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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
DEL MAR HIGHLANDS

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

DEL MAR HIGHLANDS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
made this 3rd day of November, 1983, by Pardee Construction
Company, a California corporation, hereinafter called "Declarant".

This Declaration is made with reference to the following

RECITALS:

A. Declarant is the owner of certain property in the County
of San Diego, State of California (hereinafter called the "Property"),
which is more particularly described as:

Lots 1 through 94, inclusive, and Parcel B of N.C.W.
Neighborhood 3 Unit No. 1 in the City of San Diego,
County of San Diego, State of California, as per Map
No. 10395 recorded on May 26, 1982 in the Office of
the County Recorder of San Diego County, State of
California and Lots 95 through 106, inclusive, and
Parcel A of N.C.W. Neighborhood 3 Unit No. 2 in the
City of San Diego, County of San Diego, State of
California, as per Map No. 10546 recorded on December 22,
1982 in the Office of the County Recorder of San Diego
County, State of California.

B. Declarant has or intends to improve the Property by constructing thereon 106 residences. The development of the Property is the first phase of a multi-phased development.

C. The City of San Diego has approved N.C.W. Neighborhood 3 Unit Nos. 1 and 2, relating to the Property, subject to certain conditions of approval, including a condition requiring the recordation of this Declaration, in part, for the purpose of assuring and regulating the maintenance, planting and use of certain open space areas;

D. Each Subdivision Interest shall have appurtenant to it a membership in the Del Mar Highlands Neighborhood Homeowners' Association, a California nonprofit mutual benefit corporation ("Association"), which will be the management body for the overall Project.

E. Before selling or conveying any interest in the Property, Declarant desires to subject the Property in accordance with a common plan to certain covenants, conditions and restrictions for the benefit of Declarant and any and all present and future owners of the Real Property.

NOW, THEREFORE, Declarant hereby certifies and declares and does hereby establish the following general plan for the protection and benefit of all of the Property described above and has fixed and does hereby fix the following protective covenants, conditions and restrictions upon each and every ownership interest in the Property described above, under which said covenants, conditions

and restrictions each ownership interest in the Property shall be hereafter held, used, occupied, leased, sold, encumbered, conveyed and/or transferred. Each and all of said covenants, conditions and restrictions are for the purpose of protecting the value and desirability of and shall inure to the benefit of all of the Real Property described above and shall run with and be binding upon and pass with the Property and each and every ownership interest therein and shall inure to the benefit of, apply to and bind the respective successors in title or interest of Declarant.

ARTICLE I

DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this ARTICLE I shall, for all purposes of this Declaration, have the meanings herein specified.

Section 1. "Articles" shall mean and refer to the Articles of Incorporation of the Association as they may from time to time be amended.

Section 2. "Association" shall mean and refer to the DEL MAR HIGHLANDS NEIGHBORHOOD HOMEOWNERS' ASSOCIATION, a California nonprofit mutual benefit corporation, its successors and assigns.

Section 3. "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

Section 4. "By-Laws" shall mean and refer to the By-Laws of the Association as they may from time to time be amended.

Section 5. "Common Area" shall mean and refer to (i) all real property (including any improvements thereon) owned or to be owned by the Association for the common use, where a right to use has been granted, and enjoyment of the Owners, (ii) all real property (including the improvements thereto), over which the Associations owns or will own an easement for the maintenance of the area for the visual benefit of the Owners and (iii) all real property (including the improvements thereto), in the public right-of-way over which the City of San Diego has granted or will grant an encroachment permit to the Association for the purpose of maintenance of the area for the visual benefit of the Owners.

The Common Area at the time of conveyance of the first Lot shall be as follows:

- (i) Certain real property adjacent to the interchange corner of Interstate Freeway 5 over which a non-exclusive easement is to be owned by the Association for the purpose of planting, replacing and maintaining open space landscaping so as to provide a visual termination and buffer to said freeway and repairing, replacing and maintaining any irrigation system and/or drainage facility located thereon and maintaining the exterior of the block wall located thereon free of any grafitti or markings, as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof;

- (ii) That certain fourteen (14) foot wide median island located in the proposed right-of-way on High Bluff Drive over which an encroachment permit will be granted to the Association for the purpose of planting, replacing and maintaining landscaping and repairing, replacing and maintaining any irrigation system located thereon;
- (iii) Certain real property over which a non-exclusive easement will be granted to the Association for the purpose of planting, replacing and maintaining landscaping and repairing, replacing and maintaining any irrigation system and/or drainage facility and lighted monument sign(s) located on the entry area at Del Mar Heights Road and High Bluff Drive, as more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof.
- (iv) Parcel A of N.C.W. Neighborhood 3 Unit No. 2 as per Map No. 10546 recorded December 22, 1982, in the office of the County Recorder of San Diego County, California.
- (v) That certain enhanced pavement located on High Bluff Drive and at the intersection of Del Mar Heights Road and High Bluff Drive over which an encroachment permit will be granted to the Association for the purpose of repairing, replacing and maintaining same;
- (vi) Those certain parkways in the public right-of-way east and west of High Bluff Drive over which an encroachment permit will be granted to the Association for the purpose of planting, replacing and maintaining landscaping and repairing, replacing and maintaining any irrigation system located thereon.

- (vii) A portion of Lot 55, as more particularly described in Exhibit "C" attached hereto and by this reference made a part hereof, over which a non-exclusive easement will be granted to the Association for the purpose of planting, replacing and maintaining open space landscaping and repairing, replacing and maintaining any irrigation system and/or drainage facility located thereon.
- (viii) Parcel B of N.C.W. Neighborhood 3 Unit No. 1 as per Map No. 10395 recorded on May 26, 1982 in the Office of the County Recorder of San Diego County, California.

Section 6. "Common Expenses" means and includes the actual and estimated expenses of operating the Association and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the Governing Documents.

Section 7. "Declarant" shall mean and refer to Pardee Construction Company, its successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped lot in the Real Property from the Declarant for the purpose of development.

Section 8. "Declaration" shall mean and refer to this enabling Declaration of Covenants, Conditions and Restrictions, as amended, changed or modified from time to time.

Section 9. "Eligible Insurer or Guarantor" shall mean and refer to an insurer or governmental guarantor of a first Mortgage on the Property or any portion thereof who has requested notice of certain matters in accordance with ARTICLE X herein.

Section 10. "Eligible Mortgage Holder" or "Eligible Holder" shall mean and refer to a holder of a first Mortgage on the Property or any portion thereof who has requested notice of certain matters from the Association in accordance with ARTICLE X herein.

Section 11. "Fiscal Year" shall mean the year from September 1 of one calendar year through August 31 of the following calendar year. However, the fiscal year of the Association is subject to change from time to time as the Board may determine.

Section 12. "Governing Documents" means and includes the Declaration, the Articles, the By-Laws, as they may be amended from time to time, and any exhibits attached thereto; and the rules and regulations for the Members as established from time to time by the Board.

Section 13. "Improvements" shall mean and refer to all structures, construction, and landscaping improvements of every type and kind, whether above or below the land surface, including but not limited to buildings, outbuildings, carports, roads, drive-ways, fences, screening walls, retaining walls, hedges, windbreaks, plantings, planted trees and shrubs, poles and signs.

Section 14. "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

Section 15. "Mortgage" shall mean and refer to a Deed of Trust as well as a mortgage encumbering any Subdivision Interest.

Section 16. "Mortgagee" shall mean and refer to a beneficiary under or holder of a Deed of Trust as well as a mortgagee of a Mortgage encumbering a Subdivision Interest.

Section 17. "Mortgagor" shall mean and refer to the trustor of a Deed of Trust as well as a mortgagor.

Section 18. "Owner" shall mean and refer to the record owners, whether one (1) or more persons or entities, of fee simple title to any Subdivision Interest which is a part of the Real Property, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

Section 19. "Project" shall mean and refer to the entire Real Property hereinafter described, including all structures and improvements erected or to be erected thereon.

Section 20. "Real Property" shall mean and refer to that real property located in the County of San Diego, State of California described as: Lots 1 through 94, inclusive, and Parcel B of N.C.W. Neighborhood 3 Unit No. 1 in the City of San Diego, County of San Diego, State of California, as per Map No. 10395 recorded on May 26, 1982 in the Office of the County Recorder of San Diego County, State of California, Lots 95 through 106, inclusive, and Parcel A of N.C.W. Neighborhood 3 Unit No. 2 in the City of San Diego, County of San Diego, State of California, as per Map No. 10546 recorded on December 22, 1982 in the Office of the County Recorder of San Diego County, State of California, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 21. "Record" and "Recordation" shall mean, with respect to any document, the recordation of said document in the Office of the County Recorder of the County of San Diego, State of California.

Section 22. "Rules" shall mean the rules adopted by the Board for the regulation of the Common Area, as they may be amended from time to time.

Section 23. "State" shall mean the State of California.

Section 24. "Subdivision Interest" shall mean and refer to each of (i) Lots 1 through 94, inclusive, of N.C.W. Neighborhood 3 Unit No. 1 in the City of San Diego, County of San Diego, State of California, as per Map No. 10395, recorded on May 26, 1982 in the Office of the County Recorder of San Diego County, State of California, (ii) Lots 95 through 106, inclusive, of N.C.W. Neighborhood 3 Unit No. 2 in the City of San Diego, County of San Diego, State of California, as per Map No. 10546 recorded on December 22, 1982 in the Office of the County Recorder of San Diego County, State of California, and (iii) such additional lots or units as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Qualifications and Voting. Every Owner of a Subdivision Interest shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Subdivision Interest. Each Owner is obligated promptly, fully and faithfully to comply with and conform to this Declaration, the Articles and By-Laws and the rules and regulations adopted thereunder from time to time by the Board and officers of the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of the Subdivision Interest to which it is appurtenant, and then only to the purchaser, in the case of a sale, or Mortgagee, in the case of an encumbrance of such Subdivision Interest. Any attempt to make a prohibited transfer is void. In the event the Owner of any Subdivision Interest shall fail or refuse to transfer the membership

registered in his name to the purchaser of his Subdivision Interest, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

The Association shall have two classes of voting membership:

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

Class B. Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Subdivision Interest owned. The Class B membership shall forever cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

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

(b) On a date two (2) years from the anniversary of the original issuance of the most-recently issued Subdivision Public Report for a phase of the overall Project; or

(c) On a date four (4) years from the anniversary date of the original issuance of the Subdivision Public Report for the first phase of the overall Project.

Section 2. Common Area. Except as otherwise provided herein, the Association acting through the Board and officers shall have the sole and exclusive right and duty to manage, operate, control, repair, replace or restore all of the Common Area or any portion thereof, together with the improvements, trees, shrubbery, plants and grass thereon, all as more fully set forth in this Declaration, the Articles and the By-Laws.

Section 3. Rules. The Board shall have the right to adopt reasonable rules not inconsistent with the provisions contained in this Declaration, and to amend the same from time to time relating to the Common Areas under the jurisdiction of the Association. Such rules may provide that the Owner of a Subdivision Interest whose occupant leaves property on the Common Area in violation of the rules may be assessed after appropriate notice and an opportunity for a hearing before the Board which satisfies the requirements of Section 7341 of the California Corporations Code as set forth in ARTICLE XVI of the By-Laws and a two-thirds (2/3) vote of approval by the Board to cover the expense incurred by the Association in removing such property and storing or disposing thereof. The Board may suspend the voting rights of a Member who is in default in the payment of any assessment for any period during which such assessment remains unpaid, and for a period not to exceed thirty (30) days for any infraction of its rules and regulations after reasonable written notice and an opportunity for a hearing before the Board which satisfies the requirements of Section 7341 of the California Corporations Code as set forth in ARTICLE XVI of the By-Laws.

Section 4. No Liability. In discharging their duties and responsibilities, the Board acts on behalf of and as representative of the Association which acts on behalf of and as representative of the Owners, and no Member thereof shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he fails to act in good faith.

Section 5. Joint Owner Disputes. The vote for each such Subdivision Interest must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Subdivision Interest, it will thereafter be conclusively presumed for all purposes that he/she or they were acting with the authority and consent of all other Owners of the same Subdivision Interest.

Section 6. Perimeter Block Walls. There are block walls around the perimeter of the Project which were constructed by Declarant. It shall be the duty of the Association to maintain the exterior only of said walls free of any graffiti or markings and repair and, if necessary, replace said walls as originally constructed. In the event the need for repair of said walls is caused through the willful or negligent acts of a Member or of his family, guests or invitees, the liability of the Member for the cost of such repair shall be determined according to the laws of the State of California. It shall be the duty of each Owner of

a Subdivision Interest on which a block wall is located to maintain the interior of said wall and to obtain and maintain in force casualty insurance on a current replacement cost basis on said block wall. Any insurance proceeds an Owner may receive for any damage or destruction to the block wall located on his Subdivision Interest shall be paid to the Association which shall as promptly as practicable and in a lawful and workmanlike manner restore and repair the block wall to its former condition. If an Owner fails to pay to the Association any such insurance proceeds, then the Association shall have the right to file a lien upon the Subdivision Interest of such Owner in an amount equal to such insurance proceeds. The Association is hereby granted a right and easement over, under, upon and across each Subdivision Interest wherein the aforesaid perimeter block wall is located for the purpose of repairing and, if necessary, replacing said walls as originally constructed.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION

Section 1. Covenant to Pay Assessments. The Declarant, for each Subdivision Interest owned within the Project, hereby covenants and each Owner of any Subdivision Interest by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) regular assessments which shall include an adequate reserve fund for the

periodic maintenance, repair and replacement of the Common Area, and (2) special assessments for capital improvements and such other purposes as set forth herein, such assessments to be established and collected as hereinafter provided. Except as otherwise provided in ARTICLE III, Section 8 hereof, the regular and special assessments, together with interest, costs, penalties and reasonable attorney's fees, shall be a charge on the Subdivision Interest and shall be a continuing lien upon the Subdivision Interest against which each such assessment is made, the lien to become effective upon recording of a notice of assessment. Each such assessment, together with interest, costs, penalties and reasonable attorney's fees shall also be the personal obligation of the person or persons who were the Owner(s) of such Subdivision Interest at the time when the assessment fell due. Each Owner shall be responsible for (i) notifying the Association of any pending change or transfer of title to his Subdivision Interest and (ii) paying any and all due and unpaid assessments, including interest, costs, penalties and attorneys' fees related thereto, if any, levied against his Subdivision Interest prior to and/or concurrent with any such transference of title. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. No Owner of Subdivision Interest may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Subdivision Interest.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project and for the improvement and maintenance of the Common Area for the common good of the Project.

Section 3. Regular Assessments. Until September 1st of the year immediately following conveyance of the first Subdivision Interest to an Owner, the maximum annual regular assessment shall be \$_____ per Subdivision Interest.

(i) The regular assessment shall be based upon the annual budget adopted as per Article IV, Section 15 of this Declaration.

(ii) From and after September 1st of the year immediately following the conveyance of the first Subdivision Interest to an Owner, the maximum annual regular assessment may be increased each year by not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership of the Association.

(iii) From and after September 1st of the year immediately following the conveyance of the first Subdivision Interest to an Owner, the maximum annual regular assessment may be increased more than fifteen percent (15%) above the maximum assessment for the previous year by the vote or written assent of Members representing fifty-one percent (51%) or more of the voting power of each class of Members of the Association; provided, however, in the event the Class B membership has been converted to Class A membership, then fifty-one percent (51%) or more of the total voting power of the Association comprised of at least fifty-one percent (51%) of the votes of Members other than Declarant shall then be necessary.

The Board may fix the annual regular assessment at an amount not in excess of the maximum.

Section 4. Special Assessment. In addition to the annual regular assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or (ii) any other action or undertaking on behalf of the Association which exceeds the budgeted gross expenses of the Association for that fiscal year, provided that any such assessment shall have the vote or written assent of Members representing fifty-one percent (51%) or more of the voting power of each class of Members of the Association; provided, however, in the event the Class B membership has been converted to Class A membership, then fifty-one (51%) or more of the total voting power of the Association comprised of at least fifty-one percent (51%) of the votes of Members other than Declarant shall then be necessary.

Section 5. Membership Approval. Any action authorized under Section 3 or 4 above shall be taken at a meeting called for that purpose, written notice of which shall be given to all Members not less than ten (10) days nor more than ninety (90) days in advance of the meeting; provided, however, if notice is given by mail and the notice is not mailed by first-class, registered or certified mail, then notice shall be given not less than twenty (20) days before the meeting. A quorum for such meeting shall be a majority of the voting power of the membership of the Association. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be twenty-five percent (25%) of the voting power of the membership of the Association; provided, however, if (i) the meeting so adjourned is an annual meeting and

(ii) the adjourned annual meeting is actually attended, in person or by proxy, by less than thirty-three and one-third percent (33-1/3%) of the voting power of the membership of the Association, then the only matters which may be voted upon thereat, are matters notice of the general nature of which was duly given. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%), Members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 6. Uniform Rate. Both regular assessments and special assessments, including but not limited to special assessments to raise funds for the rebuilding or major repair of the Common Area, shall be fixed at a uniform rate for all Subdivision Interests. Such assessments may be collected on a monthly basis or otherwise as determined by the Board. Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest at the rate of six percent (6%) per annum from the due date until paid.

Section 7. Commencement of Assessments. The regular assessments provided for herein shall commence as to all Subdivision Interests covered by this Declaration on the first day of the month following the conveyance of the first Subdivision Interest to an Owner, or on the first day of the month following the conveyance of Parcel A of N.C.W. Neighborhood 3 , Unit No. 2 and Parcel B of said N.C.W. Neighborhood 3, Unit No. 1 to the Association, whichever shall first occur. The first assessment shall be prorated according to

the number of months remaining in the fiscal year. Voting rights attributable to subdivision interests shall not vest until assessments against those interests have been levied by the Association. The Board shall determine and fix the amount of the annual regular assessment against each Subdivision Interest at least thirty (30) days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Subdivision Interest have been paid. A properly executed certificate of the Association as to the status of assessments on a Subdivision Interest is binding upon the Association as of the date of its issuance.

Section 8. Enforcement by Lien. At any time after any assessments levied by the Association affecting any Subdivision Interest have become delinquent, the Board may file for recording in the Office of San Diego County Recorder a notice of delinquency as to such Subdivision Interest, which notice shall state all amounts which have become delinquent with respect to such Subdivision Interest and the costs (including attorney's fees) and interest which have accrued thereon, the amount of any assessments relating to such Subdivision Interest which is due and payable although not delinquent, a description of the Subdivision Interest with respect to which the delinquent assessments are owed, and the

name of the record or reputed record owner of such Subdivision Interest. Such notice shall be signed by the President or Vice President and Secretary or Assistant Secretary of the Association. In the event the delinquent assessments and all other assessments which have become due and payable with respect to the same Subdivision Interest together with all costs (including attorney's fees) and interest which have accrued on such amounts are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien. Immediately upon recording of any notice of delinquency pursuant to the foregoing provisions of this Section, the amounts delinquent, as set forth in such notice, together with the costs (including attorney's fees) and interest accruing thereon, shall be and become a lien upon the Subdivision Interest described therein, which lien shall also secure all other payments and/or assessments which shall become due and payable with respect to said Subdivision Interest following such recording, and all costs (including attorney's fees) and interest accruing thereon. Said lien shall continue for a period of one (1) year unless extended for a period of an additional year by the recording of a written extension by the Association. When a notice of assessment has been recorded, such assessment shall constitute a lien on each respective Subdivision Interest prior

and superior to all other liens; except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any first Mortgage of record.

Notwithstanding any provision herein to the contrary, a monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas for which the Member was allegedly responsible or in bringing the Member and his Subdivision Interest into compliance with the Governing Documents shall not be treated as an assessment which may become a lien against the Member's Subdivision Interest enforceable by a sale of the Subdivision Interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) and 1356 of the California Civil Code and Section 11003.3 of the California Business and Professions Code. The foregoing shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments, which shall be treated as an assessment which may become a lien against the Member's Subdivision Interest enforceable by a sale of the Subdivision Interest in accordance with the provisions of Sections 2924, 2924(b) and 2924(c) and 1356 of the California Civil Code and Section 11003.3 of the California Business and Professions Code.

Any monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents or as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas for which the Member was allegedly responsible or in bringing the Member and his Subdivision Interest into compliance with the Governing Documents or any charge imposed against an Owner consisting of reasonable late payment penalties for delinquent assessments and/or charges to reimburse the Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent assessments shall be the personal obligation of the Member against whom such penalty or charge was imposed enforceable by any remedy provided therefor by law.

Section 9. Foreclosure. Each assessment lien may be foreclosed as and in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to Section 2932, 2924(a) 2924(b), 2924(c) and 1356 of the California Civil Code and Section 11003.3 of the California Business and Professions Code, and to that end a power of sale is hereby conferred upon the Association. The Association, acting on behalf of the Owners, shall have the power to bid for the Subdivision Interest at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgement for unpaid assessments, rent and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 10. Subordinate to First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage upon any Subdivision Interest. Sale or transfer of any Subdivision Interest shall not affect the assessment lien. However, the sale or transfer of any Subdivision Interest as the result of the exercise of a power of sale or a judicial foreclosure involving a default under the first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Subdivision Interest from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Subdivision Interest obtains title to the same as a result of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Subdivision Interest which became due prior to the acquisition of title to such Subdivision Interest by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Subdivision Interests including such acquirer, his successors and assigns.

Section 11. Assessment for Taxes. In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than against the individual Subdivision Interests, said taxes shall be added to the annual regular assessments and, if necessary, a special assessment may be levied against

the Subdivision Interests in an amount equal to said taxes, to be paid in two (2) installments. Assessments levied under this Section shall not be subject to the provisions of Section 3 of Article III of this Declaration.

Section 12. Enforcement by Suit. The Board may cause an action at law to be commenced and maintained in the name of the Association in any court of competent jurisdiction, including, but not limited to, an action in a small claims court, to enforce each such assessment obligation. Any judgement rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of six percent (6%) per annum from the date of delinquency, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner (including Declarant).

Section 13. Deposit. Upon acquisition of record title to a Subdivision Interest from Declarant, each Owner shall make a contribution to the capital of the Association in an amount equal to one-sixth (1/6) the amount of the maximum annual regular assessment per Subdivision Interest initially established, as set forth in ARTICLE III, Section 3 hereof. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom to the Association. Upon conveyance of the first Subdivision Interest, Declarant shall deposit into an escrow for each and every Subdivision Interest not yet sold an amount equal to one-sixth (1/6) the amount

of the maximum annual regular assessment per Subdivision Interest initially established, as set forth in ARTICLE III, Section 3 hereof. Escrow shall remit these funds to the Association. Upon the close of escrow of any Subdivision Interest for which the capitalization fund was prepaid by Declarant, escrow shall remit to the Declarant the capitalization fee collected from the buyer. Said capital contributions shall be limited to the first sales of Subdivision Interests by Declarant and shall not apply to any resale of a Subdivision Interest.

Section 14. Assessment Certificate. A certificate executed under penalty of perjury by any two (2) members of the Board and acknowledged shall be conclusive upon the Association and the Owners in favor of any and all persons who rely thereon in good faith as to the matters therein contained, and any Owner (including Declarant) shall be entitled to such a certificate setting forth the amount of any due and unpaid assessments with respect to his Subdivision Interest (or the fact that all assessments due are paid if such is the case) within ten (10) days after demand therefor and upon payment of a reasonable fee, not to exceed Ten Dollars (\$10.00), which may be fixed by the Board.

ARTICLE IV

POWERS AND DUTIES OF ASSOCIATION

Subject to other provisions of this Declaration and to the limitations of the Articles, the By-Laws and the California Corporations Code as to action to be authorized or approved by the Members, all corporate powers shall be exercised by or under the authority

of, and the business and affairs of the Association shall be controlled by, the Board. Without prejudice to such general powers but subject to the same limitations, it is hereby expressly declared that the Directors shall have the following powers and duties:

Section 1. Elect Officers. To select and remove all the officers, agents and employees of the Association, prescribe such powers and duties for them as may not be inconsistent with law, the Articles, the By-Laws or this Declaration, and, subject to the provisions of Section 3(b) of Article VIII of the By-Laws, to fix their compensation.

Section 2. Management and Control. To conduct, manage and control the affairs and business of the Association, and to make such rules and regulations therefor not inconsistent with law, the Articles, the By-Laws or this Declaration as they deem best, including rules and regulations for the operation of the Common Area owned or controlled by the Association.

Section 3. Principal Office. To change the principal office for the transaction of the business of the Association from one location to another within the same County and to designate a place within the Project or as close thereto as possible within the County of San Diego, State of California, for the holding of any membership meeting or meetings.

Section 4. Incur Indebtedness. To borrow money and incur indebtedness for the purposes of the Association, and to cause to be executed and delivered therefor, in the corporate name, promissory

notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor, with the vote or written assent of two-thirds (2/3) of the voting power of each class of Members of the Association.

Section 5. Obtaining Insurance. To obtain and maintain in force the following policies of insurance:

- (1) Bodily injury liability insurance, with limits of not less than \$200,000 per person and \$1,000,000 per occurrence, and property damage liability insurance with a deductible of not more than \$1,500 and a limit of not less than \$500,000 per accident, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction.
- (2) Fidelity insurance in the form of a bond in an amount equal to one hundred and fifty percent (150%) of the Association's annual assessments including reserves which names the Association as obligee and protects against misuse and misappropriation of Association property by members of the Board, officers, trustees and employees of the Association, and any management agent and its officers, agents and employees whether or not such persons are compensated for their services.
- (3) Workers' Compensation Insurance covering any employee of the Association.

- (4) Such other insurance, including errors and omissions coverage for Officers' and Directors' indemnity and other bonds, as the Board shall deem necessary or expedient to carry out the Association functions as set forth in this Declaration, the Articles and the By-Laws.

The liability insurance referred to above shall name as separately protected insureds Declarant, the Association, the Board, and their representatives, members and employees, and the Association Members (as a class), with respect to any liability arising out of the maintenance or use of any Common Areas under the jurisdiction of the Association. Such policy or policies shall protect each of the insureds as if each were separately insured under separate policies; provided, however, that such policy or policies shall not require the insurers to pay any amount in excess of the maximum limits stated therein.

Every policy of insurance obtained by the Association, whether or not required to be obtained pursuant to the provisions of this Declaration, shall expressly waive any and all rights of subrogation against Declarant, its representatives and employees, and all Members.

The insurance premium on the policies provided by the Association shall be a common expense to be included in the monthly assessments levied by the Association, and the portion of such payments necessary for the insurance premiums shall be held in a separate account of the Association and shall be used solely for the payment of the premiums on the insurance policies as such premiums become due.

Section 6. Notice of Cancellation of Insurance or Fidelity Bond. Upon written request to the Association identifying (i) the name and address of the holder, insurer or governmental guarantor of any first Mortgage encumbering any Subdivision Interest and (ii) the number or address of such Subdivision Interest, to notify the same in writing at least ten (10) days prior to any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 7. Utilities. To pay all charges for water, electricity, gas, and other utility services for the Common Area.

Section 8. Common Area. To manage, operate, maintain and repair the Common Area and all improvements located thereon, including the restoration and replacement of any or all of the buildings, structures or improvements which are part of the Common Area at any time and from time to time as the Board may determine desirable or necessary; and to make capital expenditures for and on behalf of the Association with the vote or written assent of a majority of the voting power of each class of Members of the Association.

Section 9. Enforcement. To enforce the provisions of the Declaration, the Articles and By-Laws of the Association, the rules and regulations adopted by the Board and the provisions of any agreement to which the Association is a party.

Section 10. Services and Supplies. To contract and pay for maintenance, gardening, utilities, materials, supplies and services relating to the Common Area, and to employ personnel necessary for

the operation and maintenance of the same, including legal and accounting services; provided, however, that the term of any contract with a third person for supplying goods or services to the Common Area or for the Association shall not exceed a term of one (1) year unless a longer term is approved by a majority of the voting power of each class of Members of the Association, except that (a) a contract with a public utility company for materials or services the rates for which are regulated by the Public Utilities Commission may exceed a term of one (1) year so long as it does not exceed the shortest term for which the public utility will contract at the regulated rate, (b) a contract for prepaid casualty and/or liability insurance policies may be for a term of not to exceed three (3) years, provided that the policy permits short rate cancellation by the Association, and (c) a management contract, the terms of which have been approved by the Veterans Administration may exceed a term of one (1) year. Anything contained herein to the contrary notwithstanding, the Board shall not terminate professional management of the Property and assume self-management without the prior written approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders and the prior consent (by vote or written consent) of Members representing fifty-one percent (51%) or more of the voting power of each class of Members; provided, however, in the event the Class B membership has been converted to Class A membership, then fifty-one percent (51%) or more of the total voting power of the Association comprised of

at least fifty-one percent (51%) of the votes of Members other than Declarant. Any agreement for management of the Property and any other contract providing for services by the Declarant, shall be terminable for cause upon thirty (30) days written notice, and without cause or payment of a termination fee upon ninety (90) days, or fewer, written notice and shall have a term of not more than three (3) years, renewable with the consent of the Association and the management agent. No contract with the Association negotiated by Declarant shall exceed a term of one (1) year.

Section 11. Employment of Agents. To employ the services of any person or corporation as Manager, and other employees, to manage and conduct the business of the Association, and to the extent not inconsistent with the laws of the State and upon such conditions as are otherwise deemed advisable by the Association, to delegate to the Manager any of its powers; provided that any agreement for management or person hired as Manager shall not exceed one year, renewable by agreement of the parties for successive one (1) year periods and shall be terminable by the Association for cause upon thirty (30) days written notice.

Section 12. Maintenance Contract. To enter into a maintenance service contract with any person, corporation or other entity for the maintenance of the Common Area, including materials and/or services for the Common Area or the Association, provided that any such contract shall be for a period of one (1) year, renewable by

agreement of the parties for successive one (1) year periods and any such contract shall be terminable by the Association for cause upon thirty (30) days written notice.

Section 13. Taxes. To pay any taxes and governmental special assessments which are or could become a lien on the Common Area or any portion thereof.

Section 14. Discipline. To initiate and execute disciplinary proceedings against Members of the Association for violations of the provisions of the Articles and By-Laws, this Declaration and the rules and regulations adopted by the Board.

Section 15. Budget. To prepare budgets and financial statements for the Association as provided by the By-Laws. The budget shall contain two parts. The first part shall be for operating expenses and shall include at least the following information:

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

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

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

(d) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible. The second part shall include reserves for items of repair and maintenance that are major items and, although not made every year, money must be accumulated each year to insure sufficient funds when these repairs and maintenance are necessary. The original budget includes the following items as reserves:

1. Inflation Reserve

The Board shall maintain the integrity of the budget by maintaining reserves for the items set out above and these reserves shall not be used for operating expenses nor shall operating funds be used to pay for an expenditure covered by a reserve. Reserves for a specific item shall only be expended for that particular item.

Section 16. Notice of Default. Upon the written request of any holder, insurer or governmental guarantor of a first Mortgage encumbering any Subdivision Interest, to notify the same in writing of any default by the Owner of such Subdivision Interest in the performance of the Owner's obligations under the By-Laws or this Declaration which is not cured within thirty (30) days.

Section 17. Notice of Taking. The Association shall give, if required by the Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, notice in writing at the addresses to be supplied to the Association by Federal Home Loan Mortgage Corporation for that organization and Federal National Mortgage Association for that organization of any loss to or taking of any Subdivision Interest or the Common Area owned by the Association and/or its Members if such loss or taking exceeds \$10,000.00, and of any damage to a Subdivision Interest if such damage exceeds \$1,000.00.

Section 18. Notice of Damage. Upon the written request of any holder, insurer or governmental guarantor of a first Mortgage encumbering any Subdivision Interest, to give timely written notice to the same of any substantial damage to or destruction of any Sub-

division Interest or any portion of the Common Area and, if any Sub-division Interest, or any portion thereof, or the Common Area, or any portion thereof, is made the subject of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, to give timely written notice to the same of any such proceeding or proposed acquisition.

Section 19. Defense. To prosecute or defend, in the name of the Association, any action affecting or relating to the Common Area or the property owned by the Association, and any action in which all or substantially all of the Owners have an interest.

Section 20. Delegation of Powers. To delegate any of its powers hereunder to others, including Committees, officers and employees.

Section 21. Rules. To adopt, amend and repeal rules and regulations known as the "Rules", governing, among other things, the Common Areas under the jurisdiction of the Association. Said Rules may restrict and govern the use of Common Areas, if any right to use the Common Areas has been granted, by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner; provided, however, that with respect to use of such Areas, the Rules may not discriminate among Owners.

A copy of said Rules, as they may from time to time be adopted, amended or repealed shall be posted at a prominent place or places within the Common Area and shall be given to each Member and, upon written request therefor, to all first Mortgagees either personally or mailed by first-class, registered or certified mail, postage pre-paid to his address appearing on the books of the Association or supplied by him to the Association. If no address is supplied, a copy of said Rules shall be deemed given if mailed to the address of the Subdivision Interest owned by such Member. Copies of such Rules shall be posted and circulated to each Member in the manner set forth above not less than ten (10) days and not more than sixty (60) days before said rules may be deemed to be in full force and effect. A copy of said Rules, as adopted, amended or repealed, may be recorded and shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 22. Right to Grant Easements. To grant permits, licenses and easements under, through and over the Common Area for utilities, roads and other purposes which are reasonably necessary or useful for the proper maintenance and operation of the Project.

Section 23. Availability of Documentation. To make available to any prospective purchaser of a Subdivision Interest, any Owner of a Subdivision Interest, any first Mortgagee and the holders, insurers and guarantors of a first Mortgage on any Subdivision Interest, current copies of the Declaration, the Articles, the By-Laws, the rules and regulations governing the Subdivision Interest and all other books, records and financial statements of the Association.

ARTICLE VCOMMON AREA

Section 1. Title to the Common Area. Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to Parcel A of said N.C.W. Neighborhood 3 Unit No. 2 and Parcel B of said N.C.W. Neighborhood 3 Unit No. 1 to the Association, free and clear of all encumbrances and liens, except easements, covenants, conditions and restrictions then of record, including those set forth in this Declaration. Said conveyances shall be made to the Association prior to the conveyance of the first Subdivision Interest to an Owner.

Section 2. Use. Parcel A of said N.C.W. Neighborhood 3 Unit No. 2 shall contain entry monument sign(s) and open space landscaping and shall be used for no other purposes. Parcel B of said N.C.W. Neighborhood 3 Unit No. 1 shall be used for open space landscaping purposes only and for no other purposes.

Section 3. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to the Common Area, and no odors shall be permitted to arise therefrom, so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or or detrimental to any other property in the vicinity thereof or its occupants.

Section 4. Declarant's Exemption. Nothing contained in the Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of signs necessary or convenient to the development, sale, operation or other disposition of property except such signs shall not be on or within any Subdivision Interest not owned by Declarant (and provided, however, that such use shall not be for a period of more than five (5) years from the date hereof, or the sale of all of the Subdivision Interests, whichever shall be the earlier.

Section 5. Owner's Liability for Damages to Common Area.

Each Owner shall be legally liable to the Association for all damages to the Common Area or to any improvements thereof or thereto, including but not limited to curbs, sidewalks, paved surfaces, any buildings and landscaping, caused by such Owner, his licensee(s) guests or any occupant of such Owner's Subdivision Interest as such liability may be determined under California law.

Section 6. Maintenance. The Association shall maintain, or provide for the maintenance of all Common Areas within Project and shall keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order and repair. In maintenance of said Common Areas, Association shall at all times strictly comply with the conditions of all applicable laws, and ordinances of the City of San Diego.

Section 7. Creation of Standards of Maintenance by Association: Standards of maintenance for the Common Area to be adhered to by the Association have been established by Declarant. The Board shall have the right to establish standards of maintenance for the Common Area more stringent than those initially established by Declarant; provided, however, standards of maintenance less stringent than those initially established by Declarant shall not be allowed.

Section 8. Duties of Association. The Association shall be obligated to adhere to the standards of maintenance for the Common Area established as provided in Section 8 hereof.

Section 9. Automatic Irrigation Systems. Any and all irrigation systems installed in the Common Area shall be automatic.

ARTICLE VI

COMMON AREAS PERMITTED USES,

CONSTRUCTION AND ALTERATION OF IMPROVEMENT

Section 1. Easement for Maintenance. The Association is hereby granted a right and easement over, under, upon and across the Common Area for the purpose of planting and maintaining grass, flowers, shrubs, trees and irrigation and other landscaping appurtenances, and for the purpose of maintaining fences and retaining and other walls, utility transmission facilities (including television cables), antennas for reception of television signals or other forms of electromagnetic radiation, sidewalks, paths and steps, directional signs, lighting facilities and any other appurtenances permissible by law and not prohibited by existing easements.

Section 2. Restrictions on Change. The right and easement to the Common Areas shall be held, maintained and used by the Association to enhance Owners' enjoyment of the natural environment of Project and for no other purposes. No improvement, excavation or work which in any way alters any Common Area from its natural or existing state on the date such Area was transferred to or otherwise came under the jurisdiction of the Association shall be made or done except upon strict compliance with and within the restriction and limitations of the following provisions of this Section.

Section 3. Mineral Exploration. No property within Common Areas shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

Section 4. Improvements and Uses of Common Areas. Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

- (i) affording pedestrian movement within the Property;
including access to the Subdivision Interests;
- (ii) recreational use by the Owners and occupants of Sub-
division Interests in the Property and their guests,
subject to Rules established by the Board;
- (iii) beautification of the Common Area and providing privacy
to the residents of the Property through landscaping
and such other means as the Board shall deem appropriate.

Section 5. Limitation on Construction. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub, or other vegetation from any Common Area.

The Association may, at any time, as to any Common Area:

- (1) Reconstruct, replace or refinish any improvement or portion thereof upon any such Area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such Area), in accordance with the plans filed by Declarant with the Board pursuant to the following Section 6.
- (2) Construct, reconstruct, replace or refinish any road improvement or surface upon any portion of such Area used as a road, driveway or parking area in accordance with the plans filed by Declarant with the Board pursuant to the following Section 6.
- (3) Replace injured or diseased trees, shrubs or other vegetation in any such Area, and plant trees, shrubs and other vegetation to the extent that the Association deems necessary for the conservation of water and soil or for aesthetic purposes; and
- (4) Place and maintain upon any such Area such signs as the Association may deem appropriate for the proper identification, use and regulation thereof.

Notwithstanding the foregoing, no change, alteration or modification to the Common Area, including the removal of trees, shrubs or other vegetation thereon or any pruning or trimming thereof which would alter height or width by more than five percent (5%), shall be

made which is not in accordance with the plans filed by Declarant with the Board pursuant to the following Section 6 without the affirmative vote of fifty-one percent (51%) of each class of Members at a special meeting thereof, duly called and held, notice of which shall specifically state the proposed change, alteration or modification to be made to the Common Area.

Section 6. Declarant's Plans and Specifications. Declarant shall from time to time file with the Board such plans and specifications as it may have in its possession for the purpose of maintaining a permanent record of improvements constructed on any Common Areas.

Section 7. Owner's Easement of Enjoyment. Every Owner is hereby granted a right and easement of enjoyment of the Common Areas and such easement shall be appurtenant to and shall pass with title to every Subdivision Interest subject to the following provisions:

- (1) The right of the Association to establish uniform rules and regulations pertaining to the Common Areas.
- (2) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Subdivision Interest remains unpaid and delinquent, and for a period not to exceed thirty (30) days for any single infraction of By-Laws, Declaration, Rules and Regulations of the Association provided that any suspension of such voting rights except for failure to pay assessments, shall be made only by the Association after notice and hearing given and held in accordance with ARTICLE XVI of the By-Laws of the Association.

- (3) The right of Declarant and its successors and assigns together with the employees, agents and representatives thereof, to the non-exclusive use of the Common Areas in connection with the display and sale of Subdivision Interests within the Project, which right Declarant hereby reserves; provided, however, that such use shall not be for a period of more than five (5) years from the date hereof, or the sale of all the Subdivision Interests within the aforesaid real property, whichever is the earlier; provided, further, that no such use by Declarant or its sales agents or representatives shall otherwise restrict the Owners in their enjoyment of the Common Areas.

Section 8. Delegation of Enjoyment. Any Owner may delegate, in accordance with the By-Laws his right of enjoyment to the Common Areas to the members of his family, his tenants or contract purchasers who reside on the property.

Section 9. Waiver of Enjoyment. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Subdivision Interest owned by him from the liens and charges hereof, by waiver of the enjoyment of the Common Areas or by abandonment of his Subdivision Interest.

ARTICLE VIIRIGHTS OF ELIGIBLE MORTGAGE HOLDERS AND ELIGIBLE INSURERS OR
GUARANTORS

Section 1. Notice of Action. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Subdivision Interest number or address, any such Eligible Mortgage Holder or Eligible Insurer or Guarantor will be entitled to timely written notice of:

- a) Any condemnation loss or any casualty loss which affects a material portion of the Project or any Subdivision Interest on which there is a first Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor, as applicable;
- b) Any delinquency in the payment of assessments or charges owed by an Owner of a Subdivision Interest subject to a first Mortgage held, insured or guaranteed by such Eligible Holder or Eligible Insurer or Guarantor, which remains uncured for a period of thirty (30) days;
- c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified in Section 2 of this ARTICLE VII or in Section 3 of ARTICLE X herein.

The Association shall not be obligated to confirm receipt of such notice.

Section 2. Other Provisions for Eligible Mortgage Holders. To the extent permitted by applicable law, Eligible Mortgage Holders shall also be afforded the following rights:

- a) Any restoration or repair of the Project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by at least fifty-one percent (51%) of the Eligible Mortgage Holders;
- b) When professional management has been previously required by any Eligible Mortgage Holder or Eligible Insurer or Guarantor, whether such entity became an Eligible Mortgage Holder or Eligible Insurer or Guarantor at that time or later, any decision to establish self management by the Association shall require the prior written approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders and the prior consent (by vote or written consent) of Members representing sixty-seven percent (67%) or more of the voting power of each class of Members; provided, however, in the event the Class B membership has been converted to Class A membership, then sixty-seven percent (67%) or more of the total voting power of the Association comprised of at least sixty-seven percent (67%) of the votes of Members other than Declarant.

ARTICLE VIIIDAMAGE, DESTRUCTION AND CONDEMNATION OF COMMON AREASection 1. Damage and Destruction Affecting the Common Area.

If any portion of the Common Area is damaged or destroyed by fire or other casualty, then:

(a) if

(1) the available insurance proceeds initially offered or paid by the insurer do not exceed the sum of Five Thousand Dollars (\$5,000.00), such insurance proceeds shall be paid to the Board; and

(2) the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than Five Thousand Dollars (\$5,000.00), then the Board shall thereupon contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefor. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, the Board shall levy a special assessment on all Owners to make up any deficiency, which assessment shall be determined as set forth in ARTICLE III, Section 6. herein.

(b) if the foregoing is inapplicable, then

(1) all insurance proceeds shall be paid to a bank or trust company to be held for the benefit of the Owners and their Mortgagees and the holders of, or under their sales contract, as their interests shall appear.

The Board is authorized on behalf of the Owners, to enter into an agreement, consistent with this Declaration, with such insurance trustee, relating to its powers, duties and compensation, as the Board may approve;

- (2) The Board shall proceed under Section 2 below.

Section 2. Partial or Total Destruction. In the event of partial or total destruction of improvements on the Common Areas, it shall be the duty of the Association to restore and repair the same to its former conditions as promptly as practicable and in a lawful and workmanlike manner. The proceeds of any insurance written pursuant to Article IV, Section 5 shall be made available for such purpose and the Association or the Insurance Trustee, as the case may be, shall distribute the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments, subject to the prior rights of beneficiaries of deeds of trust whose interest may be protected by said policies. In the event that the amount available from the proceeds of such insurance policies for such partial reconstruction shall be inadequate, a special assessment of the Owners, with each Subdivision Interest ownership contributing its share to be determined as set forth in ARTICLE III, Section 6. herein, shall be levied to provide the necessary funds for such reconstruction, over and above the amount of any insurance proceeds available for such purpose.

ARTICLE IXENFORCEMENT

Section 1. The Association, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration.

Section 2. Failure by the Association, Declarant or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XGENERAL PROVISIONS

Section 1. Severability. Should any provision in this Declaration be void or become invalid or unenforceable in law or equity by judgement or court order, the remaining provisions hereof shall be and remain in full force and effect.

Section 2. Amendments. This Declaration may be amended at any time and from time to time by an instrument in writing signed by Members representing seventy-five percent (75%) or more of the voting power of each class of Members unless the Class B membership has been converted to Class A membership, in which event, seventy-five percent (75%) of the total voting power of the Association comprised of at least seventy-five percent (75%) of the votes of Members other than Declarant shall be necessary to amend this Declaration. Such amendment shall become effective upon the recording thereof with the Office of the County Recorder of San Diego County, California; provided, however, that no change may be made to material provisions herein without the prior written consent of Eligible Mortgage Holders, all as more particularly set forth below in Section 3 of this ARTICLE.

Notwithstanding the above or any other section of this Declaration, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

Section 3. Material Amendments.

- a) In addition to the consent of the Members in accordance with Section 2 of this ARTICLE X, the approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders shall be required to add or amend any material provisions of the Governing Documents, which establish, provide for, govern or regulate any of the following:
- 1) Voting;
 - 2) Assessments, assessment liens or subordination of such liens;
 - 3) Reserves for maintenance, repair and replacement for the Common Areas;
 - 4) Insurance or Fidelity Bonds;
 - 5) Rights to use of the Common Areas;
 - 6) Responsibility for maintenance and repair of the several portions of the Project;
 - 7) Expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;
 - 8) Boundaries of any Subdivision Interest;
 - 9) The interests in the Common Areas;
 - 10) Convertibility of Subdivision Interests into Common Areas or of Common Areas into Subdivision Interests;

- 11) Leasing of Subdivision Interests;
- 12) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his or her Subdivision Interest
- 13) Any provisions which are for the express benefit of Mortgage holders, Eligible Mortgage Holders or Eligible Insurers or Guarantors.

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

Section 4. Extension of Declaration. Each and all of these covenants, conditions and restrictions shall terminate on December 31, 2013, after which date they shall automatically be extended for successive periods of ten (10) years unless the Owners have executed and recorded at any time within six (6) months prior to December 31, 2013, or within six (6) months prior to the end of any such ten (10) year period, in the manner required for a conveyance of real property, a writing in which it is agreed that said restrictions shall terminate on December 31, 2013, or at the end of any such ten (10) year period.

Section 5. Litigation. In the event the Association, Declarant or any Owner shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, the prevailing party in such litigation shall be entitled to costs of suit and such attorney's fees as the Court may adjudge reasonable and proper. The "prevailing party" shall be the party in whose favor a final judgement is entered.

Section 6. Special Responsibilities of Association. In the event that the improvements to be installed by Declarant to the Common Area have not been completed prior to the issuance by the California Department of Real Estate of a Final Subdivision Public Report covering the Property, and in the further event that the Association is the obligee under a bond to secure performance by the Declarant to complete such improvements, then if such improvements have not been completed and a Notice of Completion filed within sixty (60) days after the completion date specified in the Planned Construction Statement appended to the bond, the Board shall consider and vote upon the question of whether or not to bring action to enforce the obligations under the bond. If the Association has given an extension in writing for the completion of any such improvement then the Board shall consider and vote on said question if such improvements have not been completed and a Notice of Completion filed within thirty (30) days after the expiration of the extension period. In the event that the Board determines not to take action to enforce the obligations secured by the bond, or does not vote on the question as above provided, then in either such event, upon petition signed by Members representing five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of the Members of the Association to consider the question of overriding the decision of the Board or of requiring the Board to take action on the question of enforcing the obligations secured by the bond. Said meeting of Members shall be held not less than thirty-five (35) days nor more than forty-five (45) days following receipt of the petition. At said meeting, a vote of a majority of the voting power of the Members of the Association,

excluding the vote of Declarant, to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

Section 7. Limitation of Restrictions on Declarant. Declarant is undertaking the work of construction of residential dwellings and incidental improvements upon the Property. The completion of that work, and the sale, rental and other disposal of said dwellings is essential to the establishment and welfare of said Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

- (a) Prevent Declarant, its contractors or subcontractors from doing on the Property or any Subdivision Interest, whatever is reasonably necessary or advisable in connection with the completion of said work; or
- (b) Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

- (c) Prevent Declarant from conducting on any part of the Property its business of completing said work, and of disposing of said Property in dwellings by sale, lease or otherwise; or
- (d) Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease or disposition thereof (subject to the time limitations set forth in ARTICLE V, Section 3 hereof; provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of his Subdivision Interest or the Common Areas, where a right to use the Common Areas, or a portion thereof, has been granted. Notwithstanding any provision herein to the contrary, Declarant shall not have the right to maintain any sign or signs on or within any Subdivision Interest which is not owned by Declarant.

Except as otherwise provided in Section 3 of ARTICLE V of this Declaration, so long as Declarant, its successors and assigns owns one or more of the Subdivision Interests established and described herein, Declarant, its successors and assigns shall be subject to the provisions of this Declaration.

Section 8. Owners' Compliance. Each Owner, tenant or occupant of a Subdivision Interest shall comply with the provisions of this Declaration, the By-Laws, decisions and resolutions of the Association or its duly authorized representative, as lawfully amended from time

to time, and failure to comply with any such provisions, decisions, or resolutions shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

Section 9. Notices. Any Owner who encumbers his Subdivision Interest shall furnish the Association the name and address of the Mortgagee or Beneficiary under a Deed of Trust, and the Association shall maintain such information in a book entitled "Trust Deed of Subdivision Interests". The Association shall report to such Mortgagee or Beneficiary any unpaid assessments due from the Owner of such Subdivision Interest at the same time as the Association makes demand of the Owner thereof for the payment of such assessment. Each Mortgagee or Beneficiary shall also be entitled to timely written notification from the Association of any other default by its Owner-Trustor in the performance of such Owner's obligations under the terms and provisions of this Declaration which shall not have been cured within thirty (30) days after written notice to such Owner-Trustor by the Association specifying such default, and written notification of substantial damage to or destruction of any part of the Common Area as provided for in ARTICLE IV, Section 18, herein.

Section 10. Examination of Books. The representative of any Mortgagee, Beneficiary, or other lender shall have the right to examine the books and records of the Association during reasonable business hours. A copy of the audit required under ARTICLE VIII, Section 2 (i) (2) of the By-Laws shall be mailed to each lender who requests same within the time limit prescribed in said ARTICLE VIII, Section 2. (i) (2) of the By-Laws.

Section 11. Meetings, Notice and Representation. Each Mortgagee or Beneficiary who has furnished the Association with an address as set out in Section 9 above shall be given notice of all meetings of the Association membership on the same basis as Members and shall be permitted to designate a representative to attend all such meetings.

Section 12. Captions. The captions appearing at the commencement of the paragraphs hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the paragraph at the head of which it appears, the paragraph and not the caption shall control and govern in the construction of this Declaration.

Section 13. Liability Limit. No member of the Board, or the Manager, shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, the Manager, or any other representatives or employees of the Association, provided that such Board member, or the Manager, has upon the basis of such information as may be possessed by him, acted in good faith.

Section 14. Annexation.

(a) Declarant may within three (3) years of the date of the original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report covering a phase of the overall Project, without the consent of Members or Owners, add all or any portion of the real property as shown and described in Exhibit "D" attached hereto and made a part hereof, to the Property which is covered by this Declaration, and upon the recording of a notice of addition of real property containing at least the provisions set forth in Section (b) hereof, the provisions of this Declaration specified in said notice shall apply to such added land in the same manner as if it were originally covered by this Declaration; provided, however, that Declarant shall be under no obligation to develop or annex said additional phases and real property and Declarant makes no representation with respect to whether or not such additional real property will ever be developed or annexed.

(b) The notice of addition to real property referred to in (a) above shall contain at least the following provisions:

- 1) A reference to this Declaration stating the date of recording hereof and the File/Page number where this Declaration is recorded in the records of San Diego County, State of California.
- 2) A statement that the provisions of this Declaration, or some specified part thereof, shall apply to such added real property.
- 3) An exact description of said added real property; and
- 4) Such other or different covenants, conditions and restrictions as Declarant shall, in its discretion, specify to regulate and control the use, occupancy and improvement of such added real property.

Nothing contained herein, however, shall require Declarant to construct or to complete the future phases of the planned overall Project.

There is no guarantee that the future phases will be annexed.

(c) If, within three (3) years of the date of the original issuance by the California Department of Real Estate of the most recently issued Final Subdivision Public Report covering a phase of the overall Project, Declarant should develop the property described in the attached Exhibit "D" such additional property may be added to and included within the jurisdiction of the Association by action of

the Declarant without the assent of Members of the Association; provided, however, that the development of the additional lands shall be in accord with the plan of development submitted to (i) the Department of Real Estate prior to the time a Final Subdivision Public Report is issued in connection with the Property, and (ii) to the Veterans Administration. Said annexation may be accomplished by recording a Supplementary Declaration of Covenants, Conditions and Restrictions which annexes the property and requires Owners of Subdivision Interests therein to be members of the Association and make new owners subject to the original Declaration of Covenants, Conditions and Restrictions of Del Mar Highlands and the close of the first sale of a Subdivision Interest by Declarant in the property to be annexed. The obligation of annexed Owners to pay dues to the Association and the right of such Owners to exercise voting rights in the Association in such annexed property shall not commence until the first day of the month following close of the first sale of a Subdivision Interest by Declarant in that phase of development. Prior to any annexation under this provision, detailed plans for the development of the property to be annexed must be submitted to the Veterans Administration, and the Veterans Administration must determine that such detailed plans are in accordance with the general plan and so advise Declarant.

(d) With the approval of the Veterans Administration and the prior consent (by vote or written consent) of the Class A members representing fifty-one percent (51%) or more of the voting power of the Class A membership or, if in the event the Class B membership has been converted to Class A membership, then fifty-one percent (51%) or more of the total voting power of the Association comprised entirely of the votes of Members other than Declarant, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Declaration of Annexation.

(e) This Section 14 of ARTICLE X shall not be amended without the written approval of Declarant attached to the instrument of amendment.

Section 15. Conflicting Provisions. In the case of any conflict between this Declaration and the Articles or the By-Laws, this Declaration shall control. In the event of any conflict between the Articles and the By-Laws, the Articles shall control.

Section 16. Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the By-Laws, shall be deemed to be binding on all Owners of Subdivision Interests, their successors and assigns.

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

PARDEE CONSTRUCTION COMPANY

By David E. Landon
David E. Landon, Exec. Vice President

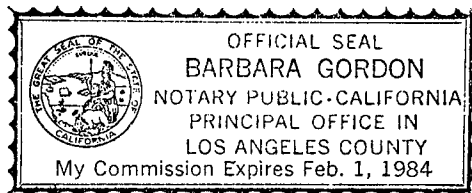
By Nancy McClendon
Nancy McClendon, Assistant Secretary

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

On November 3, 1983, before me, the undersigned, a Notary Public in and for said State, personally appeared David E. Landon, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the Exec Vice President, and Nancy McClendon, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the Assistant Secretary of the Corporation that executed the within instrument and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Barbara Gordon
NOTARY PUBLIC



LEGAL DESCRIPTION FOR OPEN SPACE ADJACENT TO THE INTERCHANGE CORNER
OF DEL MAR HEIGHTS ROAD AND INTERSTATE HIGHWAY NO. 5

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH,
RANGE 4 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO OFFICIAL PLAT THEREOF,
IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA,
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF N.C.W. NEIGHBORHOOD 3, UNIT NO. 1,
ACCORDING TO MAP THEREOF NO. 10395 AS FILED IN THE OFFICE OF THE COUNTY
RECORDER OF SAID SAN DIEGO COUNTY, THE TRUE POINT OF BEGINNING; THENCE

1. SOUTH 89°00'14" EAST, 26.49 FEET, ALONG THE SOUTHERLY BOUNDARY OF
SAID MAP NO. 10395; THENCE
LEAVING SAID BOUNDARY
2. SOUTH 5°30'00" EAST, 47.81 FEET; THENCE
3. SOUTH 88°05'27" WEST, 12.73 FEET; THENCE
4. SOUTH 1°54'33" EAST, 116.00 FEET; THENCE
5. NORTH 88°05'27" EAST, 20.01 FEET; THENCE
6. SOUTH 5°30'00" EAST, 54.23 FEET TO THE BEGINNING OF A CURVE CONCAVE
TO THE EAST HAVING A RADIUS OF 150.00
FEET; THENCE
7. SOUTHERLY, 32.94 FEET ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 12°35'00"; THENCE
8. SOUTH 18°05'00" EAST, 79.08 FEET; THENCE
9. SOUTH 73°17'12" WEST, 24.00 FEET; THENCE
10. SOUTH 16°42'48" EAST, 85.00 FEET; THENCE
11. NORTH 73°17'12" EAST, 16.00 FEET; THENCE
12. SOUTH 19°11'00" EAST, 85.30 FEET TO THE BEGINNING OF A CURVE CONCAVE
TO THE NORTHEAST HAVING A RADIUS OF
200.00 FEET; THENCE
13. SOUTHEASTERLY, 61.26 FEET ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 17°33'00"; THENCE
14. SOUTH 36°44'00" EAST, 95.42 FEET TO THE BEGINNING OF A CURVE CONCAVE
TO THE NORTHEAST HAVING A RADIUS OF
140.00 FEET; THENCE
15. SOUTHEASTERLY, 190.14 FEET, ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF 77°49'00"; THENCE
16. NORTH 65°27'00" EAST, 187.65 FEET TO A POINT ON THE WEST LINE OF LOT
NO. 1, T.M. SUBDIVISION, ACCORDING
TO MAP THEREOF NO. 6214 AS FILED IN
THE OFFICE OF THE COUNTY RECORDER
OF SAID SAN DIEGO COUNTY; THENCE
17. SOUTH 25°46'22" EAST, 75.00 FEET ALONG SAID WEST LINE TO A POINT ON
THE NORTHWESTERLY RIGHT OF WAY LINE
OF DEL MAR HEIGHTS ROAD; THENCE
ALONG SAID RIGHT OF WAY LINE
18. SOUTH 64°13'38" WEST, 60.00 FEET; THENCE
19. SOUTH 70°47'15" WEST, 279.75 FEET TO A POINT ON THE EASTERLY RIGHT
OF WAY LINE OF INTERSTATE HIGHWAY
NO. 5; THENCE ALONG SAID EASTERLY
RIGHT OF WAY LINE
20. NORTH 34°36'36" WEST, 306.30 FEET; THENCE
21. NORTH 16°57'30" WEST, 303.40 FEET; THENCE
22. NORTH 0°32'21" WEST, 228.76 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING IN ALL 1.192 ACRES, MORE OR LESS.

Item iii

LEGAL DESCRIPTION FOR LANDSCAPE AREAS AT
DEL MAR HEIGHTS ROAD AND HIGH BLUFF DRIVE

THOSE PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO OFFICIAL PLAT THEREOF, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL "A"

BEGINNING AT THE SOUTHWEST CORNER OF HIGH BLUFF DRIVE AS SHOWN ON N.C.W. NEIGHBORHOOD 3 UNIT NO. 1, ACCORDING TO MAP THEREOF NO. 10395, AS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, SAID POINT BEING THE NORTHWEST CORNER OF THE INTERSECTION OF SAID HIGH BLUFF DRIVE AND DEL MAR HEIGHTS ROAD, THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTHERLY RIGHT OF WAY LINE OF DEL MAR HEIGHTS ROAD,

1. SOUTH 69°28'29" WEST, 47.24 FEET; THENCE
2. SOUTH 65°53'11" WEST, 400.11 FEET; THENCE
3. SOUTH 64°13'38" WEST, 34.73 FEET TO THE SOUTHEAST CORNER OF DEL MAR HILLS ROAD ADJACENT TO LOT 1, T.M. SUBDIVISION, ACCORDING TO MAP THEREOF NO. 6214, AS FILED IN THE OFFICE OF THE RECORDER OF SAID SAN DIEGO COUNTY; THENCE
4. NORTH 25°52'31" WEST, 150.05 FEET ALONG THE EASTERLY BOUNDARY TO THE NORTHEAST CORNER OF SAID MAP NO. 6214; THENCE LEAVING SAID MAP BOUNDARY
5. SOUTH 55°35'00" EAST, 19.84 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 150.00 FEET; THENCE
6. SOUTHEASTERLY, 51.36 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°37'00"; THENCE
7. SOUTH 35°58'00" EAST, 72.95 FEET; THENCE
8. NORTH 63°46'00" EAST, 230.87 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 40.00 FEET; THENCE
9. NORTHEASTERLY, 27.99 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 40°06'00"; THENCE
10. NORTH 23°40'00" EAST, 28.67 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 65.00 FEET; THENCE
11. NORTHEASTERLY, 49.59 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43°43'00" TO THE BEGINNING OF A REVERSE CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 80.00 FEET, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH 22°37'00" EAST; THENCE
12. NORTHEASTERLY, 123.52 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°28'00"; THENCE
13. NORTH 21°05'00" WEST, 86.00 FEET; THENCE
14. NORTH 19°28'00" WEST, 62.00 FEET; THENCE

EXHIBIT "B"

15. NORTH 16°50'00" WEST, 85.57 FEET TO POINT "A" ON THE ARC OF A NON-TANGENT CURVE TO THE NORTHEAST HAVING A RADIUS OF 2045.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS SOUTH, 62°25'29" WEST, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY LINE OF SAID HIGH BLUFF DRIVE; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE
16. SOUTHEASTERLY, 114.24 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 3°12'03"; THENCE
17. SOUTH 30°46'34" EAST, 45.83 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 952.00 FEET; THENCE
18. SOUTHEASTERLY, 96.80 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 5°49'32"; THENCE
19. SOUTH 24°57'02" EAST, 108.96 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 20.00 FEET; THENCE
20. SOUTHERLY, 16.27 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 46°36'03" TO THE TRUE POINT OF BEGINNING.

PARCEL "B"

BEGINNING AT POINT "A" HEREINABOVE DESCRIBED; THENCE

21. NORTHWESTERLY 13.99 FEET ALONG THE AFORESAID 2045.00 FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 0°23'31" TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE OF HIGH BLUFF DRIVE,
22. NORTH 78°11'00" WEST, 31.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 150.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS NORTH 80°20'21" EAST; THENCE
23. NORTHWESTERLY, 48.82 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°38'57"; THENCE
24. NORTH 28°18'36" WEST, 38.00 FEET; THENCE
25. NORTH 43°02'00" WEST, 32.35 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF LOWER RIDGE ROAD; THENCE
26. NORTH 65°52'52" EAST, 10.38 FEET ALONG SAID SOUTHERLY RIGHT OF WAY LINE TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 20.00 FEET; THENCE
27. SOUTHEASTERLY, 30.95 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 88°39'14" TO THE WESTERLY RIGHT OF WAY LINE OF SAID HIGH BLUFF DRIVE; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE
28. SOUTH 25°27'54" EAST, 54.31 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2045.00 FEET; THENCE
29. SOUTHEASTERLY, 61.33 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°43'06" TO THE TRUE POINT OF BEGINNING.

PARCEL "C"

BEGINNING AT THE SOUTHEAST CORNER OF SAID HIGH BLUFF DRIVE, SAID POINT BEING THE CUSP AT A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 20.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS SOUTH 24°49'19" EAST, THE TRUE POINT OF BEGINNING; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID HIGH BLUFF DRIVE

30. NORTHWESTERLY, 31.37 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°52'17"; THENCE
31. NORTH 24°57'02" WEST, 109.26 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 1048.00 FEET; THENCE
32. NORTHWESTERLY, 106.56 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 5°49'32"; THENCE
33. NORTH 30°46'34" WEST, 60.00 FEET TO POINT "B" THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE
34. SOUTH 42°37'48" EAST, 87.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 100.00 FEET; THENCE
35. SOUTHEASTERLY, 25.29 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 14°29'33" TO A POINT OF REVERSE CURVE HAVING A RADIUS OF 100.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS NORTH 32°52'38" EAST; THENCE
36. SOUTHEASTERLY, 67.15 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 38°28'22"; THENCE
37. SOUTH 18°39'00" EAST, 17.39 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 20.00 FEET; THENCE
38. SOUTHEASTERLY, 33.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 95°10'56"; THENCE
39. NORTH 66°10'04" EAST, 92.45 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 20.00 FEET; THENCE
40. NORTHEASTERLY, 22.88 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 65°32'59"; THENCE
41. SOUTH 89°22'55" EAST, 40.00 FEET TO POINT "C"; THENCE
42. SOUTH 0°37'05" WEST, 87.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF DEL MAR HEIGHTS ROAD; THENCE ALONG SAID RIGHT OF WAY
43. SOUTH 65°10'41" WEST, 147.33 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL "D"

BEGINNING AT POINT "C" HEREINABOVE DESCRIBED; THENCE

44. NORTH 89°22'55" WEST, 40.00 FEET; THENCE

EXHIBIT "B"

Item iv

LEGAL DESCRIPTION FOR OPEN SPACE, LOT 55, N.C.W. NEIGHBORHOOD 3 UNIT NO. 1

THAT PORTION OF LOT 55, N.C.W. NEIGHBORHOOD 3 UNIT NO. 1, ACCORDING TO MAP THEREOF NO. 10395 AS FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 55; THENCE

1. SOUTH $10^{\circ}15'53''$ WEST, 32.71 FEET TO THE TRUE POINT OF BEGINNING;
THENCE
2. SOUTH $4^{\circ}27'37''$ WEST, 80.95 FEET TO THE BEGINNING OF A CURVE CONCAVE
TO THE NORTHWEST HAVING A RADIUS OF
20.00 FEET; THENCE
3. SOUTHWESTERLY, 31.42 FEET ALONG SAID CURVE THROUGH A CENTRAL
ANGLE OF $90^{\circ}00'00''$; THENCE
4. NORTH $85^{\circ}32'23''$ WEST, 9.59 FEET; THENCE
5. NORTH $20^{\circ}47'56''$ EAST, 105.19 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING IN ALL 0.032 ACRES, MORE OR LESS.

45. NORTH 0°37'05" EAST, 41.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 50.00 FEET; THENCE
46. NORTHEASTERLY, 46.96 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 53°48'55"; THENCE
47. NORTH 6°16'08" WEST, 42.59 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 88.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS SOUTH 55°52'12" EAST; THENCE
48. NORTHEASTERLY, 51.47 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 33°30'43"; THENCE
49. NORTH 0°37'05" EAST, 200.00 FEET; THENCE
50. NORTH 39°04'50" WEST, 49.61 FEET; THENCE
51. NORTH 7°58'48" EAST, 108.05 FEET; THENCE
52. NORTH 3°56'43" WEST, 145.34 FEET; THENCE
53. NORTH 71°53'40" WEST, 75.73 FEET; THENCE
54. SOUTH 78°01'58" EAST, 113.85 FEET; THENCE
55. SOUTH 0°37'05" WEST, 662.78 FEET TO THE POINT OF BEGINNING.

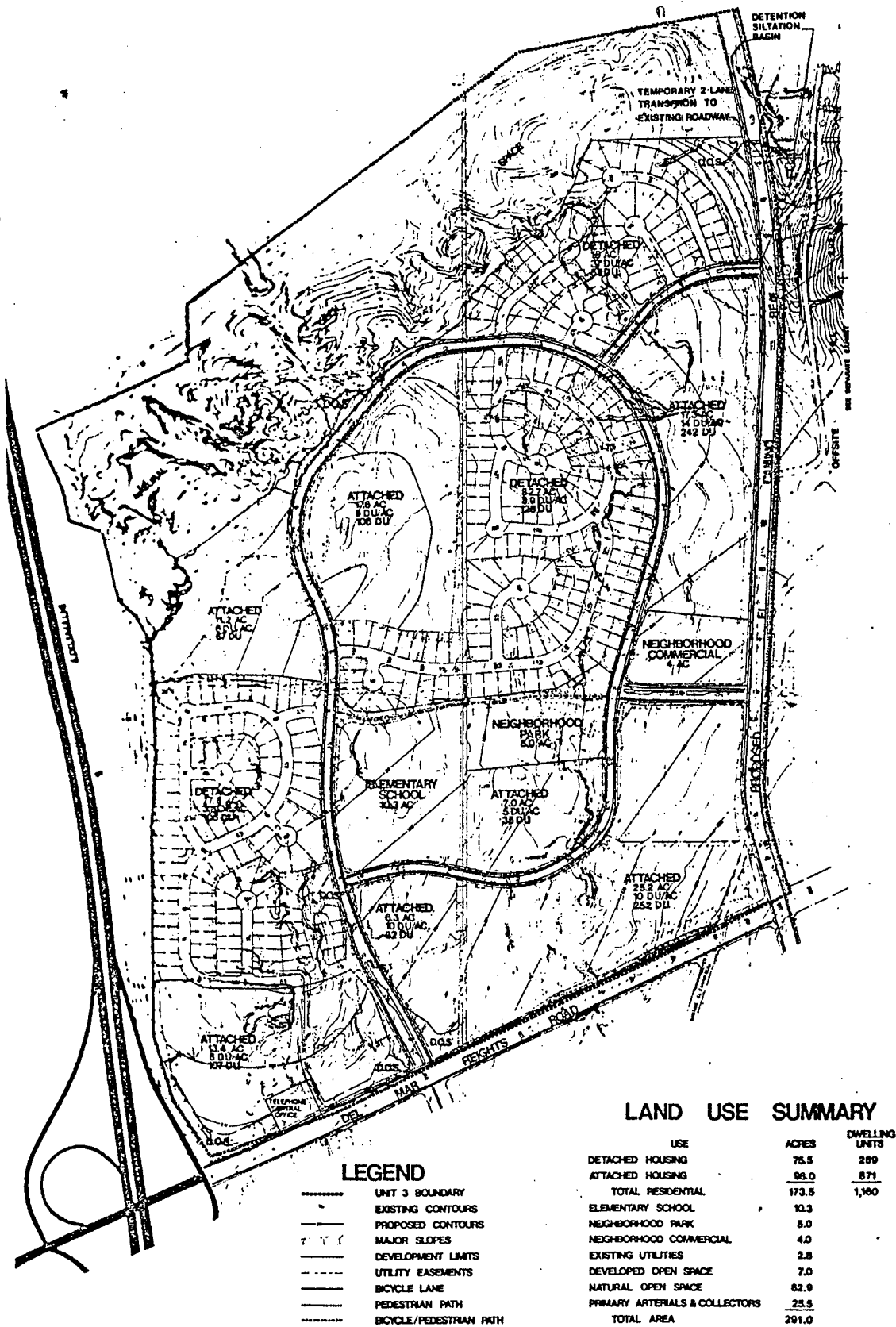
PARCEL "E"

BEGINNING AT POINT "B" HEREINABOVE DESCRIBED; THENCE ALONG THE EASTERLY RIGHT OF WAY LINE OF THE AFORESAID HIGH BLUFF DRIVE

56. NORTH 30°46'34" WEST, 78.85 FEET, TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 1950.00 FEET; THENCE
57. NORTHWESTERLY, 27.83 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 0°49'04" TO THE TRUE POINT OF BEGINNING, AND TO WHICH POINT A RADIAL LINE BEARS SOUTH 60°02'30" WEST; THENCE CONTINUING ALONG SAID CURVE
58. NORTHWESTERLY, 116.14 FEET THROUGH A CENTRAL ANGLE OF 3°24'45" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 20.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS NORTH 63°27'15" EAST; THENCE
59. NORTHEASTERLY, 32.26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 92°25'37" TO A POINT OF CUSP WITH A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 20.00 FEET AND TO WHICH CUSP A RADIAL LINE BEARS NORTH 42°58'04" WEST; THENCE
60. SOUTHWESTERLY, 21.77 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 62°21'33" TO THE BEGINNING OF A COMPOUND CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 100.00 FEET; THENCE
61. SOUTHEASTERLY, 47.57 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°15'23"; THENCE
62. SOUTH 42°35'00" EAST, 48.77 FEET; THENCE
65. SOUTH 8°37'00" WEST, 32.78 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING IN ALL 1.671 ACRES, MORE OR LESS.

EXHIBIT "B"



PRECISE PLAN
NORTH CITY WEST • DEVELOPMENT UNIT 3

Pardee
Construction
Company

Project
Design
Consultants



Item i

LEGAL DESCRIPTION FOR N.C.W. NEIGHBORHOOD 3

THOSE PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 12 AND THE EAST HALF OF SECTION 13, TOWNSHIP 14 SOUTH, RANGE 4 WEST, AND THE SOUTHWEST QUARTER OF SECTION 7 AND THE WEST HALF OF SECTION 18, TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLATS THEREOF; DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 18; THENCE NORTH $0^{\circ}37'05''$ EAST, 962.75 FEET, ALONG THE WEST LINE OF SAID SECTION 18, TO A POINT ON THE CENTERLINE OF DEL MAR HEIGHTS ROAD, SAID CENTERLINE BEING THE F.S. LINE AS SHOWN ON MISCELLANEOUS SURVEY MAP THEREOF NO. 631, THE TRUE POINT OF BEGINNING; THENCE NORTH $65^{\circ}10'41''$ EAST, 1600.27 FEET, ALONG SAID CENTERLINE, TO THE CENTERLINE OF EL CAMINO REAL; THENCE ALONG THE CENTERLINE OF EL CAMINO REAL ON THE FOLLOWING COURSES: NORTH $9^{\circ}49'19''$ WEST 289.82 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 1800 FEET; THENCE NORTHWESTERLY, 301.10 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $9^{\circ}35'04''$; THENCE, TANGENT TO SAID CURVE, NORTH $0^{\circ}14'15''$ WEST, 586.21 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 4000.00 FEET; THENCE NORTHERLY 279.58 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $4^{\circ}00'17''$; THENCE, TANGENT TO SAID CURVE, NORTH $3^{\circ}46'02''$ EAST, 1076.25 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 4000.00 FEET; THENCE NORTHWESTERLY, 1691.59 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $24^{\circ}13'49''$; THENCE LEAVING THE CENTERLINE OF EL CAMINO REAL ON A RADIAL LINE TO THE LAST SAID CURVE, SOUTH $69^{\circ}32'13''$ WEST, 49.00 FEET; THENCE SOUTH $80^{\circ}07'38''$ WEST, 870.32 FEET; THENCE SOUTH $54^{\circ}28'46''$ WEST, 1946.61 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 13; THENCE SOUTH $0^{\circ}29'40''$ WEST, 280.00 FEET ALONG SAID WEST LINE; THENCE SOUTH $65^{\circ}13'00''$ WEST, 756.14 FEET TO AN ANGLE POINT ON THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 5 ACCORDING TO RECORD OF SURVEY MAP THEREOF NO. 8903; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE AS SHOWN ON SAID RECORD OF SURVEY MAP ON THE FOLLOWING COURSES: SOUTH $22^{\circ}57'50''$ EAST, 310.24 FEET; THENCE SOUTH $10^{\circ}33'38''$ EAST, 152.95 FEET; THENCE SOUTH $70^{\circ}15'46''$ EAST, 155.59 FEET; THENCE SOUTH $12^{\circ}18'17''$ EAST, 332.58 FEET; THENCE SOUTH $51^{\circ}26'34''$ EAST, 102.51 FEET; THENCE SOUTH $25^{\circ}07'27''$ EAST, 156.56 FEET; THENCE SOUTH $1^{\circ}54'38''$ EAST, 529.14 FEET; THENCE SOUTH $3^{\circ}29'10''$ WEST, 408.38 FEET; THENCE SOUTH $0^{\circ}32'21''$ EAST, 908.70 FEET; THENCE SOUTH $16^{\circ}57'30''$ EAST, 303.40 FEET; THENCE SOUTH $34^{\circ}36'36''$ EAST, 306.30 FEET TO THE INTERSECTION OF SAID EASTERLY RIGHT OF WAY LINE AND THE NORTHERLY RIGHT OF WAY LINE OF SAID DEL MAR HEIGHTS ROAD; THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE AND CONTINUING SOUTH $34^{\circ}36'36''$ EAST, 98.79 FEET TO A POINT ON SAID F.S. LINE; THENCE NORTH $65^{\circ}10'41''$ EAST, 1249.29 FEET ALONG SAID F.S. LINE TO THE TRUE POINT OF BEGINNING.

THE BEARINGS AND DISTANCES CONTAINED IN THIS DESCRIPTION WERE COMPILED FROM AVAILABLE INFORMATION AND ARE NOT THE RESULT OF A FIELD SURVEY BY PROJECT DESIGN CONSULTANTS.