

ARTICLE XIII

DAMAGE OR DESTRUCTION TO
THE ASSOCIATION PROPERTYSection 1. Election to Restore Association Property.

Except as otherwise provided in Section 2 hereinbelow, damage to or destruction of all or any portion of the Association Property shall be handled in the following manner:

(a) In the event of damage to or destruction of the Association Property and the insurance proceeds are sufficient to effect total restoration, the Association shall, as promptly as is practical, cause the Association Property to be repaired and reconstructed in a good workmanlike manner to its condition prior to such damage or destruction.

(b) If the insurance proceeds available are at least ninety percent (90%) of the estimated cost of total repair and reconstruction to the Association Property, the Association shall, as promptly as practical, cause such Association Property to be repaired and reconstructed in a good workmanlike manner to its condition prior to the damage or destruction, and the difference between the insurance proceeds and the actual cost shall be levied by the Association as a Special Assessment against each Condominium on an equal basis.

(c) If the insurance proceeds available are less than ninety percent (90%) of the estimated cost of total repair and reconstruction to the Association Property, the Owners shall, by the written consent or vote of a majority of the Owners, determine whether (1) to restore the Association Property as promptly as practical to its condition prior to the damage or destruction, and to raise the necessary funds over and above the insurance proceeds available by levying assessments against each Condominium on an equal basis; or (2) to restore the Association Property in a way which utilizes all available proceeds and an additional amount not in excess of ten percent (10%) of the estimated cost of total reconstruction and repair to the Association Property, and which is assessable as provided above to all Condominiums, but which is less expensive than restoring the Association Property to its condition prior to the damage or destruction.

Section 2. Election Not to Restore Association Property.

(a) Notwithstanding the provisions set forth in Section 1 hereinabove, in the event sixty-seven percent (67%) of the Owners, other than the Declarant, and sixty-seven percent (67%) of the first Mortgagees (based upon one

[1] vote for each first Mortgage owned) have given their prior written approval, the Owners may elect to not rebuild or restore the Association Property and to disburse the available insurance proceeds to the general fund to the Association.

(b) In the event the owners shall have so voted to not rebuild the Association Property, the Association Property shall be cleared and landscaped and the cost thereof shall be paid for out of the available insurance proceeds prior to their distribution to the general fund of the Association.

(c) In the event the Owners shall have so voted to not rebuild the Association Property, unless the City shall agree to the contrary, it shall be the obligation of the Association and each of the Owners to rebuild the private streets, if any, utilities and open spaces, which comprise the Association Property, if any, at least to the extent said streets, utilities and open spaces were accepted initially by the City in lieu of payment of fees due pursuant to law.

Section 3. Excess Insurance Proceeds. In the event any excess insurance proceeds remain after restoring the destroyed Association Property pursuant to this Article, the Board of Directors shall retain such sums in the general fund of the Association.

ARTICLE XIV

CONDEMNATION

Section 1. Distribution of Awards. Subject to the limitations set forth in the Article herein entitled "Mortgagee Protection," a condemnation award affecting all or any portion of the Common Property of the Project which is not apportioned among the Owners by court judgment, or by agreement between the condemning authority and each of the affected Owners in the Project, shall be distributed among the affected Owners (and their respective Mortgagees) based upon the relative fair market values of all Condominiums prior to the award, as determined by an independent, qualified, professional real estate appraiser. All first Mortgagees shall have the right to participate in any condemnation proceedings.

Section 2. Distribution of Awards - Association Property. A condemnation award affecting all or any portion of the Association Property shall be remitted to the general fund of the Association.

Section 3. Board of Directors as Attorney-in-Fact. All Owners hereby appoint the Board of the Association as their special attorney-in-fact to handle the negotiations, settlements

and agreements pertaining to any condemnation affecting only the Common Property. The special power of attorney shall not apply to the Secretary of the Department of Veterans Affairs, an Officer of the United States of America.

ARTICLE XV

COVENANT AGAINST PARTITION

Section 1. General Covenant Against Partition. Except as otherwise provided in this Section, the Common Area shall remain undivided and there shall be no judicial partitions thereof. Nothing herein shall be deemed to prevent partition of a cotenancy in a Condominium.

Section 2. Judicial Partition of the Project. The Owner of a Condominium in the Project may maintain a partition action as to the entire Project as if the Owners of all the Condominiums in the Project were tenants-in-common in the entire Project in the same proportion as their interests in the Common Area. The court shall order partition under this Article only by sale of the entire Project and only upon the showing of one (1) of the following:

(a) More than three (3) years before the filing of the action, the Project was damaged or destroyed so that a material part was rendered unfit for its prior use, and the Project has not been rebuilt or repaired substantially to its state prior to the damage or destruction;

(b) Three-fourths (3/4) or more of the Project is destroyed or substantially damaged, and at least sixty-seven percent (67%) of the Owners (other than Declarant) and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) oppose repair or restoration of the Project; or

(c) The Project has been in existence more than fifty (50) years, is obsolete and uneconomical, and at least sixty-seven percent (67%) of the Owners (other than Declarant) and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) oppose repair or restoration of the Project.

Section 3. Board of Directors' Power of Sale in Event of Judicial Partition. Declarant, for itself and on behalf of each and every present and subsequent Owner of one (1) or more Condominiums within the Project, hereby appoints the Board as its and their attorney-in-fact to sell the entire Project for the benefit of all of the Owners thereof when partition of the Project may be had pursuant to this Declaration, which power shall: (a) be binding upon all of the Owners, whether they assume the obligations of these restrictions or not; (b) be exercisable by a vote of at least seventy-five percent (75%) of the voting power

of the Board; and (c) be exercisable only after recordation of a certificate by the Board, which shall provide that said power is properly exercisable hereunder, and which certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith; provided, however, said power of attorney shall not apply to the Secretary of the Department of Veterans Affairs, an Officer of the United States of America.

ARTICLE XVI

INSURANCE

Section 1. Required Insurance Coverage. The Association, acting by and through the Board, shall obtain for the Association, and shall maintain and pay the premiums for the following insurance coverages:

(a) Casualty and Fire Insurance. A policy or policies of casualty and fire insurance, with extended coverage endorsement in an amount equal to one hundred percent (100%) of the current replacement cost (without deduction for depreciation or co-insurance) of the entire Project, together with all Improvements located therein. Said policies shall be maintained for the benefit of the Association, the Owners and the Mortgagees, as their interests shall appear. The coverage does not need to include land, foundations, excavations or other items normally excluded from such coverage. Such policy or policies must contain, if required and if obtainable: (1) an Agreed Amount and Inflation Guard Endorsement; (2) Construction Code Endorsements (such as Demolition Cost Endorsement); (3) a Contingent Liability From Operation of Building Laws Endorsement; (4) an Increased Cost of Construction Endorsement, if there is a construction code provision which would become operative and require changes to undamaged portions of the buildings within the Common Area; and (5) any other Special Condominium Endorsements that may be available or required.

(b) Public Liability Insurance. A policy or policies of full coverage public liability insurance (with cross-liability endorsement, if obtainable) insuring the Association, the Board, the Owners, the City and the Declarant, and the agents and employees of each of the foregoing, against any liability to the public or to any Owner, his family, invitees and/or tenants, arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Property and Condominium Units, and from lawsuits related to employment contracts in which the Association is a party. The limits of liability under this Section shall be set by the Board and shall be reviewed at least annually by the Board, and increased or decreased at the discretion of

the Board; provided, however, that said limits shall not be less than One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence; provided further, if the Federal Home Loan Mortgage Corporation (FHLMC) and/or the Federal National Mortgage Association (FNMA) participate in the financing of Condominiums in the Project, said limits shall not be less than the minimum limits required under the then current FHLMC and/or FNMA regulations.

(c) Worker's Compensation Insurance. Worker's compensation insurance to the extent necessary to comply with any applicable laws.

(d) Fidelity Bonds. Officers' and Directors' errors and omissions insurance, and fidelity bonds naming all persons signing checks or otherwise possessing fiscal responsibilities on behalf of the Association, including, but not limited to, officers, Directors, trustees and employees of the Association, and officers, employees and agents of any management company employed by the Association who handle or are responsible for the Association funds. Such coverage shall be in an amount deemed reasonably appropriate by the Association, but shall not be less than the estimated maximum funds in custody of the Association, or twenty-five percent (25%) of the estimated annual operating expenses of the Project, whichever is greater. In addition, if the Association enters into an agreement for professional management of the Project, the Association shall require such firm to submit evidence of such firm's fidelity bond coverage to the same extent as the Association's coverage.

Section 2. Optional Insurance Coverage. The Association, acting at its option and by and through the Board, may purchase such other insurance as it may deem necessary or appropriate, including, but not limited to, earthquake insurance, flood insurance and plate glass insurance.

Section 3. Notice of Cancellation of Insurance. All policies of insurance (including fidelity bonds) maintained by the Association, pursuant to this Article, shall contain a provision that coverage under said policies may not be cancelled, terminated, allowed to expire by their own terms or be substantially modified by any party without at least thirty (30) days prior written notice to the Board and to such Owners and such first Mortgagees who have filed written requests with the Association for such notice. A list of such Owners and such first Mortgagees shall be made available by the Association to the insurance carrier upon request.

Section 4. Review of Coverage. The Board shall annually determine whether the amounts and types of insurance cov-

erage that it has obtained pursuant to this Article shall provide adequate coverage for the Project, based upon the then current construction costs, insurance practices in the area in which the Project is located, and all other factors which may indicate that either additional insurance coverage or increased coverage under existing policies is necessary or desirable to protect the interests of the Association, the Owners and their respective Mortgagees. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain same.

Section 5. Waiver by Owners. As to all policies of insurance maintained by the Association which will not be voided or impaired thereby, each Owner hereby waives and releases all claims against the Association, the Board and the Declarant, and the agents and employees of each of the foregoing, and all other Owners with respect to any loss covered by such insurance, whether or not caused by the negligence of, or breach of, any agreement by said persons, but only to the extent of the insurance proceeds received in compensation for such loss.

Section 6. Premiums, Proceeds and Settlement. Insurance premiums for all blanket insurance coverage and any other insurance coverage which the Board has determined is necessary to protect the interests of the Association, the Owners and their respective Mortgagees, shall be a Common Expense to be included in the Regular Assessments levied by the Association. All insurance proceeds paid to the Association shall be disbursed as follows: (a) in the event of any damage or destruction to the Common Area, such proceeds shall be disbursed in accordance with the provisions of the Article herein entitled "Damage or Destruction to the Common Area"; (b) in the event of any damage or destruction to the Association Property, such proceeds shall be disbursed in accordance with the provisions of the Article herein entitled "Damage or Destruction to the Association Property"; and (c) in the event of any other loss, the proceeds shall be disbursed as the Board shall deem appropriate, subject to the limitations set forth in the Article herein entitled "Mortgagee Protection." The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. A majority of the Board must sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and its Members.

Section 7. Rights and Duties of Owners to Insure. Each Owner may obtain insurance on his personal property and on all other property and improvements within his Condominium Unit. Nothing herein shall preclude any Owner from carrying any public liability insurance as he may deem desirable to cover his individual liability for damage to person or property occurring inside his individual Condominium Unit or elsewhere upon the Proj-

ect. If obtainable, such liability insurance coverage carried by an Owner shall contain a waiver of subrogation of claims against the Declarant, the Association and the Board, and their agents and employees, and all other Owners. Such other policies shall not adversely affect or diminish any liability under insurance obtained by the Association. If any loss intended to be covered by insurance carried by the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction for application by the Board to the same purposes as the reduced proceeds are to be applied.

Section 8. Trustee for Policies. The Association is hereby appointed and shall be deemed trustee for the interests of all insureds under the policies of insurance maintained by the Association. All insurance proceeds under such policies shall be paid to the Board, as trustees, and the Board shall have full power to receive such funds on behalf of the Association, the Owners and their respective Mortgagees, and to deal therewith as provided for in this Declaration.

Section 9. Mortgage Clause. All insurance policies should have the "standard mortgage clause," or equivalent endorsement, providing that coverage of a Mortgagee under the insurance policy will not be adversely affected or diminished by an act or neglect of the Mortgagor, which is commonly accepted by private institutional mortgage investors in the area in which the Project is located, unless such coverage is prohibited by applicable law. Mortgages owned by FNMA must name as a Mortgagee either FNMA or the servicer for the Mortgages held by FNMA encumbering the Condominiums. When a servicer is named as the Mortgagee, its name should be followed by the phrase "its successors and assigns." If the Mortgage is owned in whole by FHLMC, the name of the servicer of the Mortgage followed by the phrase "its successors and assigns, beneficiary" should be named as Mortgagee instead of FHLMC. The mortgage clause should be endorsed to fully protect FHLMC's interests or the interest of FHLMC and the servicer where applicable. If FHLMC must be named as Mortgagee, the endorsement should show the servicer's address in lieu of FHLMC's address. A mortgage clause in favor of Mortgagees holding Mortgages on Condominiums is not required on a policy insuring the Association Property.

Section 10. Compliance With Requirements of FHLMC, FNMA and VA/FHA. Notwithstanding the provisions of this Article, the Association shall obtain and maintain in effect such policies of insurance meeting all requirements of FHLMC, FNMA and VA/FHA established by those entities for condominium projects for so long as any of such agencies continue to be a Mortgagee, Owner,

insurer or guarantor of a Mortgage in the Project, except to the extent such coverage is not available or has been waived, in writing, by such agencies.

ARTICLE XVII

MORTGAGEE PROTECTION

Section 1. Mortgage Protection Provisions. Notwithstanding any other provisions in this Declaration to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHLMC); and the Federal National Mortgage Association (FNMA), and other lenders and investors, to participate in the financing of the sale of Condominiums in the Project, the following provisions contained within this Article are added hereto, and to the extent these added provisions conflict with any other provisions in this Declaration, these added provisions shall control. The Declaration, the Articles and the By-Laws for the Association are hereinafter collectively referred to in this Article as the "constituent documents."

(a) The right of an Owner to sell, transfer or otherwise convey his Condominium shall not be subject to any right of first refusal or any similar restriction in favor of the Association.

(b) The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter recorded upon any Condominium. The sale or transfer of any Condominium shall not affect the Assessment lien; however, the sale or transfer of any Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage or pursuant to any remedies provided for in the Mortgage shall extinguish the lien of such Assessments as to payments which became due prior thereto. No sale or transfer shall relieve such Condominium from liability for Assessments due thereafter. Any first Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or any purchaser at a foreclosure sale of a first Mortgage will not be liable for any unpaid Assessments or charges which occurred prior to the acquisition of title to such Condominium by the Mortgagee (except for claims for a share of such Assessments or charges resulting from a reallocation of such Assessments or charges to all Condominiums, including the mortgaged Condominium).

(c) Except as provided by statute in case of condemnation or substantial loss to the Condominium Units and/or Common Property, unless sixty-seven percent (67%) of the, Owners other than Declarant, and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for

each first Mortgage owned) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

(1) By act or omission, seek to abandon or terminate the Condominium Project;

(2) Record or file any amendment which would change the pro rata interest or obligations of any Condominium for purposes of: (i) levying Assessments or charges, or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium Unit in the Common Area;

(3) Partition or subdivide any Condominium, except as provided in the Article herein entitled "Covenant Against Partition"; provided, however, that no Condominium may be partitioned or subdivided without the prior written approval of the first Mortgagee for such Condominium;

(4) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any or all of the Common Property. The granting of easements for public utilities or for other public purposes consistent with the intended uses of the Common Property by the Project shall not be deemed a transfer within the meaning of this clause;

(5) Use hazard insurance proceeds for losses to the Project (whether to Condominium Units or to Common Property) for other than repair, replacement or reconstruction;

(6) Effect any decision of the Association to terminate professional management and assume self-management of the Project, where such professional management was previously a requirement by a holder, insurer or guarantor of any first Mortgage;

(7) By act or omission, change, waive or abandon any provisions of this Declaration, or enforcement thereof, pertaining to architectural design of the Condominiums or the maintenance and operation of the Common Property within the Project, including, without limitation, sidewalks, fences, driveways and landscaping within the Project; and

(8) Fail to maintain fire and extended coverage on the insurable Common Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value thereof.

(d) All taxes, Assessments and charges which may become liens prior to the first Mortgage under local law

shall relate only to individual Condominiums, and not to the Project as a whole.

(e) No provision of the constituent documents shall be interpreted to give the Owner of a Condominium, or any other party, priority over any rights of the first Mortgagee of the Condominium pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Condominium Units and/or the Common Property.

(f) The Assessments provided for in the constituent documents shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Property that must be replaced on a periodic basis, and shall be payable in regular installments, rather than by Special Assessments.

(g) Each holder, insurer or guarantor of a first Mortgage who has filed with the Association a written request for notice shall be entitled to timely written notice of: (1) any condemnation or eminent domain proceeding, and any loss or taking resulting from such proceeding which affects the Project, or any portion thereof; (2) any substantial damage or destruction to the Project, or any portion thereof, when such loss exceeds Ten Thousand Dollars (\$10,000.00); (3) any default in the performance by an individual Owner of any obligation under the constituent documents which is not cured within sixty (60) days after the Association learns of such default; (4) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; (5) any abandonment or termination of the Project; and (6) any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

(h) Any agreement for professional management of the Project or any contract providing for services of the Declarant may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days' or less written notice.

(i) In the event of substantial damage to or destruction of any Condominium Unit or any part of the Common Property, the first Mortgagee for such Condominium will be entitled to timely written notice of any such damage or destruction.

(j) A first Mortgagee of a Condominium in the Project will, upon request, be entitled to: (1) examine the books and records of the Association during normal business

hours; (2) require from the Association an annual audited financial statement of the Project for the previous fiscal year (without expense to the holder, insurer or guarantor requesting said statement), however, if an audited financial statement is not available, any Mortgage holder may be allowed to have an audited financial statement prepared, at its own expense; and (3) receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

(k) Each Owner shall notify the Association, in writing, within ten (10) days after the close of escrow for the purchase of his Condominium of the name and address of his first Mortgagee, and thereafter, each Owner shall promptly notify the Association of any changes of name or address for his first Mortgagee.

(l) Each Owner hereby authorizes a first Mortgagee on a Condominium to furnish information to the Board concerning the status of any such first Mortgage.

(m) In the event any portion of the Common Property encroaches upon any Condominium Unit or any Condominium Unit encroaches upon the Common Property as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

(n) First Mortgagees of Condominium Units may, jointly or singularly, pay taxes or other charges which are in default and which may have become a lien on the Common Property, and may pay overdue premiums on hazard insurance policies or secured new hazard insurance coverage on the lapse of a policy for the Common Property, and first Mortgagees paying such payments shall be owed immediate reimbursement therefor from the Association. Upon demand by any first Mortgagee, the Board shall execute, on behalf of the Association, an agreement establishing the right of all first Mortgagees to such reimbursement.

Section 2. Violation of Mortgagee Protection Provisions. No breach of any of the foregoing covenants shall cause any forfeiture of title or reversion, or bestow any right of re-entry whatsoever, but in the event that any one (1) or more of these covenants shall be violated, the Declarant, its successors and assigns, or the Association, or any Owner of a Condominium in the Project, may commence a legal action in any court of competent jurisdiction to enjoin or abate said violation and/or to recover damages; provided, however, that any such violation shall not defeat or render invalid the lien of any Mortgage made in good faith and for value as to said Condominium. Said covenants

shall be binding upon and effective against any Owner of said Condominium, or a portion thereof, whose title thereto is acquired by foreclosure, a trustee sale or otherwise.

Section 3. Effect of Amendments. Except as may otherwise be provided herein, no amendment of this Declaration or the Articles or the By-Laws of the Association shall affect the rights of any Mortgagee whose lien was created prior to recording of such amendment.

Section 4. Amendments to Conform With Mortgagee Requirements. It is the intent of Declarant that this Declaration and the Articles and By-Laws of the Association, and the Project in general, meet all requirements necessary to purchase, guarantee, insure and subsidize any Mortgage of a Condominium in the Project by the FHLMC and the FNMA. In furtherance of said intent, Declarant may amend this Declaration without the consent of the Members at any time after the close of escrow for the first sale of a Condominium in the Project by recording a written instrument setting forth the amendment, provided that the amendment is necessary to cause this Declaration to comply with the requirements of the DRE, FHLMC, FNMA and/or the Government National Mortgage Association; provided, however, that any such amendment shall be effective only if Declarant mails a copy of the amendment to all of the foregoing entities which are, or have agreed to be, a holder, insurer or guarantor of a first Mortgage, and does not, within thirty (30) days thereafter, receive a notice of disapproval from any such entity. Said amendments shall not be recorded by Declarant until after the expiration of such thirty (30) day period.

ARTICLE XVIII

ENFORCEMENT OF BONDED OBLIGATIONS

Section 1. Enforcement of Bonded Obligations. In the event that the improvements of the Common Property have not been completed prior to the issuance of a Final Subdivision Public Report by the DRE, and the Association is obligee under a bond or other arrangement (hereinafter referred to as the "Bond") to secure a performance of the commitment of Declarant to complete such improvements, the following provisions shall apply:

(a) The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvements in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Property improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, the Board shall call a special meeting of the Members for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the By-Laws dealing with meetings of the Members, but in any event, such meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such meeting signed by Members representing five percent (5%) of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting of Members shall be the Owners, other than Declarant. A vote at such meeting of a majority of the voting power of such Members, other than the 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 such decision by initiating and pursuing appropriate action in the name of the Association.

ARTICLE XIX

ANNEXATION OF ADDITIONAL PROPERTY

Additional property may be annexed to and become subject to this Declaration as set forth in this Article.

Section 1. Phased Development of the Project. As set forth in Article II herein entitled "Introduction to View Pointe," Declarant intends to develop the Project in a series of Phases which may be annexed to the Project. However, Declarant is under no obligation to continue development of the Project.

Section 2. Annexation Pursuant to General Plan. All or any part of the real property described as Annexation Property herein, may be annexed to the Property and added to the scheme of this Declaration, and subjected to the jurisdiction of the Association without the assent of the Association or its Members, provided and on condition that:

(a) Any annexation pursuant to this Section shall be made prior to three (3) years from the date of the original issuance by the DRE of the most recently issued Final Subdivision Public Report for the immediately preceding Phase of the Project;

(b) The development of the Annexation Property shall be in substantial conformance with the overall general plan of development for the Project originally submitted to and approved by the City, the DRE and the VA/FHA; and

(c) A Notice of Annexation, as described in Section 4 of this Article, shall be recorded covering the Annexation Property.

Section 3. Annexation Pursuant to Approval. Upon obtaining the approval in writing of the Association pursuant to the vote or written assent of two-thirds (2/3) of the total votes residing in the Association Members, other than the Declarant, the owner of any property who desires to annex said property to the scheme of this Declaration and to subject it to the jurisdiction of the Association may file of record a Notice of Annexation, as described in Section 4 of this Article.

Section 4. Notice of Annexation. The annexation of additional property authorized under this Article shall be made by filing of record a Notice of Annexation, or similar instrument, covering said additional property, and the Notice of Annexation shall expressly provide that the scheme of this Declaration shall extend to such additional property. The Notice of Annexation may contain such complementary additions to and modifications of the covenants set forth in this Declaration which are necessary to reflect the different character, if any, of the annexed property and which are not inconsistent with the general scheme of this Declaration. Except as set forth in this Section,

no Notice of Annexation shall add, delete, revoke, modify or otherwise alter the covenants set forth in this Declaration.

Section 5. Effective Date of Annexation. Any Notice of Annexation recorded on a Phase of the Project shall become effective immediately upon: (a) the first close of an escrow for the sale of a Condominium in a Phase, as evidenced by the recordation of the first instrument of conveyance for said Condominium; or (b) the conveyance of any Association Property in said Phase to the Association, whichever first occurs.

Section 6. Right of De-Annexation. Declarant hereby reserves the right to de-annex any property which may be annexed to the Property pursuant to this Declaration, and to delete said property from the scheme of this Declaration and from the jurisdiction of the Association, provided and on condition that the de-annexation shall be made prior to the first close of an escrow for the sale of a Condominium in the property to be de-annexed, and a draft of the Revocation of Notice of Annexation has been submitted to and approved by the VA/FHA.

Section 7. Amendments to Notices of Annexation. Notwithstanding any other provisions in this Declaration to the contrary, a Notice of Annexation may be amended by the requisite affirmative vote of Members (and First Mortgagees, if applicable), as set forth in the Article herein entitled "General Provisions," in only the annexed property described in said Notice of Annexation, rather than all Members (and first Mortgagees, if applicable) in the Project, on the following conditions:

(a) Such amendment applies only to the annexed property described in said Notice of Annexation; and

(b) Such amendment shall in no way contradict, revoke or otherwise alter any of the Covenants set forth in this Declaration.

ARTICLE XX

RIGHT OF CITY TO COMPEL PERFORMANCE

Section 1. Rights of City. The Association shall indemnify and hold the City harmless for any damages resulting from the Association's maintenance of the Common Property. Notwithstanding any other provision regarding maintenance responsibilities, the City is hereby granted the right, but in no event the duty, to enforce the maintenance obligations of the Owners and the Association for the Common Property described in this Declaration, to the extent that the Common Property is maintained in a manner which complies with all applicable City, State and Federal ordinances, statutes and regulations, and which does not create or perpetuate nuisances, health or safety hazards. In the event of a breach of the maintenance provisions contained in this Section, the City shall give written notice of such breach and the Association shall remedy such breach within thirty (30) days of receipt of such written notice by the City. The Association recognizes that it has the primary responsibility for enforcement of its maintenance responsibilities that are contained in this Declaration, and unequivocally guarantees to institute and expeditiously prosecute any required legal action to obtain compliance with the provisions contained in this Article. The City, in enforcing the provisions contained in this Article, shall be entitled to all the rights and remedies of an Owner or of the Association. The City shall, to the extent allowable by law, be entitled to all expenses of enforcement, including the enforcement by private legal counsel, and shall have the authority to lien the subject property (including individual Condominiums of Owners, if applicable) if the Association does not pay the City for all expenses of correction and enforcement. All funds obtained by lien or other legal proceeding by the City shall be utilized by the City to repay the City for the costs of correcting the breach after costs of expenses of enforcement shall first have been deducted.

Notwithstanding the foregoing, no such amendment or modification to this Declaration which would affect the terms and provisions of this Declaration as it relates to maintenance responsibilities of the Association or which would terminate or materially impair the rights of the City as set forth in this Declaration, shall be effective without the prior written consent of the City.

ARTICLE XXI

GENERAL PROVISIONSSection 1. Enforcement.

(a) The Association or the Owner of any Condominium in the Project, including the Declarant, shall have the right to enforce, by proceedings at law or in equity, all of the Protective Covenants now or hereafter imposed by this Declaration and the By-Laws, respectively (and the Rules and Regulations duly adopted by the Association), including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated, or are attempting to violate, any of said Protective Covenants, to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) The result of every act or omission whereby any of the Protective Covenants contained in this Declaration or the provisions of the By-Laws are violated, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance shall be applicable against every such result and may be exercised by any Owner, by the Association, or by its successors in interest.

(c) The remedies herein provided for breach of the Protective Covenants contained in this Declaration or the provisions of the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association or any Owner to enforce any of the Protective Covenants contained in this Declaration, the provisions of the By-Laws or any Rules or Regulations shall not constitute a waiver of the right to enforce the same thereafter.

(e) A breach of the Protective Covenants contained in this Declaration or of the provisions of the By-Laws shall not affect or impair the lien or charge of any bona fide Mortgage or deed of trust made in good faith and for value on any Condominium; provided, however, that any subsequent Owner of such property shall be bound by said Protective Covenants and the provisions of the By-Laws, whether or not such Owner's title was acquired by foreclosure, a trustee's sale or otherwise.

(f) The Board, for and on behalf of the Association, may assess monetary penalties against an Owner as a Compliance Assessment and/or temporarily suspend said Owner's voting rights and right to use any recreational facilities, for the period during which any Assessment against said Owner's Condominium remains unpaid; provided, however,

the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached.

(g) The Board, for and on behalf of the Association, may temporarily suspend an Owner's voting rights and right to use any recreational facilities for a period not to exceed thirty (30) days for any infraction of the Association's Rules and Regulations; provided, however, the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached.

(h) In addition to the above general rights of enforcement, the City shall have the right, through its agents and employees, to enter upon any part of the Project for the purpose of enforcing the California Vehicle Code and its local ordinances, and is hereby granted an easement over the Project for that purpose.

Section 2. Severability. Invalidation of any one of these Protective Covenants by judgment or court order shall in no way affect any other provisions hereof, which shall remain in full force and effect.

Section 3. Term. The Protective Covenants set forth in this Declaration shall run with and bind the Project, and shall inure to the benefit of the Association and be enforceable by the Board or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said Protective Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners agreeing to terminate said Protective Covenants, in whole or in part, has been recorded within one (1) year prior to the termination of the initial fifty (50) year term, or within one (1) year prior to the termination of any successive ten (10) year period.

Section 4. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and maintenance of the Project. The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 5. Singular Includes Plural. Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 6. Amendments. This Declaration may be amended only by an affirmative vote of not less than sixty-seven per-

cent (67%) of each class of Members. So long as there is both a Class A and Class B membership, any amendments to this Declaration shall require the prior approval of the DRE and VA/FHA. At such time when the Class B membership shall cease and be converted to Class A membership, any and all amendments to this Declaration shall be enacted by requiring the vote or written assent of Members representing both: (a) sixty-seven percent (67%) of the total voting power of the Association, and (b) sixty-seven percent (67%) of the votes of Members, other than the Declarant; provided, however, that the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under said provision. In addition, in the event that FNMA participates in the financing of Condominiums in the Project, the written consent not less than fifty-one percent (51%) of the first Mortgagees shall be required for any amendment of a "material" nature. An amendment which affects or purports to affect any of the following is considered material:

- (a) The legal status of the Project as a common interest development;
- (b) Voting rights;
- (c) Assessments, assessment liens or the priority of assessment liens, including the levy and collection thereof, enforcement provisions for nonpayment and subordination of liens for nonpayment;
- (d) Reserves for maintenance, repair and replacement of Common Property;
- (e) Responsibility for Common Property maintenance and repair;
- (f) Reallocation of interests in the Common Property or rights to use the Common Property;
- (g) Boundaries of any Condominium;
- (h) Encroachment by Improvements into Common Property;
- (i) Expansion or contraction of the Project, or addition, annexation or de-annexation of additional property to or from the Project;
- (j) Insurance or fidelity bonds;
- (k) Leasing of Condominiums;
- (l) Restrictions on alienation, including, but not limited to, rights of first refusal;
- (m) Any decision by the Association to establish self-management, if professional management was previously required by an eligible first Mortgagee or legal documents governing the Project;
- (n) Restoration or repair of the Project in a manner other than as specified in this Declaration;

(o) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; and;

(p) Mortgagee protection provisions as set forth in that Article hereinabove entitled "Mortgagee Protection," and such other provisions in this Declaration for which the consent of Mortgagees shall be required or which are expressly for the benefit of Mortgagees, insurers or guarantors of Mortgages.

In the event the Association is considering termination of the legal status of the Project for reasons other than the substantial destruction or condemnation of the Project, then sixty-seven percent (67%) of the first Mortgagees must agree to said termination. Notwithstanding the foregoing, in the event any first Mortgagee receives a written request, delivered by certified or registered mail with return receipt requested, from the Board to approve any amendment to this Declaration, and such first Mortgagee does not deliver a negative response in writing to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved such proposed amendment. This amendment provision shall not be amended to allow amendments by less than the percentages set forth hereinabove. Notwithstanding the foregoing, any Owner or the Association may petition the Superior Court of the County of Orange for an order reducing the necessary percentage required under this Section to amend this Declaration. The procedure for effecting this petition is set forth in Section 1356 of the California Civil Code, as the same may be amended, from time to time. An amendment made in accordance with the provisions set forth hereinabove shall be effective when executed by the President and Secretary of the Association, who shall certify that the amendment has been approved by the membership and, where appropriate, by the first Mortgagees in the percentages set forth hereinabove, recorded in the Office of the County Recorder for the County of Orange. Upon such recordation, the amendment shall be effective and binding upon all Owners and all Mortgagees, regardless of whether such Owner or such Mortgagees consented to such amendment.

Section 7. Encroachments. None of the rights and obligations of the Owners created herein or by the deed shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

Section 8. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by registered or certified mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Condominium Unit of such person if no address has been given to the Association. If such notice is not sent by regular or certified mail, it shall be deemed to have been delivered when received. Such address may be changed, from time to time, by notice in writing to the Association.

Section 9. Attorneys' Fees. If any Owner defaults in making a payment of Assessments or in the performance or observance of any provision of this Declaration, and the Association has obtained the services of an attorney in connection therewith, the Owner covenants and agrees to pay to the Association any costs or fees incurred, including reasonable attorneys' fees, regardless of whether legal proceedings are instituted. In case a suit is instituted, the prevailing party shall recover the cost of the suit, in addition to the aforesaid costs and fees.

Section 10. Additional Covenants in Favor of the VA/FHA. So long as there shall be a Class B membership, the following actions will require the prior approval of the VA/FHA: annexation or de-annexation of additional property to the Project, any merger or consolidation of the Association, any Special Assessment or any amendment to this Declaration. A draft of any amendment shall be submitted to the VA/FHA for its approval prior to recordation of the amendment.

IN WITNESS WHEREOF, Declarant has executed this instrument on the day and year first above written.

"DECLARANT"

THE PRESLEY COMPANIES,
a California corporation

BY:

Robert D. Uman

Its: VICE PRESIDENT

BY:

Norethy Luman

Its: ASSISTANT SECRETARY

STATE OF CALIFORNIA

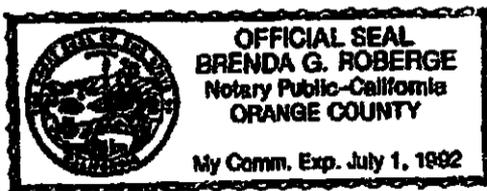
COUNTY OF Orange

)
) ss.
)

on 9/25, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared Alan D. Uman and Dorothy Luman, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as Vice President and Asst. Secretary, on behalf of THE PRESLEY COMPANIES, the corporation therein named, and acknowledged to me that said corporation executed the within instrument pursuant to its By-Laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Brenda G. Roberge
Signature of Notary Public



(SEAL)

EXHIBIT "A"

ANNEXATION PROPERTY

The Annexation Property shall mean and refer to that certain real property located in the County of Orange, State of California, more particularly described as:

Lot 1, Lots 3 through 5, inclusive, and Lots 7 through 9, inclusive, of Tract 12700, as shown on a Map recorded on September 22, 1989, in Book 641, Pages 42 to 47, inclusive, of Miscellaneous Maps in the Office of the County Recorder of Orange County, California;

EXHIBIT "B"

ANAHEIM MUNICIPAL CODE

SECTION 14.32.500

for the one year period from January 1 through December 31 of each year. Permits for the following calendar year shall be issued in December of each year.

.050 The provisions of this section shall not apply to any authorized emergency vehicle as defined in the California Vehicle Code when such vehicle is responding to an emergency, or the vehicle of a licensed physician who is responding to an emergency provided said vehicle displays an insignia approved by the California Department of Motor Vehicles indicating that the vehicle is owned by a licensed physician.

.060 Nothing contained herein shall be deemed to authorize vehicle parking at any location or at any time otherwise prohibited by any other provision of law.

.070 In addition to any other persons authorized by law, persons employed by the City of Anaheim as Security Guards, who may be so designated, are hereby authorized and directed to issue citations to any and all persons violating any of the provisions of this Section to appear in the North Orange County Judicial District at a time fixed in the citation, not less than five (5) days from the date of issuance of the citation unless a shorter period of time is requested by the persons to whom the citation is given, and such citation shall be deemed to be a complaint charging violations of this Section. The method of giving notice of citation for unattended vehicles shall be as specified in Section 41103 of the California Vehicle Code or any successor provision thereto. (Ord. 4154 § 1; August 25, 1980: Ord. 4172 § 1; October 14, 1980.)

14.32.500 PARKING RESTRICTED TO FACILITATE STREET SWEEPING.

Any other limitation on, or regulation concerning, parking contained in this Title to the contrary notwithstanding, it is unlawful to park or leave parked any vehicle on any street or portion thereof during the hours and on the day or days of the month indicated on signs containing the words "No Parking," which signs have been placed in appropriate locations designating said parking restrictions pursuant to the provisions of this Section.

The Maintenance Director is hereby authorized to determine the locations of and to place and maintain, or cause to be placed and

maintained, signs designating the hours during which, and day or days of the month on which, parking is prohibited in order to permit City equipment to sweep.

All persons employed as parking checkers by the City of Anaheim, or by an entity or individual pursuant to a written contract with the City of Anaheim to enforce parking regulations, are authorized to give citations to any and all persons violating any of the provisions of this section to appear in the North Orange County Judicial District at a time fixed in the citation, not less than five days from the date of the giving of the citation unless a shorter period of time is requested by the persons to whom such citation is given, and such citation shall be deemed to be a complaint charging violations of this section. (Ord. 4009 § 2; May 22, 1979: Ord. 4666 § 1; November 5, 1985: Ord. 4667 § 1; November 12, 1985.)

14.32.550 PARKING PENALTIES.

The amount of the parking penalties for violations of this Chapter shall be as follows:

Section 14.32.030.....	\$40.00
Section 14.32.190.....	\$40.00
Section 14.32.191.....	\$50.00
Section 14.32.200.....	\$65.00
Section 14.32.205.....	\$65.00
Section 14.32.220.....	\$35.00
Section 14.32.280.....	\$40.00
Section 14.32.310.....	\$35.00
Section 14.32.350.....	\$35.00
Section 14.32.370.....	\$35.00
Section 14.32.430.....	\$60.00
Section 14.32.450.....	\$25.00
Section 14.32.500.....	\$16.00
All other Sections.....	\$20.00

(Ord. 4938 § 1; June 28, 1988: Ord. 4939 § 1; July 12, 1988.)

CONSENT OF LIENHOLDER AND
SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deed of Trust recorded on January 29, 1988, as Instrument No. 88-041898, in the Official Records of Orange County, California, agrees that the lien of the Deed of Trust shall be junior and subordinate and subject to the attached Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for View Pointe ("Declaration"), to any Notice of Annexation recorded pursuant to the Article herein entitled "Annexation of Additional Property" ("Notice of Annexation") and to any easements to be conveyed to the View Pointe Maintenance Corporation in accordance with the terms of the Declaration and any Notice of Annexation.

DATED: 9-25-89

"LIENHOLDER"

SECURITY PACIFIC NATIONAL BANK,
a National Banking Association

BY: *Mark E. James*
Its: VICE PRESIDENT

BY: _____
Its: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On SEPTEMBER 25, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared MARK E. JAMES and N/A, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as VICE PRESIDENT and N/A, on behalf of SECURITY PACIFIC NATIONAL BANK, the association therein named, and acknowledged to me that said association executed the within instrument pursuant to its By-Laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Laurie A. Edgar
Signature of Notary Public



(SEAL)