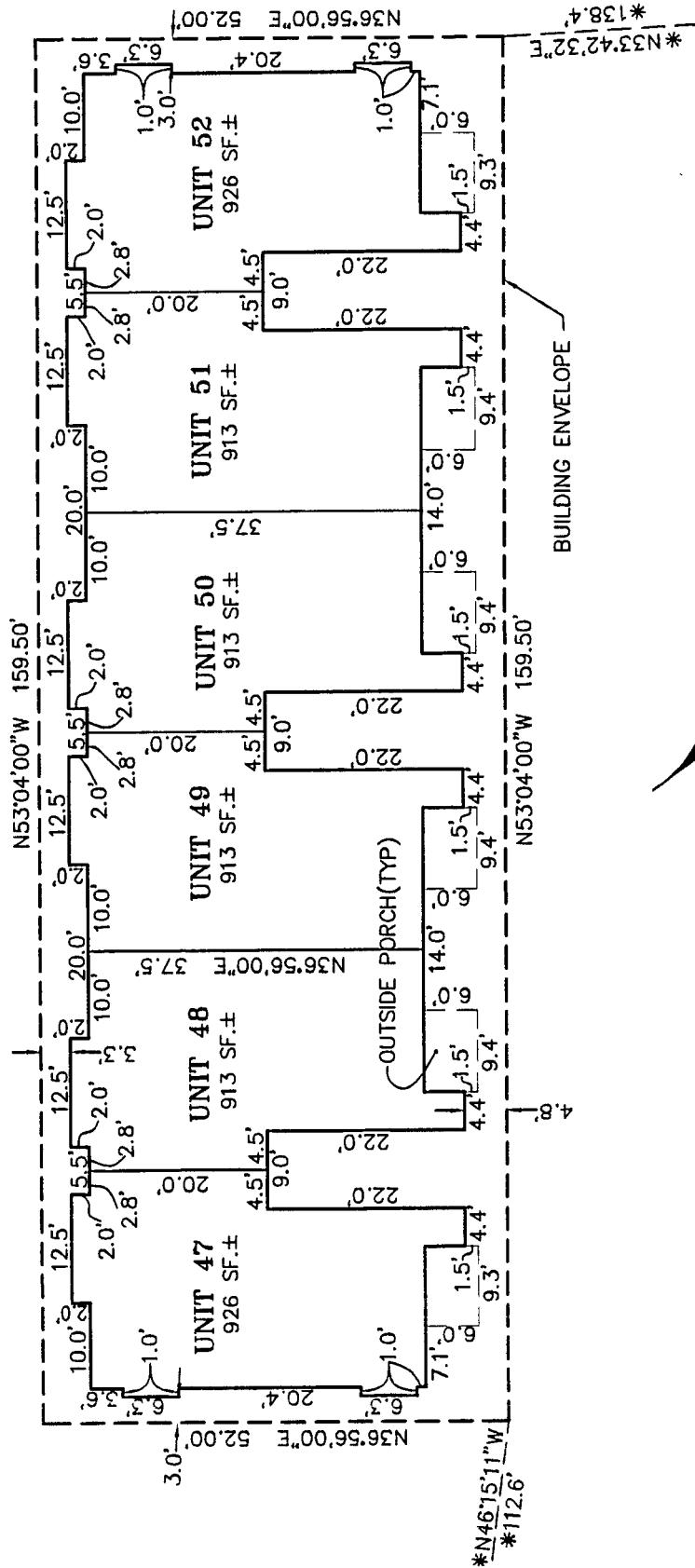


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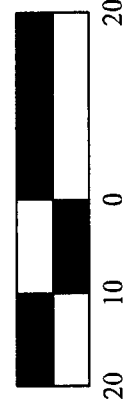
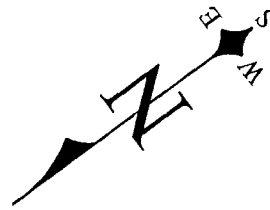
BUILDING A



BUILDING ENVELOPE

LEGEND

- * - TIE LINE, SEE SHEET 2 FOR PARTICULARS
- B - OUTSIDE BALCONY
- OP - OUTSIDE PORCH



IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.

NOTES:

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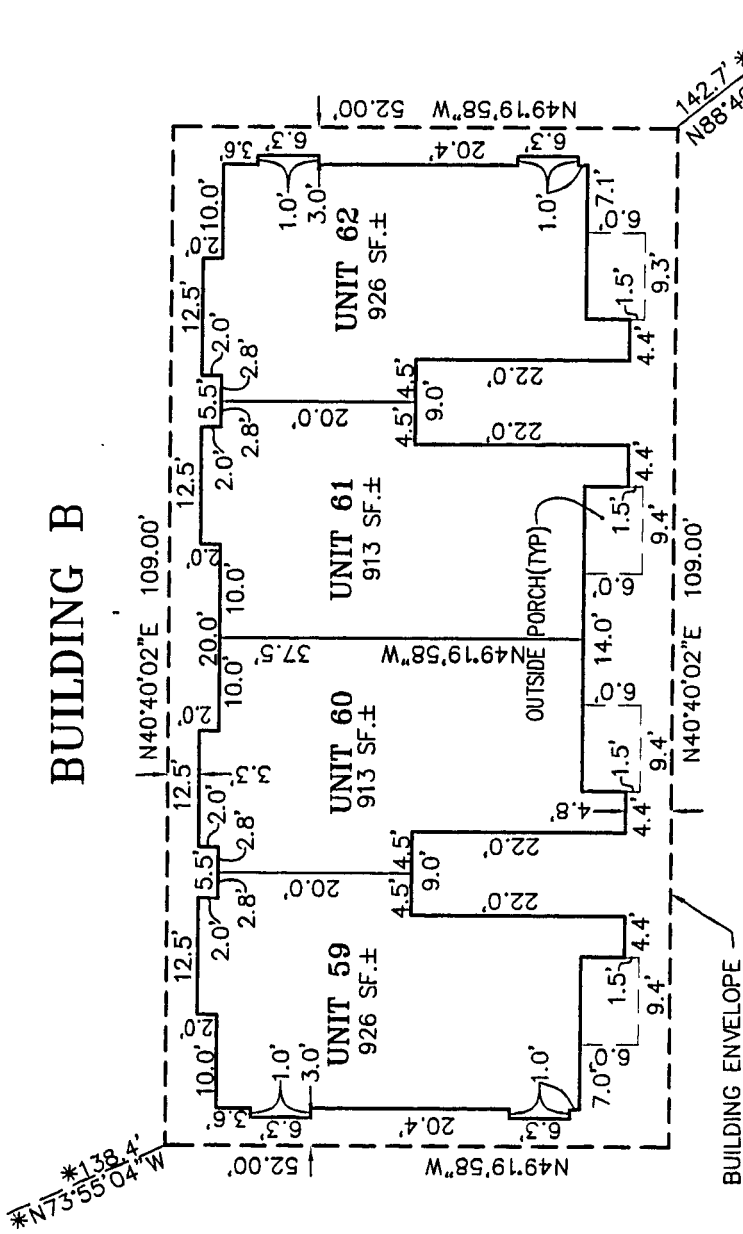


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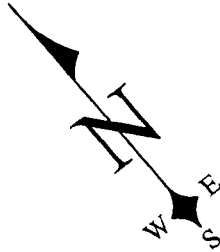
BUILDING B



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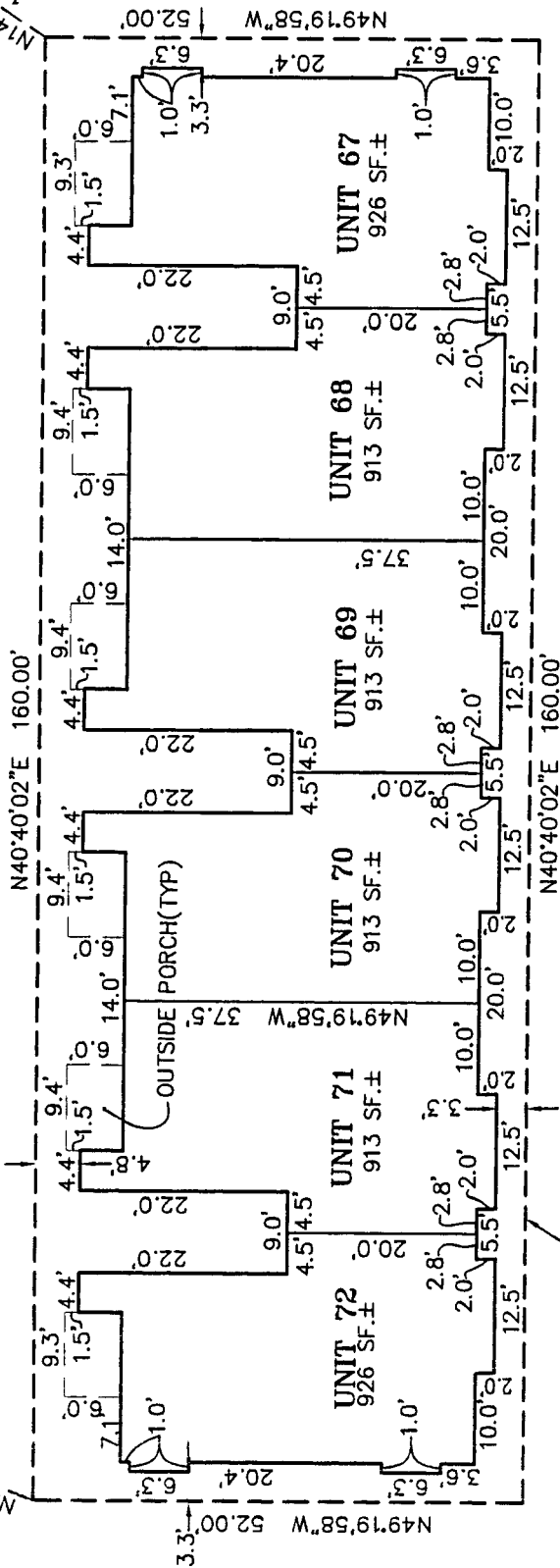


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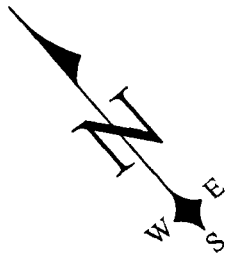
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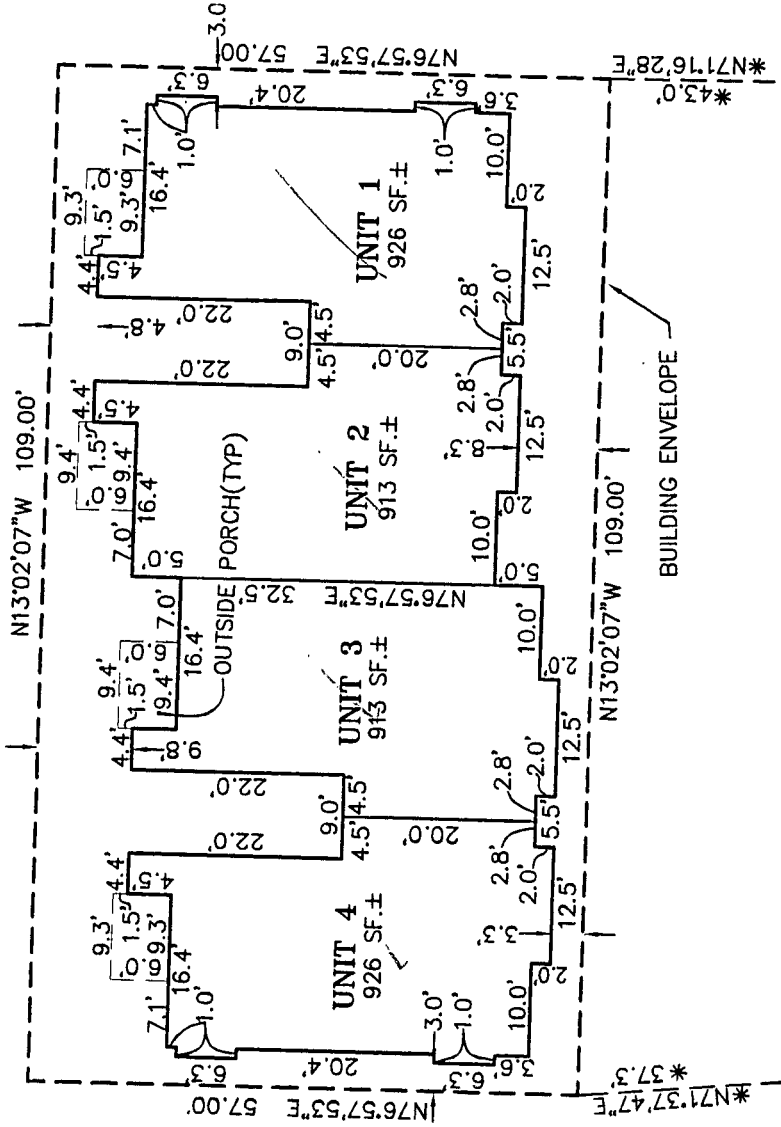
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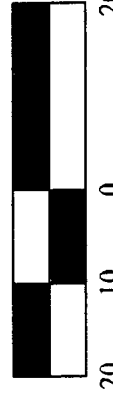


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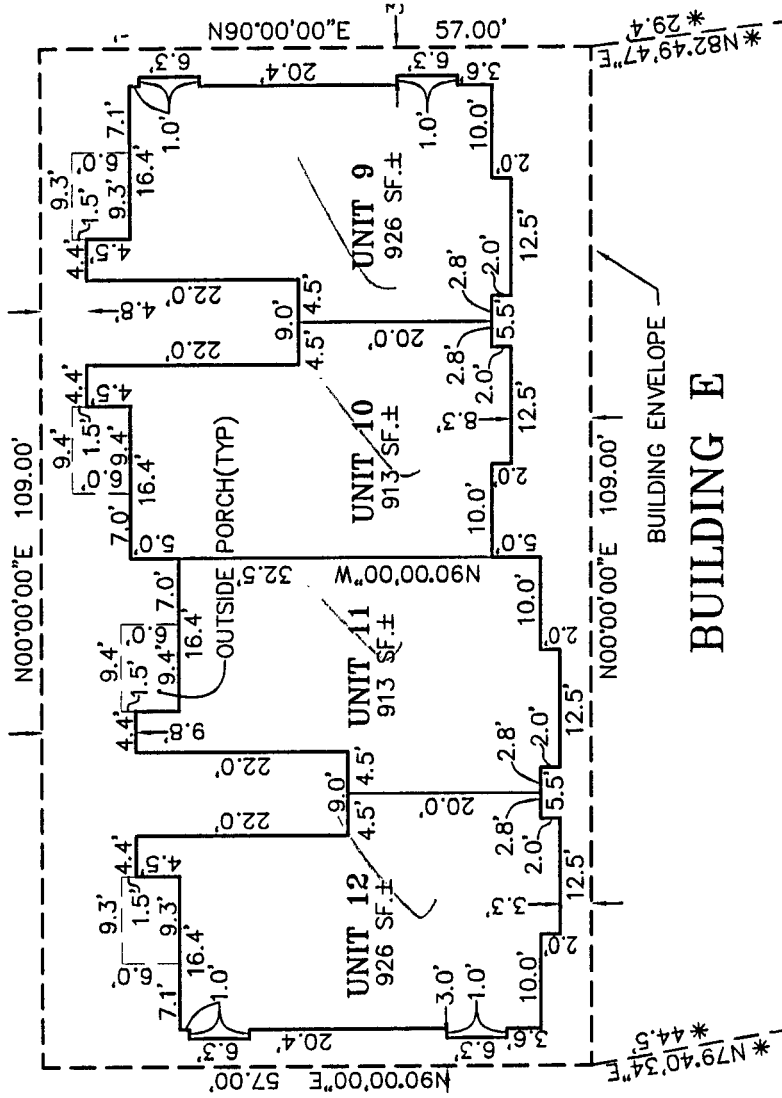
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**CONDOMINIUM PLAN
WHISPERING OAKS**

2001 EASTWOOD DRIVE

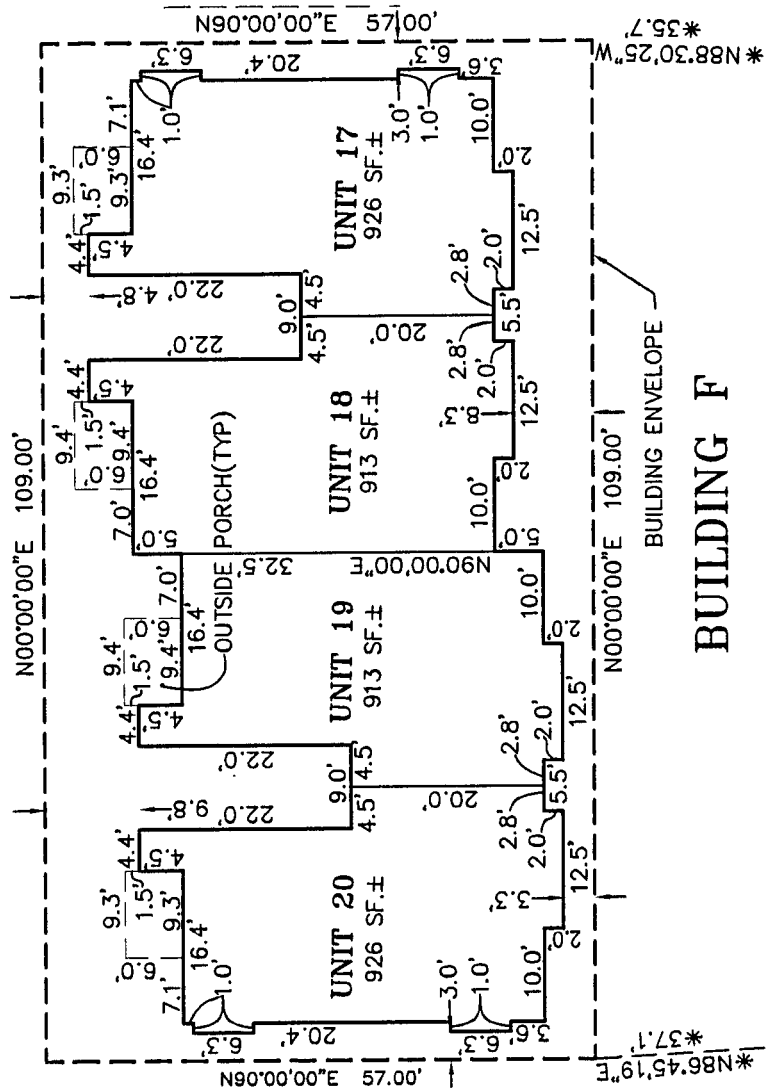
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**CONDOMINIUM PLAN
WHISPERING OAKS**

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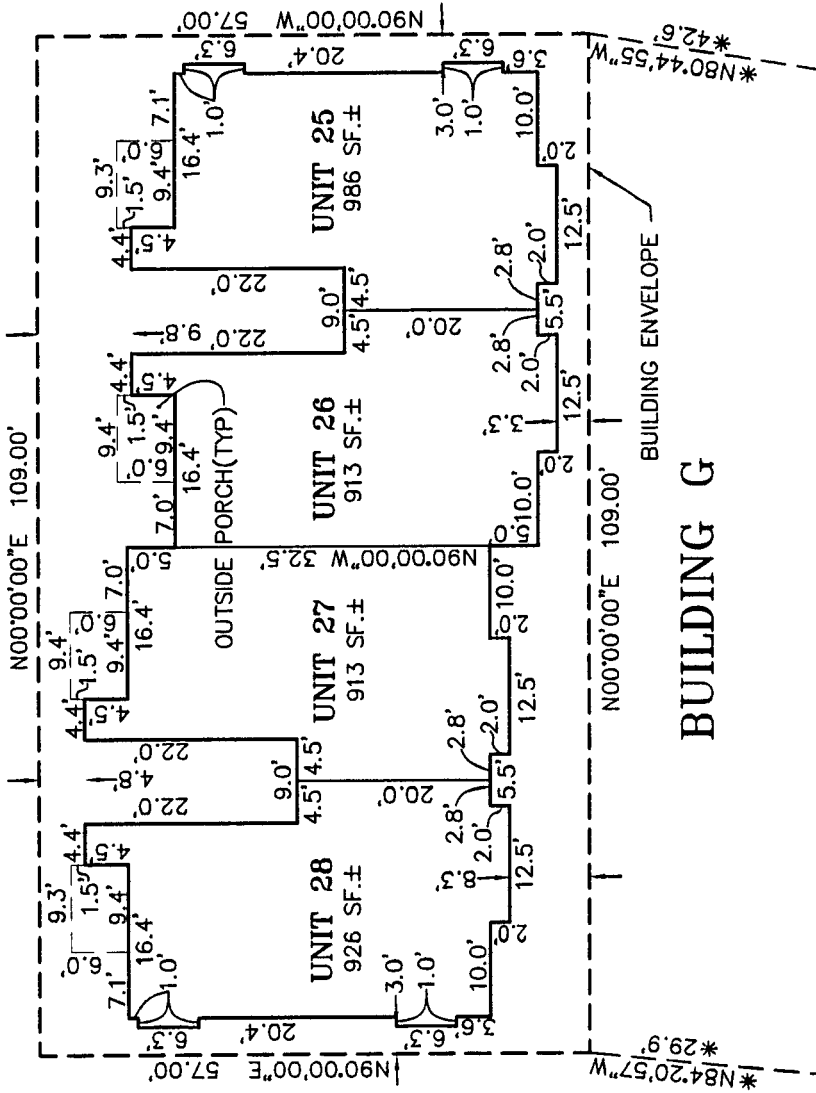
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**CONDOMINIUM PLAN
WHISPERING OAKS**

2001 EASTWOOD DRIVE

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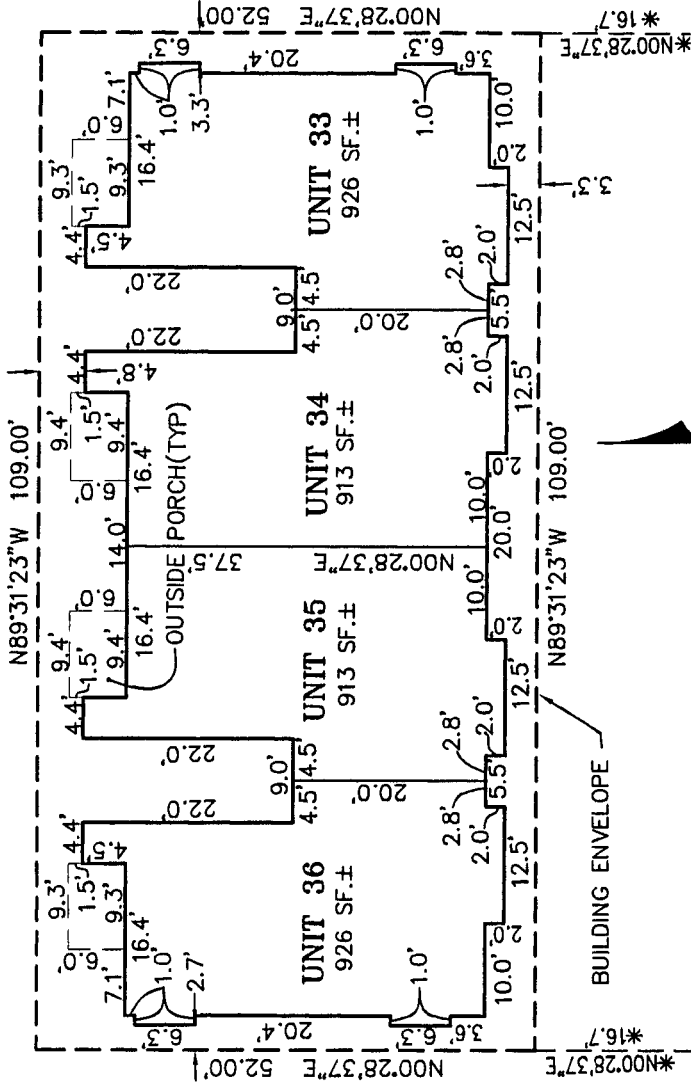
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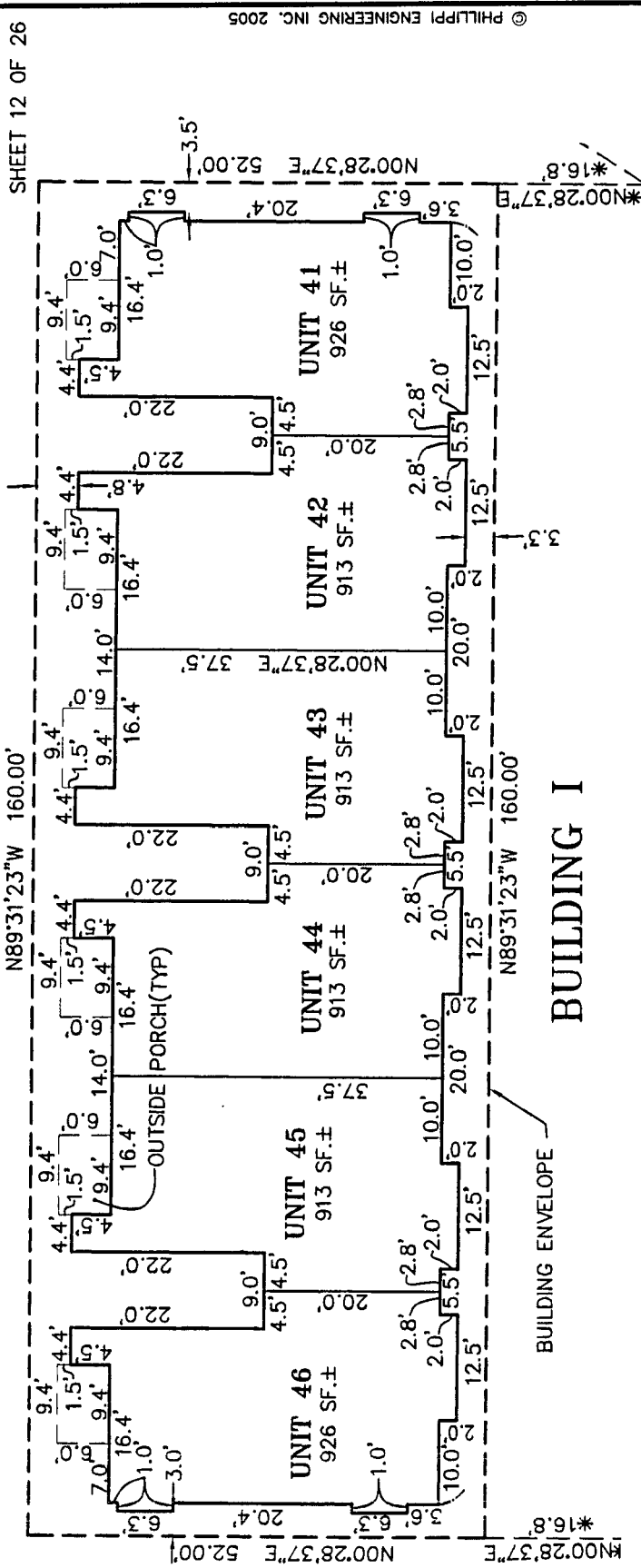
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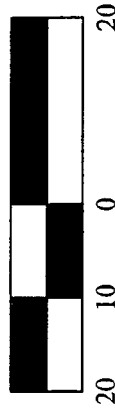
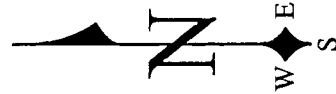


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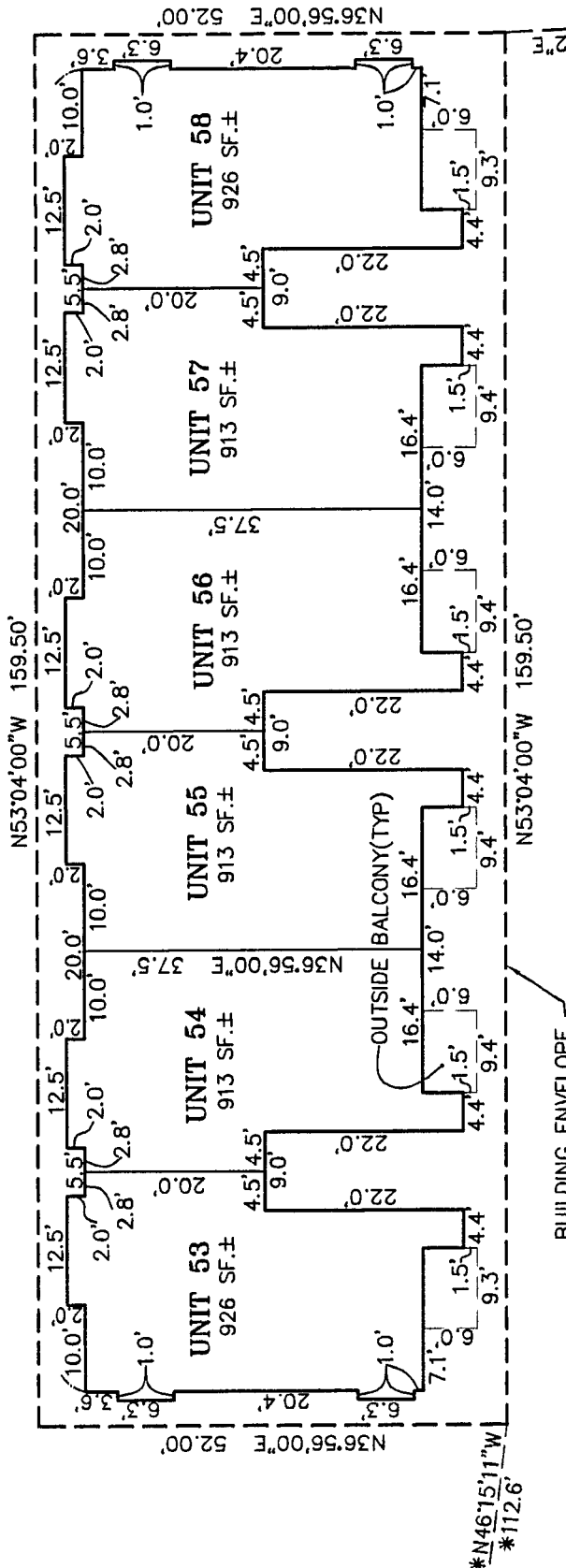
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SHEET 13 OF 26

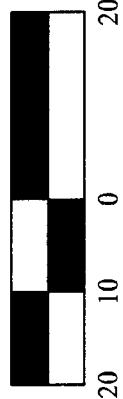
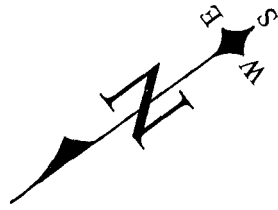
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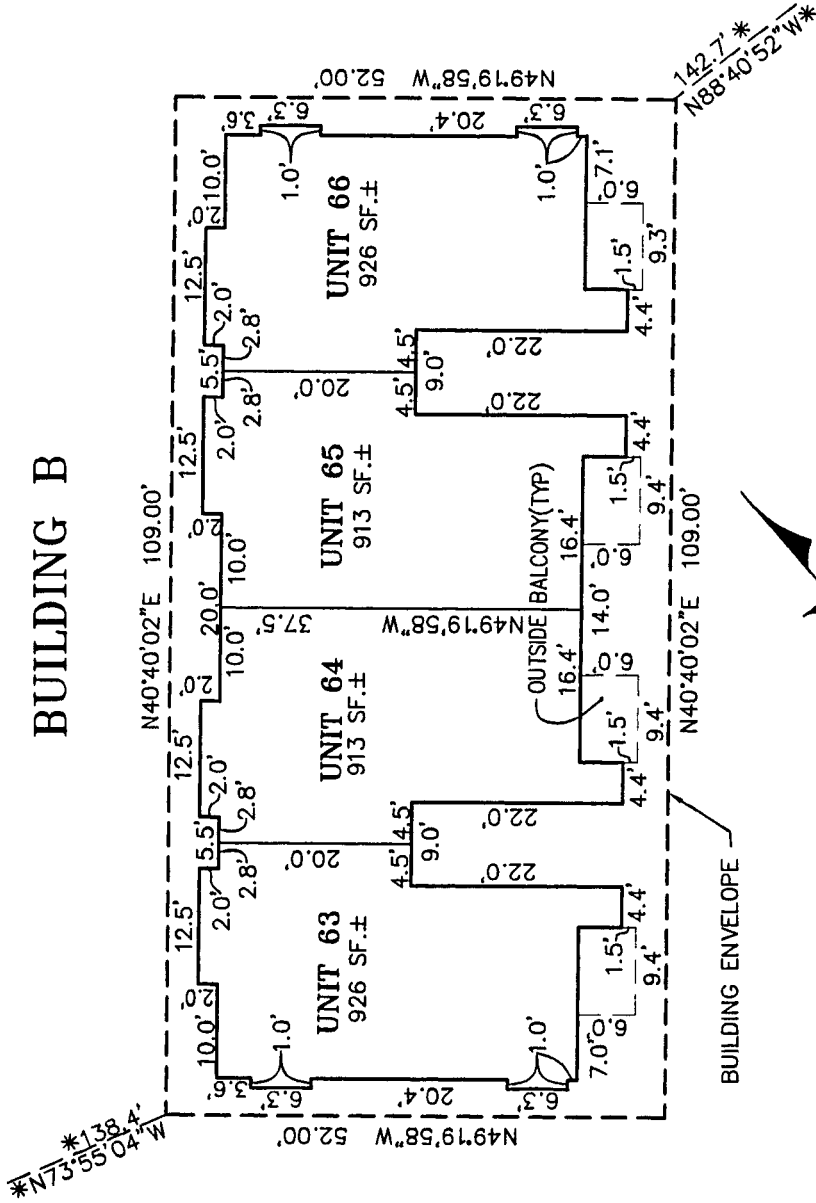
ISSUE DATE:	03/28/06
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CONDOMINIUM PLAN
WHISPERING OAKS
 2001 EASTWOOD DRIVE
 VACAVILLE CALIFORNIA

SHEET 14 OF 26

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BUILDING B

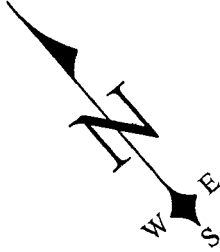


LEGEND

* - TIE LINE, SEE SHEET 2 FOR PARTICULARS

B - OUTSIDE BALCONY

OP - OUTSIDE PORCH



IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.

NOTES:

1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
2. OUTSIDE SURFACE OF THE EXTERIOR WALL IS 0.60' OUTSIDE OF THE INTERIOR SURFACE THAT IS DIMENSIONED HEREON.

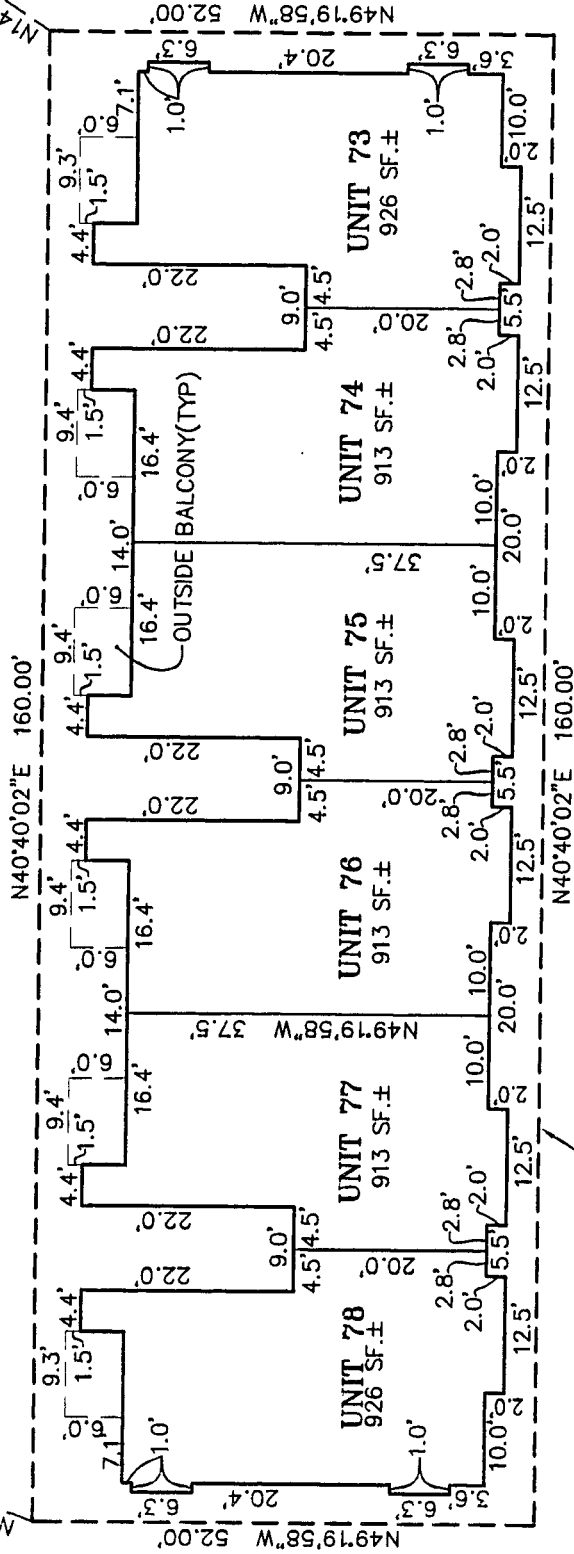
BUILDING ENVELOPE

CONDOMINIUM PLAN WHISPERING OAKS 2001 EASTWOOD DRIVE VACAVILLE CALIFORNIA		ISSUE DATE: 03/28/06
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BUILDING C



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NOTES:

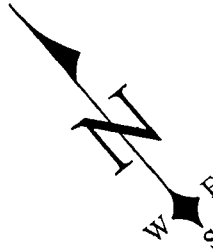
1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
2. OUTSIDE SURFACE OF THE EXTERIOR WALL IS 0.60' OUTSIDE OF THE INTERIOR SURFACE THAT IS DIMENSIONED HEREON.

LEGEND

- * - TIE LINE, SEE SHEET 2 FOR PARTICULARS
- B - OUTSIDE BALCONY
- OP - OUTSIDE PORCH



IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.



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CONDOMINIUM PLAN WHISPERING OAKS

2001 EASTWOOD DRIVE

VACAVILLE

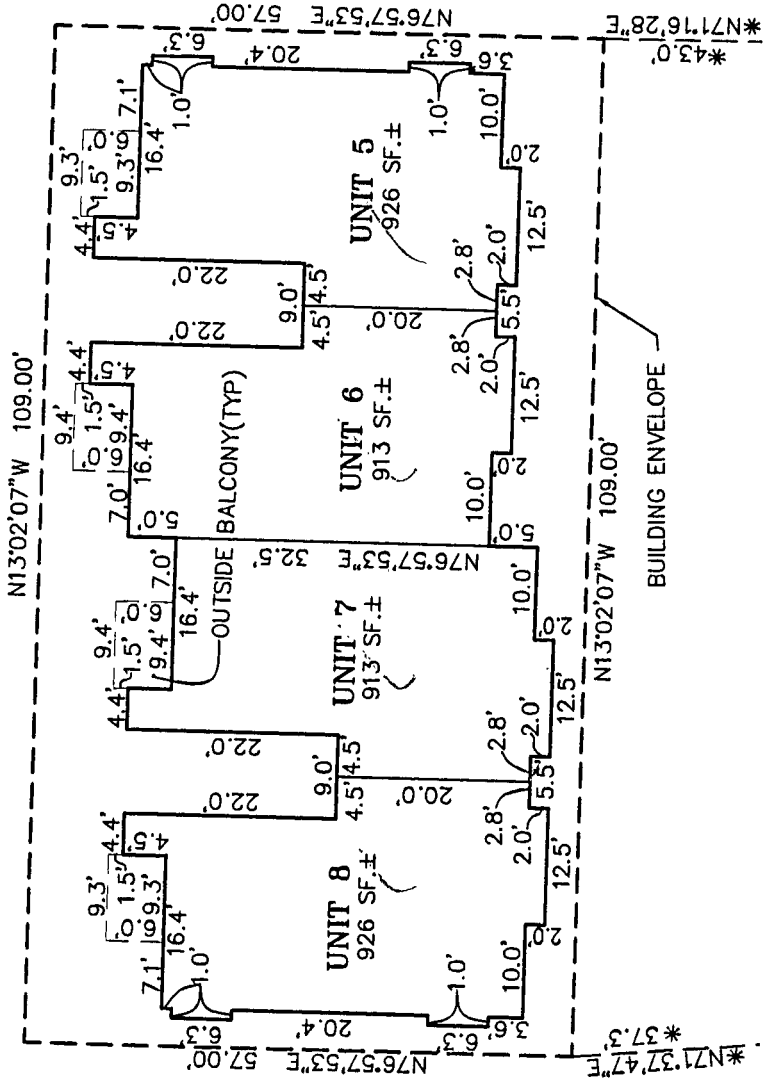
CALIFORNIA

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		DWG FILENAME:	240730cp



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BUILDING D



LEGEND

- * - TIE LINE, SEE SHEET 2 FOR PARTICULARS
- B - OUTSIDE BALCONY
- OP - OUTSIDE PORCH



IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.

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BUILDING ENVELOPE

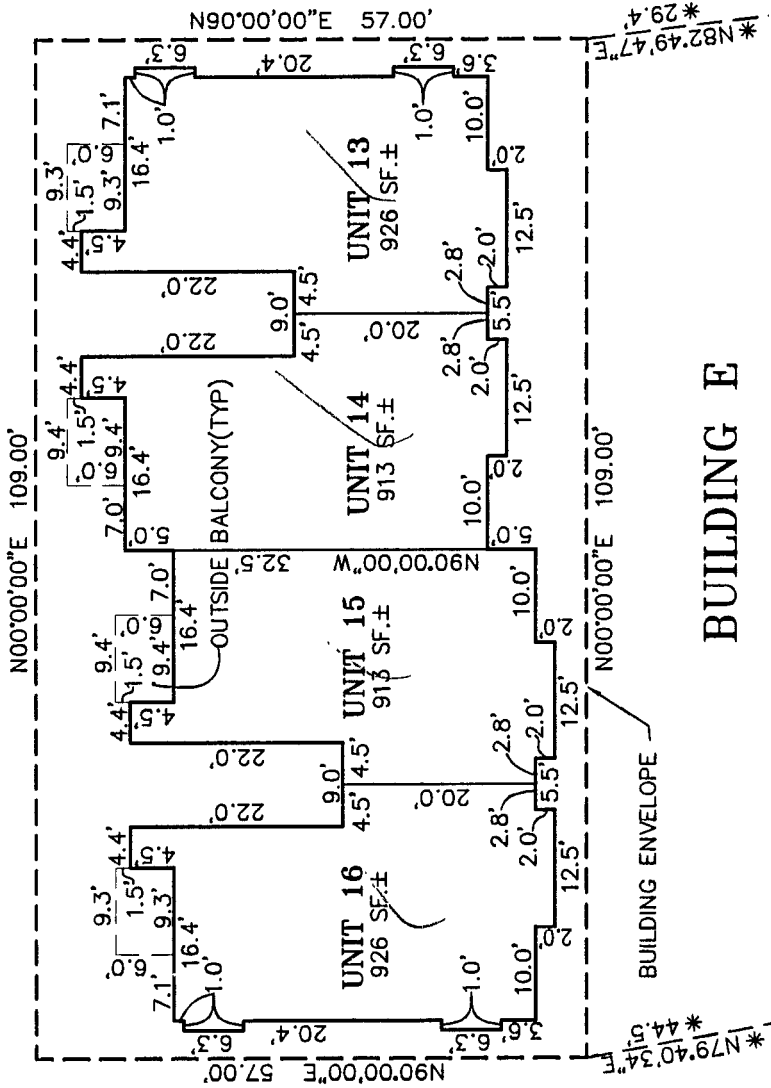
CONDOMINIUM PLAN WHISPERING OAKS

2001 EASTWOOD DRIVE
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ISSUE DATE:	03/28/06
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BUILDING E

LEGEND

* - TIE LINE, SEE SHEET 2 FOR PARTICULARS

B - OUTSIDE BALCONY

OP - OUTSIDE PORCH



- NOTES:**
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BUILDING ENVELOPE

**CONDOMINIUM PLAN
WHISPERING OAKS**
2001 EASTWOOD DRIVE
VACAVILLE

CALIFORNIA

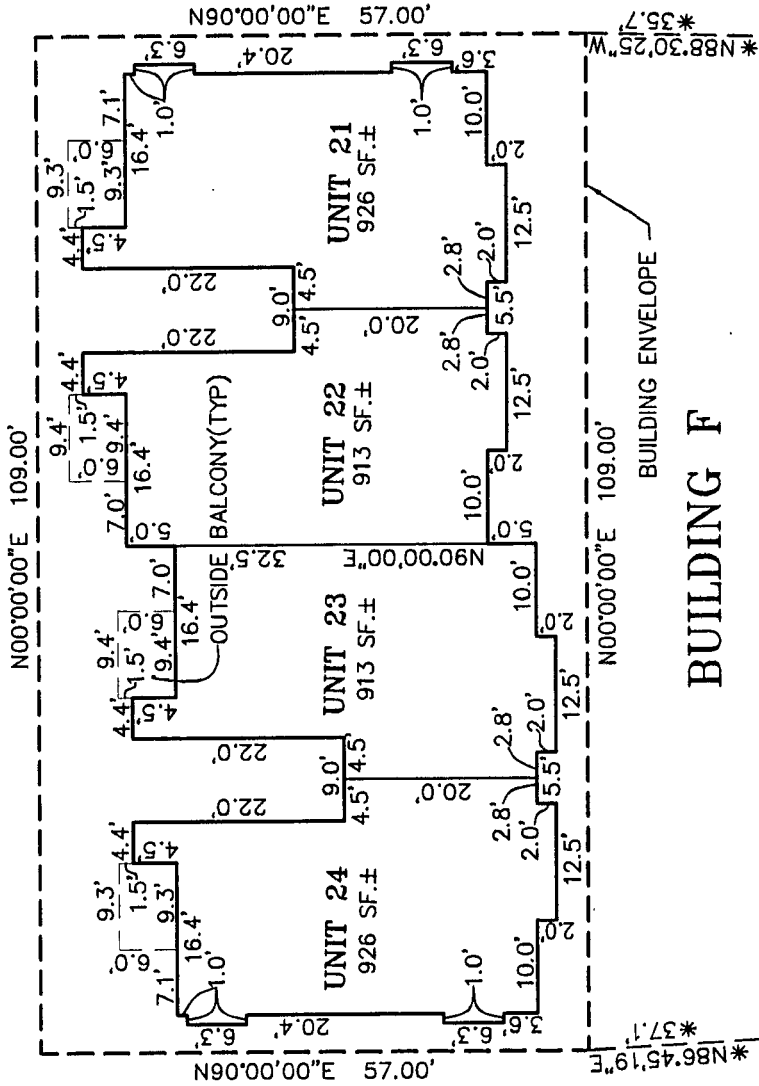
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ISSUE DATE:	03/28/06
PROJECT NO.:	240730
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BUILDING F

LEGEND

* - TIE LINE, SEE SHEET 2 FOR PARTICULARS

B - OUTSIDE BALCONY

OP - OUTSIDE PORCH



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BUILDING ENVELOPE

CONDOMINIUM PLAN
WHISPERING OAKS
 2001 EASTWOOD DRIVE

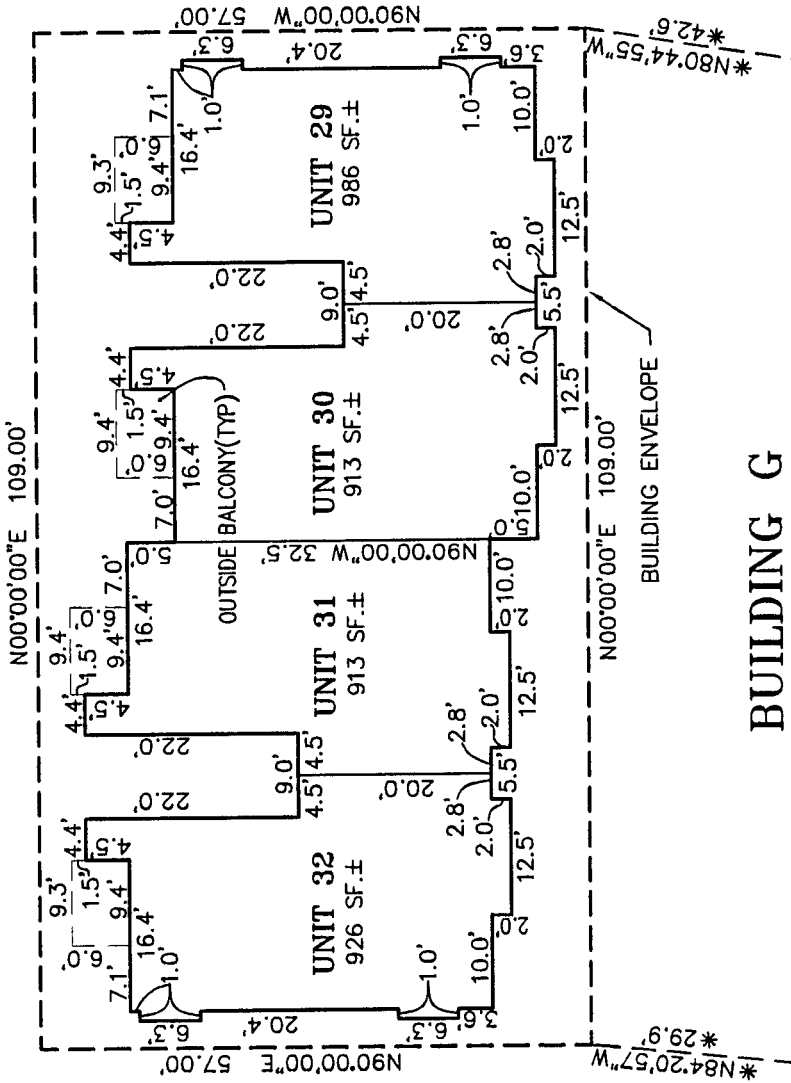
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BUILDING G

LEGEND

* - TIE LINE, SEE SHEET 2 FOR PARTICULARS

B - OUTSIDE BALCONY

OP - OUTSIDE PORCH



NOTES:

1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.

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BUILDING ENVELOPE

**CONDOMINIUM PLAN
WHISPERING OAKS**

2001 EASTWOOD DRIVE

VACAVILLE

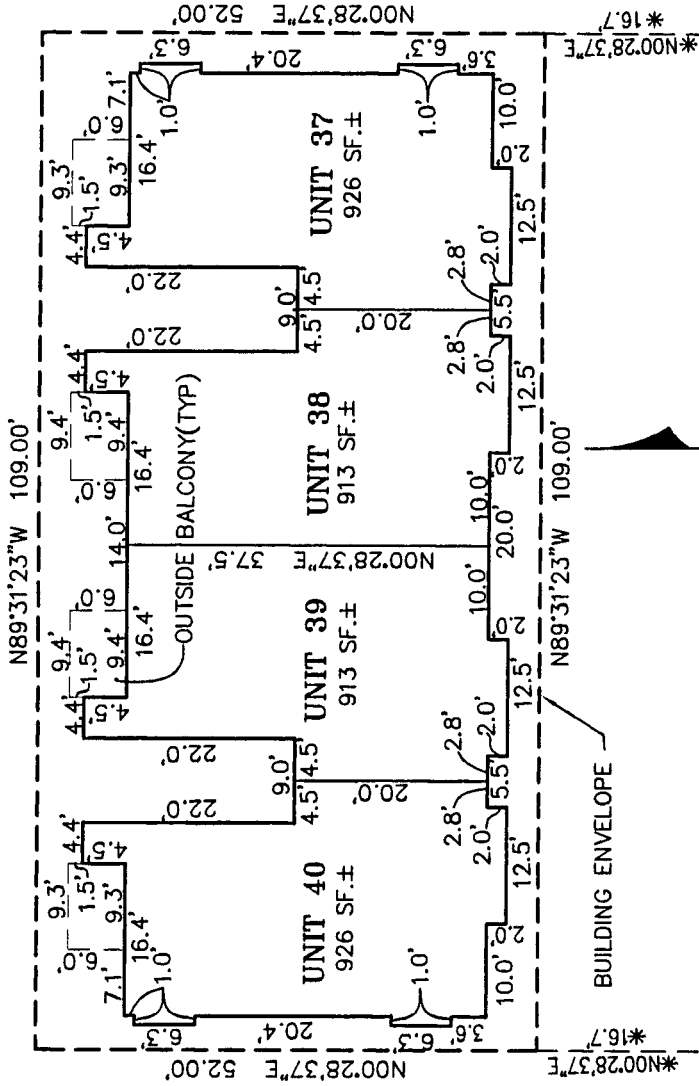
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BUILDING H



LEGEND

* - TIE LINE, SEE SHEET 2 FOR PARTICULARS

B - OUTSIDE BALCONY

OP - OUTSIDE PORCH

- NOTES:**
1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
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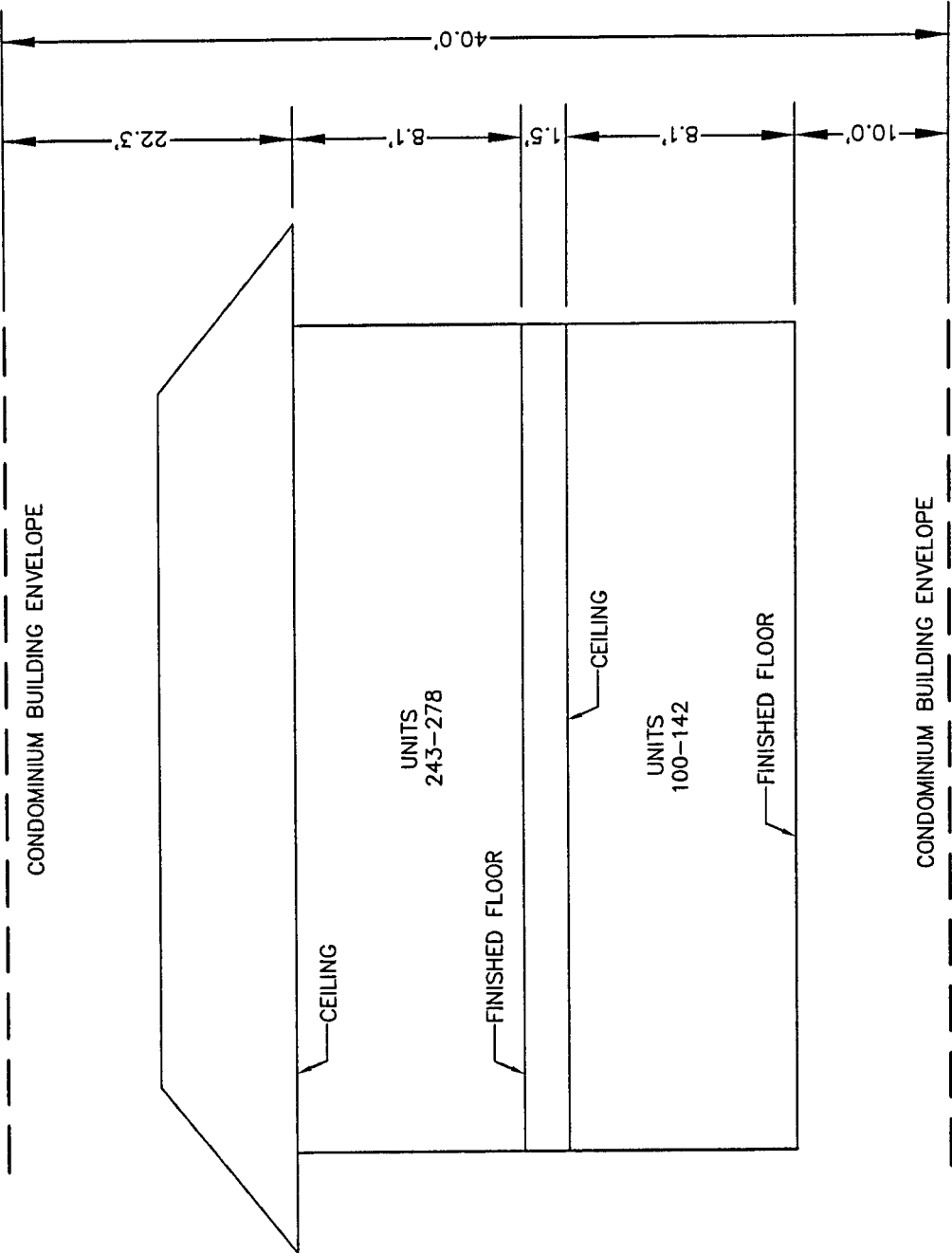
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PROJECT NO.:	240730
DWG FILENAME:	240730CP

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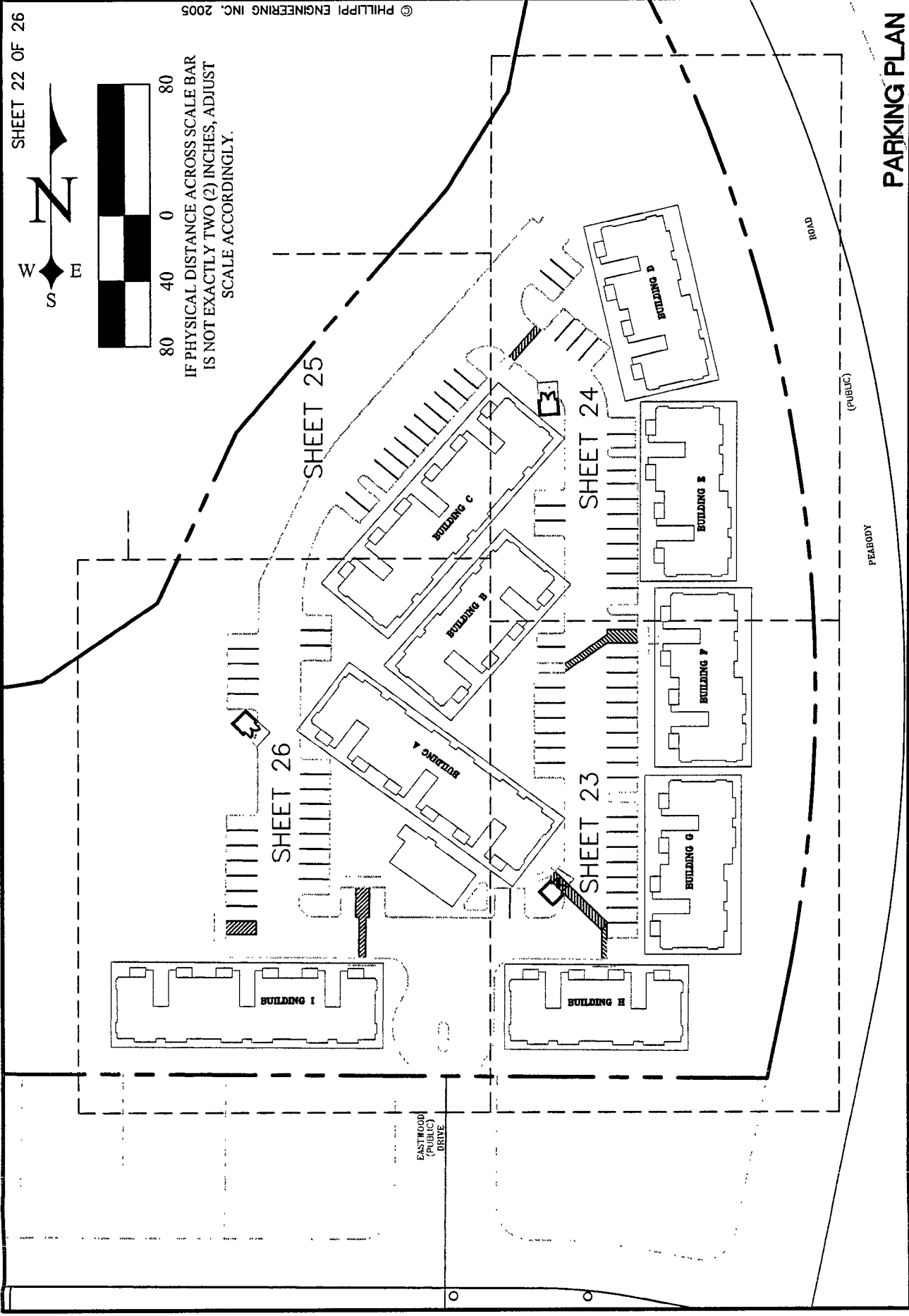
TYPICAL VERTICAL AIR SPACE

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CONDOMINIUM PLAN
WHISPERING OAKS
 2001 EASTWOOD DRIVE
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SHEET 23 OF 26

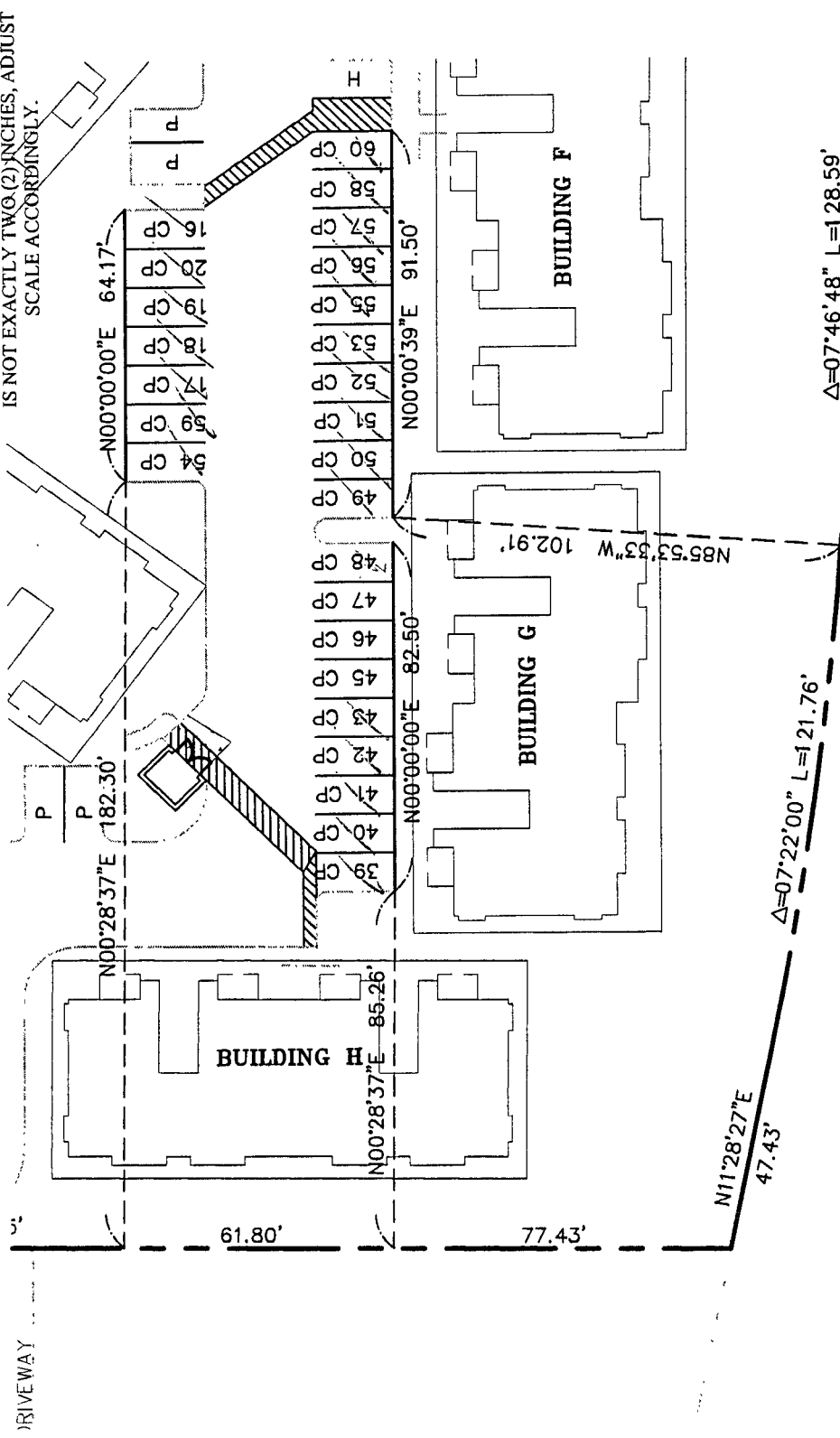
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IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.

LEGEND:

- CP - ASSIGNED CARPORT PARKING SPACE
- P - UNASSIGNED PARKING SPACE
- H - HANDICAP PARKING SPACE



PARKING PLAN

ISSUE DATE:	03/28/06
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DWG FILENAME:	240730.cpd

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 2001 EASTWOOD DRIVE
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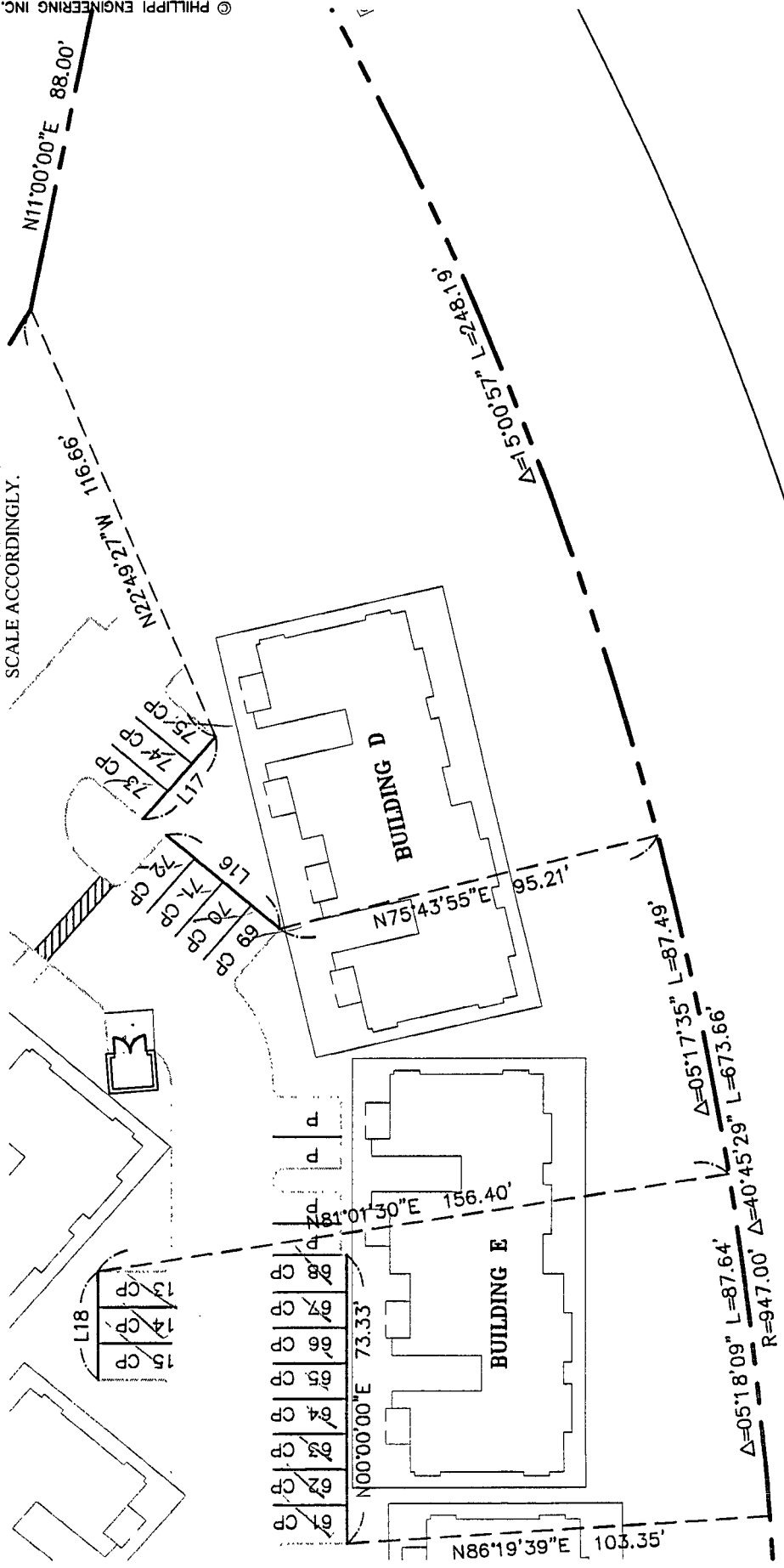


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IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.

LEGEND:

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**CONDOMINIUM PLAN
 WHISPERING OAKS**

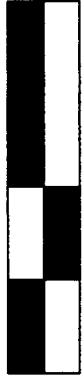
2001 EASTWOOD DRIVE

CALIFORNIA

VACAVILLE

SHEET 25 OF 26

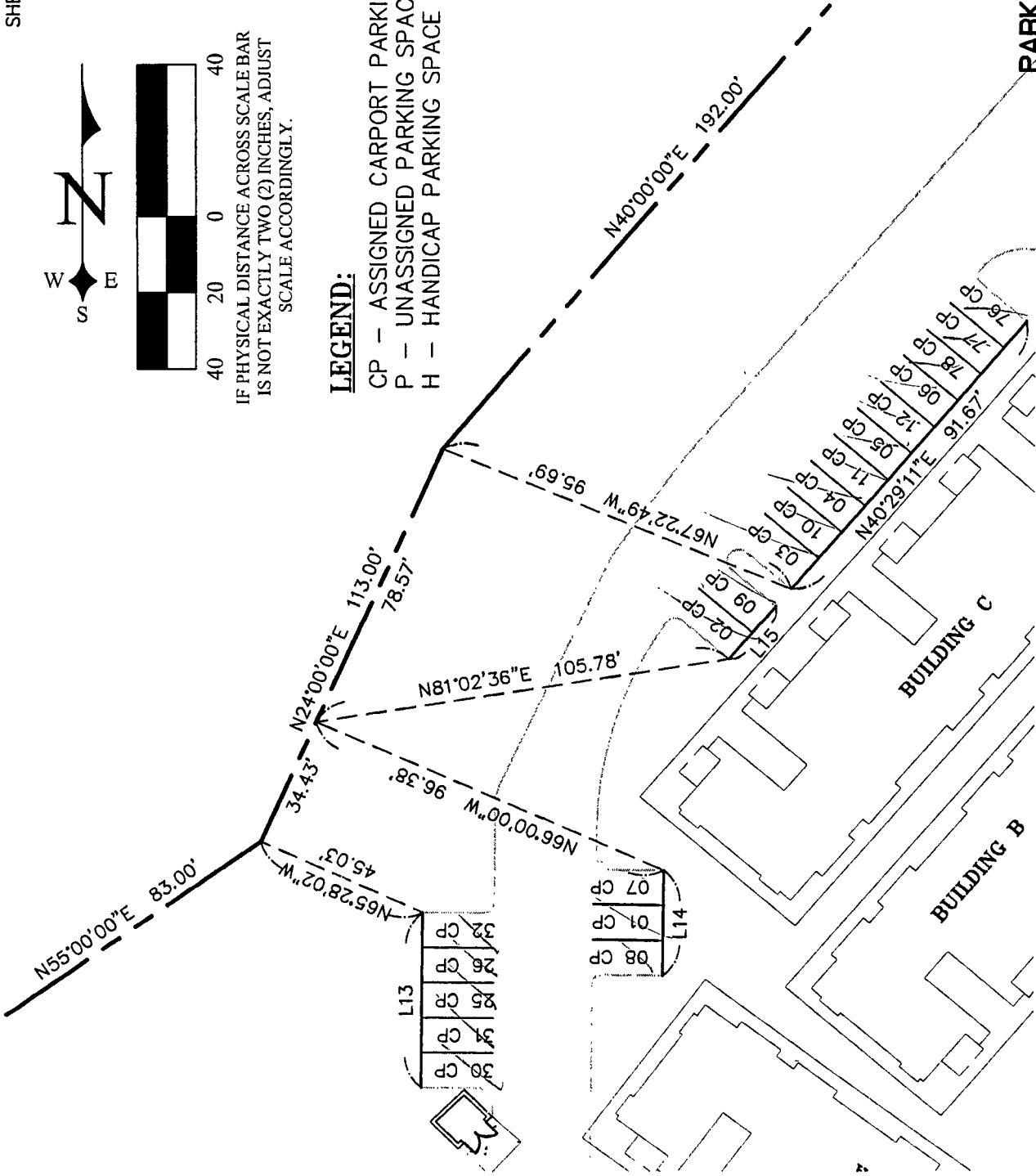
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- P - UNASSIGNED PARKING SPACE
- H - HANDICAP PARKING SPACE



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ISSUE DATE:	03/28/06
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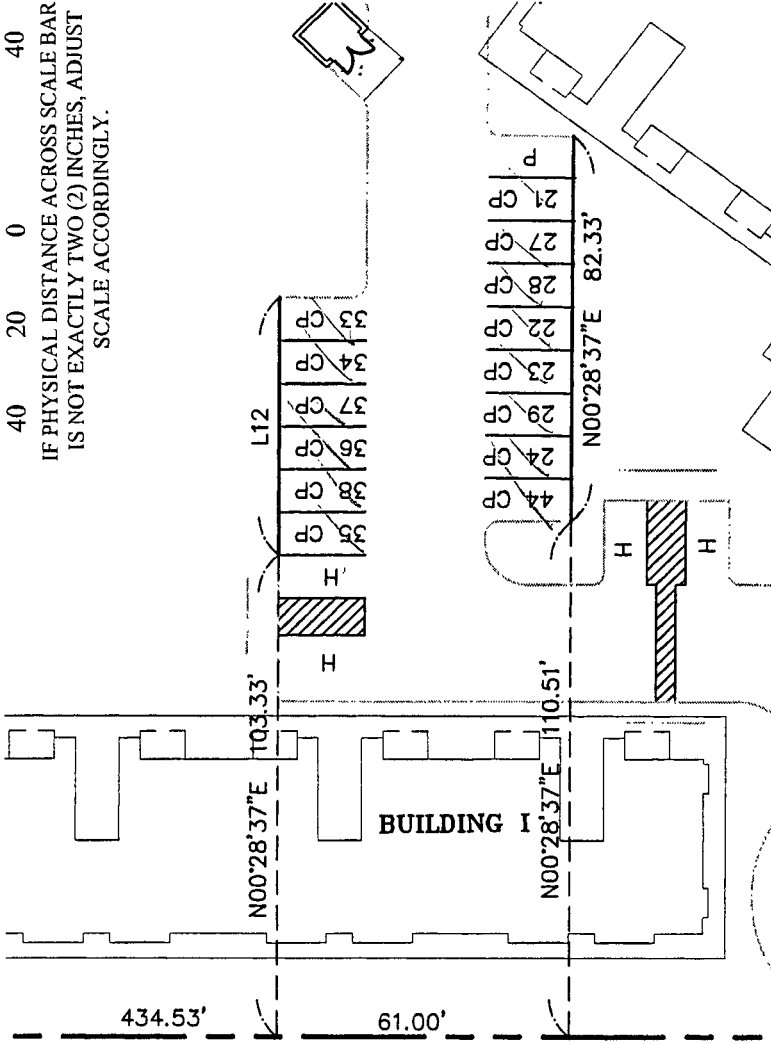
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CONDOMINIUM PLAN
WHISPERING OAKS
 2001 EASTWOOD DRIVE

CALIFORNIA

VACAVILLE

EXHIBIT B - Carport Parking Space Assignment

Unit #	Carport Number	Unit #	Carport Number
1	74	40	47
2	77	41	38
3	78	42	35
4	6	43	36
5	73	44	44
6	75	45	34
7	72	46	33
8	76	47	37
9	70	48	31
10	68	49	30
11	64	50	23
12	65	51	28
13	71	52	27
14	67	53	25
15	69	54	7
16	66	55	24
17	63	56	29
18	61	57	22
19	55	58	21
20	56	59	20
21	62	60	19
22	58	61	14
23	60	62	17
24	57	63	18
25	51	64	15
26	59	65	16
27	52	66	13
28	50	67	12
29	54	68	11
30	53	69	10
31	48	70	2
32	49	71	8
33	41	72	1
34	45	73	5
35	46	74	4
36	43	75	3
37	42	76	9
38	39	77	26
39	40	78	32

EXHIBIT C - Property That May Be Annexed

Parcel 1 shown on the subdivision map entitled "Final Map for Condominium Purposes" filed for record in Solano County, California, on March 22, 2006 in Book 82 of Maps at page 39.*

*Declarant at its discretion reserves the right to establish the number of phases; the order of phases; the Association Common Area; Condominiums in a phase; or the Unit or building types in a phase.

EXHIBIT D - Claims Procedure

OAKS SENIOR COMMONS

CLAIMS PROCEDURE

EXHIBIT D

This Exhibit contains alternative dispute resolution procedures. These procedures bind subsequent purchasers as well as the initial purchasers. You are advised to read these procedures carefully and consult with legal counsel if you have any questions.

This document describes the procedures for filing claims against Declarant and certain other designated parties related to this Development. Unless the context indicates otherwise, the definitions set forth in Article 1 of the Declaration shall apply in this Exhibit.

Any claim, dispute or other controversy between the Association and/or any Owner(s) and the Declarant or any director, officer, shareholder, partner, employee or agent of the Declarant or any contractor, subcontractor, design professional, engineer or other person that provided materials, labor or other services to the Development (collectively the "Declarant" for purposes of this Exhibit) relating to this Declaration, or the use, condition or operation of a Unit or Common Area Improvements or landscaping, whether based in contract, tort or statute violation (individually and collectively the "Claim"), shall be subject to the Claim procedures set forth in **Sections 1 and 2** of this Exhibit.

The procedures in this Exhibit do not apply to Declarant's normal customer service procedures. Owners are encouraged to resolve any potential Claim first through Declarant's normal customer service procedures or, if applicable, the Builder's Limited Warranty.

Declarant, the Association and each Owner covenant not to commence any litigation without complying with the procedures described in **Sections 1 and 2**. If any party breaches the foregoing, the other party may obtain an appropriate order compelling the breaching party to comply with the procedures. Except as is expressly authorized by law, nothing herein shall reduce or extend any applicable time frame within which legal action must be commenced, including applicable statutes of limitation or repose.

1. Inspection and Mediation Procedures

If the Association or an Owner elects to make a Claim (the "Claimant"), the Claim shall be subject to the procedures set forth in this **Section 1**. The Claimant shall notify Declarant in writing of the Claim pursuant to the Claim notice requirements in **Section 3** of this Exhibit. The notice shall: (i) contain the Claimant's name

and address; (ii) state that the Claimant elects to commence the procedures in this Exhibit to resolve the Claim; and (iii) describe the nature and location of the Claim in reasonable detail (the "Claim Notice"). The Claim is subject to the following procedures:

1.1 Notice, Right to Inspect, and Right to Corrective Action. Within 30 days of Declarant's receipt of the Claim Notice, the Claimant and Declarant's representatives shall meet at the Claimant's Property to discuss the Claim. At such meeting or at such other mutually-agreeable time, Declarant's representatives shall have full access to the Property for the purposes of inspecting the Property and investigating the Claim. The parties shall negotiate in good faith in an attempt to resolve the Claim. If the Claimant and Declarant cannot agree on the validity of the Claim, the corrective action needed, the party to take the corrective action or any other matter related to the Claim within 60 days of Declarant's receipt of the Claim Notice or such longer time as may be mutually acceptable to the Claimant and Declarant, either party may commence the mediation procedures described in **Section 1.2** below. If the parties agree on any corrective action, Declarant's representatives shall be provided full access to the Property to take and complete corrective action. Declarant shall commence the corrective work no later than 30 days following the Claimant's acceptance of the proposed corrective action, and shall use commercially reasonable efforts to complete the work within 90 days. If Declarant fails to respond to the Claim Notice or fails to meet with the Claimant within the time period required herein, the Claimant is released from any further obligation to comply with the nonadversarial procedures in this **Section 1** and may proceed to initiate the binding adversarial procedures in **Section 2**.

1.2 Mediation. If the Claim is not resolved in accordance with the procedures described in **Section 1.1** and except as otherwise provided in **Section 1.1**, either the Claimant or the Declarant may submit the Claim to mediation under the mediation procedures adopted by the Judicial Arbitration and Mediation Services ("JAMS") or any successor thereto or to any other entity offering mediation services that is acceptable to the Claimant and the Declarant. The parties shall cooperate so that the mediation hearing can be held as soon as practicable. If the mediation hearing cannot take place within 90 days of Declarant's receipt of the Claims Notice or such later date as may be acceptable to Claimant and Declarant, the parties are released from any further obligation under this **Section 1.2** and either party may proceed to initiate the binding adversarial procedures described in **Section 2** of this Exhibit.

Each party shall bear its own mediation expenses. Any party to the mediation may at anytime after a minimum of four hours of mediation terminate the mediation by notifying the other parties and the mediator and proceed to the binding adversarial procedures described in **Section 2** of this Exhibit.

No person shall serve as a mediator who has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

Each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved within ten days of the selection of the mediator or within such time frame established by the mediator. The mediation shall be commenced within ten days following the submittal of the memoranda. The mediation shall be held in the county in which the Property is located or such other place as is mutually acceptable to the parties.

The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Claim. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the Claim, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

The mediation shall be subject to the provisions of Evidence Code sections 1115 through 1128, or any successor statutes thereto, except as the parties may agree otherwise in writing or orally in accordance with the requirements of Evidence Code section 1118.

Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of the parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by the mediator while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

If the Claim is not resolved in accordance with these nonadversarial prelitigation procedures, the Claim shall be resolved in accordance with the binding adversarial procedures set forth in **Section 2** of this Exhibit.

2. Binding Adversarial Procedures If Claimant and Declarant cannot resolve the entire Claim in accordance with the procedures in **Section 1** of this Exhibit or if corrective action is undertaken by Declarant and the parties disagree on the adequacy of the corrective action or any other claims arising from the corrective action, the portion of the Claim not resolved, including any unresolved claims arising out of the corrective action undertaken by Declarant or Declarant's agents, shall be resolved in accordance with the binding adversarial procedures set forth below.

2.1 Builder's Limited Warranty Claims. If the Claim is processed under the Builder's Limited Warranty, the Claim shall be resolved in accordance with the binding adversarial procedures set forth in the Builder's Limited Warranty.

2.2 Other Claims. If a Claim is not processed under the Builder's Limited Warranty, the Claim shall be submitted to binding arbitration as required under **Section 2.3**.

2.3 Binding Arbitration. Either party may commence binding arbitration by submitting the Claim to Judicial Arbitration and Mediation Services ("JAMS") for resolution under the JAMS commercial arbitration rules. The arbitration will be heard by a single arbitrator unless the Claimant and Declarant otherwise agree in writing.

The Association, each Owner and Declarant acknowledge and agree that any Claim involving the design, specification, surveying, grading, construction, installation or operation of any Improvement or landscaping within the Development, including any Claim under Civil Code sections 896 and 897, involves interstate commerce and is subject to and governed by the Federal Arbitration Act, notwithstanding any State or local laws or ordinances to the contrary and notwithstanding the fact the parties have elected to utilize certain State law arbitration procedures to resolve the Claim. The following provisions and procedures shall apply in all cases unless the parties agree otherwise in writing:

- (i) the proceedings shall be heard in Solano County, California;
- (ii) the matter shall be heard by a single arbitrator who shall be a retired judge or attorney with at least five years experience in real estate matters;
- (iii) the fee to initiate the arbitration shall be paid by the Declarant and the arbitrator's fees shall be borne equally by Declarant and the Claimant, unless Declarant agrees in writing to advance the arbitrator's fees, provided that arbitration costs and fees, including any initiation fee and the arbitrator's fees, ultimately shall be borne as determined by the arbitrator as provided in subparagraph (ix)
- (iv) each party shall bear its own attorneys' fees and expert costs for the arbitration;
- (v) the arbitrator shall be appointed within 60 days of the arbitrator's receipt of a written request to arbitrate the dispute. In selecting the arbitrator, the provisions of section 1297.121 of the Code of Civil Procedure shall apply. The arbitrator appointed to serve shall be a neutral and impartial individual. The arbitrator may be challenged for any of the grounds listed therein or in section 1297.124 of the Code of Civil Procedure;
- (vi) the arbitrator may require one or more pre-hearing conferences;
- (vii) the parties shall be entitled to discovery to the extent allowed by section 1283.05 of the Code of Civil Procedure;
- (viii) the arbitrator shall be authorized to provide all recognized remedies available in law or equity;

(ix) the arbitrator in his or her discretion may award costs for the initiation fee and the arbitrator's fees to the party that the arbitrator determines was the prevailing party;

(x) the arbitrator's decision shall be final and binding on the parties unless corrected or validated under the grounds authorized in Code of Civil Procedure section 1286.2 or 1286.6; and

(xi) the arbitrator's decision may be enforced in any court of competent jurisdiction.

If any provision of this **Section 2** shall be determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

Notwithstanding anything to the contrary, if any party determines in good faith that not all necessary and appropriate parties, including, but not limited to, contractors, subcontractors, design professionals, and/or material suppliers, will participate in the arbitration in order to accomplish a complete and final resolution of the Claim, this party shall notify the other party or parties in writing identifying the parties that will not participate; and thereafter all parties to the Claim shall be released from any obligation to participate in the arbitration, and any party may file a lawsuit in any court of competent jurisdiction to resolve the Claim.

3. Agent for Services of Claim Notice Notice of any Claim against Declarant shall be served on Declarant's agent via certified mail, overnight mail or personal delivery. The name and address of Declarant's agent for this purpose is:

Oaks Senior Commons - Claims Procedure Agent
2001 Eastwood Drive
Vacaville, CA 95687

If the notice cannot be served on Declarant's agent at the above-referenced address because the agent is no longer located at the address or the agent has changed and Declarant has not provided the Claimant with an updated address or the name and/or address of the new agent, the Claimant may serve the claim notice on Declarant at Declarant's principle place of business.

If the Claim notice is served via mail, it shall be assumed received by Declarant on the third business day following deposit into the U.S. Mail. If delivered via overnight mail, such as Federal Express or UPS, it shall be assumed received on the next business day. If delivered personally, it shall be assumed received on the date of personal delivery. These assumptions may be rebutted by Declarant if Declarant did not receive actual notice.

4. **Covenants** The covenants, restrictions, rights, duties, benefits and burdens set forth herein benefit and bind each Condominium and each Owner and successive Owner thereto as covenants running with the land and equitable servitudes and as authorized under Civil Code sections 945 and 1354.

5. **Amendments** Notwithstanding anything in the Declaration to the contrary: (i) the provisions in this Exhibit may not be modified or waived without the prior written consent of Declarant; and (ii) the provisions in this Exhibit may be modified or waived with respect to any particular Claim with the written consent of Declarant and the Claimant or Claimants that made the Claim. The Board of Directors shall have full power and authority to approve any modifications or waivers with Declarant with respect to any Claim made by the Association. In addition, the provisions in this Exhibit may be modified with respect to any Condominiums owned by Declarant by filing an amendment to this Exhibit in the records of the county in which the Development is located. The amendment shall affect only Condominiums owned by Declarant at the time the amendment is recorded and such other Condominiums whose owners consent to the amendment in writing.

6. **Claims Filing Period** Nothing herein extends any applicable statutes of limitations or statutes of repose, except as expressly authorized by law.

APPENDIX I - Unit Maintenance and Repair Responsibilities¹

Note: This Appendix is not intended to be an all inclusive list of the items maintained either by the Owner or the Association. Its purpose is to describe maintenance responsibilities over certain items where there may be some uncertainty as to the responsible maintaining party. Unless otherwise limited, maintenance means inspection, cleaning, maintenance, repair and replacement.

ASSOCIATION

Within the Unit

Building fire alarm system
Structural repairs to load-bearing walls
Fire sprinkler heads

Within the Common Area:

Exterior door surfaces (including repainting)
Balcony railings (repainting)
Dividing wall between balconies
Stairway railings (repainting) and surfaces

[Except as noted, the Association maintains all other Common Area Improvements and landscaping.]

CONDOMINIUM OWNER


Within the Unit:

Interior doors and hardware
Interior walls (except structural repairs to load-bearing walls)
Wall coverings (e.g., wallpaper)
Floor coverings (e.g., tile, carpets, carpet pads, and hardwood floors)
Ceiling coverings
Paint
Light fixtures and light bulbs
Cabinets
Appliances (e.g., refrigerators, stoves, ovens, dishwashers, garbage disposals, trash compactors)
Electrical system (e.g., light fixtures, light switches, light bulbs, bathroom fan fixtures, and wiring)
Heating system (e.g., baseboard electric heaters, wall-mounted electrical heaters, heater fans and components)
Plumbing and water system (e.g., toilets, showers, tubs, faucets, pipes and drains)
Window coverings
Door locks
Door bells
Door thresholds
Mirrors
Smoke detectors
Trade fixtures

¹ The purpose of this exhibit is to describe the party responsible for maintaining and repairing certain items located within the Unit and within certain portions of the Common Area located in close proximity to the Unit in accordance with the provisions of **Sections 5.1 and 5.3.**

Within the Common Area:

Light fixtures wired to the Owner's Unit, including deck lighting fixture
Exterior door hardware, including gaskets and seals
Any lighting fixtures (including bulb replacement) that is connected into the Unit's electrical system (including front door and balcony/deck exterior lights)
Windows, window seals and door screens
Windows (washing, replacement or repair of broken windows)
Electrical wiring, plumbing pipes and drains that exclusively serve the Unit²



END OF
DOCUMENT

² Pursuant to **Section 5.1** of the Declaration these items shall be maintained and repaired by the Association and the cost shall be paid by the Condominium Owner.