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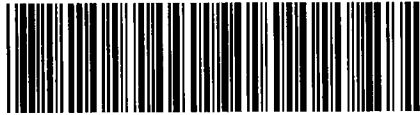
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Taxes: **\$426.00**
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\$426.00

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TITLE(S) :



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D.T.T.

CODE
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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
WEST OCEAN**

NOTE: Certain disputes arising under this Declaration, including disputes concerning the design or construction of West Ocean, must be submitted to judicial reference, a form of alternative dispute resolution, for trial without a jury, in accordance with Section 12.4 in this Declaration.

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
WEST OCEAN**

THIS DECLARATION is made by VIEWCOR LONG BEACH I, LP, a Delaware limited partnership. The capitalized terms used in the Preamble are defined in Article I.

PREAMBLE:

A. Declarant is the owner of real property ("*Phase 1*") located in the City of Long Beach, Los Angeles County, State of California, described as follows:

That portion of Lot 1 described below, as shown on the Condominium Plan for Phase 1 of West Ocean (the "*Phase 1 Condominium Plan*") recorded on March 9, 2007, 2007, as Instrument No. 07-0519291, in the Official Records of Los Angeles County, California. The Phase 1 Condominium Plan covers a portion of Lot 1 of Tract No. 60109, as shown on a Subdivision Map, Recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the office of the Los Angeles County Recorder.

B. Declarant intends to create a "condominium project," as defined in Section 1351(f) of the California Civil Code, to subdivide the Properties as authorized by Section 66427 of the California Government Code into "condominiums" as defined in Section 783 of the California Civil Code and to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all the Condominiums created pursuant to the Davis-Stirling Common Interest Development Act.

C. The Properties are to be held, conveyed, encumbered, leased, used and improved subject to the limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration, all of which are in furtherance of a plan for subdividing, maintaining, improving and selling the Properties. All provisions of this Declaration are imposed as equitable servitudes on the Properties. All limits, restrictions, reservations, rights, easements, conditions and covenants in this Declaration shall run with and burden the Properties and shall be binding on and for the benefit of all of the Properties and all Persons acquiring any interest in the Properties.

D. Declarant and its successors and assigns covenant that each undivided interest in the Common Area, the appurtenant Membership in the Association, all easements conveyed therewith and fee title to the respective Unit conveyed therewith shall not be separated or separately conveyed, and each such undivided interest, Membership and easement shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit. This restriction on

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severability of the component interests of the Condominiums shall not extend beyond the period for which the right to partition the Properties is suspended in accordance with Section 1359 of the California Civil Code. Any conveyance by an Owner of a Condominium, or any portion thereof, shall be presumed to convey the entire Condominium together with a Membership in the Association.

ARTICLE I DEFINITIONS AND INTERPRETATION

1.1 **DEFINITIONS.** Unless otherwise expressly provided, the following words and phrases when used in this Declaration have the following meanings.

1.1.1 **Annexable Territory.** Annexable Territory means the real property described in *Exhibit A* which may be made subject to this Declaration pursuant to Article XVI. Any references in this Declaration to Annexable Territory are references to the Annexable Territory as a whole and to portions thereof.

1.1.2 **Annual Assessment.** Annual Assessment means a charge levied against the Owners and their Condominiums representing their share of Common Expenses. The Annual Assessment is a regular assessment as described in California Civil Code Section 1366.

1.1.3 **Articles.** Articles mean the Articles of Incorporation of the Association as currently in effect. A copy of the initial Articles is attached as *Exhibit B*.

1.1.4 **Assessment.** Assessment means any Annual Assessment, Capital Improvement Assessment, Reconstruction Assessment and Special Assessment.

1.1.5 **Association.** Association means West Ocean Association, a California nonprofit mutual benefit corporation and its successors in interest. The Association is an "association" as defined in Section 1351(a) of the California Civil Code.

1.1.6 **Association Maintenance Funds.** Association Maintenance Funds means the accounts created for Association receipts and disbursements pursuant to Article VII.

1.1.7 **Association Property.** Association Property means real or personal property designated by the Declarant as Association Property and, therefore, made subject to the restrictions on Association Property established in the Governing Documents. Association Property includes the parking structure, Buildings (excluding the Units contained therein) and their bearing walls (except the first layer of drywall), balconies, hallways, wine lockers, curtain walls, sliding glass doors, stairways (except stairways within a Unit), elevators, columns, girders, subfloors, unfinished floors, roofs, foundations, central heating, central air conditioning equipment (except air conditioning compressors and related duct work within the Unit), reservoirs, tanks, pumps, motors, ducts, flues and chutes, conduits, pipes, plumbing, wires and other utility installations (except those portions designed to serve a single Unit and the outlets thereof located within the Unit) that are required to provide power, light, telephone, gas, water, sewerage, and drainage, together with sprinklers, sprinkler pipes and sprinkler heads that protrude into the airspace of the Unit, and central television antenna or cable facilities, if any. Association Property also includes the pool, spa, exercise room, changing room, business center,

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the parking structure, the site drainage system and the private sewer system connected to the public sewer and site drainage system in the abutting public right-of-way. Any references in this Declaration to Association Property are references to the Association Property as a whole and to portions thereof. Additional Association Property may be designated by Declarant and annexed to the Properties pursuant to a Notice of Addition.

1.1.8 **Association Maintenance Areas.** Association Maintenance Areas means real property or Improvements that are not owned in fee by the Association but which are designated for maintenance by the Association.

(a) **Generally.** Association Maintenance Areas in a Phase may include the landscaping and other Improvements in Victory Park as depicted on *Exhibit F*.

(b) **Association Maintenance Areas in Phase 1.** Association Maintenance Areas in Phase 1 include the landscaping and other Improvements in Victory Park.

(c) **Association Maintenance Areas in Future Phases.** Declarant may designate the Association Maintenance Areas in subparagraph (a) above to future Phases in a Notice of Addition or Supplemental Declaration. Declarant may designate additional Association Maintenance Areas in a Notice of Addition or Supplemental Declaration.

1.1.9 **Association Maintenance Funds.** Association Maintenance Funds means the accounts created for Association receipts and disbursements pursuant to Article VII.

1.1.10 **Board or Board of Directors.** Board or Board of Directors means the Association's Board of Directors.

1.1.11 **Budget.** Budget means a written, itemized estimate of the Association's income and Common Expenses prepared pursuant to the Bylaws.

1.1.12 **Building.** Building means one or all of those certain high-rise residential buildings constructed on the Properties containing the Condominiums.

1.1.13 **Bylaws.** Bylaws mean the Bylaws of the Association as currently in effect. A copy of the Bylaws initially adopted by the Board is attached as *Exhibit C*.

1.1.14 **Capital Improvement Assessment.** Capital Improvement Assessment means a charge levied against the Owners and their Condominiums representing their share of the Association's cost for installing or constructing capital Improvements on the Common Property. Capital Improvement Assessments shall be levied in the same proportions as Annual Assessments. Capital Improvement Assessments are special assessments as described in California Civil Code Section 1366.

1.1.15 **City.** City means the City of Long Beach, California, and its various departments, divisions, employees and representatives.

1.1.16 **Close of Escrow.** Close of Escrow means the date on which a deed is Recorded conveying a Condominium in the Properties pursuant to a transaction requiring the

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issuance of a Final Subdivision Public Report by the DRE; provided, however, that Close of Escrow shall not apply to the sale of five (5) or more Condominiums to any builder or other entity who acquires such Condominiums for sale to members of the home buying public, as set forth in Section 11010.35 of the California Civil Code.

1.1.17 **Commercial Owner.** Commercial Owner is the owner of the commercial condominium units within the Building.

1.1.18 **Common Area.** Common Area means those certain volumes of airspace described in the Condominium Plan, which shall be owned by the Owners of the Units described in each Condominium Plan as tenants-in-common. Any references in this Declaration to Common Area are references to the Common Area as a whole and to portions thereof. The Common Area is defined as "common area" in Section 1351(b) of the California Civil Code. Subject to the provisions of Article X, the undivided fee simple interest in the Common Area in the Properties is appurtenant to each Unit and is a fraction having one (1) as its numerator and the number of Units in the Properties as its denominator; and shall be held by the Owners of Condominiums as tenants-in-common.

1.1.19 **Common Expenses.** Common Expenses means those expenses for which the Association is responsible under this Declaration, including the following:

- (a) Actual and estimated costs of maintaining, managing and operating the Common Property, including maintenance of the Association Maintenance Area, as depicted on *Exhibit F*;
- (b) Unpaid Special Assessments, Reconstruction Assessments, Capital Improvement Assessments, and amounts the Board determines are necessary to maintain the Reserve Fund at adequate levels;
- (c) The costs of all utilities that are metered to more than one Condominium, and any other utilities or services (such as trash removal) that are billed to the Association for the benefit of the Properties;
- (d) Maintenance of the parking structure and Buildings in accordance with the terms of the Mutual Benefit Agreements;
- (e) The cost of managing and administering the Association, including compensation for Managers, accountants, attorneys, and employees,
- (f) Maintenance required by this Declaration and all other expenses incurred by the Association for the common benefit of the Owners, including the cost of Building maintenance, janitorial services, elevator maintenance and other maintenance services that benefit the Common Property;
- (g) Premiums for all insurance covering the Properties and insurance policies for the directors, officers and agents of the Association, and bonding the members of the Board; and

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(h) Taxes paid by the Association.

1.1.20 **Common Property.** Common Property means the Common Area, the Association Property and the Association Maintenance Areas. Any references in this Declaration to Common Property are references to the Common Property as a whole and to portions thereof.

1.1.21 **Condominium.** Condominium means an estate in real property as defined in California Civil Code Section 1351(f). A Condominium consists of an undivided fee simple ownership interest in the Common Area in a Phase together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto.

1.1.22 **Condominium Plan.** Condominium Plan means the Recorded plan, as currently in effect, for all or a portion of a Phase consisting of (a) a description or survey map of the Phase or portion thereof which shall refer to or show monumentation on the ground, (b) a three-dimensional description of the Phase or portion thereof, one or more dimensions of which may extend for an indefinite distance upwards or downwards in sufficient detail to identify the Association Property, Common Area and each Unit, and (c) a certificate consenting to the Recordation thereof signed and acknowledged by the record owner of fee title to the Phase or portion thereof, and by either the trustee or the Mortgagee of each Recorded Mortgage encumbering the Phase or portion thereof.

1.1.23 **County.** County means the County of Los Angeles, California, and its various departments, divisions, employees and representatives.

1.1.24 **Declarant.** Declarant means VIEWCOR LONG BEACH I, LP, a Delaware limited partnership, their successors, and any Person to which it shall have assigned any of its rights under this Declaration by an express written assignment. As used in this Section, "successor" means a Person who acquires Declarant or substantially all of Declarant's assets by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise. Declarant is a builder as described in California Civil Code Section 1375.

1.1.25 **Declaration.** Declaration means this instrument as currently in effect.

1.1.26 **Design Guidelines.** Design Guidelines means the rules or guidelines setting forth procedures and standards for submission of plans for Design Review Committee approval.

1.1.27 **Design Review Committee or Committee.** Design Review Committee or Committee means the Design Review Committee created pursuant to Article V.

1.1.28 **DRE.** DRE means the California Department of Real Estate and any department or agency of the California state government that succeeds to the DRE's functions.

1.1.29 **Exclusive Use Area.** Exclusive Use Area means the Association Property over which exclusive easements are reserved for the benefit of specified Owners, including for balcony, parking space and storage space and internal and external telephone wiring designed to serve a single Unit but located outside the boundaries of such Unit, in

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accordance with California Civil Code Section 1351(i). The approximate locations of the Exclusive Use Area balconies in the Phase are shown on the Condominium Plan. The approximate locations of the Exclusive Use Area parking spaces and storage spaces are shown on *Exhibit G*.

1.1.30 **Family.** Family means natural individuals, related or not, who live as a single household in a Unit.

1.1.31 **Fannie Mae.** Fannie Mae means the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968 and its successors.

1.1.32 **FHA.** FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and its successors.

1.1.33 **First Mortgage.** First Mortgage means a Mortgage with first priority over other Mortgages on a Condominium.

1.1.34 **First Mortgagee.** First Mortgagee means the Mortgagee of a First Mortgage.

1.1.35 **Fiscal Year.** Fiscal Year means the fiscal accounting and reporting period of the Association selected by the Board.

1.1.36 **Freddie Mac.** Freddie Mac means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970 and its successors.

1.1.37 **Ginnie Mae.** Ginnie Mae means the Government National Mortgage Association administered by the United States Department of Housing and Urban Development and its successors.

1.1.38 **Governing Documents.** Governing Documents mean this Declaration, the Articles, Bylaws, Rules and Regulations, Design Guidelines and Supplemental Declarations.

1.1.39 **Improvement.** Improvement means, without limitation, any structure and any appurtenance thereto including the Buildings, elevators, HVAC equipment, walkways, lighting systems, the structural elements of the Buildings, any type of wall, awning, stairway, balcony, any type of landscaping and planting (including boxed trees), waterbeds, fish tanks, antenna, the exterior surface of any visible structure and the paint on such surface, sign, exterior air conditioner, air conditioning compressor pad and water softener fixture or equipment. In addition, Improvement shall also mean the floor coverings, load-bearing walls, ceilings, doors and windows within a Unit. The Design Review Committee may identify additional items that are Improvements.

1.1.40 **Include; Including.** Whether capitalized or not, include and including mean "include without limitation" and "including without limitation," respectively.

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1.1.41 **Maintain; Maintenance.** Whether capitalized or not, maintain and maintenance mean “maintain, repair and replace” and “maintenance, repair and replacement,” respectively; provided, however, that maintain or maintenance shall not include repair and replace(ment) where the context or specific language of this Declaration provides another meaning.

1.1.42 **Maintenance Guidelines; Maintenance Manual; Maintenance Recommendations.** Maintenance Guidelines means any current written guidelines, setting forth procedures and standards for the maintenance and operation of the Association Property by the Association and the Units by the Owners, which may be provided to the Association and to each Owner by Declarant or by the Association. Maintenance Guidelines include any Maintenance Manual initially prepared at Declarant’s direction and containing recommendations for frequency of inspections and maintenance activities for components of the Association Property and any Maintenance Recommendations prepared by Declarant pertaining to a Unit.

1.1.43 **Manager.** Manager means the Person retained by the Association to perform management functions of the Association as limited by the Governing Documents and the terms of the agreement between the Association and the Person.

1.1.44 **Membership.** Membership means the voting and other rights, privileges and duties established in the Governing Documents for members of the Association.

1.1.45 **Mortgage.** Mortgage means any Recorded mortgage or deed of trust or other conveyance of one or more Condominiums, or other portions of the Properties to secure the performance of an obligation, which will be reconveyed upon the completion of such performance.

1.1.46 **Mortgagee.** Mortgagee means a Person to whom a Mortgage is made or the assignee of the Mortgagee’s rights under the Mortgage by a Recorded instrument. For purposes of this Declaration, the term Mortgagee shall include a beneficiary under a deed of trust.

1.1.47 **Mortgagee Majority.** Mortgagee Majority means fifty one percent (51%) or more of the First Mortgagees. For purposes of any provisions of the Governing Documents which requires the vote or approval of a Mortgagee Majority, such vote or approval is determined based on one (1) vote for each Condominium encumbered by a First Mortgage held by a First Mortgagee.

1.1.48 **Mortgagor.** Mortgagor means a Person who Mortgages his property to another. For purposes of this Declaration, the term Mortgagor shall include a trustor under a deed of trust.

1.1.49 **Mutual Benefit Agreement.** Mutual Benefit Agreement means the Mutual Benefit Agreement Between Owners of Mixed Use Building recorded substantially concurrently herewith. The Mutual Benefit Agreement sets forth the rights and responsibilities of the Commercial Owner and the Association with respect to sharing the cost of maintenance, insurance and shared utilities for the Association Property.

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1.1.50 **Notice and Hearing.** Notice and Hearing means written notice and a hearing before the Board, as provided in the Bylaws.

1.1.51 **Notice of Addition.** Notice of Addition means an instrument Recorded pursuant to Article XVI to annex additional real property to the Properties.

1.1.52 **Official Records.** Official Records means the Official Records of the County.

1.1.53 **Owner.** Owner means the Person or Persons, including Declarant, holding fee simple interest to a Condominium. Each Owner has a Membership in the Association. The term "Owner" includes a seller under an executory contract of sale but excludes Mortgagees. The term "Owner" may be expanded in a Supplemental Declaration to include other Persons.

1.1.54 **Person.** Person means a natural individual or any entity recognized under California law. When the word "person" is not capitalized, the word only refers to natural persons.

1.1.55 **Phase.** Phase means each of the following: (a) Phase 1 and (b) all the real property covered by a Notice of Addition for which a Public Report has been issued by the DRE, unless "Phase" is otherwise defined in such Notice of Addition.

1.1.56 **Phase 1.** Phase means all real property described in Paragraph A of the Preamble of this Declaration.

1.1.57 **Properties.** Properties means (a) Phase 1, and (b) each Phase described in a Notice of Addition. The Properties are a "condominium project" as defined in Section 1351(f) of the California Civil Code. The Properties are a "common interest development" as defined in Section 1351(c) of the California Civil Code. Any references in this Declaration to the Properties are references to the Properties as a whole and to portions thereof.

1.1.58 **Public Report.** Public Report means the Final Subdivision Public Report issued by the DRE for any Phase.

1.1.59 **Reconstruction Assessment.** Reconstruction Assessment means a charge levied against the Owners and their Condominiums, representing their share of the Association's cost to reconstruct any Improvements on the Common Property. Such charge shall be levied among all Owners and their Condominiums in the same proportions as Annual Assessments. Reconstruction Assessments are special assessments as described in California Civil Code Section 1366.

1.1.60 **Record, Recorded, File or Filed.** Record, Recorded, File or Filed means, with respect to any document, entry of such document in Official Records.

1.1.61 **Reserve Fund.** Reserve Fund shall mean that portion of the Common Expenses collected as part of the Annual Assessment levied against the Condominiums in the Properties allocated (i) for the future repair and replacement of, or additions to, the major

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components which the Association is obligated to maintain pursuant to this Declaration, including reserves for replacement of structural elements and mechanical equipment for recreation or other facilities maintained by the Association; and (ii) to cover the deductible amounts of any insurance policies maintained by the Association.

1.1.62 **Residence.** Residence means the living area of a Condominium.

1.1.63 **Right to Repair Law.** Right to Repair Law means Sections 895 through 945.5) of the California Civil Code, and any successor statutes.

1.1.64 **Rules and Regulations.** Rules and Regulations mean the current rules and regulations for the Properties.

1.1.65 **Special Assessment.** Special Assessment means a charge against an Owner and his Condominium representing a reasonable fine or penalty, including reimbursement costs, as provided for in this Declaration.

1.1.66 **Supplemental Declaration.** Supplemental Declaration means an instrument executed, acknowledged and Recorded by Declarant that imposes conditions, covenants, or restrictions or reserves easements for all or a portion of a Phase in addition to the conditions, covenants, restrictions and easements established by this Declaration. A Supplemental Declaration may affect one or more Phases. A Supplemental Declaration may be included in a Notice of Addition. A Supplemental Declaration may modify this Declaration as it applies to the property encumbered by the Supplemental Declaration.

1.1.67 **Unit.** Unit means a separate interest in space as defined in Section 1351(f) of the California Civil Code. Each Unit is a separate freehold estate, as separately shown, numbered and designated in the Condominium Plan. In addition, the Unit shall include front doors, the first layer of dry wall facing the interior of the Unit, gas, water and waste pipes, ducts, chutes, conduits, wires and other utility installations that extend into the Units. The Unit shall not include those portions of the gas, water and waste pipes, ducts, chutes, conduits, wires or other utility installations which serve more than one Unit. The boundaries of the Unit are approximately depicted in the Condominium Plan. In interpreting deeds, this Declaration and the Condominium Plan, the actual boundaries of each Unit shall be deemed to extend to (i) the unfinished surface of the bottom of the ceiling slab, (ii) the unfinished surface of the top of the floor slab, and (iii) the first layer of dry wall facing the interior of the Unit which establishes the perimeter walls of the Unit, as constructed or reconstructed in substantial accordance with the original plans for the Unit. Window glass and glass doors are not part of the Unit. Load bearing and utility bearing walls within the perimeter of the Unit are not part of the Unit. Duct work which leads outside the Building and the fire sprinkler systems are not part of the Unit. The foregoing interpretation shall apply notwithstanding any description expressed in the deed, the Condominium Plan or the Declaration, regardless of settling or lateral movements of Improvements, and regardless of minor variances between Unit boundaries shown in the Condominium Plan or deed and those of the Improvement. The Units in Phase 1 are numbered in the Condominium Plan for Phase 1.

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1.2 INTERPRETATION.

1.2.1 **General Rules.** This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for creating and operating a residential condominium development and maintaining the Common Property. As used in this Declaration, the singular includes the plural and the plural the singular. The masculine, feminine and neuter each includes the other, unless the context dictates otherwise.

1.2.2 **Articles, Sections and Exhibits.** The Article and Section headings have been inserted for convenience only and may not be considered in resolving questions of interpretation or construction. Unless otherwise indicated, any references in this Declaration to articles, sections or exhibits are to Articles, Sections and Exhibits of this Declaration. *Exhibits A, D, E, F and G* attached to this Declaration are incorporated herein by this reference. Any Improvements depicted on the Exhibits attached hereto and to any Supplemental Declaration are approximate only and the as-built location of any such Improvements shall control.

1.2.3 **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and the Articles, Bylaws, Rules and Regulations, or Condominium Plan, then the provisions of this Declaration shall prevail. If there are any conflicts or inconsistencies between this Declaration and a Supplemental Declaration, the Supplemental Declaration shall control with respect to those Condominiums encumbered by the Supplemental Declaration.

1.2.4 **Severability.** The provisions of this Declaration are independent and severable. A determination of invalidity or partial invalidity or unenforceability of any one provision of this Declaration by a court of competent jurisdiction does not affect the validity or enforceability of any other provisions of this Declaration.

1.2.5 **Statutory References.** All references made in this Declaration to statutes are to those statutes as currently in effect or to subsequently enacted replacement statutes.

1.2.6 **FHA/VA Requirements.** All of the requirements set forth in (a) Department of Housing and Urban Development (HUD) Condominium Regulations (see 24 CFR 234) and (b) HUD Revised Legal Policy attached to Appendix 27 of HUD Handbook 4265.1, entitled Home Mortgage Insurance Condominium Units Section 234(c) (collectively, the "*FHA/VA Requirements*") are incorporated herein by reference. The FHA/VA Requirements shall control and prevail over all other provisions of the Declaration to the extent of any inconsistency between them.

ARTICLE II
USE RESTRICTIONS

The Properties shall be held, used and enjoyed subject to the following restrictions subject to the exemptions and rights of Declarant set forth in the Governing Documents.

2.1 **SINGLE FAMILY RESIDENCES.** Except as provided in Section 2.2.2, the Residence shall only be used as a dwelling for a single Family. An Owner may rent his

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Condominium to a single Family provided that the Condominium is rented pursuant to a lease or rental agreement which is (a) in writing, and (b) subject to all of the provisions of this Declaration. The Common Property, including parking spaces and other amenities contemplated as a part of the Properties, will not be leased by Declarant to the Owners or the Association. Owners may also rent Condominiums to Declarant for use as sales offices, models and parking areas.

2.2 BUSINESS OR COMMERCIAL ACTIVITY.

2.2.1 **Generally.** No Owner or other occupant of the Properties may undertake any activity in any Unit or in any portion of the Common Property for business or commercial purposes including manufacturing, mercantile, storage, vending, auctions, transient occupancy (such as vacation rental, hotel, or time-share), vehicle or equipment repair, or other non-residential purposes. Any lease or rental agreement for a term of fewer than thirty (30) days or pursuant to which the lessor provides any services normally associated with transient occupancy shall be deemed to be for transient purposes and prohibited under this Declaration. Such activities are prohibited whether they are engaged in full- or part-time, whether they are for-profit or non-profit, and whether they are licensed or unlicensed.

2.2.2 **Exceptions.** This Section shall not be interpreted to prohibit any of the following home-based businesses or trades, provided that all of the following apply:

- (a) Exercise by Declarant of any rights reserved to it under Article XV;
- (b) The operation of small home-based service businesses that comply with all of the following:
 - (i) When conducted in the Properties, business activities take place solely inside the Residence;
 - (ii) The operator of the business lives in the Residence on a permanent, full-time basis;
 - (iii) The business otherwise complies with the Declaration and is consistent with the residential character of the Properties;
 - (iv) The business does not generate in-person visits by suppliers or clientele;
 - (v) The business complies with all laws, regulations and ordinances applicable to the Properties, including zoning, health, and licensing requirements;
 - (vi) The Owner or occupant does not erect, install, place, or maintain any signs, logos, billboards, or other advertising materials or devices in the windows of the Condominium, or on the exterior of the Building, or on any Association Property, to advertise the activity;

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(vii) The existence or operation of the business is not apparent or detectable outside the Residence by sight, sound or odor; and

(viii) The business does not increase the liability or casualty insurance obligation or premium of the Association.

(c) The provision of in-home health care or assisted-living services to any resident of the Properties; or

(d) The provision of family home child care services as defined in California Health and Safety Code Section 1597.44, so long as such services comply with all applicable zoning requirements and state law.

2.3 **NUISANCES.** Noxious or offensive activities are prohibited in the Properties and on any public street abutting or visible from the Properties. The Board is entitled to determine if any device, noise, odor, or activity constitutes a nuisance.

2.3.1 **Nuisance Devices.** Nuisance devices may not be kept or operated in the Properties or on any public street abutting the Properties, or exposed to the view of other Condominiums, Association Property or nearby streets. Nuisance devices include the following:

(a) All horns, whistles, bells or other sound devices (except security devices used exclusively to protect the security of a Residence or a vehicle and its contents)

(b) Devices that create or emit loud noises or noxious odors (excluding equipment used by the Association in connection with maintenance or repair of Improvements in the Properties);

(c) Devices that unreasonably interfere with television or radio reception to a Condominium;

(d) Plants or seeds infected with noxious insects or plant diseases;

(e) The presence of any other thing in the Properties which may (i) increase the rate of insurance in the Properties, (ii) result in cancellation of the insurance, (iii) obstruct or interfere with the rights of other Owners or the Association, (iv) violate any law or provisions of this Declaration or the Rules and Regulations, or (v) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.3.2 **Nuisance Activities.** Nuisance activities may not be undertaken in the Properties or on any public street abutting the Properties, or exposed to the view of other Condominiums or Association Property without the Board's prior written approval. Nuisance activities include the following:

(a) Hanging, drying or airing clothing, fabrics or unsightly articles in any place that is visible from other Condominiums, Association Property or streets;

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(b) The creation of unreasonable levels of noise from parties, recorded music, radios, television or related devices;

(c) The creation of unreasonable levels of noise from live music performances;

(d) All outdoor fires, except those contained in propane or gas barbeques;

(e) Any activity which may (i) increase the rate of insurance in the Properties, (ii) result in cancellation of the insurance, (iii) obstruct or interfere with the rights of other Owners, (iv) violate any law or provisions of this Declaration or the Rules and Regulations, or (v) constitute a nuisance or other threat to health or safety under applicable law or ordinance.

2.4 **SIGNS.** Subject to Civil Code Sections 712 and 713, no sign, advertising device or other display of any kind shall be displayed in the Properties or on any public street in or abutting the Properties except for the following signs, so long as they comply with law:

2.4.1 entry monuments, community identification signs, and traffic or parking control signs maintained by the Association;

2.4.2 for each Condominium, one (1) nameplate or address identification sign which complies with Design Review Committee rules; and

2.4.3 other signs or displays authorized by the Design Review Committee.

2.5 **PARKING AND VEHICULAR RESTRICTIONS.**

2.5.1 **Parking.** All vehicles owned or operated by or under the control of an Owner or a resident of an Owner's Condominium and kept in the Properties must be parked in the Owner's assigned space. No vehicle may be parked in any manner that the Association determines will restrict the normal passage of pedestrians or vehicles in the parking structure. The right to use an assigned space is exclusive to the Owner of the Condominium to which the space is appurtenant. However, parking spaces are for parking of vehicles, bicycles and motorcycles only. No vehicle repair (except in emergencies) or other activities may be undertaken in the parking structure.

2.5.2 **Assigned Parking Spaces.** By the Close of Escrow, each Owner will be assigned one or more parking spaces in the parking structure for his Condominium. The right to use each assigned parking space is an exclusive easement appurtenant to the Owner's Condominium, and it will run with the Condominium for the benefit of the Owner and future Owners of the Condominium.

2.5.3 **Transfer of Assigned Parking Spaces.**

(a) **Transfers.** Notwithstanding Section 6.1.6 below, each Owner may, after the Close of Escrow, transfer the assigned parking space or exchange it for a parking space owned by another Owner, the Commercial Owner or the Association. Each one-bedroom

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Residence in the Properties shall have at least one (1) Exclusive Use Area parking space at all times, and each two-bedroom Residence shall have at least two (2) Exclusive Use Area parking spaces at all times. Each transfer of an Exclusive Use Area parking space shall be evidenced by Recorded deed, a copy of which must be delivered to the Association. The deed shall reference the legal description of the transferee's Condominium as the parcel benefited by the transfer.

(b) **Parking for Residents Only.** The parking structure is private property and Declarant has reserved the parking spaces in the residential portion of the parking structure for the benefit of itself, and for the use of residents, guests, employees, and the Commercial Owner only. No Owner may transfer by sale, lease, easements or license any assigned parking space in the Properties to any Person other than an Owner in the Association, or the Declarant. All other transfers are void.

2.5.4 **Parking Regulations.** The Board may establish rules and regulations regarding any parking spaces that are not assigned to specific Condominiums, including designating "parking," "guest parking," "employee parking," and "no parking" areas. The Board may take all actions necessary to enforce all parking and vehicle use regulations in the Properties, including removing violating vehicles from the Properties pursuant to California Vehicle Code Section 22658.2 or other applicable law and establishing a schedule of fines for ongoing violations. If the Board fails to enforce any of the parking or vehicle use regulations, the City may enforce such regulations.

2.5.5 **Guest Parking.** Guest parking spaces (if provided in the Properties) are for guests and other invitees of residents only. No resident of the Properties may park any vehicle in a guest space, except for temporary purposes, for periods not to exceed thirty (30) minutes in any twenty-four (24) hour period.

2.5.6 **City Provisions.** All parking spaces must be permanently maintained as parking facilities. Parking spaces shall be used solely for the parking of personal vehicles. Parking spaces shall not be sold to any individual who is not an owner of a Condominium within the Properties. All guest parking and non-residential parking shall be owned by the Association and shall be permanently maintained for parking of personal vehicles only.

2.6 **ANIMALS.** Domestic dogs, cats, birds, or other customary household pets may be kept in each Unit, provided that they are not kept, bred, or maintained for commercial purposes or in unreasonable quantities. No Person may keep any animal that is determined by the Board to be a nuisance to other residents in the Properties. The Board has the power and discretion to determine whether types or numbers of animals kept in the Properties are a nuisance, and the Board shall have the power to abate the nuisance through any legal procedure that is available to the Association. All pets should be suitable for living in confined quarters. Small household pets such as fish and caged birds may be kept in reasonable numbers so long as there is no external evidence of their presence in the Properties. Animals belonging to Owners, tenants, residents or guests in the Properties must be kept in the Unit. When outside the Unit, animals must be kept under the control of a Person capable of controlling the animal either on a leash or other appropriate restraint. Furthermore, each Owner shall be absolutely liable to each and all remaining Owners, their Families, tenants, residents and guests, for damages or injuries caused by any animals brought or kept on the Properties by an Owner, by members of the

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Owner's Family, or by the Owner's tenants, residents or guests. Each Owner shall immediately remove any excrement or clean other unsanitary conditions caused by such Owner's animals on any portion of the Properties. All Owners shall carry with them the necessary means to remove excrement. If an Owners fails to immediately remove any excrement or clean other unsanitary conditions caused by such Owner's animals, such Owner may be subject to a Special Assessment or other Board imposed action, including prohibiting the Owner's pet in the Properties.

2.7 ANTENNA RESTRICTIONS. No Person may install on the exterior of any Unit or Exclusive Use Areas, any antenna or over-the-air receiving device, except for an "Authorized Antenna" that is not prohibited under Section 2.7.2, without the prior written approval of the Design Review Committee. An Authorized Antenna is (i) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, or (ii) an antenna designed to receive video programming service, including multi-channel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement, (iii) an antenna designed to receive television broadcast signals, or (iv) an antenna used to receive and transmit fixed wireless signals or broadband service. An Authorized Antenna may be mounted on a mast to reach the height needed to receive an acceptable quality signal, subject to local governmental agency permitting requirements for safety purposes. Authorized Antennas are subject to the following restrictions:

2.7.1 Restrictions on Installation. Subject to applicable law and regulations, an Authorized Antenna may be installed indoors or on the Exclusive Use Area balcony in a manner that minimizes the visibility of the device from the other Condominiums and adjacent real property. The foregoing locations are hereby deemed "preferred installation locations." The Committee may adopt reasonable restrictions on installation and use of an Authorized Antenna as part of its Design Guidelines in order to minimize visibility of the Authorized Antenna from other Condominiums. Such restrictions may designate one or more preferred installation locations, or require camouflage such as paint (subject to the antenna manufacturer's recommendations) or screening vegetation or other Improvements. However, no restriction imposed by the Committee may (i) unreasonably delay or prevent the installation, maintenance or use of an Authorized Antenna, (ii) unreasonably increase the cost of installation, maintenance or use of an Authorized Antenna, or (iii) preclude acceptable quality reception. Walls or glass doors may not be penetrated when installing an antenna. If a wall or glass door is penetrated for the purpose of installing an antenna, Declarant shall not be responsible for damage arising from such penetration. If an Owner uses a free standing satellite dish stand, the Owner shall be responsible for ensuring that the dish stand is weighed down so that the dish is not blown over the balcony railing.

2.7.2 Prohibitions on Installation. The Committee may prohibit the installation of an Authorized Antenna in a particular location if, in the Committee's opinion, the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of the Owners or any other Person, or for any other safety-related reason established by the Committee. The Committee may also prohibit an Owner from installing an Authorized Antenna on any real property which such Owner does not own or is not entitled to exclusively use or control under the Governing Documents, including any exterior wall of the Building, balcony railings, and the roof of the Building. The Committee also has the power to prohibit or restrict

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the installation of any antenna or other over-the-air receiving device that does not meet the definition of an Authorized Antenna above.

2.7.3 Review after Installation. The Committee may review the location and installation of an Authorized Antenna after it is installed. After its review, the Committee may require that the Authorized Antenna be moved to a preferred location (if one has been designated) for safety reasons or to comply with reasonable restrictions subject to this Section and applicable law.

2.7.4 Restatement of Applicable Law. This Section is intended to be a restatement of the authority granted to the Committee under the law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna or other over-the-air receiving device shall be interpreted to amend, modify, restate or interpret this Section.

2.8 TRASH. Trash must be regularly removed from the Units and deposited in designated sanitary trash containers or trash chutes. No trash or containers may be left or stored outdoors or in hallways. However, trash that does not fit in designated containers or trash chutes may be set out in the area designated by the Committee for a reasonable period of time on trash collection days (not to exceed twelve (12) hours before). In addition, no toxic or hazardous materials (other than household cleansers) may be disposed of within trash containers or trash chutes within the Properties.

2.9 OWNER-INSTALLED IMPROVEMENTS. This Section 2.9 does not apply to Improvements installed (a) as a part of the original construction of the Properties by Declarant, (b) by the Association, or (c) with the prior approval of the Design Review Committee.

2.9.1 Outdoors. No Person may install outdoors in sight of the Association Property or other real properties any clotheslines, patio cover, wiring, air conditioning equipment, heating units, water softeners, other similar Improvements, or other exterior additions or alterations to any Condominium. Outdoor patio or lounge furniture and plants may be kept in the Exclusive Use Area balcony in accordance with the Rules and Regulations. Boxed trees approved by the Design Review Committee may be kept in the Exclusive Use Area balcony if a structural engineer confirms the boxed tree or trees do not exceed the load requirements of the balcony floor. Outdoor display of the flag of the United States is permitted pursuant to California Civil Code Section 1353.5, so long as the flag and flag pole are located solely within, on and over the Owner's Exclusive Use Area balcony.

2.9.2 Windows and Furnishings. No Person may apply film tint or paint to the glass portion of any window or cover any window in foil, paper or other reflective material. All window covering seen from outside the Properties must be white. The Board has the power, but not the duty, to promulgate Design Guidelines for window coverings that are exposed to view from streets, the Common Property or other Condominiums. Waterbeds and fish tanks are permitted with Design Review Committee approval if a structural engineer confirms the bed or fish tank does not exceed the load requirements of the Residence floor. Exercise equipment that creates noise capable of being heard in other Units may not be operated in a Unit.

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2.9.3 Improvements Affecting Noise Transfer; Flooring. Declarant may have installed noise-mitigating floor coverings or underlayment on floors of Units, or noise mitigating materials in walls or ceilings shared with an adjoining Residence. No Owner may modify, remove or replace the interior surfaces of walls, floors or ceilings in the Condominium with any material if such modification will diminish the effectiveness of the noise mitigation engineering in the Building, or result in a material increase in the level of sound transmission to a neighboring Unit. If testing is required to confirm compliance with the foregoing requirement, such testing shall be conducted at the sole expense of the Owner making the modification, by a laboratory that adheres to ASTM standards. No Owner may pierce any wall, floor or ceiling separating the Unit from another Unit or from Association Property (except as approved by the Design Review Committee), or install any wall-mounted or ceiling-mounted speakers or other noise-generating devices. Prior to installation of new or replacement wall, floor or ceiling material, the Owner shall present the Design Review Committee with satisfactory evidence that the proposed material provides at least the same or substantially similar noise mitigation as originally constructed by Declarant. Owners of non-first floor Condominiums may not install hard surface flooring in any room of the Condominium designated as a bedroom in the floor plans or other advertising material for the Properties.

2.9.4 Structural Alteration and Integrity. Under no circumstances may any Owner alter, impair, modify, or penetrate any elements which comprise the structural, acoustical and water-tight integrity of the Building, or any plumbing, electricity or natural gas facilities serving any other Units in the Building. No interior or exterior structural changes of any kind shall be constructed, erected or made within the Properties other than those approved by the Design Review Committee. No partition walls shall be installed, altered or removed without the approval of the Design Review Committee. Nothing shall be hung from any ceiling, bearing wall or partition walls encompassing any Unit without the approval of the Design Review Committee except for light fixtures, plants, paintings, mirrors and other customary fixtures and decorating items so long as the same do not impair the structural integrity or acoustical soundness of any such ceiling, bearing wall or partition wall. Nothing shall be installed, kept or maintained within any Unit which might damage or impair the structural integrity of the Building.

2.9.5 No Liability. Neither the Declarant nor the Association are liable or responsible for any damage that results from Improvements constructed or modified by an Owner or any other Person, with or without the approval of the Committee. Improvements should not be installed, constructed or modified without the assistance of qualified consultants.

2.10 MECHANICS' LIENS. No Owner may cause or permit any mechanic's lien to be filed against the Common Property or another Owner's Condominium for labor or materials alleged to have been furnished or delivered to the Owner. Any Owner who permits a mechanic's lien to be so filed shall cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If the Owner fails to remove such mechanic's lien, the Board may discharge the lien and levy a Special Assessment against the violating Owner's Condominium to recover the cost of discharge.

2.11 COMPLIANCE WITH FIRE RESTRICTIONS. No Owner or other resident of the Properties may store any flammable materials on any Exclusive Use Area balcony.

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Further, no exterior fires of any kind, shall be permitted in any Unit or on any Exclusive Use Area balcony, except those from a gas or propane barbeque located in an area away from walls and any Building overhangs. Nothing may be done in any Condominium or in, on or to the Common Property that may impair or alter fire sprinklers within the Units or their source of water.

2.12 INDEMNIFICATION. Neither the Declarant nor the Association shall be liable or responsible for any damage that results from Improvements constructed or modified by an Owner. Improvements should not be installed, constructed or modified without the assistance of qualified consultants.

2.13 FURTHER SUBDIVISION. Except as otherwise provided in this Declaration, no Owner may physically or legally subdivide a Condominium in any manner, including dividing such Owner's Condominium into time-share estates or time-share uses. This provision does not limit the right of an Owner to (a) rent or lease all such Owner's Condominium by a written lease or rental agreement subject to this Declaration; (b) sell such Owner's Condominium; or (c) transfer or sell any Condominium to more than one Person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. Any failure by the tenant of the Condominium to comply with the Governing Documents constitutes a default under the lease or rental agreement. Except as provided in this Declaration, there shall be no judicial partition of the Common Area, or any part thereof, for the term of this Declaration; nor may Declarant, any Owner or any other Person acquiring any interest in any Condominium in the Properties seek any such judicial partition. No Condominium in the Properties may be partitioned or subdivided without the written approval of the Mortgagee of any First Mortgage on that Condominium. Notwithstanding the foregoing, nothing in this Declaration shall prohibit any Owner from purchasing two (2) adjoining Condominiums and combining them into one (1) living space with the prior written approval of the Design Review Committee and any permits required by the City.

2.14 WATER SUPPLY SYSTEM. No individual water supply, sewage disposal or water softener system is permitted in any Condominium unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of any water district having jurisdiction, the City, the Design Review Committee and all other governmental authorities with jurisdiction.

2.15 VIEW OBSTRUCTIONS. Neither Declarant, Association nor any of their authorized agents, representatives or employees have made any warranties or promises concerning any view, present or future, that may be enjoyed from all or any portion of the Properties. The view from the Condominium and any portion of the Properties may change or differ from renderings, computer generated models and other visual representations. These views may be affected or obstructed by (i) current or future construction outside the Properties; (ii) installation of Improvements, including, but not limited to, structures, fences, walls and landscaping installed by Declarant, Association, Owners or owners of property outside the Properties and (iii) the growth of trees, landscaping or other vegetation within or outside the Properties. Owner acknowledges that, under California law, views are not subject to legal protection. Owner also acknowledges that this Declaration contains no provisions intended to protect the view from the Condominium or any other portion of the Properties.

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2.16 RIGHTS OF DISABLED. Subject to Article V, each Owner may modify his Unit and the route over the Common Property leading to the front door of his Unit, at his sole expense, to facilitate access to his Unit by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons in accordance with California Civil Code Section 1360 or any other applicable law.

2.17 CONDOMINIUM WALLS. Owners are prohibited from puncturing, piercing or otherwise altering any interior load-bearing walls, any exterior walls or the structural walls of an Owner's Condominium, except as may be permitted in the Design Guidelines for the hanging of art, pictures, mirrors and other similar items.

ARTICLE III DISCLOSURES

This Article discloses information that was obtained from third-party sources such as consultants, government and public records. No Person should rely on the ongoing accuracy or completeness of the information discussed in this Article because many of the matters discussed below are outside the control of Declarant. Accordingly, Declarant makes no guarantee as to the accuracy or completeness of the matters disclosed below. Furthermore, Declarant is under no obligation to update or revise any matter disclosed in this Article. This Article is intended to provide Owners with information known or provided to Declarant as of the date this Declaration was Recorded, to be used as a starting point for further independent investigation.

3.1 NO REPRESENTATIONS OR WARRANTIES. No representations or warranties, express or implied, have been given or made by Declarant, the Association or their agents in connection with the Properties, its physical condition, zoning, compliance with laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a condominium project, except as expressly provided in this Declaration, as submitted by Declarant to the DRE, or as provided by Declarant to the first Owner of each Condominium.

3.2 ACCESS FACILITIES; SECURITY AND PRIVACY DISCLAIMER. The lobby entrance to the Building will be controlled. Elevators in the Building may be equipped with card readers. The lobby doors and elevators are referred to collectively as the "Access Facilities."

3.2.1 Attendants. Declarant may, at its sole expense, post attendants in the lobby to assist construction personnel and visiting prospective purchasers during the construction and marketing of the Properties. So long as Declarant retains control of the Access Facilities and provides attendants at its sole expense, Declarant may eliminate or modify the numbers or presence of attendants at any or all of the Access Facilities at any time without notice. Furthermore, Declarant has the right to discontinue the operation of or leave open any Access Facilities during the construction and marketing of the Properties. Until the last Close of Escrow in the Properties, one or all of the Access Facilities may be left open to the general public at various times. Access Facilities and any staffing provided by Declarant are not intended to provide security or privacy for residents of the Properties or for any resident's personal or real property.

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3.2.2 **Security.** Neither Declarant nor the Association have any obligation to provide security, privacy or safety for the Properties or for residents of the Properties, nor do they make any representations or warranties that any feature of the Properties will improve security, privacy or safety. Neither the Association nor Declarant shall be liable for (i) any unauthorized or criminal entry by third parties into the Properties, or any Unit in the Properties or any Improvements within the Properties, (ii) any damage or injury to Persons, or (iii) any loss of property in and about the Properties, any Unit within the Properties or any Improvements within the Properties, by or from any unauthorized or criminal acts of third parties, regardless of any action, inaction, failure, breakdown, malfunction or insufficiency of the security services and improvements provided by the Association or Declarant.

3.3 **URBAN ENVIRONMENT.** Living in a Condominium within a densely populated community entails living in very close proximity to other persons and businesses, with attendant limitations on solitude. Owners may hear noise from adjacent Condominiums, including noise from showers, bathtubs, sinks, toilets or other sources of running water. Also, Owners may hear noise from items such as vacuum cleaners, stereos or televisions, or from people running, walking or exercising. Owners can also expect to hear noise from adjacent residential and commercial areas and the adjacent convention center complex. Residents may also notice light entering the Condominiums from exterior sources including streetlights and parking lot lighting, and nearby residential and commercial buildings. Declarant and the Association have no control over the transmission of noise or light and their potential effects on Condominiums within the Properties.

3.4 **ELECTRIC POWER LINES.** Underground electric transmission and distribution lines and transformers are located in and around the Properties. Power lines and transformers produce extremely low-frequency electromagnetic fields ("**ELF-EMF**") when operating. For some time, there has been speculation in the scientific community about health risks associated with living near ELF-EMF sources. In 1992, the United States Congress authorized the Electric and Magnetic Fields Research and Public Information Dissemination Program ("**EMF-RAPID Program**") to perform research on these issues and to analyze the existing scientific evidence in order to clarify the potential for health risks from exposure to ELF-EMF. In May of 1999, the National Institute of Environmental Health Sciences ("**NIEHS**") issued a report to Congress summarizing its review of scientific data from over three hundred studies on ELF-EMF health risks. The ELF-EMF studies consist of both epidemiological studies (studies of exposure in human populations) and controlled laboratory experiments on animal and cell models. While some epidemiological studies suggested some link between certain health effects and exposure to ELF-EMF, the laboratory experiments did not support such a link. According to the NIEHS report, the scientific evidence shows no clear pattern of health hazards from ELF-EMF exposure, and the NIEHS report did not find evidence of any link sufficient to recommend widespread changes in the design or use of electrical transmission equipment. However, because the evidence does not clearly rule out any effect, NIEHS advocated continuing inexpensive and safe reductions in exposure to ELF-EMF and endorsed current utility practices regarding design and siting of new transmission and distribution lines. Further information on this subject is available on ELF-EMF and copies of the NIEHS report are available from the EMF-RAPID website at <http://www.niehs.nih.gov/emfrapid/home.html>. Declarant and the Association have no control over the transmission or distribution of electricity and shall not be held liable for any effects that may occur from such transmission or distribution.

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3.5 PUBLIC ACCESS TO PORTIONS OF PROPERTIES. In accordance with City development requirements, portions of the Properties are subject to public dedication for use and enjoyment of park facilities, and pedestrian access. A portion of Lot 1 of Tract No. 60109 is Victory Park, which is a public park dedicated to the City. Although the park is open to the public, the Association is required to maintain landscaping in the park, and the cost of the maintenance is a Common Expense.

3.6 LONG BEACH CONVENTION AND ENTERTAINMENT CENTER. The City operates a convention and entertainment center on land that is adjacent to the Properties. The complex includes the following:

- (a) Long Beach Arena, an indoor sports and exhibition venue with capacity for up to 13,500;
- (b) Terrace Theater, a full production theater used year-round by performing arts groups; and
- (c) Convention Center Meeting Rooms, which are used for meetings and conventions of various sizes. Facilities are used year-round and they generate traffic during the day and evening hours.

The Long Beach Convention and Entertainment Center complex is used year-round, and each event will generate additional pedestrian and vehicular traffic on streets in the vicinity of the Properties.

3.7 TOYOTA GRAND PRIX OF LONG BEACH. The Toyota Grand Prix of Long Beach is a public racing event that is conducted each year on City streets, including a portion of Shoreline Drive and Pine Avenue adjacent to the Properties. During the Grand Prix, several public streets, will be closed to public use. Residents of the Properties will also notice a large increase in ambient noise from racing activities as well as increased pedestrian and vehicular traffic on City streets. The Grand Prix also hosts major events and gatherings in the Long Beach Convention and Entertainment Center during the race. Such events will further increase traffic and noise in the area. Because portions of the Properties are subject to public access easements, each resident is advised that members of the public will be frequently present in Victory Park and on the public walkways, bridges and promenades adjacent to the Properties. During major events such as the Grand Prix, pedestrian traffic through the Properties may increase dramatically. Neither Declarant, nor the Association may restrict public access to public areas in the Properties without the prior approval of the City.

3.8 PROPERTY LINES. The approximate boundaries of each Condominium within the Properties and the Common Property are delineated on the Condominium Plan, which is a public record and is available at the office of the County Recorder.

3.9 SPECIAL TAX ASSESSMENT OR MELLO-ROOS COMMUNITY FACILITIES DISTRICTS. The Properties may lie within the boundaries of special tax assessment districts and Mello-Roos Community Facilities Districts that require the levy of a special tax for repayment of bonds issued for the purpose of paying the cost of services or capital

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improvements. The amount of the special tax and any other information pertaining to any such district can be obtained from the County Assessor's office.

3.10 CHANGE IN PLANS. Declarant has the right to develop the Properties with Improvements that may be different in design, size, character, style and price than previously shown to any Owner.

3.11 ADDITIONAL PROVISIONS. There may be provisions of various laws, including the Davis-Stirling Common Interest Development Act codified at Sections 1350, et seq. of the California Civil Code, the Unruh Civil Rights Act codified at Section 51, et seq., of the California Civil Code, and the federal Fair Housing Act codified at Title 42 United States Code, Section 3601 et seq., which may supplement or override the Governing Documents. Furthermore, legislative action or court decisions may supplement, amend or repeal laws in effect at the time this Declaration is Recorded. Changes to existing laws may affect the interpretation or enforceability of the Governing Documents. Declarant makes no representations or warranties regarding the future enforceability of any portion of the Governing Documents.

3.12 MOLD PREVENTION. Each Owner, by acceptance of a deed to a Condominium agrees that there is, and will always be, the presence of certain biological organisms within the Unit. Most typically, this will include the common occurrence of mold. Mold tends to proliferate in warm, wet areas. It is each Owner's responsibility to maintain the Owner's Unit so as to avoid the accumulation of moisture and mold within the Unit. Such maintenance should include, without limitation, the frequent ventilation of the Unit, removal of standing water on the balcony, prompt repair of any leaks which permit water intrusion into the Unit, and prompt repair of plumbing leaks within the Unit (irrespective of who may have caused any such leaks). The presence of indoor plants may also increase mold levels within the Unit, and the propping of large pieces of furniture against wall surfaces may lead to mold spore accumulation. It is the responsibility of each Owner to monitor and maintain the Owner's Unit so as to mitigate and avoid the conditions which are likely to lead to the presence or spread of mold. In the event that mold does appear within the Unit, it is also the Owner's responsibility to promptly and properly remove any mold and mildew. Such measures frequently include, but are not limited to, cleaning mold-affected surfaces with detergent. Each Owner is responsible to learn how to clean any affected Improvements.

3.13 PARKING EASEMENTS FOR COMMERCIAL PROPERTY. Pursuant to the Mutual Benefit Agreement, the commercial units within the Building are granted an exclusive easement on, over and across a portion of the subterranean parking structure ("**Parking Easement Area**") for the purposes of parking motor vehicles and for pedestrian access, ingress and egress. The Parking Easement Area will be identified as reserved for the commercial units and Owners shall be prohibited from parking vehicles in the Parking Easement Area.

3.14 MUTUAL BENEFIT AGREEMENT. Declarant and the Commercial Owner have entered into a Mutual Benefit Agreement that sets forth the rights and responsibilities of the Association and the Commercial Owner with respect to sharing the costs of maintenance, insurance and shared utilities for the Association Property. The Association (and its members) and the Commercial Owner will both be responsible for sharing these costs as determined in the

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Mutual Benefit Agreement. Buyer will receive a copy of the Budget, which lists the costs that will be paid through the Mutual Benefit Agreement. The Mutual Benefit Agreement also includes certain easements for utilities, parking, exclusive use of certain portions of the Association Property, permitted encroachments and pedestrian and vehicular access through the Association Property for the benefit of the Commercial Owner.

**ARTICLE IV
THE ASSOCIATION**

4.1 **GENERAL DUTIES AND POWERS.** No later than the first Close of Escrow in the Properties, the Association shall be incorporated as a nonprofit corporation under California law. Upon incorporation, the Association shall have the duties and powers listed in the Governing Documents and the general and implied powers of a nonprofit corporation, generally to do all things that a corporation organized under the laws of the State of California may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of the Owners, subject only to the limits on the exercise of such powers listed in the Governing Documents. Unless otherwise indicated in the Articles, Bylaws, this Declaration, or a Supplemental Declaration, the powers of the Association may be exercised by the Board.

4.2 **SPECIFIC DUTIES AND POWERS.** In addition to its general powers and duties, the Association, has the following specific powers and duties.

4.2.1 **Common Property.** The power and duty to accept, maintain and manage the Common Property in accordance with the Governing Documents. The Association may install or remove capital Improvements on the Common Property. The Association may reconstruct, replace or refinish any Improvement on the Common Property.

4.2.2 **Sale or Transfer of Association Property.** The power, but not the duty to sell or otherwise transfer the Association Property, or any portion thereof; provided, however that the Association may not sell or transfer any portion of the Association Property without the prior approval (a) from Owners representing at least seventy-five percent (75%) of the Association's voting power and (b) of the City. Except as provided in Article IX, the Association is only permitted to sell or transfer the Association Property, or any portion thereof, (i) to another nonprofit owners association, or (ii) to the Owners of the Condominiums as tenants in common with the requirement that each Owner's interest in the Association Property as tenants in common be appurtenant to the Condominium and may not be separately transferred. In addition, any transfer or sale of the Association Property must be made expressly subject to all easements, rights and restrictions of record, including this Declaration. For purposes of this Section 4.2.2, a "transfer" shall not include the conveyance of exclusive or nonexclusive easements or the change of boundaries associated with any lot line adjustment or amendment to the Condominium Plan.

4.2.3 **Utilities.** The power and duty to obtain, for the benefit of the Properties, all commonly metered water, gas and electric services and to provide for trash collection, and the power but not the duty to provide for cable or master television service.

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4.2.4 **Granting Rights.** The power to grant exclusive or nonexclusive easements, licenses, rights of way or fee interests in the Common Property, to the extent any such grant is reasonably required (a) for utilities and facilities to serve the Common Property and the Condominiums, (b) for purposes of conformity with the as-built location of Improvements installed or authorized by Declarant or the Association, (c) in connection with any lawful lot line adjustment, or (d) for other purposes consistent with the intended use of the Properties. This power includes the right to create and convey Exclusive Use Areas. The Association may de-annex any real property from the encumbrance of this Declaration in connection with any lawful lot line adjustment.

After the Association acquires fee title to or any easement right over Association Property, the affirmative vote of members owning at least sixty-seven percent (67%) of the Condominiums in the Community shall be required before the Board may grant exclusive use of any portion of that Association Property to any member, except as provided in California Civil Code Section 1363.07. Any measure placed before the members requesting that the Board grant exclusive use of any portion of the Association Property shall specify whether the Association will receive any monetary consideration for the grant and whether the Association or the transferee will be responsible for providing any insurance coverage for exclusive use of the Association Property.

4.2.5 **Employ Personnel.** The power to employ Persons necessary for the effective operation and maintenance of the Common Property, including legal, management and accounting services.

4.2.6 **Insurance.** The power and duty to maintain insurance for the Common Property in accordance with this Declaration.

4.2.7 **Rules and Regulations.** The power but not the duty to establish, amend, restate, delete, and create exceptions to, the Rules and Regulations.

(a) **Standards for Enforceability.** To be valid and enforceable, a Rule must satisfy all the following requirements:

- (i) The Rule must be in writing;
- (ii) The Rule is within the authority of the Board conferred by law or by this Declaration, the Articles or the Bylaws;
- (iii) The Rule is not inconsistent with governing law, this Declaration, the Articles, or the Bylaws;
- (iv) The Rule is adopted, amended or repealed in good faith and in substantial compliance with the requirements of Article 4 of Title 6 of Part 4 of Division 2 of the California Civil Code;
- (v) The Rule is reasonable; and

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(vi) The Rule complies with the requirements of California Civil Code Section 1357.110 (as amended from time to time).

(b) **Areas of Regulation.** The Rules and Regulations may concern use of the Properties, signs, parking restriction, minimum standards of property maintenance, and any other matter under the Association's jurisdiction; however, the Rules and Regulations are enforceable only to the extent they are consistent with the Articles, Bylaws, Declaration and any Supplemental Declarations.

(c) **Limits on Regulation.** The Rules and Regulations must apply uniformly to all Owners. No modification to the Rules and Regulations may require an Owner to dispose of personal property that was in compliance with all rules previously in force; however, this exemption shall apply only during the period of such Owner's ownership of the Condominium and it shall not apply to: (i) subsequent Owners who take title to a Condominium after the modification is adopted; or (ii) clarifications to the Rules and Regulations.

(d) **Procedure for Adoption, Amendment and Repeal.** Rules or procedures concerning (i) the use of Common Property, (ii) the use of a Condominium, including any standards or Design Guidelines that affect Condominiums, (iii) member discipline, including any schedule of monetary penalties for violation of the Restrictions, (iv) any procedure for the imposition of penalties, (v) any standards for delinquent assessment payment plans, and (vi) any procedures adopted by the Association for resolution of assessment disputes (each, a "**Covered Rule**") may only be adopted, amended or repealed in accordance with the following procedure:

(i) The Board must provide written notice ("**Notice**") of a proposed change in a Covered Rule to the members at least thirty (30) days before making the change, except for an Emergency Rule Change (defined below). The Notice must include the text of the proposed change and a description of the purpose and effect of the proposed change (Notice is not required if the Board determines that an immediate change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association);

(ii) The decision on a proposed change shall be made at a Board meeting after consideration of comments made by the members of the Association;

(iii) The Board shall deliver Notice of the adopted change to every member of the Association within fifteen (15) days of adoption. If the change was an Emergency Rule Change, the notice shall include the text of the Emergency Rule Change, and the date on which the Emergency Rule Change expires;

(iv) If the Board determines that an immediate Rule change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the Association, it may make the change on an emergency basis ("**Emergency Rule Change**") and no Notice will be required. An Emergency Rule Change is effective for one hundred-twenty (120) days, unless the adopted change provides for a shorter effective period. Any change that is adopted as an Emergency Rule Change may not be re-adopted under authority of this subpart.

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(v) A Notice required by this Section 4.2.7(d) is subject to California Civil Code Section 1350.7.

(vi) A Rule change made pursuant to this Section 4.2.7(d) may be reversed as provided in California Civil Code Section 1357.140.

The foregoing procedure does not apply to Rules that do not meet the definition of Covered Rules above, nor to decisions of the Board regarding maintenance of Common Property, a decision on a specific matter that is not intended to apply generally, a decision setting the amount of an Annual Assessment or a Special Assessment, a Rule change that is required by law if the Board has no discretion as to the substantive effect of the changes, or issuance of a document that merely repeats existing law or the governing documents.

(e) **Use of Facilities.** The Rules and Regulations may (i) specify a maximum number of guests which an Owner, tenant or other Person may admit to the recreational facilities at one time, (ii) establish rules for allowing Owners, tenants or other Persons to use facilities for private functions, or (iii) establish admission fees, deposit requirements and other fees for the use of any facilities.

4.2.8 **Borrowings.** The power, but not the duty, to borrow money for purposes authorized by the Articles, Bylaws, Declaration, or any Supplemental Declarations or Notices of Addition and to use the Association's ownership interest in the Association Property as security for the borrowing, subject to the approval by vote or written consent of a majority of the Owners.

4.2.9 **Contracts.** The power and the duty to (a) assume the obligations of Declarant under certain Mutual Benefit Agreement and (b) enter into certain Mutual Benefit Agreements. The power, but not the duty, to enter into other contracts. This includes contracts with Owners or other Persons to provide services or to maintain Improvements in the Properties and elsewhere that the Association is not otherwise required to provide or maintain pursuant to this Declaration.

4.2.10 **Indemnification.**

(a) **For Association Representatives.** To the fullest extent authorized by law, the Association shall indemnify Board members, Association officers, Design Review Committee members, and all other Association committee members for all damages, pay all expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action brought because of performance of an act or omission within what such person reasonably believed to be the scope of the Person's Association duties ("**Official Act**"). Board members, Association officers, Design Review Committee members, and all other Association committee members are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the estate, executor, administrator and heirs of any person entitled to such indemnification.

(b) **For Other Agents of the Association.** To the fullest extent authorized by law, the Association has the power, but not the duty, to indemnify any other

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Person acting as an agent of the Association for damages incurred, pay expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act.

(c) **Provided by Contract.** The Association also has the power, but not the duty, to contract with any Person to provide indemnification in addition to any indemnification authorized by law on such terms and subject to such conditions as the Association may impose.

4.2.11 **Prohibited Functions.**

(a) **Off-site Nuisances.** The Association shall not use any Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of the Properties.

(b) **Political Activities.** The Association shall not conduct, sponsor, participate in or expend funds or resources on any activity, campaign or event, including any social or political campaign, event or activity which does not directly and exclusively pertain to the authorized activities of the Association. Furthermore, the Association shall not participate in federal, state or local political activities or activities intended to influence a governmental action affecting areas outside the Properties (e.g. endorsement or support of legislative or administrative actions by a local governmental authority), nor shall it support or campaign for or against candidates for elected or appointed office or ballot proposals. There shall be no amendment of this Section so long as Declarant owns any portion of the Properties.

(c) **Standing to Resolve Disputes.** The Association shall have standing to institute, defend, settle or intervene in litigation, alternative dispute resolution or administrative proceedings (each, an "**Action**") in its own name as the real party in interest and without joining the Owners, in matters pertaining to (i) damage to the Association Property, (ii) damage to portions of the Condominiums which the Association is obligated to maintain or repair, and (iii) damage to portions of the Condominiums which arises out of, or is integrally related to, damage to the Association Property or portions of the Condominiums that the Association is obligated to maintain or repair (each, a "**Claim**").

Upon commencement of an Action by the Association pertaining to any Claim described in subparts (i), (ii) or (iii) above, the Association's standing shall be exclusive, and during the pendency of such Action, the Owners shall be barred from commencing a new Action or maintaining a pending Action on the same Claim. The Association's exercise of exclusive standing as to an Action on a particular Claim shall not be deemed to give rise to any affirmative obligation on the part of the Association to maintain, settle or dismiss the Action, except in the Association's sole discretion, and subject to Section 12.4.

4.2.12 **Maintenance Guidelines.** The Association shall have the power and duty to (a) operate, maintain and inspect the Association Property and its various components in conformance with any Maintenance Guidelines and any Maintenance Manual, and (b) review any Maintenance Manual applicable to the Association Property for necessary or appropriate revisions no less than annually after the Board has prepared the Budget; provided however, that

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the Association shall not revise the Maintenance Manual to reduce the level of maintenance required of any Improvement without the prior written consent of Declarant until ten (10) years after the last Close of Escrow for the sale of a Condominium in the Properties by Declarant.

4.3 STANDARD OF CARE, NON-LIABILITY.

4.3.1 Scope of Powers and Standard of Care.

(a) **General Scope of Powers.** Rights and powers conferred on the Board, the Design Review Committee or other committees or representatives of the Association by the Governing Documents are not duties, obligations or disabilities charged upon those Persons unless the rights and powers are explicitly identified as including duties or obligations in the Governing Documents or law. Unless a duty to act is imposed on the Board, Design Review Committee or other committees or representatives of the Association by the Governing Documents or law, the Board and the committees have the right to decide to act or not act. Any decision not to act is not a waiver of the right to act in the future.

(b) **Business Affairs.** This Section 4.3.1(b) applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances, and Design Review Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board member believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing his duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial data prepared or presented by:

(i) One or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(ii) Counsel, independent accountants or other Persons as to matters which the Board member believes to be within such Person's professional or expert competence; or A committee of the Board upon which the Board member does not serve, as to matters within its designated authority, which committee the Board member believes to merit confidence, so long as, in any such case, the Board member acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(iii) This Section 4.3.1(b) is intended to be a restatement of the business judgment rule established in applicable law as it applies to the Association. All modifications and interpretations of the business judgment rule applicable to the Association shall be interpreted to modify and interpret this Section 4.3.1(b).

(c) **Association Governance.** This Section 4.3.1(c) applies to Board actions and Design Review Committee decisions in connection with interpretation and enforcement of the Governing Documents, architectural and landscaping control, regulation of uses within the Properties, rule making and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

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4.3.2 Non-liability.

(a) **General Rule.** No Person is liable to any other Person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's negligence or willful or malicious misconduct. The Association is not liable for damage to property in the Properties unless caused by the negligence of the Association, the Board, the Association's officers, the manager or the manager's staff.

(b) **Non-liability of Volunteer Board Members and Officers.** A volunteer Board member or volunteer Association officer shall not be personally liable to any Person who suffers injury, including bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all applicable conditions specified in Section 1365.7 of the California Civil Code are met.

(c) **Non-liability of Owners.** Pursuant to California Civil Code Section 1365.9, no Owner shall be liable for any cause of action in tort which can be brought against the Owner solely because of the Owner's undivided interest in the Common Area so long as the Association keeps one or more policies of insurance which include coverage for general liability of the Association in the amount required by California Civil Code Section 1365.9 and that insurance is in effect for the cause of action being brought.

4.4 MEMBERSHIP.

4.4.1 **Generally.** Every Owner shall automatically acquire a Membership in the Association and retain the Membership until such Owner's Condominium ownership ceases, at which time such Owner's Membership shall automatically cease. Ownership of a Condominium is the sole qualification for Membership. Memberships are not assignable except to the Person to whom title to the Condominium is transferred, and every Membership is appurtenant to and may not be separated from the fee ownership of such Condominium. The rights, duties, privileges and obligations of all Owners are as provided in the Governing Documents.

4.4.2 **Transfer.** The Membership of any Owner may not be transferred, pledged or alienated in any way, except on the transfer or encumbrance of such Owner's Condominium, and then only to the transferee or Mortgagee of such Condominium. A prohibited transfer is void and will not be reflected in the records of the Association. Any Owner who has sold a Condominium to a contract purchaser under an agreement to purchase may delegate the Owner's Membership rights to the contract purchaser. The delegation must be in writing and must be delivered to the Association before the contract purchaser may vote. The contract seller shall remain liable for all charges and Assessments attributable to the contract seller's Condominium which accrue before title to the Condominium is transferred. If an Owner fails or refuses to transfer his Membership to the purchaser of such Owner's Condominium on

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transfer of title thereto, the Association may record the transfer in the Association's records. Until satisfactory evidence of such transfer is presented to the Association, the purchaser will not be entitled to vote at Association meetings. The Association may levy a reasonable transfer fee against a new Owner and such Owner's Condominium (which fee shall be paid through escrow or added to the Annual Assessment chargeable to such new Owner) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the Association's records. Such fee may not exceed the Association's actual cost involved in changing its records.

4.4.3 **Classes of Membership.** The Association classes of voting Membership are as follows:

(a) **Class A.** Class A members are all Owners except Declarant for so long as a Class B Membership exists. Class A members are entitled to one (1) vote for each Condominium owned by such Class A members which is subject to Assessment. Declarant shall become a Class A member on conversion of Declarant's Class B Membership as provided below. The vote for each Condominium shall be exercised in accordance with Section 4.5, but no more than one (1) Class A vote may be cast for any Condominium.

(b) **Class B.** The Class B member is Declarant. The Class B member is entitled to three (3) votes for each Condominium owned by Declarant and subject to Assessment. The Class B Membership shall convert to Class A Membership on the first to occur of the following events:

- (i) The second anniversary of the first Close of Escrow in the most recent Phase; or
- (ii) The fourth anniversary of the first Close of Escrow in Phase 1.

However, if all the Annexable Territory is annexed to the Properties within one year from the first Close of Escrow in the Properties, then the Class B Membership shall convert to Class A Membership on the fourth anniversary of the first Close of Escrow in the Properties.

(c) **Class C.** The Class C Member shall be Declarant (whether or not Declarant is an Owner). The Class C Membership shall not be considered a part of the voting power of the Association. The Class C Member is entitled to select a majority of the members of the Board of Directors until the Class C Termination Date. The "Class C Termination Date" shall be the earlier to occur of the following events:

- (i) The Close of Escrow for the sale of seventy-five percent of the Condominiums in the Properties and Annexable Territory;
- (ii) The fourth (4th) anniversary of the first Close of Escrow in the Phase for which a Final Subdivision Report was most recently issued by the DRE; or
- (iii) The tenth (10th) anniversary of the first Close of Escrow of the sale of a Lot in the Properties.

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4.5 VOTING RIGHTS.

4.5.1 Limits Generally. All voting rights are subject to the Governing Documents. Except as provided in Sections 4.5.2 and 12.3 of this Declaration and Section 4.8 of the Bylaws, as long as there exists a Class B Membership, any provision of the Governing Documents which expressly requires the vote or written consent of a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall require the approval of such specified percentage of the voting power of both the Class A and the Class B Memberships. Except as provided in Sections 4.5.2 and 12.3 of this Declaration and Section 4.8 of the Bylaws, on termination of the Class B Membership, any provision of the Governing Documents which expressly requires the vote or written consent of Owners representing a specified percentage (instead of a majority of a quorum) of the Association's voting power before action may be undertaken shall then require the vote or written consent of Owners representing such specified percentage of both (1) the Association's total Class A voting power and (2) the Association's Class A voting power represented by Owners other than Declarant.

4.5.2 Vote to Initiate Construction Defect Claim. Commencing on the date of the first annual meeting of the Owners: (i) Declarant, (ii) any Board member appointed by Declarant, (iii) any Board member elected by a majority of votes cast by Declarant, and (iv) any Board member who is a current employee of Declarant, is prohibited from voting or otherwise participating in any decision by the Association or the Owners to initiate a construction defect claim against Declarant or Declarant Parties (as such term is defined in Section 12.4 hereof) pursuant to the Right to Repair Law.

4.5.3 Joint Ownership. When more than one (1) Person holds an interest in any one (1) Condominium ("*Co-owners*"), each Co-owner may attend any Association meeting, but only one (1) such Co-owner shall be entitled to exercise the single vote to which the Condominium is entitled. Co-owners owning the majority interests in a Condominium may designate in writing one (1) of their number to vote. Fractional votes shall not be allowed, and the vote for each Condominium shall be exercised, if at all, as a unit. Where no voting Co-owner is designated or if the designation is revoked, the vote for the Condominium shall be exercised as the Co-owners owning the majority interests in the Condominium agree. Unless the Association receives a written objection in advance from a Co-owner, it shall be conclusively presumed that the voting Co-owner is acting with his Co-owners' consent. No vote may be cast for any Condominium if the Co-owners present in person or by proxy owning the majority interests in such Condominium fail to agree to the vote or other action. The nonvoting Co-owner or Co-owners are jointly and severally responsible for all obligations imposed on the jointly-owned Condominium and are entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in the Governing Documents are binding on all Owners and their successors in interest.

4.6 REPAIR AND MAINTENANCE.

4.6.1 Maintenance Standards. The Association shall maintain everything it is obligated to maintain in a clean, sanitary and attractive condition reasonably consistent with

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the level of maintenance reflected in the most current Budget, and in conformance with any Maintenance Guidelines and Maintenance Manual. Unless specifically provided in any Maintenance Guidelines or Maintenance Manual, the Board shall determine, in its sole discretion, the level and frequency of maintenance of the Association Property and Improvements thereon. Each Owner shall maintain everything the Owner is obligated to maintain in a clean, sanitary and attractive condition, free of debris and reasonably protected from damage, and in conformance with any Maintenance Recommendations and Maintenance Manual.

4.6.2 **By Owners.** Owners' repair, maintenance and replacement responsibilities are set forth on *Exhibit D*, attached hereto. Owners shall perform all required maintenance in accordance with the Governing Documents. Unless otherwise specified in the Governing Documents, each Owner shall bear all costs and expenses of the maintenance that the Owner is required to perform pursuant to the Governing Documents. Each Owner shall pay when due all charges for any utility service that is separately metered to the Owner's Unit.

4.6.3 **By Association.**

(a) **Commencement of Obligations.** The Association's obligation to maintain Association Property in a Phase commences on the date Annual Assessments commence on the Condominiums in that Phase. The Association's obligation to maintain Association Maintenance Areas in a Phase commences when Annual Assessments commence on the Condominiums in that Phase, unless the terms of the reservation or grant of easement for any Association Maintenance Area provides otherwise.

(b) **Maintenance Items.** The Association shall be responsible for all maintenance, repair and replacement not provided by the Owners pursuant to Section 4.6.2 and *Exhibit D* attached hereto. The Association shall repair and pay for all centrally metered utilities and mechanical and electrical equipment serving the Association Property; pay all charges for utilities which serve individual Condominiums but which are subject to a common meter; pay all Common Expenses and charges for utilities serving recreational amenities; maintain all Common Property; perform periodic structural repair, resurfacing, sealing, caulking, replacement or painting of the Exclusive Use Area balconies, so long as the need for any of these activities is not caused by the willful or negligent acts of the Owner of the Unit to which the Exclusive Use Area is appurtenant or any of such Owner's Family, tenants or guests. The Association's maintenance responsibilities include the obligation to maintain any and all stairways, hallways and lobby areas that exclusively serve the Condominiums. The Association may adopt pest control programs. The Association may, but is not required to, perform all corrective janitorial, landscaping and repair work in any Unit if the Owner thereof fails to do so after Notice and Hearing. The cost of such work shall be charged to the Owner as a component of the Owner's Annual Assessments. Where feasible, all landscaped areas shall be planted with drought tolerant plant materials. All landscaped areas shall be provided with water conserving automatic irrigation systems designed to provide complete and adequate coverage to sustain and promote healthy plant life. The irrigation system shall not cause water to spray or flow across a public sidewalk. All landscaped areas must be maintained in a neat and healthy condition, including public parkways and street trees. Any dying or dead plant materials must be replaced with the minimum size and height plant(s) required by Chapter 21.42 (landscaping) of the City

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Zoning Regulations. At the discretion of City officials, a yearly inspection shall be conducted to verify that all irrigation systems are working properly and the landscaping is in good healthy condition. The Declarant or Association (as applicable) shall reimburse the City for the inspection cost as per the special building inspection specifications established by the City Council. Any graffiti found on site must be removed within twenty-four (24) hours of its appearance.

(c) **Pest Prevention and Eradication.** The Association may adopt an inspection and prevention program for the prevention and eradication of infestation by pests and other organisms in the Properties. The Association, on no less than fifteen (15) nor more than thirty (30) days' notice, may require each Owner and any occupants of the Owner's Condominium to vacate such Condominium to accommodate Association efforts to eradicate such infestation. The notice must state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage caused to a Condominium by such entry by the Association or by any person authorized by the Association shall be repaired by the Association as a Common Expense. All costs involved in operating the inspection and preventive program as well as repairing and replacing the Common Property and Improvements thereon when the need for such maintenance, repair or replacement is the result of pests or organisms are a Common Expense.

(d) **Additional Items.** The Association shall also be responsible for maintaining any Improvements that are designated for maintenance by the Association through a majority vote by the Members. Such property shall be deemed to be Association Property and subject to the Governing Document provisions applicable to the Association Property.

(e) **Charges to Owners.** All costs of maintenance, repairs and replacements for the Properties, and all commonly metered utilities shall be paid for as Common Expenses out of the Association Maintenance Funds as provided in this Declaration.

4.6.4 **Inspection of the Properties.** The Board shall require strict compliance with all provisions of this Declaration and cause the Properties to be inspected for any violation hereof. The Board shall also cause inspections to determine the condition of the Association Property and all Improvements thereon ("**Condition Inspections**"), which shall be conducted in conformance with the applicable Maintenance Guidelines, and in the absence of inspection frequency recommendations in any applicable Maintenance Guidelines, such inspections shall occur at least once every year to (a) determine whether the Common Property is being maintained adequately in accordance with the standards of maintenance established in Sections 4.6.1 and 4.6.3, (b) identify the condition of the Common Property and any Improvements thereon, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (c) recommend preventive actions that may be taken to reduce potential maintenance costs to be incurred in the future. The Board shall, during its meetings, regularly determine whether the recommended inspections and maintenance activities set forth in any applicable Maintenance Guidelines have been followed and, if not followed, what corrective steps need to be taken to assure proper inspections and maintenance of the Association Property. The Board shall keep a record of such

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determinations in the Board's minutes. The Board shall keep Declarant fully informed of the Board's activities under this Section 4.6.4. The Association may employ such experts and consultants as are necessary to perform the inspection and make the report required by this Section.

The Association shall prepare a report of the results of the inspection required by this Section. The report shall be furnished to Owners and Declarant within the time set for furnishing the Budget to the Owners. The report must include at least the following:

- (a) a description of the condition of the Common Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;
- (b) a description of all maintenance, repair and replacement planned for the ensuing Fiscal Year and included in the Budget;
- (c) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;
- (d) a summary of all reports of inspections performed by any expert or consultant employed by the Association to perform inspections;
- (e) a report of the status of compliance with the maintenance, replacement and repair needs identified in the inspection report for preceding years; and
- (f) such other matters as the Board considers appropriate.

For a period of ten (10) years after the date of the last Close of Escrow in the Properties, the Board shall also furnish to Declarant (a) the report of each Condition Inspection performed for the Board, whenever such inspection is performed and for whatever portion of the Association Property that is inspected, within thirty (30) days after the completion of such inspection, and (b) the most recent Condition Inspection report prepared for any portion of the Association Property, within ten (10) days after the Association's receipt of a written request therefor from Declarant.

4.6.5 Damage by Owners. Each Owner is liable to the Association for any damage to the Common Property if the damage is sustained due to the act of an Owner, his guests, tenants or invitees, or any other persons deriving their right to use the Common Property from the Owner, or such Owner's respective family, tenants and guests. The Association may, after Notice and Hearing, (a) determine whether any claim shall be made on the Association's insurance, and (b) levy a Special Assessment equal to the cost of repairing the damage or any deductible paid and the increase, if any, in insurance premiums directly attributable to the damage caused by such Owner or the person for whom such Owner may be liable as described in this Declaration. If a Condominium is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with the joint owners to the contrary. After Notice and Hearing, the cost of correcting the damage shall be a Special Assessment against such Owner.

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4.7 **UNSEGREGATED REAL PROPERTY TAXES.** To the extent not assessed to or paid by the Owners, the Association shall pay all real and personal property taxes and assessments levied against the Properties. If Condominiums in a Phase are taxed under a tax bill covering all of the Phase, then each Owner of a Condominium in the Phase shall pay his share of any installment due under the tax bill to the Association at least ten (10) days before the delinquency date. The Association shall transmit the taxes to the appropriate tax collection agency on or before the delinquency date. The Association shall allocate taxes among the Owners and their Condominiums in such Phase in a percentage based on the individual square footage of each Condominium in relationship to the total square footage of all Condominiums in the Phase. The Association shall, at least forty-five (45) days before the delinquency date of any tax installment, deliver to each Owner in the Phase a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay his share of the tax installment and the potential additional charges to the Owner for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay his share. The Association shall add to the Annual Assessment of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the tax bill for the Phase, which late charge results from the failure of the delinquent Owner to make timely payment of his share of the taxes. Until Close of Escrow for the sale of ninety percent (90%) of the Condominiums in the Properties and Annexable Territory has occurred, this Section may not be amended without the written consent of Declarant.

**ARTICLE V
DESIGN REVIEW COMMITTEE**

5.1 **MEMBERS OF COMMITTEE.** The Design Review Committee shall be composed of three (3) members. The initial members of the Design Review Committee shall be representatives of Declarant until one (1) year after the original issuance of the Final Subdivision Public Report ("**Public Report**") in the Properties ("**First Anniversary**"). After the First Anniversary, the Board may appoint and remove one (1) member of the Design Review Committee, and Declarant may, but is not obligated to, appoint and remove a majority of the members of the Design Review Committee and fill any vacancy of such majority, until the earlier to occur of (a) Close of Escrow for the sale of ninety percent (90%) of all the Condominiums in the Properties, or (b) the fifth (5th) anniversary of the original issuance of the Public Report for the Properties, after which the Board may appoint and remove all members of the Design Review Committee. Design Review Committee members appointed by the Board must be Owners, but Design Review Committee members appointed by Declarant need not be Owners. Board members may serve as Design Review Committee members.

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5.2 POWERS AND DUTIES.

5.2.1 **General Powers and Duties.** The Design Review Committee shall consider and act upon all plans and specifications submitted for its approval, including inspection of work in progress to assure conformity with plans approved by the Design Review Committee, and shall perform such other duties as the Board assigns to it. The Design Review Committee may collect a review fee if the Design Review Committee retains a paid professional consultant to review the Application.

5.2.2 **Issuance of Standards.** The Design Review Committee shall annually issue its Design Guidelines and provide notice of any requirements for Association approval of proposed Improvements. The notice shall describe the types of proposed Improvements that require Association approval and shall include a copy of the procedure used to review and approve or disapprove any proposed Improvements. The Design Guidelines may identify additional factors which the Design Review Committee will consider in reviewing submissions. The Design Review Committee may require such detail in information submitted for its review as it deems proper, including Improvement plans and specifications.

5.2.3 **Retaining Consultants.** The Design Review Committee has the power but not the duty to retain Persons to advise its members in connection with review of Applications, including paid professional consultants. The Committee may require reimbursement by the Applicant of extraordinary consultant costs incurred by the Committee for the consideration of a particular Application.

5.3 REVIEW OF PLANS AND SPECIFICATIONS.

5.3.1 **Improvements Requiring Approval.** No Owner may construct, install, alter or add any Improvements in a Condominium which affects the structural integrity of the walls, floors and ceilings of the Condominium or any structural or ornamental component of the Building without the prior written approval of the Design Review Committee. The Design Review Committee may review the Improvements' impact on (1) the structural integrity of the Building, (2) the safety of the Owners and the public, (3) the noise heard beyond the Condominium in which the Improvement is located, and (4) fire safety (collectively, the "**Design Factors**"). The Design Review Committee may review the impact the construction, installation, or altering of the Improvement has on the Design Factors, as well as the impact the completed Improvement has on the Design Factors.

5.3.2 **Application Procedure.** Until changed by the Board, the address for the submission of the Application is the Association's principal office. The Design Review Committee may reject the Application if it determines that the Applicant's plans and specifications are incomplete. The Design Review Committee shall transmit its decision and the reasons therefor to the Applicant at the address listed in the Application within forty-five (45) days after the Design Review Committee receives all required materials. Any Application submitted shall be deemed approved unless the Design Review Committee transmits written disapproval or a request for additional information or materials to the Applicant within forty-five (45) days after the date the Design Review Committee receives all required materials. If the Committee does not act within the forty-five (45) days after the date the Committee receives all

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required materials, the Manager or a representative of the Committee shall, upon the request of Applicant, execute a written approval within fifteen (15) days of such request. If disapproved, the written decision shall include both an explanation of why the proposed Improvement is disapproved and a description of the procedure for reconsideration by the Board.

5.3.3 Conditions of Approval. The Design Review Committee may condition its approval of an Application for any Improvement on any one (1) or more of the following: (a) the Applicant's agreement to furnish the Association with security acceptable to the Association against any mechanic's lien or other encumbrance which may be Recorded against the Association Property or another Owner's Condominium as a result of such work; (b) such changes to the Application as the Design Review Committee considers appropriate; (c) the Applicant's agreement to grant to the Association or other Owners such easements as are made reasonably necessary by the existence of the Improvement; (d) the Applicant's agreement to install water, gas, electrical or other utility meters to measure any increased utility consumption; (e) the Applicant's agreement to reimburse the Association for the cost of maintaining the Improvement (should the Association agree to accept maintenance responsibility for the Improvement as built); or (f) the Applicant's agreement to complete the proposed work within a stated period of time. The Committee may also require the Applicant, before commencing work, to deposit with the Association adequate funds to repair or restore any Common Property that may be damaged by the Applicant or the Applicant's contractors. The Design Review Committee will determine the actual amount of the deposit in each case, but the amount shall be at least enough to cover the cost of repairing or restoring damage that is reasonably foreseeable to the Design Review Committee. The deposit shall be refundable to the extent the Design Review Committee finds that the work of Improvement is complete, and that the Association Property was not damaged or was restored at least to its condition when the work began.

The Design Review Committee has the right to require a reasonable security deposit with each Application. The security deposit will be applied to the cost of repairing damage to Common Property as a result of the Application. The amount of the security deposit shall be specified in the Design Guidelines. The security deposit may be increased or decreased from time to time at the discretion of the Design Review Committee. The Design Review Committee may also require submission of additional plans and specifications or other information before approving or disapproving material submitted. The Applicant shall meet any review or permit requirements of the City and the County, before making any construction, installation or alterations permitted under this Declaration.

5.3.4 Matters Outside Scope of Approval. The Design Review Committee's approval or disapproval of each Application shall be based solely on the considerations listed in this Article. Approval of any Application does not constitute a finding by the Design Review Committee that the Application or any portion of the Application (a) incorporates good engineering practices, (b) complies with applicable law, ordinance, code, or regulation, including zoning laws and building and safety codes, (c) complies with the requirements of any public utility, or (d) is permissible under the terms of any easement, license, permit, mortgage, deed of trust, or other recorded or unrecorded instrument (other than the Governing Documents) that affects the land.

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5.3.5 **Exculpation of Committee.** By submitting an Application, each Applicant is deemed to agree that neither the Design Review Committee, nor the members thereof, nor Declarant, nor their respective agents, employees, attorneys or consultants shall be liable to any Person for:

- (a) any defect in any Improvement constructed by or on behalf of the Applicant pursuant to an approved Application;
- (b) any loss, damage, or injury to Persons or property arising out of or in any way connected with work performed by or on behalf of the Applicant pursuant to an approved Application; or
- (c) any loss, damage, or injury to Persons or property arising out of or in any way connected with the performance of the Design Review Committee's duties hereunder, unless due to willful misconduct or gross negligence.

5.4 **MEETINGS AND ACTIONS OF THE DESIGN REVIEW COMMITTEE.** The Design Review Committee shall meet as necessary to perform its duties. The Design Review Committee may, by resolution unanimously adopted in writing, designate a Design Review Committee Representative (who may be a licensed architect or other professional consultant retained by the Committee) to review Applications and recommend action to be taken by the Committee or to take any other action or perform any other duties for and on behalf of the Design Review Committee. In the absence of such designation, the vote or written consent of a majority of the Design Review Committee constitutes an act of the Design Review Committee. All approvals issued by the Design Review Committee must be in writing. Verbal approvals issued by the Design Review Committee, any individual Design Review Committee member or any other representative of the Association are not valid, are not binding on the Association and may not be relied on by any Person. If within one (1) year of issuance of the approval, an Owner either does not commence work pursuant to approved plans or obtain an extension of time to commence work, the approval shall be automatically revoked and a new approval must be obtained before work can be commenced.

5.5 **NO WAIVER OF FUTURE APPROVALS.** The Design Review Committee's approval of any proposals, plans and specifications or drawings for any work done or proposed in connection with any matter requiring the Design Review Committee's approval does not waive the right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

5.6 **COMPENSATION OF MEMBERS.** The Design Review Committee's members shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in performing their duties.

5.7 **INSPECTION OF WORK.** The Design Review Committee or its duly authorized representative may inspect any work for which approval of plans is required under this Article ("**Work**"). The right to inspect includes the right to require any Owner to take such action as may be necessary to remedy any noncompliance with the Design Review Committee-approved plans for the Work or with the requirements of this Declaration ("**Noncompliance**").

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5.7.1 **Time Limit.** The Design Review Committee's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the Work is completed and the Design Review Committee receives written notice on a form provided by the Committee from the Owner that the Work is completed. If the Design Review Committee fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the approved plans.

If an Owner fails to complete Work within one (1) year from the date the approval for the Work is issued, then a Noncompliance is deemed to exist and the Association has the right, but not the obligation, to pursue the remedies listed in this Section.

5.7.2 **Remedy for Noncompliance.** If an Owner fails to remedy any Noncompliance within sixty (60) days after the date of notice from the Design Review Committee, the Design Review Committee shall notify the Board in writing of such failure. After Notice and Hearing, the Board shall determine whether there is Noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a Noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days after the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Association may record a Notice of Noncompliance (if allowed by law), correct the Noncompliance and charge the Owner for the Association's costs, or commence an action for damages or injunctive relief, as appropriate, to remedy the Noncompliance.

5.8 **PRE-APPROVALS.** The Design Review Committee may authorize pre-approval of specified types of construction activities if, in the exercise of the Design Review Committee's judgment, such pre-approval is appropriate in carrying out the purposes of the Governing Documents.

5.9 **APPEALS.** If a proposed Improvement is disapproved, the Applicant is entitled to reconsideration by the Board at an open meeting that satisfies the requirements of Civil Code Section 1363.05. This paragraph does not require reconsideration of a decision that is made by the Board or the Committee, if the Committee has the same membership as the Board.

ARTICLE VI PROPERTY EASEMENTS AND RIGHTS

6.1 EASEMENTS.

6.1.1 **Maintenance and Repair.** Declarant reserves for the benefit of the Association and all Association agents, officers and employees, nonexclusive easements over the Common Area, the Units and the Exclusive Use Areas as necessary to fulfill the obligations and perform the duties of the Association.

6.1.2 **Utility Easements.** Declarant reserves nonexclusive easements for essential public and private utilities, and for access thereto, over the Common Property for the benefit of the Owners. Declarant reserves the right to grant additional easements and rights-of-way over the Properties to utility companies and public agencies, as necessary, for the proper

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development and disposal of the Properties. Such right of Declarant shall expire on Close of Escrow for the sale of the last Condominium in the Properties and Annexable Territory.

6.1.3 **Encroachments.** Declarant reserves, for its benefit and the benefit of the Owners, a reciprocal easement appurtenant to each Condominium over the other Units and the Common Property to accommodate (a) any existing encroachment of any wall or any other authorized Improvement, (b) authorized construction or repair, and (c) shifting, movement or natural settling of the Units or other Improvements. Use of the foregoing easements may not unreasonably interfere with each Owner's use and enjoyment of the burdened Units.

6.1.4 **Completion of Improvements.** Declarant reserves the right and easement to enter the Properties to complete any Improvement that Declarant considers desirable to implement Declarant's development plan.

6.1.5 **Owners' Easements in Common Property.** Declarant reserves, for the benefit of every Owner, his Family, tenants and guests, a nonexclusive easement for use of and access over the Common Property in connection with use and enjoyment of each Condominium in the Properties. This easement is appurtenant to and passes with title to every Condominium in the Properties. This easement is subject to the restrictions, rights and other easements in the Governing Documents, including the Association's right to reasonably restrict access to portions of the Association Property, such as the roof of the Building, maintenance facilities and other areas of the Association Property that may be designated by the Board.

6.1.6 **Exclusive Use Area.** Declarant reserves, for the benefit of specified Owners, exclusive easements over the Properties for use as an Exclusive Use Area, including for balcony, parking and storage purposes as shown on the Declaration or the Condominium Plan, as applicable. Declarant also reserves, for the benefit of the Association, the right to enter the Exclusive Use Areas as necessary to perform the obligations of the Association. Exclusive Use Area balconies shall be depicted and assigned by the Condominium Plan. The Exclusive Use Area parking and storage spaces shall be assigned by separate deed and the approximate locations of the parking and storage spaces are depicted on *Exhibit G*. Each Owner may exchange or transfer the Owner's Exclusive Use Area parking spaces or storage space assigned to an Owner's Condominium (each, an "*Assigned Exclusive Use Area*") with another Owner in the Properties if a deed of conveyance identifying the exchanged or transferred Assigned Exclusive Use Area, and identifying the exchanging or transferring Owners and their respective Unit numbers, is executed by such Owners and Recorded. No exchange or transfer of Assigned Exclusive Use Areas shall reduce the number of Assigned Exclusive Use Areas required by the City or this Declaration. The Owners shall deliver a copy of any Recorded deed of conveyance to the Board as soon as possible after Recordation. Declarant reserves the right, without amending the Declaration, to unilaterally amend or replace *Exhibit G* as necessary to correct errors, or to reflect as built conditions by Recording a Supplemental Declaration with the amended exhibit. When Recorded, the amended exhibit will control. Declarant reserves a special power of attorney coupled with an interest to execute such instruments as are reasonably necessary on behalf of Owners and Mortgagees to correct mis-assignments of Assigned Exclusive Use Areas. Declarant also reserves, for the benefit of the Association, the right but not the obligation to enter the Exclusive Use Areas to perform the obligations of the Association.

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The foregoing easements are appurtenant to and pass with title to every Condominium in the Properties, and they are granted subject to (a) the Association's right to enact use restrictions, and (b) the Association's right to restrict access to Association Property through its enforcement and sanctioning powers.

6.1.7 Access Easements. Declarant hereby reserves, for the benefit of the Association and its members, nonexclusive easements for access, ingress and egress over those portions of the Association Property as reasonably necessary to travel between each Owner's Condominium and a public right-of-way.

6.1.8 Emergency and Public Services Easement. Declarant hereby reserves easements over the Properties for public services of the local government agencies, including but not limited to, the right of law enforcement, medical and fire protection personnel to enter upon any part of the Properties for the purpose of carrying out their official duties, as otherwise permitted by law.

6.1.9 Parking Spaces. Declarant reserves to itself a nonexclusive easement over a portion of the parking garage in the Properties and Annexable Territory for parking purposes.

6.2 RIGHT TO GRANT EASEMENTS. In addition to the Exclusive Use Areas designated on the Condominium Plan, Declarant reserves the right to grant easements over the Common Property for the exclusive use by an Owner or Owners of contiguous property. Such conveyance must be approved by the Board, which approval must not be unreasonably withheld. The purpose of the easement, the portion of the Common Property affected, the Condominium to which the easement is appurtenant, and any restrictions on use of the easement area shall be identified in a Recorded grant of easement.

6.3 DELEGATION OF USE. Any Owner may delegate his right to use the Common Property in writing to his tenants, contract purchasers or subtenants who reside in such Owner's Condominium, subject to regulation by the Board.

6.4 RIGHT OF ENTRY.

6.4.1 Association. The Association has the right to enter each Condominium to inspect the Properties, and may take whatever corrective action it determines to be necessary or proper. Entry onto any Condominium under this subsection may be made after at least three (3) days' advance written notice to the Owner of the Unit except for emergency situations, which shall not require notice. Any damage to the Condominium caused by entry under this subsection shall be repaired by the Association.

6.4.2 Declarant. The Declarant has the right to enter the Condominium and the Common Property (i) to inspect the Properties, (ii) to complete and repair any Improvements it determines necessary or proper, in its sole discretion, (iii) perform any warranty work it determines necessary or proper, (iv) to comply with requirements for the recordation of the Map or the grading or construction of the Properties, and (v) to comply with requirements of applicable governmental agencies. Declarant shall provide reasonable notice to Owner prior to entry into the Owner's Condominium under this subsection except for emergency situations,

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which shall not require prior notice, but shall require notice to the Owner within seven (7) days after such entry was made. Any damage caused by entry under this subsection shall be repaired by the Declarant. Unless otherwise specified in the initial grant deed of the Unit from the Declarant, this right of entry shall automatically expire eleven (11) years from the last Close of Escrow for the sale of a Condominium in the Properties.

6.4.3 **Owners.** Each Owner shall permit other Owners, and their representatives, to enter his Condominium to perform installations, alterations or repairs to the mechanical or electrical services to a Unit if (i) requests for entry are made in advance; (ii) entry is made at a time reasonably convenient to the Owner whose Condominium is to be entered; and (iii) the entered Condominium is left in substantially the same condition as existed immediately preceding such entry. Any damage to the Condominium caused by entry under this subsection shall be repaired by the entering Owner.

**ARTICLE VII
ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS**

7.1 **PERSONAL OBLIGATION TO PAY ASSESSMENTS.** Each Owner shall pay to the Association all Assessments established and collected pursuant to this Declaration. The Association shall not levy or collect any Assessment that exceeds the amount necessary for the purpose for which it is levied. All Assessments, together with late payment penalties, interest, costs, and reasonable attorneys' fees for the collection thereof, are a charge and a continuing lien on the Condominium against which such Assessment is made. Each Assessment, together with late payment penalties, interest, costs and reasonable attorneys' fees, is also the personal obligation of the Person who was the Owner of the Condominium when the Assessment accrued. The personal obligation for delinquent Assessments may not pass to any new Owner ("**Purchaser**") unless expressly assumed by the Purchaser or unless the Purchaser has actual or constructive knowledge of such delinquent Assessments, whether by virtue of the Recordation of the Notice of Delinquent Assessment or receipt from the Association of a certificate pursuant to Section 1368(a)(4) of the California Civil Code.

7.2 **ASSOCIATION FUNDS.** The Association shall establish no fewer than two (2) separate Association Maintenance Fund accounts into which shall be deposited all money paid to the Association and from which disbursements shall be made, as provided in this Declaration. The Association Maintenance Funds may be established as trust accounts at a banking or savings institution and shall include: (a) an "Operating Fund" for current Common Expenses, (b) an adequate "Reserve Fund" for the portion of Common Expenses allocated to (i) reserves for Improvements which the Board does not expect to perform on an annual or more frequent basis, and (ii) payment of deductible amounts for insurance policies which the Association obtains, and (c) any other funds which the Association may establish.

7.3 **PURPOSE OF ASSESSMENTS.** The Assessments shall be used exclusively to (a) promote the Owners' welfare, (b) operate, improve and maintain the Common Property, and (c) discharge any other Association obligations under this Declaration. All amounts deposited into the Association Maintenance Funds must be used solely for the common benefit of all Owners for purposes authorized by this Declaration. Disbursements from the Operating Fund generally shall be made to discharge Association responsibilities which cannot be discharged by

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disbursements from the Reserve Fund. However, if the Board determines that the Operating Fund contains excess funds, the Board may transfer the excess funds to any other Association Maintenance Fund. Disbursements from the Reserve Fund shall be made by the Association only for the purposes specified in this Article and in Section 1365.5(c) of the California Civil Code.

7.4 **WAIVER OF USE.** No Owner may exempt himself from personal liability for Assessments duly levied by the Association, nor release such Owner's Condominium from the liens and charges thereof, by waiving use and enjoyment of the Common Property or by abandoning such Owner's Condominium.

7.5 **LIMITS ON ANNUAL ASSESSMENT INCREASES.**

7.5.1 **Maximum Authorized Annual Assessment For Initial Year of Operations.** During the Fiscal Year in which Annual Assessments commence, the Board may levy an Annual Assessment per Condominium in an amount which exceeds one hundred twenty percent (120%) of the amount of Annual Assessments disclosed for the Properties in the most current Budget filed with and approved by the DRE only if the Board first obtains the approval of Owners casting a majority of votes at a meeting or election of the Association in which more than fifty percent (50%) of the Condominiums are represented ("**Increase Election**"). This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.4.

7.5.2 **Maximum Authorized Annual Assessment For Subsequent Fiscal Years.** During the Fiscal Years following the Fiscal Year in which Annual Assessments commence, the Board may levy Annual Assessments which exceed the Annual Assessments for the immediately preceding Fiscal Year only as follows:

(a) If the increase in Annual Assessments is less than or equal to twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must either (i) have distributed the Budget for the current Fiscal Year in accordance with Section 1365(a) of the California Civil Code, or (ii) obtain the approval of Owners casting a majority of votes in an Increase Election; or

(b) If the increase in Annual Assessments is greater than twenty percent (20%) of the Annual Assessments for the immediately preceding Fiscal Year, then the Board must obtain the approval of Owners casting a majority of votes in an Increase Election.

This Section does not limit Annual Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 7.5.4.

7.5.3 **Supplemental Annual Assessments.** If the Board determines that the Association's essential functions may be properly funded by an Annual Assessment in an amount less than the maximum authorized Annual Assessment described above, it may levy such lesser Annual Assessment. If the Board determines that the estimate of total charges for the current year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in

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Sections 7.5.1, 7.5.2 and 7.5.4, the Board may levy a supplemental Annual Assessment reflecting a revision of the total charges to be assessed against each Condominium.

7.5.4 **Emergency Situations.** For purposes of Sections 7.5.1, 7.5.2 and 7.7, an "Emergency Situation" is any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to maintain the portion of the Properties for which the Association is responsible where a threat to personal safety on the Properties is discovered; and
- (c) An extraordinary expense necessary to maintain the portion of the Properties for which the Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget, including substantial increases in insurance premiums covering the Properties. Before imposing or collecting an Assessment pursuant to this subparagraph (c), the Board shall adopt a resolution containing written findings regarding the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Owners with the notice of the assessment.

7.5.5 **Automatic Assessment Increases.** Despite any other provisions of this Section 7.5, on Declarant's annexation of the Annexable Territory pursuant to Article XVI, the Annual Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Common Property in or abutting such Annexable Territory so long as (a) the annexation of such Annexable Territory is permitted by the DRE, and (b) the amount of such increase does not result in the levy of an Annual Assessment which is greater than the maximum potential Annual Assessment disclosed in all Final Subdivision Public Reports for the Properties. Despite any other provisions of this Section 7.5, on Declarant's annexation of the Annexable Territory pursuant to Article XVI, the Annual Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Common Property in or abutting such Annexable Territory so long as (a) the annexation of such Annexable Territory is permitted by the DRE, and (b) the amount of such increase does not result in the levy of an Annual Assessment which is greater than the maximum potential Annual Assessment disclosed in all Final Subdivision Public Reports for the Properties.

7.6 ANNUAL ASSESSMENTS.

7.6.1 **Commencement of Annual Assessments.** Annual Assessments shall commence on all Condominiums in a Phase on the first day of the first calendar month following the first Close of Escrow in such Phase. Annual Assessments for fractions of a month shall be prorated. Declarant shall pay its full pro rata share of the Annual Assessments on all unsold Condominiums for which Annual Assessments have commenced. The Board shall fix the amount of the Annual Assessment against each Condominium at least thirty (30) days in advance of each Annual Assessment period. However, unless otherwise established by the Board, the initial Annual Assessments shall be assessed in accordance with the most recent Budget on file with and approved by the DRE. Written notice of any change in the amount of any Annual

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Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be sent via first-class mail to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days before the increased Assessment becomes due.

7.6.2 Apportionment of Annual Assessments Among Owners. All Annual Assessments shall be assessed uniformly and equally against the Owners and their Condominiums based on the number of Condominiums owned by each Owner, except for that portion of the Annual Assessments attributable to those Common Expenses described on *Exhibit E* shall be variably assessed against the Owners and their Condominiums in proportion to the base interior square footage of the Condominium Unit types, also described on *Exhibit E*. The Board may determine that funds in the Operating Fund at the end of the Fiscal Year be retained and used to reduce the following Fiscal Year's Annual Assessments. On dissolution of the Association incident to the abandonment or termination of the Properties as a condominium project, any amounts remaining in any of the Association Maintenance Funds shall be distributed to or for the benefit of the Owners in the same proportions as such money was collected from the Owners.

7.6.3 Payment of Annual Assessments. Each Owner shall pay Annual Assessments in installments at such frequency and in such amounts and by such methods as are established by the Board. If the Association incurs additional expenses because of a payment method selected by an Owner, the Association may charge that expense to the Owner. The Association does not have to apportion the expense among all Owners as a part of Annual Assessments. Each installment of Annual Assessments may be paid to the Association in one check or in separate checks as payments attributable to specified Association Maintenance Funds. If any payment of an Annual Assessment installment (1) is less than the amount assessed and (2) does not specify the Association Maintenance Fund or Funds into which it should be deposited, then the amount received shall be credited in order of priority first to the Operating Fund, until that portion of the Annual Assessment has been satisfied, and second to the Reserve Fund.

7.6.4 Deferral of and Exemption from Annual Assessments.

(a) The Board may, at its sole discretion, in accordance with the Budget and Section 1366.1 of the California Civil Code, exempt Declarant, and any other Owner of a Unit which has not been constructed, from payment of that portion of the Annual Assessment which is allocated to defraying expenses and reserves directly attributable to the existence and use of the Unit. If granted, such exemption shall remain in effect only until the earlier to occur of (a) the Recordation of a notice of completion of the Building containing the Unit, (b) the occupation or use of the Unit, or (c) completion of all elements of the Condominium structures that the Association is obligated to maintain.

(b) The Board may, at its sole discretion, exempt each Owner (including Declarant) from paying that portion of any Annual Assessment allocated to defraying expenses and reserves directly attributable to the existence and use of any Improvement on Association Property the construction of which has not yet been completed. If granted, such exemption shall continue until the earlier to occur of (i) the Recordation of a notice of completion of such Improvement, or (ii) the placement of such Improvement into use.

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7.7 CAPITAL IMPROVEMENT ASSESSMENTS. The Board may levy, in any Fiscal Year, a Capital Improvement Assessment or Reconstruction Assessment applicable to that Fiscal Year only to defray, in whole or in part, the cost of any construction, repair or replacement of a capital Improvement or other such addition to the Common Property. No Capital Improvement Assessments in any Fiscal Year which, if added to the Capital Improvement Assessments already levied during such Fiscal Year, exceed five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year, may be levied without the vote or written consent of Owners casting a majority of votes at an Increase Election. The Board may levy in any Fiscal Year, a Capital Improvement Assessment applicable to that Fiscal Year which exceeds five percent (5%) of the Association's Budgeted gross expenses for such Fiscal Year if such increase is necessary for addressing an Emergency Situation as defined in Section 7.5.4.

ARTICLE VIII
INSURANCE

8.1 DUTY TO OBTAIN INSURANCE; TYPES. The Association shall obtain and keep in effect at all times the following insurance coverage:

8.1.1 Public Liability. Adequate public liability insurance (including coverage for medical payments), with limits acceptable to Fannie Mae and as required by Section 1365.9 of the California Civil Code, insuring against liability for bodily injury, death and property damage arising from the activities of the Association and the Owners, with respect to the Common Property.

8.1.2 Fire and Casualty Insurance. Fire and casualty insurance with extended coverage, without deduction for depreciation, in an amount as near as possible to the full replacement value of the Common Property and those portions of the Units consisting of all fixtures, installations or additions comprising a part of the Buildings housing the Units and all built-in or set-in appliances, cabinets and floor coverings, in the amount designated by Declarant as the original replacement cost thereof based on the standard package of appliances, cabinets and floor coverings offered to all Owners before the Close of Escrow. The casualty insurance shall not include earthquake coverage unless the Board is directed to obtain earthquake coverage by a majority of the Association's voting power.

8.1.3 Fidelity Insurance. Fidelity insurance coverage for any Person handling funds of the Association, whether or not such persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Person during the term of the insurance. The aggregate amount of the fidelity insurance coverage may not be less than the sum equal to one-fourth (1/4) of the Annual Assessments on all Condominiums in the Properties, plus reserve funds.

8.1.4 Insurance Required by Fannie Mae, Ginnie Mae and Freddie Mac. Casualty, flood, liability and fidelity insurance meeting the insurance requirements for condominium projects established by Fannie Mae, Ginnie Mae and Freddie Mac, so long as any of these entities is a Mortgagee or Owner of a Condominium in the Properties, except to the extent such coverage is not reasonably available or has been waived in writing by the entity requiring the insurance coverage.

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8.1.5 Other Insurance. Such other insurance insuring other risks customarily insured by associations managing condominium projects similar in construction, location and use. Such additional insurance may include general liability insurance and director's and officer's liability insurance.

8.1.6 Beneficiaries. The Association's insurance shall be kept for the benefit of the Association, the Owners, and the Mortgagees, as their interests may appear, subject, however, to loss payment requirements established in this Declaration.

8.2 WAIVER OF CLAIM AGAINST ASSOCIATION. As to all policies of insurance kept by or for the benefit of the Association and the Owners, the Association and the Owners waive and release all claims against one another, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of the Persons.

8.3 RIGHT AND DUTY OF OWNERS TO INSURE. Each Owner is responsible for insuring his personal property and all other property and Improvements in his Condominium for which the Association has not purchased insurance in accordance with Section 8.1. Nothing in this Declaration precludes any Owner from carrying any public liability insurance as he considers desirable; however, Owners' policies may not adversely affect or diminish any coverage under any of the Association's insurance policies. Duplicate copies of Owners' insurance policies shall be deposited with the Association on request. If any loss intended to be covered by the Association's insurance occurs and the proceeds payable are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of the Owner's insurance to the Association, to the extent of such reduction, for application to the same purposes as the reduced proceeds are to be applied.

8.4 NOTICE OF EXPIRATION REQUIREMENTS. If available, each of the Association's insurance policies must contain a provision that the policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without at least thirty (30) days' prior written notice to the Board and Declarant, and to each Owner and Mortgagee, insurer and guarantor of a First Mortgage who has filed a written request with the carrier for such notice and every other Person in interest who requests such notice of the insurer. In addition, fidelity insurance shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to any insurance trustee named pursuant to Section 8.6 and to each Fannie Mae servicer who has filed a written request with the carrier for such notice.

8.5 INSURANCE PREMIUMS. Premiums for insurance policies obtained by the Association are Common Expenses.

8.6 TRUSTEE FOR POLICIES. The Association is trustee of the interests of all named insureds under the Association's insurance policies. Unless an insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent by certified mail and be clearly identified as a claim. The Association shall keep a record of all claims made. All insurance proceeds under any such policies provided for in Section 8.1 must be paid to the Board as trustees. The Board has the authority to negotiate loss settlements with insurance carriers, with participation, to the extent

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they desire, of First Mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in Section 9.4. The Board is authorized to make a settlement with any insurer for less than full coverage for any damage, so long as the Board acts in accordance with the standard of care established in this Declaration. Any two (2) officers of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures are binding on all the named insureds. A representative chosen by the Board may be named as an additional insured, including a trustee with whom the Association may enter into an insurance trust agreement and any successor to such trustee, who shall have exclusive authority to negotiate losses under any insurance policy and to perform such other functions necessary to accomplish this purpose.

8.7 ACTIONS AS TRUSTEE. Except as otherwise specifically provided in this Declaration, the Board has the exclusive right to bind the Association and the Owners in respect to all matters affecting insurance carried by the Association, the settlement of a loss claim, and the surrender, cancellation, and modification of all such insurance. Duplicate originals or certificates of all policies of fire and casualty insurance kept by the Association and of all renewals thereof, together with proof of payment of premiums, shall be delivered by the Association to all Owners and Mortgagees who requested them in writing.

8.8 ANNUAL INSURANCE REVIEW. The Board shall review the Association's insurance policies at least annually to determine the amount of the casualty and fire insurance referred to in Section 8.1. If economically feasible, the Board shall obtain a current appraisal of the full replacement value of the Improvements on the Properties except for foundations and footings, without deduction for depreciation, from a qualified independent insurance appraiser, before each such annual review.

8.9 REQUIRED WAIVER. All of the Association's insurance policies insuring against physical damage must provide, if reasonably possible, for waiver of:

8.9.1 Subrogation of claims against the Owners and tenants of the Owners;

8.9.2 Any defense based on coinsurance;

8.9.3 Any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association;

8.9.4 Any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured;

8.9.5 Any right of the insurer to repair, rebuild or replace, and, if the Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured;

8.9.6 Notice of the assignment of any Owner of his interest in the insurance by virtue of a conveyance of any Condominium;

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8.9.7 Any right to require any assignment of any Mortgage to the insurer;

8.9.8 Any denial of an Owner's claim because of negligent acts by the Association or other Owners; and

8.9.9 Prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control.

**ARTICLE IX
DESTRUCTION OF IMPROVEMENTS**

9.1 **RESTORATION OF THE PROPERTIES.** Except as otherwise authorized by the Owners, if any portion of the Properties which the Association is responsible for maintaining is destroyed, the Association shall restore the same to its former condition as promptly as practical. The Association shall use the proceeds of its insurance for reconstruction or repair of the Properties unless otherwise authorized in this Declaration. The Board shall prepare or obtain the documents necessary for commencing such reconstruction as promptly as practical. The Properties shall be reconstructed or rebuilt substantially in accordance with the Condominium Plan and the original construction plans if they are available, unless changes recommended by the Design Review Committee have been approved by at least sixty-seven percent (67%) of the Owners. If the insurance proceeds amount to at least ninety-five percent (95%) of the estimated cost of restoration and repair, the Board shall levy a Reconstruction Assessment to provide the additional funds necessary for such reconstruction. If the insurance proceeds amount to less than ninety-five percent (95%) of the estimated cost of restoration and repair, the Board may levy a Reconstruction Assessment and proceed with the restoration and repair only if both of the following conditions ("*Conditions to Reconstruction*") have been satisfied: (a) the levy of a Reconstruction Assessment to pay the costs of restoration and repair of the Properties is approved by the Owners; and (b) within one (1) year after the date on which the destruction occurred, the Board Records a certificate of the resolution authorizing the restoration and repair ("*Reconstruction Certificate*"). If either of the Conditions to Reconstruction does not occur following a destruction for which insurance proceeds available for restoration and repair are less than ninety-five percent (95%) of the estimated cost of restoration and repair, then the Board shall proceed as provided in Section 9.2.

9.2 **SALE OF PROPERTIES AND RIGHT TO PARTITION.** No Owner shall have the right to partition of his interest in the Condominium and there shall be no judicial partition of the Properties, or any part thereof, except as provided in Section 1359(b) of the California Civil Code. For purposes of subsection 4 of Section 1359(b), partition may occur only if all of the following conditions are satisfied: (a) either or both of the Conditions to Reconstruction described in Section 9.1 have failed to occur; (b) within six (6) months after the date on which destruction occurred, restoration or repair has not actually commenced; and (c) the Owners of at least sixty-seven percent (67%) of the Condominiums in the Properties approve the partition. In such event, the Association shall prepare, execute and Record, as promptly as practical, the certificate stating that a majority of the Board may properly exercise an irrevocable power of attorney to sell the Properties for the benefit of the Owners and execute such other documents and instruments as may be necessary for the Association to consummate the sale of the Properties at the highest and best price obtainable, either in its damaged condition, or after

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damaged structures have been razed. Such certificate shall be conclusive evidence of such authority for any Person relying thereon in good faith. The net proceeds of such sale and the proceeds of any insurance carried by the Association shall be divided proportionately among the Owners, such proportions to be determined in accordance with the relative appraised fair market valuation of the Condominiums as of a date immediately before such destruction (or condemnation), expressed as percentages, and computed by dividing such appraised valuation of each Condominium by the total of such appraised valuations of all Condominiums in the Properties. The Board is authorized to hire one (1) or more appraisers for such purpose and the cost of such appraisals shall be a Common Expense of the Association. However, the balance then due on any valid Mortgage of Record shall be first paid in order of priority before the distribution of any proceeds to an Owner whose Condominium is so encumbered. Nothing in this Declaration prevents partition of a co-tenancy in any Condominium. Except as provided above, each Owner and the successors of each Owner, whether by deed, gift, devise, or by operation of law, for their own benefit and for the Condominiums and for the benefit of all other Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Properties and do further covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment.

9.3 **INTERIOR DAMAGE.** With the exception of any casualty or damage covered by insurance kept by the Association, restoration and repair of any damage to the interior of any individual Unit, including all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, must be made by and at the individual expense of the Owner of the Unit so damaged. If a determination to rebuild the Properties after partial or total destruction is made, as provided in this Article, such interior repair and restoration shall be completed as promptly as practical and in a lawful and workmanlike manner, in accordance with plans approved by the Design Review Committee as provided in this Declaration.

9.4 **NOTICE TO OWNERS AND FIRST MORTGAGEES.** The Board, immediately on having knowledge of any damage or destruction affecting a Unit or a material portion of the Common Property, shall promptly notify all Owners and First Mortgagees.

**ARTICLE X
EMINENT DOMAIN**

The term "taking" as used in this Article means inverse condemnation, condemnation by exercise of the power of eminent domain, or a sale under the threat of the exercise of the power of eminent domain. The Board shall represent the Owners in any proceedings, negotiations, settlements, or agreements regarding takings. All takings proceeds shall be payable to the Association for the benefit of the Owners and their Mortgagees, and shall be distributed to such Owners and Mortgagees as provided in this Article.

10.1 **PROPERTY CONDEMNATION.** If (a) there is a taking of an interest in all or part of the Properties such that the ownership, operation and use of the Properties in accordance with this Declaration is substantially and adversely affected, and (b) within one hundred twenty (120) days after the effective date of the taking the Owners of Units (i) not taken, or (ii) only partially taken but capable of being restored to at least ninety-five percent (95%) of their floor

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area and to substantially their condition before the taking (collectively, the “*Remaining Units*”) do not by affirmative vote of at least one-third (1/3) of their voting power approve the continuation of the Properties and the repair, restoration and replacement to the extent feasible of the Association Property and the Remaining Units, then the Board shall proceed with the sale of that portion of the Properties which was not taken and distribute the net proceeds of such sale after deducting any incidental fees and expenses, in the same proportion and manner as provided in Section 9.2.

10.2 **CONDEMNATION OF COMMON PROPERTY.** If there is a taking of (a) the Common Area or any interest therein (other than the taking of an undivided interest therein taken as a result of the taking of a Condominium), or (b) the Association Property (other than Exclusive Use Area) or any interest therein, then the award in condemnation shall be paid to the Association and shall be deposited in the Operating Fund.

10.3 **CONDEMNATION OF EXCLUSIVE USE AREA.** If there is a taking of all or any portion of an Exclusive Use Area, the award in condemnation shall be paid to the Owner of the Condominium to which the taken Exclusive Use Area was appurtenant; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner’s Condominium, in order of priority.

10.4 **CONDEMNATION OF CONDOMINIUMS.** If there is a taking of a Condominium, the award in condemnation shall be paid to the Owner of the Condominium; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner’s Condominium, in order of priority.

10.5 **CONDEMNATION OF PORTIONS OF UNITS.**

10.5.1 **Minor Takings Within Limits.** If (a) there is a taking of a portion of one or more Units that does not substantially and adversely affect the Units’ ability to serve as residential dwellings, and (b) restoration of such Units can be accomplished at a cost less than or equal to the sum of (i) the amount of the condemnation awards for such takings plus (ii) any amounts the Owners of the taken Units wish to contribute to restoration plus (iii) an amount less than or equal to five percent (5%) of the Budgeted gross expenses of the Association for that Fiscal Year (collectively, the “*Allowable Cost*”), then the Board shall contract for such restoration and levy a Reconstruction Assessment in an amount equal to the Allowable Cost minus the amount of the condemnation awards and Owners’ contributions, and the condemnation awards, Owners’ contributions and Reconstruction Assessment shall be applied to such restoration. If the restoration is accomplished at a cost less than the amount of the condemnation awards, then that portion of the condemnation awards which exceeds the restoration costs shall be paid to the Owners of the partially taken Units in proportion to the decreases in the fair market values of their Condominiums; however, such awards shall first be applied to the balance then due on any Mortgages encumbering such Owners’ Condominiums, in order of priority.

10.5.2 **Minor Takings Exceeding Limits.** If (a) there is a taking of a portion of one or more Units that does not substantially and adversely affect the Units’ ability to serve as residential dwellings, and (b) restoration cannot be accomplished at a cost less than or equal to the Allowable Cost, then the Board shall call a Special Meeting of the Owners. If more than fifty

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percent (50%) of the voting power of the Association is represented at such Special Meeting, either in person or by proxy, and a majority of the votes cast at such Special Meeting are in favor of levying a Reconstruction Assessment in an amount equal to the restoration costs minus the sum of the amount of the condemnation awards and the amounts the Owners of the taken Units wish to contribute to such restoration, then the Board shall contract for such restoration and levy a Reconstruction Assessment, and the condemnation awards, Owners' contributions and Reconstruction Assessment shall be applied to such restoration.

10.5.3 Major Takings. If neither Section 10.5.1 nor Section 10.5.2 applies to a taking of a Unit, then the award in condemnation shall be paid to the Owners of the taken Units; however, such award shall first be applied to the balance then due on any Mortgages encumbering such Owner's Condominium, in order of priority. The Board shall have the remaining portions of the taken Units razed. The remaining portions of the taken Units and appurtenant Exclusive Use Areas shall become part of the Association Property, and the Owners of such taken Units in the Phase, by acceptance of the award allotted to them in taking proceedings, relinquish (a) to the other Owners in the Phase, on the basis of their relative ownership of the Common Area therein, such Owners' undivided interest in the Common Area, and (b) to the Association, the remaining portions of the Units and the appurtenant Exclusive Use Areas. Each Owner relinquishing his interest in the Common Area pursuant to this Section shall, at the Board's request and at the Association's expense, execute and acknowledge such deeds and other instruments that the Board considers necessary or convenient to evidence such relinquishment. Each Owner of a taken Unit is not liable for Assessments under this Declaration that accrue on or after the date such Owner accepts his condemnation award.

10.6 PORTIONS OF AWARDS IN CONDEMNATION NOT COMPENSATORY FOR VALUE OF REAL PROPERTY. Those portions of awards in condemnation that do not directly compensate Owners for takings of real property (e.g., awards for takings of personal property, relocation expenses, moving expenses, or other allowances of a similar nature intended to facilitate relocation) shall be paid to the Owners whose personal property is taken, or whose relocation is intended to be facilitated.

10.7 NOTICE TO OWNERS AND FIRST MORTGAGEES. The Board, on learning of any taking affecting a Unit or a material portion of the Properties, or any threat thereof, shall promptly notify all Owners and First Mortgagees.

**ARTICLE XI
RIGHTS OF MORTGAGEES**

11.1 GENERAL PROTECTIONS. No amendment or violation of this Declaration defeats or renders invalid the rights of the Mortgagee under any Mortgage encumbering one (1) or more Condominiums made in good faith and for value, provided that after the foreclosure of any such Mortgage such Condominium(s) will remain subject to this Declaration. For purposes of any provisions of the Governing Documents that require the vote or approval of a specified percentage of First Mortgagees, such vote or approval is determined based on one (1) vote for each Condominium encumbered by each such First Mortgage.

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11.2 **ADDITIONAL RIGHTS.** To induce the VA, FHA, Freddie Mac, Ginnie Mae and Fannie Mae to participate in the financing of the sale of Condominiums, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of this Declaration or any other of the Governing Documents, these added provisions control):

11.2.1 **Required Mortgagee Approvals.** A Mortgagee Majority must approve any amendment of any of the Governing Documents which is of a material adverse nature to First Mortgagees.

11.2.2 **Deemed Approval.** Each First Mortgagee who receives proper written notices from the Association by certified or registered mail with a return receipt requested of any matter requiring the approval of a Mortgagee Majority is deemed to have approved that matter if that First Mortgagee does not submit a written response within sixty (60) days after the notice is delivered to the First Mortgagee.

11.2.3 **Notices.** Each Mortgagee, insurer and guarantor of a Mortgage encumbering one (1) or more Condominiums, on filing a written request for notification with the Board, is entitled to written notice from the Association of: (a) any condemnation or casualty loss which affects either a material portion of the Properties or the Condominium(s) securing the Mortgage; (b) any delinquency of sixty (60) days or more in the performance of any obligation under the Governing Documents, including the payment of Assessments or charges owed by the Owner(s) of the Condominium(s) securing the Mortgage, which notice each Owner consents to and authorizes; (c) a lapse, cancellation, or material modification of any insurance policy kept by the Association; and (d) any proposed action of the Association which requires consent by a specified percentage of First Mortgagees who have submitted a written request to the Association for notice of such proposed action.

11.2.4 **First Mortgagees Rights Confirmed.** No provision of this Declaration, any notice of Addition or Supplemental Declaration gives any Owner or any other party priority over any rights of a First Mortgagee pursuant to its Mortgage concerning payment to the Owner of insurance proceeds or condemnation awards for losses to or taking of a Condominium or any portion of the Association Property.

11.2.5 **Right of First Refusal.** Each Owner, including each First Mortgagee of a Mortgage encumbering any Condominium who obtains title to such Condominium pursuant to (a) the remedies provided in such Mortgage, (b) foreclosure of the Mortgage, or (c) deed or assignment in lieu of foreclosure, is exempt from any "right of first refusal" created or purported to be created by the Governing Documents.

11.2.6 **Unpaid Assessments.** If the First Mortgagee of a Condominium obtains fee title to the Condominium either by foreclosure, a deed in lieu of foreclosure or by any other remedy provided under the Mortgage, then the Mortgagee shall take title to the Condominium free and clear of any claims for more than six (6) unpaid Assessments or any charges against the Condominium to the extent the Assessments or charges accrued before the date on which the Mortgagee acquired title to the Condominium.

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11.2.7 **Approvals.** Notwithstanding Section 11.2.1 above, unless at least sixty-seven percent (67%) of the First Mortgagees or sixty-seven percent (67%) of the Owners have given their prior written approval, the Association may not:

- (a) by act or omission seek to abandon or terminate the Properties;
- or
- (b) change the method of determining the obligations, Assessments, dues or other charges which may be levied against any Owner; or
 - (c) partition or subdivide any Condominium; or
 - (d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property. (The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Property under this Declaration, the granting of exclusive easements to Owners over the Common Property to conform the boundaries of the Common Property to the as-built location of authorized Improvements and any grant made in connection with any lawful lot line adjustment are not transfers within the meaning of this clause); or
 - (e) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design, the exterior appearance or the maintenance of the Units or the Common Property; or
 - (f) fail to keep Fire and Extended Coverage insurance on insurable Common Property as provided in and subject to the provisions of Article VIII; or
 - (g) use hazard insurance proceeds for losses to any Condominium property (i.e., Improvements to the Units or Common Property) for other than the repair, replacement or reconstruction of such Condominium property, subject to the provisions of Article IX; or
 - (h) change the pro rata interest or obligations of any Condominium to levy Assessments or charges, allocate distributions of hazard insurance proceeds or condemnation awards or determine the pro rata share of ownership of each Condominium in the Common Area.

11.2.8 **Association Records.** All Mortgagees, insurers and guarantors of First Mortgages, on written request to the Association may:

- (a) examine current copies of the Association's books, records and financial statements and the Governing Documents during normal business hours;
- (b) require the Association to submit an annual audited financial statement for the preceding Fiscal Year if one is available, or have one prepared at the expense of the requesting entity if such statement is not otherwise prepared by the Association;
- (c) receive written notice of all meetings of Owners; and

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(d) designate in writing a representative authorized to attend all meetings of Owners.

11.2.9 Material Changes. All Mortgagees, insurers and guarantors of First Mortgages, on written request, shall be given thirty (30) days' written notice before the effective date of (a) any proposed material amendment to the Governing Documents or Condominium Plan; (b) after the first Close of Escrow, any termination of an agreement for professional management of the Properties following any decision of the Owners to assume self-management of the Properties; and (c) any proposed termination of the Properties as a condominium project.

11.2.10 Reserves. The Reserve Fund described in Article VII must be funded by regular scheduled monthly, quarterly, semiannual or annual payments rather than by special Assessments.

11.2.11 Fidelity Insurance. The Board shall secure fidelity insurance for any person handling Association funds, including, but not limited to, employees of the professional Manager.

11.2.12 Contracts. The Board may enter into such contracts or agreements on behalf of the Association as are required to satisfy the guidelines of the VA, FHA, Freddie Mac, Fannie Mae or Ginnie Mae or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of First Mortgages encumbering Condominiums. Each Owner agrees that it will benefit the Association and the Owners, as a class of potential Mortgage borrowers and potential sellers of their residential Condominiums, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations. Each Owner authorizes his Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Condominium.

11.2.13 Professional Management. When professional management has been required by a Mortgagee, insurer, or guarantor of a First Mortgage, any decision to establish self-management by the Association shall require the approval of at least sixty-seven percent (67%) of the voting power of the Association and the Mortgagees of at least fifty-one percent (51%) of the First Mortgages of Condominiums in the Properties.

11.2.14 Intended Improvements. All intended Improvements in any Phase other than Phase 1 must be substantially completed or the completion of such Improvements must be secured by a bond or other arrangement acceptable to the DRE before the first Close of Escrow in such Phase. All such Improvements shall be substantially consistent with the Improvements in Phase 1 in structure type and quality of construction. The requirements in the immediately preceding sentence are only for the benefit of Fannie Mae and they may be enforced only by Fannie Mae.

11.2.15 Payment of Taxes and Insurance. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage to replace a policy that has lapsed, for Common Property, and the Association shall immediately reimburse First Mortgagees making such

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payments; provided, however that the Association shall not be responsible for reimbursing said Mortgagees for the purchase of any insurance that the Association is not obligated to carry under this Declaration or any optional insurance that the Association did not authorize prior to its purchase by the Mortgagee.

**ARTICLE XII
ENFORCEMENT**

12.1 ENFORCEMENT OF GOVERNING DOCUMENTS. All disputes arising under the Governing Documents, other than those described in Sections 12.2 through 12.4 or regulated by Civil Code Section 1375, shall be resolved as follows.

12.1.1 Violations Identified by the Association. If the Board determines that there is a violation of the Governing Documents, or the Design Review Committee determines that an Improvement which is the maintenance responsibility of an Owner needs installation, maintenance, repair, restoration or painting, then the Board shall give written notice to the responsible Owner identifying (a) the condition or violation complained of, and (b) the length of time the Owner has to remedy the violation including, if appropriate, the length of time the Owner has to submit plans to the Design Review Committee and the length of time the Owner has to complete the work proposed in the plans submitted to the Design Review Committee. If an Owner does not perform such corrective action as is required by the Board and the Design Review Committee within the allotted time, the Board, after Notice and Hearing, may remedy such condition or violation complained of, and the cost thereof shall be charged to the Owner as a Special Assessment. If the violation involves nonpayment of any Assessment, then the Board may collect such delinquent Assessment pursuant to the procedures established in Section 12.2.

12.1.2 Violations Identified by an Owner. If an Owner alleges that another Person is violating the Governing Documents (other than nonpayment of any Assessment), the complaining Owner must first submit the matter to the Board for Notice and Hearing before the complaining Owner may resort to alternative dispute resolution, as required by Section 1369.510 *et seq.* of the California Civil Code, or litigation for relief.

12.1.3 Legal Proceedings. Failure to comply with any of the terms of the Governing Documents by any Person is grounds for relief which may include an action to recover damages, injunctive relief, foreclosure of any lien, or any combination thereof; however, the procedures established in Sections 1363.810, *et seq.*, and 1369.510, *et seq.*, of the California Civil Code and in Sections 12.1.1, 12.1.2 and 12.4.2(c) must first be followed, if they apply.

12.1.4 Additional Remedies. After Notice and Hearing, the Board may impose any of the remedies provided for in the Bylaws. The Board may adopt a schedule of reasonable fines or penalties that, in its reasonable discretion, the Board may assess against a Person after Notice and Hearing for the failure of such Person to comply with the Governing Documents. Such fines or penalties may only be assessed after Notice and Hearing. After notice and hearing, the Board may direct the officers of the Association to Record a notice of noncompliance (if allowed by law) against the Condominium owned by any Owner who has violated any provision of this Declaration. The notice shall include a legal description of the

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Condominium and shall specify the provision of this Declaration that was violated, the violation committed, and the steps required to remedy the noncompliance. Once the noncompliance is remedied or the non-complying Owner has taken such other steps as reasonably required by the Board, the Board shall direct the officers of the Association to Record a notice that the noncompliance has been remedied.

12.1.5 **No Waiver.** Failure to enforce any provision of this Declaration does not waive the right to enforce that provision, or any other provision of this Declaration.

12.1.6 **Right to Enforce.** The Board, the Association, Declarant, and any Owner may enforce the Governing Documents as described in this Article, subject to Sections 1363.810, *et seq.*, and 1369.510, *et seq.*, of the California Civil Code. Each Owner has a right of action against the Association for the Association's failure to comply with the Governing Documents. Each remedy provided for in this Declaration is cumulative and not exclusive or exhaustive.

12.1.7 **Limit on Expenditures.** The Association may not incur litigation expenses, including attorneys' fees, or borrow money to fund litigation, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Association first obtains the consent of a majority of the Owners (excluding the voting power of any Owner who would be a defendant in such proceedings), and, if applicable, complies with the requirements of Sections 1363.810, *et seq.*, and 1369.510, *et seq.*, of the California Civil Code. Such approval is not necessary if the legal proceedings are initiated (a) to enforce the use restrictions contained in Article II, (b) to enforce the architectural and landscaping control provisions contained in Article V, (c) to collect any unpaid Assessments levied pursuant to the Governing Documents, (d) for a claim, the total value of which is less than five hundred thousand dollars (\$500,000), or (e) as a cross-complaint in litigation to which the Association is already a party. If the Association decides to use or transfer reserve funds or borrow funds to pay for any litigation, the Association must notify the Owners of the decision by mail. Such notice shall provide an explanation of why the litigation is being initiated or defended, why Operating Funds cannot be used, how and when the reserve funds will be replaced or the loan will be repaid, and a proposed budget for the litigation. The notice must state that the Owners have a right to review an accounting for the litigation that will be available at the Association's office. The accounting shall be updated monthly. If the litigation discussed in this Section 12.1.7 concerns a construction defect claim against the Declarant and Declarant Parties (as such term is defined in Section 12.4 of this Declaration) pursuant to the Right to Repair Law, then the requirements of Section 4.5.2 of this Declaration must be met in addition to the requirements of this Section 12.1.7.

12.2 NONPAYMENT OF ASSESSMENTS.

12.2.1 **Delinquency.** Assessments are delinquent if not paid within fifteen (15) days after the due date established by the Association. Assessments not paid within thirty (30) days after the due date, plus all reasonable costs of collection (including attorneys' fees) and late charges bear interest at the maximum rate permitted by law commencing thirty (30) days after the due date until paid. The Association may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 1366(d)(2). The Association need

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not accept any tender of a partial payment of an Assessment and all costs and attorneys' fees attributable thereto. Acceptance of any such tender does not waive the Association's right to demand and receive full payment.

12.2.2 **Creation and Release of Lien.**

(a) **Priority of Lien.** All liens levied in accordance with this Declaration shall be prior and superior to (i) any declaration of homestead Recorded after the Recordation of this Declaration, and (ii) all other liens, except (1) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any First Mortgage of Record (meaning any Recorded Mortgage with first priority or seniority over other Mortgages) made in good faith and for value and Recorded before the date on which the "Notice of Delinquent Assessment" (described in this Section) against the respective Condominium was Recorded.

(b) **Notice Before Creating Lien.** Before the Association may place a lien on an Owner's Condominium to collect a past due Assessment, the Association shall send written notice ("**Notice of Intent to Lien**"), at least thirty (30) days before Recording the lien, to the Owner by certified mail which contains the following information: (1) the Association's fee and penalty procedure, (2) an itemized statement of the charges owed by the Owner, including the principal owed, any late charges, any interest, the method of calculation, and any attorneys' fees, (3) the collection practices used by the Association, (4) a statement that the Association may recover reasonable costs of collecting past due Assessments, (5) a statement that the Owner has the right to inspect the Association's records, pursuant to California Corporations Code Section 8333, (6) the following statement in 14-point boldface type or all capital letters: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION," (7) a statement that the Owner shall not be liable to pay the charges, interest and costs of collection if it is determined the Assessment was paid on time to the Association, (8) a statement that the Owner has the right to request a meeting with the Board, as provided by California Civil Code Section 1367.1(c) and Section 12.2.2(g) below, (9) a statement concerning the Owner's right to dispute the Assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program required in California Civil Code Section 1363.810, *et seq.*, and (10) a statement concerning the Owner's right to request alternative dispute resolution with a neutral third party pursuant to California Civil Code Section 1369.510, *et seq.*, before the Association may initiate foreclosure against the Owner's separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

(c) **Dispute Resolution Before Recording Lien.** Before Recording a Notice of Delinquent Assessment, the Association shall offer the Owner and, if the Owner so requests, participate in dispute resolution under the Association's "meet and confer" program.

(d) **Dispute Resolution Before Foreclosure.** Before initiating a foreclosure for delinquent Assessments, the Association shall offer the Owner and, if the Owner so requests, shall participate in dispute resolution under the Association's "meet and confer" or alternative dispute resolution with a neutral third party. The decision to pursue resolution or a

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particular type of alternative dispute resolution is the Owner's choice, except that binding arbitration is not available if the Association intends to initiate a judicial foreclosure.

(e) **Board Approval.** For liens recorded on or after January 1, 2006, the decision to Record a Notice of Delinquent Assessment shall be made only by the Board and may not be delegated to an Association agent. The Board must approve the decision by a majority vote of the Board members in an open meeting. The Board shall record the vote in the minutes of that meeting.

(f) **Dispute by Owner.** An Owner may dispute the Notice of Intent to Lien by submitting to the Board a written explanation of the reasons for the Owner's dispute. The Board shall respond in writing to the Owner within fifteen (15) days after the date of the postmark of the explanation, if the explanation is mailed within fifteen (15) days after the postmark of the Notice of Intent to Lien.

(g) **Owner's Right to Request Meeting.** An Owner may submit a written request to meet with the Board to discuss a payment plan for the debt noticed in Section 12.2.2(b) above. The Association shall provide the Owner with the standards for payment plans, if any exist. The Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days after the date of the postmark of the Notice of Intent to Lien, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more members to meet with the Owner.

(h) **Notice of Delinquent Assessment.** The lien becomes effective on Recordation by the Board or its authorized agent of a Notice of Delinquent Assessment ("**Notice of Delinquent Assessment**") securing the payment of any Assessment or installment thereof levied by the Association against any Condominium Owner, as provided in California Civil Code Section 1367 or 1367.1. The Notice of Delinquent Assessment must identify (1) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and Recording the Notice of Delinquent Assessment, (2) the amount of collection costs incurred, including reasonable attorneys' fees, (3) a sufficient description of the Condominium that has been assessed, (4) the Association's name and address, (5) the name of the Owner of the Condominium that has been assessed, and (6) if the lien is to be enforced by non-judicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent and must be mailed in the manner required by California Civil Code Section 2924b to the Owner of record of the Condominium no later than ten (10) calendar days after Recordation. The lien relates only to the individual Condominium against which the Assessment was levied and not to the Community as a whole.

(i) **Service on Owner's Legal Representative.** In addition to the requirements of California Civil Code Section 2924, a Notice of Delinquent Assessment shall be served by the Association on the Owner's legal representative as provided in California Code of Civil Procedure Section 415.10, *et seq.*

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(j) **Secondary Addresses.** Upon receipt of an Owner's written request identifying a secondary address for purposes of collection notices, the Association shall send an additional copy of any Notice of Intent to Lien, Notice of Delinquent Assessment or other Notice given under Section 12.2.2 to the secondary address provided. The Association shall notify Owners of their right to submit secondary addresses to the Association, when the Association issues its pro forma operating budget under California Civil Code Section 1365. The Owner's request must be in writing and mailed to the Association in a manner which indicates the Association has received it. The Owner may identify or change a secondary address at any time, provided that, if a secondary address is identified or changed during the collection process, the Association shall only be required to send Notices to the indicated secondary address from the point the Association receives the request.

(k) **Exceptions.** Assessments described in California Civil Code Section 1367(c) and California Code of Regulations Section 2792.26(c) may not become a lien against an Owner's Condominium enforceable by the sale of the Condominium under California Civil Code Sections 2924, 2924b and 2924c.

(l) **Release of Lien.** Within twenty-one (21) days after payment of the full amount claimed in the Notice of Delinquent Assessment, or other satisfaction thereof, the Board shall cause to be Recorded a Notice of Satisfaction and Release of Lien ("**Notice of Release**") stating the satisfaction and release of the amount claimed. The Association shall provide the Owner with a copy of the Notice of Release or any other notice that the full amount claimed in the Notice of Delinquent Assessment has been satisfied. The Board may require the Owner to pay a reasonable charge for preparing and Recording the Notice of Release. Any purchaser or encumbrancer who has acted in good faith and extended value may rely on the Notice of Release as conclusive evidence of the full satisfaction of the sums identified as owed in the Notice of Delinquent Assessment.

12.2.3 **Enforcement of Liens.** The Board shall enforce the collection of amounts due under this Declaration by one (1) or more of the alternative means of relief afforded by this Declaration, subject to the restrictions in California Civil Code Section 1367.4.

(a) The lien on a Condominium may be enforced by foreclosure and sale of the Condominium after the Owners failure to pay any Assessment, or installment thereof, as provided in this Declaration.

(b) The decision to initiate foreclosure after Recording a Notice of Delinquent Assessment shall be made only by the Board and may not be delegated to an Association agent. The Board shall approve the decision by a majority vote of the Board members in an executive session. The Board shall record the vote in the minutes of the next Board meeting open to all members. The Board shall maintain the confidentiality of the Owner or Owners by identifying the matter in the minutes by the Unit number, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days before any public sale.

(c) The Board shall provide notice by personal service to an Owner who occupies the Unit or to the Owner's legal representative, if the Board votes to

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foreclose on the Unit. The Board shall provide written notice to an Owner who does not occupy the Unit by first-class mail, postage prepaid, at the most current address shown on the Association's books. Unless the Owner provides written notification of a different mailing address to the Association, the address of the Owner's Unit may be treated as the Owner's mailing address.

(d) The sale shall be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in Mortgages, or in any manner permitted by law. The Association (or any Owner if the Association refuses to act) may sue to foreclose the lien if (1) at least thirty (30) days have elapsed since the date on which the Notice of Delinquent Assessment was Recorded, and (2) at least ten (10) days have elapsed since a copy of the Notice of Delinquent Assessment was mailed to the Owner affected thereby. The Association may bid on the Condominium at foreclosure sale, and acquire and hold, lease, mortgage and convey the same. On completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Condominium, and the defaulting Owner shall be required to pay the reasonable rental value for the Condominium during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. A non-judicial foreclosure to collect delinquent Assessments shall be subject to the right of redemption within ninety (90) days after the sale, as provided in California Civil Code Section 1367.4.

(e) A suit to recover a money judgment for unpaid Assessments may be brought without foreclosing or waiving any lien securing the same, subject to the provisions of California Civil Code Section 1367.1(b), but this provision or any suit to recover a money judgment does not affirm the adequacy of money damages. Any recovery resulting from a suit at law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court.

12.2.4 Priority of Assessment Lien. Mortgages Recorded before a Notice of Delinquent Assessment have lien priority over the Notice of Delinquent Assessment. Sale or transfer of any Condominium does not affect the Assessment lien, except that the sale or transfer of any Condominium pursuant to judicial or non-judicial foreclosure of a First Mortgage extinguishes the lien of such Assessments as to payments which became due before such sale or transfer. No sale or transfer relieves such Condominium from liens for any Assessments thereafter becoming due. No Person who obtains title to a Condominium pursuant to a judicial or non-judicial foreclosure of the First Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Condominium which became due before the acquisition of title to the Condominium by such Person. Such unpaid share of Common Expenses or Assessments is a Common Expense collectible from all Owners including such Person. The Association may take such action as is necessary to make any Assessment lien subordinate to the interests of the Department of Veterans Affairs of the State of California under its Cal-Vet loan contracts as if the Cal-Vet loan contracts were First Mortgages of record.

12.2.5 Alternative Dispute Resolution. An Owner may dispute the Assessments imposed by the Association as provided in this Declaration and in California Civil Code Sections 1367.1 and 1367.4. If it is determined through dispute resolution pursuant to the Association's "meet and confer" program required in this Declaration or alternative dispute

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resolution with a neutral third party pursuant to California Civil Code Section 1369.510, *et seq.*, that the Association Recorded a Notice of Delinquent Assessment in error, the Association shall promptly reverse all late charges, fees, interest, attorney's fees, costs of collection, costs imposed for the Notice prescribed in Section 1367.1(a), and costs of Recordation and release of the lien authorized under Section 1367.4(b) and pay all costs related to the dispute resolution or alternative dispute resolution.

12.2.6 **Receivers.** In addition to the foreclosure and other remedies granted to the Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Condominium, conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Condominium, subject to the right of the Association to collect and apply such rents, issues and profits to any delinquent Assessments owed by such Owner, reserving to the Owner the right, before any default by the Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. On any such default, the Association may, on the expiration of thirty (30) days following delivery to the Owner of the "Notice of Delinquent Assessment" described in this Declaration, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described in this Declaration, (a) enter in or on and take possession of the Condominium or any part thereof, (b) in the Association's name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses of operation, to any delinquencies of the Owner, and in such order as the Association may determine. The entering upon and taking possession of the Condominium, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default under this Declaration or invalidate any act done pursuant to such notice.

12.2.7 **Compliance with Law.** To the extent that any provision in this Section 12.2 conflicts with the provisions of the Davis-Stirling Act (California Civil Code Section 1350, *et seq.*) the statutory provisions shall control.

12.3 ENFORCEMENT OF CERTAIN BONDED OBLIGATIONS.

12.3.1 **Consideration by the Board.** If (a) the Common Property Improvements in any Phase are not completed before the issuance of a Final Subdivision Public Report for such Phase by the DRE, and (b) the Association is obligee under a bond or other arrangement ("**Bond**") required by the DRE to secure performance of Declarant's commitment to complete such Improvements, then 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 such Improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that Improvement 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, then the Board shall be directed to consider and vote on the question if a Notice of Completion has not been filed within thirty (30) days after the expiration of the extension.

12.3.2 **Consideration by the Owners.** A special meeting of Owners for voting to override a decision by the Board not to initiate action to enforce the obligations under

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the Bond or the Board's failure to consider and vote on the question shall be held no fewer than thirty-five (35) nor more than forty-five (45) days after the Board receives a petition for such a meeting signed by Owners representing five percent (5%) of the Association's total voting power. A vote of a majority of the Association's voting power residing in Owners other than 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 Association's name.

12.4 DISPUTE WITH DECLARANT PARTIES. Any dispute between the Association or any Owners, on the one hand, and the Declarant, or any director, officer, partner, shareholder, member, employee, representative, contractor, subcontractor, design professional or agent of the Declarant (each, a "**Declarant Party**," and collectively the "**Declarant Parties**"), on the other hand, shall be a "**Dispute**" for purposes of this Section 12.4, if:

(a) The dispute either arises under this Declaration or otherwise relates to the Properties (including disputes regarding latent or patent construction defects); and

(b) The dispute involves neither Association Property completion bonds, nor the collection of delinquent Assessments from Declarant.

12.4.1 Notice of Non-adversarial Dispute Resolution Procedures Under the Right to Repair Law. Declarant advises the Association and each Owner of the existence of the non-adversarial dispute resolution procedures set forth in California Civil Code Section 910 through 938 (the "**Right to Repair Procedures**") and that such procedures impact the legal rights of Owner and the Association, and any parties subsequently purchasing a Unit or Association Property from an Owner or the Association, as applicable. The Association and each Owner acknowledge that Declarant and each Declarant Party, have elected to use the alternative non-adversarial dispute resolution procedures described in Section 12.4.2, below, as authorized in Section 914 of the Right to Repair Law.

12.4.2 Non-adversarial Dispute Resolution Procedures for All Disputes. For all Disputes, each Declarant Party, each Owner and the Association agree to follow the non-adversarial procedures set forth below in Sections (a) through (c). Notwithstanding any provision of this Section 12.4 to the contrary, the parties may use small claims court as an alternative means to resolve a Dispute, if the amount in controversy is within the jurisdictional limits of the small claims court.

(a) **Notice.** Any Person with a Dispute must give written notice of the Dispute as soon as is reasonably possible after the Person discovered or should have discovered the basis for the Dispute, to the party to whom the Dispute is directed ("**Respondent**"), describing the nature of the Dispute and any proposed remedy (the "**Dispute Notice**"). The Dispute Notice must be given by personal or mail service as authorized by California Code of Civil Procedure Sections 415.10, 415.20, 415.21, 415.30 or 415.40. A Dispute Notice does not constitute notice of a claim or any other notice under the Right to Repair Law.

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(b) **Cooperation, Access and Repair.** Commencing on the date the Dispute Notice is delivered to the Respondent, the party alleging the Dispute must promptly and reasonably cooperate with Respondent and its representatives to facilitate the resolution of the Dispute. Respondent and its representatives have the right to (i) meet with the party alleging the Dispute at a reasonable time and place to discuss the Dispute, (ii) enter the Properties to inspect any areas that are subject to the Dispute, and (iii) conduct inspections and testing (including destructive or invasive testing) in a manner deemed appropriate by the Respondent. If Respondent elects to take any corrective action, Respondent and its representatives shall be provided full access to the Properties to take and complete the corrective action. If the Dispute relates to the planning surveying, design, engineering, grading, specifications, construction or other development of the Properties, Respondent is granted the irrevocable right to inspect, repair or replace any affected parts of the Properties. However, Respondent is not obligated to take any such corrective action. Respondent, with the consent of Declarant, has the right to select the corrective action Respondent believes is appropriate. The right to take corrective action granted in this Section is in addition to the rights granted in California Civil Code Section 1375 ("**Calderon Act**"). The procedures established in the Calderon Act may be implemented, before, during or after the procedure in this Section is implemented.

(c) **Mediation.** If the Dispute is not resolved within ninety (90) days after the Respondent receives the Dispute Notice, the parties may by mutual agreement submit the Dispute to mediation by delivering a request for mediation ("**Mediation Notice**") in the same manner as allowed for delivery of the Dispute Notice. A decision to mediate or not to mediate by any party is without prejudice to any party's rights. The mediation shall be conducted pursuant to (i) the American Arbitration Association ("**AAA**") mediation procedures in existence when the Dispute Notice is delivered, as modified by this Section, or (ii) the mediation procedures of any successor to the AAA in existence when the Dispute Notice is delivered, as modified by this Section, or (iii) mediation procedures approved by the parties of any entity offering mediation services that is acceptable to the parties to the Dispute ("**Parties**").

(i) **Selection of Mediator.** The mediator shall be selected within sixty (60) days from delivery of the Mediation Notice. The mediator shall be selected by mutual agreement of the Parties. If the parties cannot agree on a mediator, the mediator shall be selected by the entity providing the mediation service. No Person shall serve as a mediator in any Dispute in which the Person has any financial or personal interest in the result of the mediation, except by the written consent of all Parties. Before accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

(ii) **Position Letter; Pre-Mediation Conference.** No later than sixty (60) days after selection of the mediator, each party to the Dispute shall submit a letter ("**Position Statement**") containing (i) a description of the party's position concerning the issues that need to be resolved, (ii) a detailed description of the defects allegedly at issue, and (iii) a suggested plan of repair, remediation or correction. The mediator may schedule a pre-mediation conference. All Parties shall attend unless otherwise mutually agreed. The mediation shall be commenced within twenty (20) days after submittal of all Position Statements and shall be concluded within fifteen (15) days after the mediation began unless either (a) the mediator

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extends the mediation period, or (b) the Parties mutually agree to extend the mediation period. The mediation shall be held in the County or another place mutually acceptable to the parties.

(iii) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate to achieve the goal of settling the Dispute. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement. The mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the Parties agree to and do assume the expenses of obtaining such advice. The mediator shall not have the authority to impose a settlement on the Parties.

(iv) Application of Evidence Code. The provisions of California Evidence Code Sections 1115 through 1128 shall be applicable to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be governed by these sections, including the sections which preclude use of material in future proceedings and the sections which provide for confidentiality of material.

(v) Parties Permitted at Mediation. Persons other than the Parties, their liability insurers, Declarant, attorneys for the Parties, the liability insurers and Declarant and the mediator may attend mediation sessions only with the permission of the Parties and the consent of the mediator. Declarant has the right to attend the mediation session even if Declarant is not one of the Parties.

(vi) Record. There shall be no stenographic, video or audio record of the mediation process.

(vii) Expenses. Declarant and any Declarant Parties who are a party to the mediation shall pay the mediator's fees for a one-half day mediation session. All Parties shall bear their own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation, including additional mediator's fees and the cost of any proof or expert advice requested by the mediator, shall be borne equally by the Parties, unless the Parties agree otherwise. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

12.4.3 **Dispute Resolution Procedures.** If the non-adversarial dispute resolution procedures set forth in Section 12.4.2 fail to resolve any Dispute, the dispute resolution procedures stated in this Section 12.4.3 shall apply.

(a) **Judicial Reference.** An Association must obtain the vote or written consent of Owners other than Declarant who represent not less than sixty-seven percent (67%) of the Association's voting power (excluding the voting power of Declarant) prior to filing a lawsuit in a Dispute with Declarant or a Declarant Party under this Section 12.4.3. All lawsuits must be resolved by general judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 through 645.1, as modified by this Section 12.4.3. The Parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in

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the judicial reference proceeding. No party shall be required to participate in the judicial reference proceeding if all parties against whom such party would have necessary or permissive cross-claims or counterclaims will not or cannot be joined in the judicial reference proceeding. The general referee shall have the authority to try all issues of fact and law and to report a statement of decision to the court. The referee shall be the only trier of fact and law in the reference proceeding, and shall have no authority to further refer any issues of fact or law to any other Person unless (a) all parties to the judicial reference proceeding consent, or (b) the referee determines that a conflict of interest or similar situation has arisen which would make it inappropriate for the referee to act as the trier of fact or law concerning an issue or matter. In the second alternative, an alternative judicial referee shall be selected in accordance with Section 12.4.3(ii) solely for resolving or rendering a decision concerning the issue or matter involved in the conflict.

(i) Place. The proceedings shall be heard in the County.

(ii) Referee. The referee shall be a retired judge who served on the Superior Court of the State of California in the County with substantial experience in the type of matter in dispute and without any relationship to the Parties or interest in the Properties, unless the Parties agree otherwise. The parties to the judicial reference proceeding shall meet to select the referee no later than thirty (30) days after service of the initial complaint on all defendants named in the complaint. Any dispute regarding selecting the referee shall be resolved by the court in which the complaint is filed.

(iii) Commencement and Timing of Proceeding. The referee shall commence the proceeding at the earliest convenient date and shall conduct the proceeding without undue delay.

(iv) Pre-hearing Conferences. The referee may require pre-hearing conferences.

(v) Discovery. The parties to the judicial reference proceeding shall be entitled only to limited discovery, consisting of the exchange of the following: (i) witness lists, (ii) expert witness designations, (iii) expert witness reports, (iv) exhibits, (v) reports of testing or inspections, and (vi) briefs. Any other discovery authorized in the California Code of Civil Procedure shall be permitted by the referee upon a showing of good cause or based on the consent of all parties to the judicial reference proceeding.

(vi) Motions. The referee shall have the power to hear and dispose of motions, including motions relating to discovery, provisional remedies, demurrers, motions to dismiss, motions for judgment on the pleadings and summary judgment and/or adjudication motions, in the same manner as a trial court judge. The referee shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(vii) Record. A stenographic record of the hearing shall be made which shall remain confidential except as may be necessary for post-hearing motions and any appeals.

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(viii) Statement of Decision. The referee's statement of decision shall contain an explanation of the factual and legal basis for the decision pursuant to California Code of Civil Procedure Section 632. The decision of the referee shall stand as the decision of the court, and upon filing of the statement of decision with the clerk of the court, judgment may be entered thereon in the same manner as if the Dispute had been tried by the court.

(ix) Remedies. The referee may grant all legal and equitable remedies and award damages in the judicial reference proceeding.

(x) Post-hearing Motions. The referee may rule on all post-hearing motions in the same manner as a trial judge.

(xi) Appeals. The decision of the referee shall be subject to appeal in the same manner as if the Dispute had been tried by the court.

(xii) Expenses. Each party shall bear its own attorneys' fees and cost incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of the stenographic record, shall be advanced equally by each of Declarant and the Declarant Parties to whom the Dispute is directed. However, the referee shall have the power to reallocate such fees and costs among the Parties in the referee's final ruling. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between Declarant and the Declarant Party.

12.4.4 **Statutes of Limitation.** Nothing in this Section 12.4 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Declarant Parties, the Association and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 12.4.

12.4.5 **Agreement to Dispute Resolution; Waivers of Jury Trial; Amendment.** **DECLARANT, THE ASSOCIATION AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 12.4 TO RESOLVE ALL DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. DECLARANT, THE ASSOCIATION, AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.4, THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JURY. THIS SECTION 12.4 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.**

12.4.6 **Bench Trial; Waiver of Jury Trial.** **IN THE EVENT THE FOREGOING JUDICIAL REFERENCE PROVISIONS ARE HELD NOT TO APPLY, OR ARE HELD INVALID, VOID, OR UNENFORCEABLE FOR ANY REASON, DECLARANT, THE ASSOCIATION AND EACH OWNER AGREE THAT ALL DISPUTES SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT**

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JURISDICTION WITHOUT A JURY. THE JUDGE IN SUCH COURT OF COMPETENT JURISDICTION SHALL HAVE THE POWER TO GRANT ALL LEGAL AND EQUITABLE REMEDIES AND AWARD DAMAGES. DECLARANT, THE ASSOCIATION AND EACH OWNER EACH HEREBY WAIVE AND COVENANT NOT TO ASSERT THEIR CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTES, AS DEFINED HEREIN.

12.4.7 **Civil Code Section 1354.** Section 12.4 governs only the resolution of Disputes with Declarant Parties and shall not affect the subject matter of such Disputes. Unless the subject matter of a Dispute expressly involves enforcement of the Restrictions, such Dispute shall not be governed by the provisions of California Civil Code Section 1354, or any successor statute. Enforcement of Section 12.4 shall not entitle the prevailing party in any Dispute with a Declarant Party to recover attorney's fees or costs.

ARTICLE XIII DURATION AND AMENDMENT

13.1 **DURATION.** This Declaration shall continue in full force unless a declaration of termination satisfying the requirements of an amendment to this Declaration established in Section 13.2 is Recorded.

13.2 **TERMINATION AND AMENDMENT.**

13.2.1 **Amendment Approval.** Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form must be included in the notice of any Association meeting or election at which a proposed amendment is to be considered. To be effective, a proposed amendment (other than an amendment by Declarant or by the Board, as described in Sections 13.2.7 or 13.2.8 respectively) must be (a) adopted by the vote, in person or by proxy, or written consent of Owners representing not less than (1) sixty-seven percent (67%) of the voting power of each Class of the Association and (2) sixty-seven percent (67%) of the Association's voting power represented by Owners other than Declarant, provided that the specified percentage of the Association's voting power necessary to amend a specific provision of this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under the provision that is the subject of the proposed amendment, and (b) approved by a Mortgagee Majority as described in Section 11.2 when required. As long as Declarant has the right to appoint a majority of the members of the Board, and the VA or FHA is making or insuring a Mortgage in the Community, the prior approval of the VA or FHA (whichever is making or insuring a Mortgage) is required for any amendment to the Declaration for the purpose of terminating the Declaration, dissolving the Association (except pursuant to merger or consolidation) or conveying all of the Association Property.

13.2.2 **Amendment of Defect Claims Provisions.** Except for any amendment made by Declarant as authorized in Section 15.7, neither this Section 13.2.2 nor Sections 1.1.42, 4.2.12, 4.5.2, 4.6.1, 4.6.4, or 12.1.7 may be amended without the prior written consent of Declarant. After the twelfth anniversary of the first annual meeting of the Owners, the above Sections may be amended without the prior written consent of Declarant by vote or approval by written ballot of at least (a) ninety percent (90%) of the voting power of the

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Members of the Association other than Declarant, and (b) at least ninety percent (90%) of the Mortgagees.

13.2.3 **Mortgagee Consent.** In addition to the notices and consents required by Section 13.2.1, a Mortgagee Majority must approve any amendment to this Declaration, any Notice of Addition and any Supplemental Declaration; which is of a material adverse nature to First Mortgagees, as follows:

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Mortgagees, insurers or guarantors of First Mortgages.

(b) Any amendment which would require a Mortgagee after it has acquired a Condominium through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing before such foreclosure.

(c) Any amendment which would or could result in a Mortgage being canceled by forfeiture, or in a Condominium not being separately assessed for tax purposes.

(d) Any amendment relating to (i) the insurance provisions in Article VIII, (ii) the application of insurance proceeds in Article IX, or (iii) the disposition of any money received in any taking under condemnation proceedings.

(e) Any amendment which restricts an Owner's right to sell or transfer his or her Condominium.

(f) Any amendment which would subject any Owner to a right of first refusal or other such restriction, if such Condominium is proposed to be transferred.

(g) Any amendment concerning:

(i) Voting rights;

(ii) Rights to use the Common Property;

(iii) Reductions in reserves for maintenance, repair and replacement of the Common Property;

(iv) Responsibility for maintenance and repairs;

(v) Redefinition of boundaries of any Unit;

(vi) Reallocation of interests in the Common Area or Exclusive Use Areas or rights to their use;

(vii) Convertibility of Common Property into Units or Units into Common Property;

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- (viii) Imposition of restrictions on leasing of Units;
- (ix) Any provisions that expressly benefit a Mortgagee, insurer or guarantor;
- (x) Establishment of self-management by the Association if professional management has been required by the Governing Documents or any Mortgagee of a First Mortgage;
- (xi) Expansion or contraction of the Properties or addition, annexation or de-annexation of real property to or from the Properties;
- (xii) Increases in Assessments that raise the previously assessed amount by more than twenty percent (20%), Assessment liens, or the priority of such liens; or Restoration or repair of the Properties (after damage or partial condemnation) in a manner other than that specified in this Declaration.

13.2.4 **Termination Approval.** Termination of this Declaration requires the approval required by Section 13.2.1. No such termination is effective unless it is also approved in advance by a Mortgagee Majority.

13.2.5 **Notice to Mortgagees.** Each Mortgagee of a First Mortgage on a Condominium in the Properties which receives proper written notice of a proposed amendment or termination of this Declaration and any Supplemental Declaration with a return receipt requested is deemed to have approved the amendment or termination if the Mortgagee fails to submit a response to the notice within sixty (60) days after the Mortgagee receives the notice.

13.2.6 **Certificate.** A copy of each amendment must be certified by at least two (2) Association officers. The amendment becomes effective when a Certificate of Amendment is Recorded. The certificate, signed and sworn to by two (2) Association officers that the requisite number of Owners and Mortgagees have approved the amendment, when Recorded, is conclusive evidence of that fact. The Association shall keep in its files for at least four (4) years the record of all such approvals. The certificate reflecting any termination or amendment which requires the written consent of any of the Mortgagees of First Mortgages must include a certification that the requisite approval of such First Mortgagees was obtained.

13.2.7 **Unilateral Amendment by Declarant.** Notwithstanding any other provisions of this Section, and subject to Section 6.1.6 of this Declaration, at any time prior to the first Close of Escrow in the Properties, Declarant may unilaterally amend or terminate this Declaration by Recording a written instrument which effects the amendment or termination and is signed and acknowledged by Declarant. At any time prior to the Close of Escrow in any portion of the Properties, Declarant may unilaterally amend a Notice of Addition or Supplemental Declaration to the extent such instrument affects only real property on which escrow has not yet closed. Notwithstanding any other provisions of this Section, Declarant (for so long as Declarant owns any portion of the Properties or the Annexable Territory) may unilaterally amend this Declaration or a Notice of Addition or Supplemental Declaration by Recording a written instrument signed by Declarant in order to (i) conform this Declaration, Notice of Addition or the Supplemental Declaration to the rules, regulations or requirements of

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FHA, DRE, Fannie Mae, Ginnie Mae or Freddie Mac, (ii) amend Article III, (iii) amend, replace or substitute any Exhibit for any purpose to the extent that the Exhibit affects portions of the Properties that have not yet been conveyed to the Association or for which there has been no Close of Escrow, as applicable, (iv) amend, replace or substitute any Exhibit to correct typographical or engineering errors, (v) include any Exhibit that was inadvertently omitted from the Declaration, Notice of Addition or Supplemental Declaration at the time of Recording, (vi) comply with any City, County, State or Federal laws or regulations, (vii) correct any typographical errors, (viii) supplement this Declaration with provisions which pertain to rights and obligations of Declarant, the Association or Owners arising under the Right to Repair Law at Division 2, Part 2, Title 7 (commencing with Section 895) of the California Civil Code, and (ix) change any exhibit or portion of an exhibit to this Declaration, or to a Notice of Addition or Supplemental Declaration to conform to as-built conditions.

13.2.8 **Amendment by the Board.** Notwithstanding any other provisions of this Section, and subject to Section 6.1.6 of this Declaration, after the Declarant no longer owns any portion of the Properties, the Board may amend this Declaration by Recording a written instrument signed by two officers of the Association certifying that the Board approved the amendment for the purposes described in Sections 13.2.7 (iii), (iv), (v), (vii) and (ix) above. So long as Declarant owns any portion of the Properties, the Board must obtain Declarant's consent to any amendment the Board approves pursuant to Article XV, or pursuant to this Section.

ARTICLE XIV GENERAL PROVISIONS

14.1 **MERGERS OR CONSOLIDATIONS.** In a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by this Declaration governing the Properties, together with the covenants and restrictions established on any other property, as one (1) plan. Any such merger or consolidation requires the prior written approval of the VA, if applicable.

14.2 **NO PUBLIC RIGHT OR DEDICATION.** Nothing in this Declaration is a gift or dedication of all or any part of the Properties to the public, or for any public use.

14.3 **NOTICES.** Except as otherwise provided in this Declaration, notice to be given to an Owner must be in writing and may be delivered personally to the Owner. Personal delivery of such notice to one (1) or more Co-owners, or any general partner of a partnership owning a Condominium, constitutes delivery to all Owners. Personal delivery of such notice to any officer or agent for the service of process on a corporation or limited liability company constitutes delivery to the corporation or limited liability company. Such notice may also be delivered by regular United States mail, postage prepaid, addressed to the Owner at the most recent address furnished by such Owner to the Association or, if no such address has been furnished, to the street address of such Owner's Condominium. Such notice is deemed delivered three (3) business days after the time of such mailing, except for notice of a meeting of Owners or of the

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Board, in which case the notice provisions of the Bylaws control. Any notice to be given to the Association may be delivered personally to any member of the Board, or sent by United States mail, postage prepaid, addressed to the Association at such address as may be fixed and circulated to all Owners.

14.4 CONSTRUCTIVE NOTICE AND ACCEPTANCE. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Condominium or other portion of the Properties does consent and agree, and shall be conclusively deemed to have consented and agreed, to every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to these restrictions is in the instrument by which such person acquired an interest in the Properties.

ARTICLE XV
DECLARANT'S RIGHTS AND RESERVATIONS

If there is a conflict between any other portion of the Governing Documents and this Article, this Article shall control.

15.1 CONSTRUCTION RIGHTS. Declarant has the right to (a) subdivide or re-subdivide the Properties and Annexable Territory, (b) complete or modify Improvements to and on the Common Property or any portion of the Properties or Annexable Territory, owned or leased solely or partially by Declarant, (c) alter Improvements and Declarant's construction plans and designs, (d) modify Declarant's development plan for the Properties and Annexable Territory, including designating and re-designating Phases, and the Units and Common Property therein, and constructing Units of larger or smaller sizes, values, and of different types, and (e) construct such additional Improvements as Declarant considers advisable in the course of development of the Properties so long as any Condominium in the Properties or Annexable Territory remains unsold. Declarant may temporarily erect barriers, close off and restrict access to portions of the Common Property as reasonably necessary to allow Declarant to exercise the rights reserved in this Section so long as an Owner's access to his Condominium is not eliminated.

15.2 SALES AND MARKETING RIGHTS. Declarant's rights under this Declaration include, but are not limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary to conduct Declarant's business of completing the work and disposing of the Condominiums by sale, resale, lease or otherwise. Declarant may use any Condominiums owned or leased by Declarant in the Properties or Annexable Territory as model home complexes, real estate sales offices or leasing offices.

15.3 CREATING ADDITIONAL EASEMENTS. At any time before acquisition of title to a Condominium in the Properties by a purchaser from Declarant, Declarant has the right to establish on that Condominium additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as Declarant determines are reasonably necessary to the Properties' proper development and disposal.

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15.4 ARCHITECTURAL RIGHTS. Declarant and any Person to whom Declarant may assign all or a portion of its exemption under this Declaration need not seek or obtain Design Review Committee approval of any Improvements constructed anywhere on the Properties by Declarant or such Person. Declarant may exclude portions of the Properties from jurisdiction of the Design Review Committee in a Supplemental Declaration or in the applicable Notice of Addition. Declarant, may, at its option, establish an additional design review committee for any area exempted from the jurisdiction of the Design Review Committee.

15.5 USE RESTRICTION EXEMPTION. Declarant and any Person to whom Declarant may assign all or a portion of its exemption under this Declaration is exempt from the restrictions established in Article II.

15.6 ASSIGNMENT OF RIGHTS. Declarant may assign its rights under the Governing Documents to any successor in interest to any portion of Declarant's interest in the Properties by a Recorded written assignment.

15.7 AMENDMENTS. No amendment may be made to this Article nor to Sections 12.4, 13.2.7 or 13.2.8, without the prior written approval of Declarant.

15.8 POWER OF ATTORNEY. Each Owner, by accepting and recording a Grant Deed to a Condominium in the Properties, is deemed to constitute and irrevocably appoint Declarant, for so long as Declarant owns all or any portion of the Properties or the Annexable Territory as Owner's Attorney-in-Fact, for Owner and for each of Owner's mortgagees, optionees, Owners, licensees, trustees, receivers, lessees, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and each Owner is deemed thereby to have conveyed to Declarant a special power of attorney coupled with an interest authorizing Declarant to act as each Owner's attorney in fact to prepare, execute, acknowledge and record any amendment to or restatement of a Condominium Plan, as Declarant deems to be reasonably necessary in order to correct errors, to conform to as-built conditions, or to bring the Plan into compliance with any City, County, State or Federal laws or regulations. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section. Nothing set forth in this special power of attorney shall be deemed or construed to be an agreement by Declarant that Owner or any other party is entitled to participate in or exercise discretion over the preparation and recordation of condominium plans for any portion of the Annexable Territory. Owner agrees and acknowledges that the Owner owns no interest in the Annexable Territory, and that the Annexable Territory may be developed, if at all, by Declarant in its sole and absolute discretion.

15.9 USE OF PROPERTIES. Declarant and its prospective purchasers of Condominiums are entitled to the nonexclusive use of the Common Property without further cost for access, ingress, egress, use or enjoyment, to (a) show the Properties to prospective purchasers, (b) dispose of the Properties as provided in this Declaration, and (c) develop and sell the Annexable Territory. Declarant and prospective purchasers are also entitled to the nonexclusive use of any portions of the Properties which are private streets, drives and walkways for ingress, egress and accommodating vehicular and pedestrian traffic to and from the Properties

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and the Annexable Territory. The use of the Common Property by Declarant may not unreasonably interfere with the use thereof by the other Owners.

15.10 PARTICIPATION IN ASSOCIATION. The Association shall provide Declarant with written notice of the transfer of any Condominium and all notices and other documents to which a Mortgagee is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefor. Commencing on the date on which Declarant no longer has an elected representative on the Board, and continuing until the later to occur of the date on which Declarant (a) no longer owns a Condominium in the Properties or (b) cannot unilaterally annex property to the Properties, the Association shall provide Declarant with written notice of all meetings of the Board as if Declarant were an Owner and Declarant shall be entitled to have a representative present at all such Board meetings ("**Declarant's Representative**"). The Declarant's Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

15.11 DECLARANT APPROVAL OF ACTIONS.

15.11.1 General Rights. Until Declarant no longer owns a portion of the Properties or the Annexable Territory, Declarant's prior written approval is required for any amendment to the Governing Documents which would impair or diminish Declarant's rights to complete the Properties or Annexable Territory or sell or lease dwellings therein.

15.11.2 Limit on Actions. Until Declarant no longer owns any Condominiums in the Properties or Annexable Territory, the following actions, before being undertaken by the Association, must first be approved in writing by Declarant:

- (a) Any amendment or action requiring the approval of First Mortgagees;
- (b) The annexation to the Properties of real property other than the Annexable Territory pursuant to Section 16.2;
- (c) The levy of a Capital Improvement Assessment for the construction of new facilities not constructed on the Common Property by Declarant;
- (d) Any significant reduction of Association maintenance or other services; or
- (e) Any modification or termination of any provision of the Governing Documents benefiting Declarant.

15.12 MARKETING NAME. The Properties shall be marketed under the general name "**West Ocean.**" Declarant may change the marketing name of the Properties or designate a different marketing name for any Phase at any time in Declarant's sole discretion. Declarant shall notify the DRE of any change in or addition to the marketing name or names of the Properties.

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ARTICLE XVI
ANNEXATION OF ADDITIONAL PROPERTY

Additional real property may be annexed to Phase 1 and such additional real property may become subject to this Declaration by any of the following methods:

16.1 ADDITIONS BY DECLARANT. Declarant may add the Annexable Territory to the Properties and bring such added territory within the general plan of this Declaration without the approval of the Association, the Board or Owners so long as Declarant, its successors or assigns owns the Annexable Territory.

16.2 OTHER ADDITIONS. Additional real property may be annexed to the Properties and brought within the general plan of this Declaration on the approval by vote or written consent of Owners entitled to exercise no less than two-thirds (2/3) of the Association's voting power.

16.3 RIGHTS AND OBLIGATIONS-ADDED TERRITORY. Subject to the provisions of Section 16.4, when a Notice of Addition containing the provisions required by this Section is Recorded, all provisions in this Declaration will apply to the real property described in the Notice of Addition (the "**Added Territory**") in the same manner as if the real property were originally covered by this Declaration. Thereafter, the rights, powers and responsibilities of the parties to this Declaration with respect to the Added Territory will be the same as with respect to the property originally covered by this Declaration, and the rights, powers and responsibilities of the Owners, lessees and occupants of Condominiums in the Added Territory, as well as in the property originally subject to this Declaration, will be the same as if the Added Territory were originally covered by this Declaration. After the first day of the month following the first Close of Escrow in the Added Territory, the Owner of Condominiums located in the Added Territory shall share in the payment of Assessments to the Association to meet Common Expenses of the entire Properties. Voting rights attributable to the Condominiums in the Added Territory may not be exercised until Annual Assessments have commenced on such Condominiums.

16.4 NOTICE OF ADDITION. The additions authorized under Sections 16.1 and 16.2 must be made by Recording a Notice of Addition which will extend the general plan of this Declaration to such Added Territory. The Notice of Addition for any addition under Section 16.1 must be signed by Declarant. The Notice of Addition for any addition under Section 16.2 must be signed by at least two (2) officers of the Association to certify that the Owner approval required under Section 16.2 was obtained. Recordation of the Notice of Addition effectuates annexation of the property described in the Notice of Addition as Added Territory. After the first Close of Escrow in the Added Territory covered by a Notice of Addition, the Added Territory will constitute a part of the Properties, become subject to this Declaration and encompassed within the general plan of covenants, conditions, restrictions, reservation of easements and equitable servitudes contained in this Declaration, and become subject to the Association's functions, powers and jurisdiction; and the Owners of Condominiums in the Added Territory will automatically acquire Membership. In no event, however, may any Notice of Addition revoke, modify or add to the covenants, conditions, restrictions, reservation of easements, or equitable servitudes established by this Declaration as the same pertain to the real property originally covered by this Declaration.

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16.5 **DE-ANNEXATION AND AMENDMENT.** Declarant may amend a Notice of Addition or delete all or a portion of a Phase from coverage of this Declaration and the Association's jurisdiction, so long as Declarant is the owner of all of such Phase, and (a) an amending instrument or a Notice of Deletion of Territory, as applicable, is Recorded in the same manner as the Notice of Addition was Recorded, (b) Declarant has not exercised any Association vote with respect to any portion of such Phase, (c) Assessments have not commenced with respect to any portion of such Phase, (d) Close of Escrow has not occurred for the sale of any Condominium in such Phase, and (e) the Association has not made any expenditures or incurred any obligations with respect to any portion of such Phase.

[SIGNATURES ON NEXT PAGE]

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[SIGNATURE PAGE TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS]

This Declaration is dated for identification purposes _____.

VIEWCOR LONG BEACH I, LP,
a Delaware limited partnership

By: Harborcor, LLC,
a California limited liability company,
its general partner

By: 

Name: Eric V. Michels
Chief Financial Officer

Title: _____

Declarant

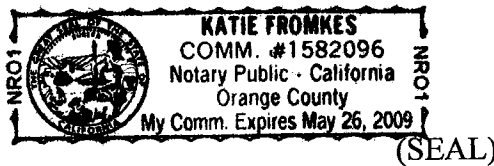
STATE OF CALIFORNIA
COUNTY OF Orange

On February 12, 2007, before me, Katie Fromkes **NOTARY PUBLIC**
(here insert name and title of the officer)

personally appeared Eric V. Michels
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he she executed the same in his her authorized capacity, and that by his her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Katie Fromkes



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SUBORDINATION

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated December 1, 2004, and recorded on January 3, 2005, in the Official Records of Los Angeles County, California, as Instrument No. 05-0001670, which Deed of Trust is between VIEWCOR LONG BEACH I, LP, a Delaware limited partnership, as Trustor, Fidelity National Title Insurance Company, as Trustee, and California National Bank, a national banking association, as Beneficiary, hereby expressly subordinates such Deed of Trust to the foregoing Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as amended or restated ("**Declaration**"), except to the extent otherwise provided in the Declaration (including, without limitation, Article XI thereof), and to all easements to be conveyed to the Association in accordance with the Declaration or any Supplemental Declaration recorded in accordance with the Declaration. By executing this Subordination, Lender agrees that should Lender acquire title to all or any portion of the Properties (as defined in the Declaration) by foreclosure (whether judicial or non-judicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, Lender will acquire title subject to the provisions of the Declaration (as and to the extent provided therein) and the aforementioned easements, if any, which shall remain in full force and effect.

The undersigned Declarant acknowledges and consents to the assignment of its rights under the Declaration to Lender under the Deed of Trust.

Dated: _____, 2007

CALIFORNIA NATIONAL BANK,
a national banking association

By:  _____

Its: Regional Vice President _____

By: _____

Its: _____

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of LOS ANGELES } ss.

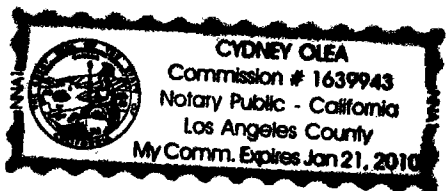
On JANUARY 26 2007, before me, CYDNEY OLEA, NOTARY PUBLIC

Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared STEVEN P. TIMMONS

Name(s) of Signer(s)



personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Cydney Olea
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

Document Date: N/A Number of Pages: 91

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: STEVEN P. TIMMONS

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer Is Representing: _____

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STATE OF CALIFORNIA

COUNTY OF _____

On _____, _____, before me, _____
(here insert name and title of the officer)

personally appeared _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____

(SEAL)

STATE OF CALIFORNIA

COUNTY OF _____

On _____, _____, before me, _____
(here insert name and title of the officer)

personally appeared _____
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____

(SEAL)

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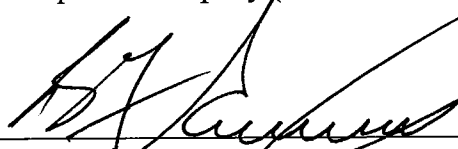
SUBORDINATION

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on January 3, 2005, in the Official Records of Los Angeles County, California, as Instrument No. 05-0001672, which Deed of Trust is between VIEWCOR LONG BEACH I, LP, a Delaware limited partnership, as Trustor, Fidelity National Title Insurance Company, as Trustee, and Macquarie Bank Limited, an Australian public company, as Beneficiary (as such beneficial interest was assigned in an instrument recorded October 11, 2005, as Instrument No. 05-2447289), hereby expressly subordinates such Deed of Trust to the foregoing Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as amended or restated ("**Declaration**"), except to the extent otherwise provided in the Declaration (including, without limitation, Article XI thereof), and to all easements to be conveyed to the Association in accordance with the Declaration or any Supplemental Declaration recorded in accordance with the Declaration. By executing this Subordination, Lender agrees that should Lender acquire title to all or any portion of the Properties (as defined in the Declaration) by foreclosure (whether judicial or non-judicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, Lender will acquire title subject to the provisions of the Declaration (as and to the extent provided therein) and the aforementioned easements, if any, which shall remain in full force and effect.

The undersigned Declarant acknowledges and consents to the assignment of its rights under the Declaration to Lender under the Deed of Trust.


Dated: 2/16, 2007

MACQUARIE BANK LIMITED,
an Australian public company (ABN 46 0008 583 542)

By: 

Print Name: Bruce F. Evans

Attorney-In-Fact: _____

By: 

Print Name: DEAN M. LYONS

Attorney-In-Fact: _____

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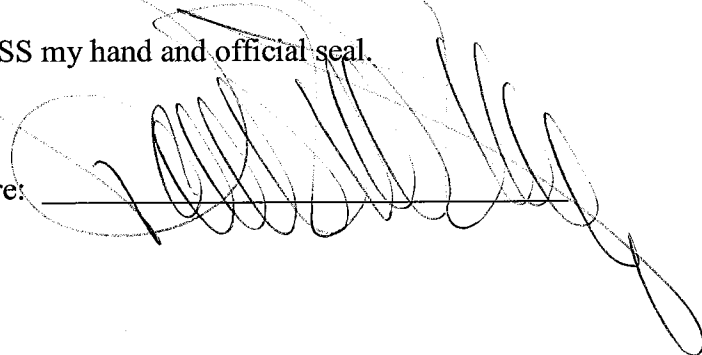
STATE OF CALIFORNIA

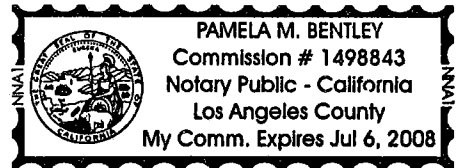
COUNTY OF Los Angeles

On February 16, 2007, before me, Pamela M Bentley, Notary Public
(here insert name and title of the officer)

personally appeared Dean Michael Lyons
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 



(SEAL)

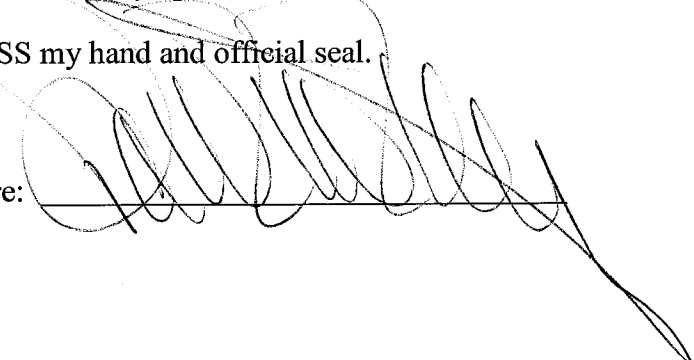
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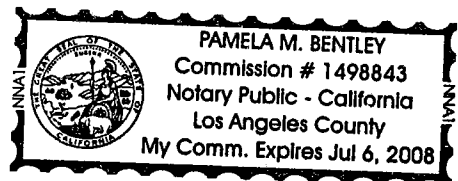
COUNTY OF Los Angeles

On February 16, 2007, before me, Pamela M. Bentley, Notary Public
(here insert name and title of the officer)

personally appeared Bruce Franklyn Evans
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 



(SEAL)

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EXHIBIT A

LEGAL DESCRIPTION OF ANNEXABLE TERRITORY

All that certain real property in the City of Long Beach, County of Los Angeles, more particularly described as follows:

Parcel 1 of Lot Line Adjustment No. 0303-02, recorded as Instrument No. 05-1603473, in the Office of the County Recorder of Los Angeles County.

051603473

MIKE DUNFEE

GROUP

Sales · Leasing · Property Management

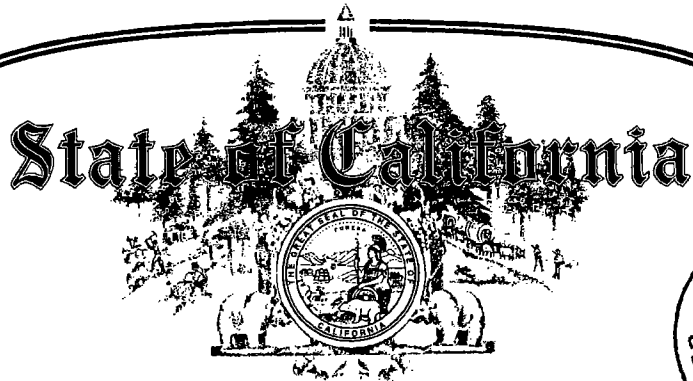
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EXHIBIT B

ARTICLES OF ASSOCIATION

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SECRETARY OF STATE

I, *Kevin Shelley*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

NOV - 4 2004



Kevin Shelley
Secretary of State

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ENDORSED - FILED
In the office of the Secretary of State
of the State of California

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NOV 01 2004

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ARTICLES OF INCORPORATION
OF
WEST OCEAN ASSOCIATION

KEVIN SHELLEY, Secretary of State

ONE: The name of this corporation is WEST OCEAN ASSOCIATION
("Corporation" herein).

TWO: This corporation is a nonprofit mutual benefit corporation organized
under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to
engage in any lawful act or activity, other than credit union business, for which a corporation
may be organized under such law.


THREE: The Corporation's initial agent for service of process is Peter Lauener,
whose business address is 3300 Irvine Avenue, Newport Beach, California 92660.

FOUR: The Corporation shall have and exercise any and all powers, rights and
privileges which a corporation organized under the Nonprofit Mutual Benefit Corporation Law
may now or hereafter have or exercise, provided that the Corporation shall not, except to an
insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of
the specific purpose of the Corporation, which is to operate a homeowners association within the
meaning of Section 23701t of the California Revenue and Taxation Code and Section 528 of the
Internal Revenue Code and to manage a common interest development under the Davis-Stirling
Common Interest Development Act. The Corporation does not have a corporate office. The
common interest development is near the intersection of Queens Way and Seaside Way, Long
Beach, California 90802-0000.

FIVE: The classes of Membership and the voting and other rights and
privileges of Members shall be as set forth in the Bylaws. So long as there are two classes of
Membership, amendment of these Articles of Incorporation shall require the assent (by vote or
written consent) of (i) a bare majority of the Board of Directors of the Corporation, and
(ii) Members representing a bare majority of the voting power of each class of Members. After
conversion of the Class B Membership to Class A Membership, amendment of these Articles of
Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the
Board of Directors of the Corporation, (ii) a bare majority of the total voting power of the
Members, and (iii) Members representing a bare majority of the voting power of the Members
other than the Subdivider of the Project ("Declarant").

SIX: The Corporation has no managing agent.

The undersigned, who is the incorporator of the Corporation, has executed these
Articles of Incorporation on October 29, 2004.


Peter Lauener, Incorporator



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EXHIBIT C

BYLAWS OF THE ASSOCIATION

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**BYLAWS
OF
WEST OCEAN ASSOCIATION**

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OF
WEST OCEAN ASSOCIATION

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BYLAWS
OF
WEST OCEAN ASSOCIATION

ARTICLE I
PLAN OF CONDOMINIUM OWNERSHIP

1.1. **DEFINITIONS AND INTERPRETATION.** Unless otherwise provided in these Bylaws, the capitalized terms used in these Bylaws have the same meanings as in the Declaration. These Bylaws shall be interpreted in accordance with Sections 1.2.1 to 1.2.4 of the Declaration.

1.2. **NAME.** The name of the corporation is West Ocean Association. The principal office of the Association shall be located in the County.

1.3. **APPLICATION.** These Bylaws apply to the residential condominium project known as West Ocean, located in the County. All Persons who use the facilities of the Properties in any manner, are subject to the regulations in these Bylaws and in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for West Ocean, Recorded in the Official Records of the County against the Properties. Use of any Condominium in the Properties signifies acceptance and ratification of these Bylaws.

ARTICLE II
BOARD OF DIRECTORS

2.1. **NUMBER.** Until the first annual meeting of the Owners, the Association's property, business and affairs shall be governed and managed by a Board of Directors composed of three (3) persons. Beginning with the first annual meeting of the Owners, the property, business and affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) persons, each of whom must be either an Owner, agent of an Owner, or, so long as Declarant owns a Condominium or any of the Annexable Territory, an agent of Declarant. The authorized number of Directors may be changed by a duly adopted amendment to these Bylaws.

2.2. **QUALIFICATIONS FOR HOLDING OFFICE.**

2.2.1. **Qualifications for Nominees to Office.**

(a) Other than Declarant appointees, only Owners who meet the following criteria are qualified to be elected to the Board of Directors:

(b) The Owner must be in compliance with the Restrictions for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors. To be in compliance, the Owner must correct,

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within five (5) days of receipt of notice, any violation of the Restrictions for which the Owner has been determined to be responsible pursuant to applicable due process requirements.

(c) The Owner must be current in the payment of all Assessments for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors.

2.2.2. Qualifications for Holding Office. In addition, to remain qualified to serve on the Board of Directors, an Owner who has been elected to the Board of Directors must:

(a) Attend no less than six (6) Board meetings, regular or special, within a twelve (12) month period and not miss more than two (2) consecutive, regularly scheduled Board meetings;

(b) Comply with every duly approved action of the Board;

(c) Comply with the Restrictions and correct, within five (5) days of receipt of notice, any violation of the Restrictions for which that Director has been determined to be responsible pursuant to applicable due process requirements;

(d) Not be more than three (3) months in arrears in the payment of any Assessment;

(e) Refuse any type of gain, such as money, services, products, gifts or gratuities of a significant value, as determined by a majority vote of the Directors who meet all of the required qualifications to serve as such, which gain is offered in relation to the Owner's service as a Director. In addition, the Owner must disclose such offers at an open meeting of the Board. Compensation for services duly approved by the Board and unrelated to duties as a Director or Officer of the Association, and reimbursement of expenses associated with services to the Association, do not constitute prohibited gain within the meaning of this subsection; and

(f) Not act in a manner determined by a majority vote of the Directors to be grossly detrimental to the general safety, health or welfare of the Association and its members.

2.3. ELECTION.

2.3.1. General Procedure. At each annual meeting of the Owners, the Owners shall elect new Directors to fill vacancies on the Board. If an annual meeting is not held, or all positions on the Board are not filled at the annual meeting, the vacancies may be filled in accordance with the procedure set in Section 2.5.

2.3.2. Voting. Voting shall be by secret written ballot. An Owner may cumulate his votes for any candidate for the Board in any election in which more than two (2) Directors are to be elected if (a) the candidate's name has been placed in nomination before the voting, and (b) an Owner has given notice at the meeting before the voting of such Owner's

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intent to cumulate votes. If an Owner cumulates his votes, such Owner may cast a number of votes equal to the Owner's share of the voting power multiplied by the number of Directors to be elected.

2.3.3. Special Election Requirement. So long as either (a) Declarant is entitled to exercise a Class B or Class C vote, or (b) Declarant is entitled to exercise a majority of the Association's voting power, not less than twenty percent (20%) of the members of the Board must be elected solely by the votes of Owners other than Declarant.

2.4. TERM OF OFFICE. Each Director shall hold office until the earlier to occur of (a) the end of the Director's term of office after a successor has been elected, or (b) his death, resignation, removal or judicial adjudication of mental incompetence. At the first annual meeting, the term of office of the three (3) Directors receiving the highest number of votes shall be three (3) years and the term of office of the two (2) Directors receiving the next highest number of votes shall be two (2) years. The term of office of each Director elected to fill a vacancy created by expiration of a Director's term of office shall be two (2) years. Directors appointed by Declarant with the Class C vote at the first annual meeting are deemed to receive the highest number of votes and so are given the longest term of office. The term of office of each Director elected or appointed to the Board for any other reason shall be the balance of the unserved term. Any person serving as a Director may be reelected. There is no limit on the number of terms which a Director may serve.

2.5. VACANCIES. A vacancy on the Board is deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any Director or if the Owners fail to elect the full number of authorized Directors at any meeting at which a Directors election is to take place. Vacancies on the Board caused by any reason other than the removal of a Director may be filled by either (a) vote of a majority of the remaining Directors, even though they may constitute less than a quorum, or (b) by vote of the Owners at a meeting. Any vacancy caused by the removal of a Director must be filled by a vote of the Owners. Until termination of the Class C vote, a vacancy in the office of a Director appointed by Declarant with the Class C vote shall be filled only by an appointee of Declarant. A Director may resign at any time by giving notice to the President, the Secretary or the Board. Any Director who ceases to be an Owner, agent of an Owner or an agent of Declarant is deemed to have resigned from the Board.

2.6. REMOVAL OF DIRECTORS. At any meeting of the Owners, any individual Director or the entire Board may be removed before the expiration of their terms of office with or without cause by the vote of Owners representing a majority of the Association's voting power (including votes attributable to Declarant).

However, if the entire Board is not removed as a group pursuant to a single vote, no individual Director may be removed if the number of votes cast against removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting. If any Directors are removed, new Directors may be elected at the same meeting. However, any

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Director elected to office solely by the votes of Owners other than Declarant pursuant to Section 2.3.3 may be removed only by the vote of at least a simple majority of the Association's voting power represented by Owners other than Declarant. Any Director elected to office solely by votes of Declarant may only be removed by Declarant, and the vacancy filled only by a Director elected by the votes of Declarant. The Board, by majority vote of the Directors who meet all of the qualifications to be a Director, may declare vacant the office of any Director not appointed by Declarant who, while in office, fails to meet the qualification criteria set forth in Section 2.2.

2.7. COMPENSATION. Directors may not receive any compensation for their services as Directors unless such compensation is first approved by Owners representing at least a majority of the Association's voting power. However, (a) nothing in these Bylaws precludes any Director from serving the Association in some other capacity and receiving compensation therefor, (b) any Director may be reimbursed for actual expenses incurred in performance of Association duties, and (c) no officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation for service as a Director of the Association.

2.8. POWERS AND DUTIES. The Board has the powers and duties necessary to administer the Association's affairs. All the Association's powers shall be exercised by the Board except those powers specifically reserved to the Owners.

2.9. SPECIAL POWERS AND DUTIES. Without limiting the scope of the Board's general powers and duties, the Board is granted the following powers and duties:

2.9.1. Officers, Agents and Employees. The power and duty to select, appoint and remove all Association officers, agents and employees, to prescribe such powers and duties for them as may be consistent with law and with the Restrictions, to fix their compensation, to require from them such security for faithful service as the Board considers advisable, and to contract to provide them with such indemnification as the Board determines is appropriate.

2.9.2. Contracts. The power to enter into contracts. This includes contracts (a) for maintenance, landscaping, and common utilities services, (b) materials, supplies and other Common Expenses relating to the Condominiums, (c) employing personnel necessary to manage the Properties, including legal and accounting services, and (d) paying for Improvements on the Common Property. The Board may not enter into any contract with a term in excess of one (1) year, without the vote or written consent of Owners representing at least a majority of the Association's voting power, except for the following:

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

(b) prepaid casualty or liability insurance policies of not more than three (3) years' duration provided that the policies permit short-term cancellation by the Association;

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(c) agreements for Telecommunications Services and Telecommunications Facilities that meet the requirements of Section 2.9.13;

(d) contracts in which the Association enters into litigation or any alternative dispute resolution procedure when the Association's obligation to pay for services is set, in whole or in part, on a contingency basis, only if they are (i) contracts for collection of assessments or other accounts receivable, (ii) contracts involving evaluation of services, or (iii) contracts with a total amount to be paid by the Association not in excess of Forty Thousand Dollars (\$40,000.00);

(e) agreements for sale, lease or installation of burglar alarm and fire alarm equipment and related services with terms not in excess of five (5) years, provided that Declarant does not have a direct or indirect ownership interest in the supplier of such services or equipment equal to or greater than ten percent (10%);

(f) a contract approved by the DRE;

(g) a contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause or penalty or other obligation on ninety (90) days written notice of termination to the other party.

2.9.3. Enforcement. The power to enforce the Restrictions and any agreements entered into by the Association and to impose sanctions against Owners for violating the Restrictions.

2.9.4. Principal Office, Place of Meetings, Seal. The power but not the duty to move the Association's principal office from one location to another in the County; to designate any place in the County for holding any meetings of Owners consistent with the provisions of Section 4.5; and to adopt and use a corporate seal and to alter the form of such seal.

2.9.5. Assessments. The power and duty to fix and levy Assessments and identify the due date for payment of Assessments. The Board may incur Common Expenses. The Association's funds shall be held in trust for the Owners.

2.9.6. Insurance. The power and duty to contract and pay for insurance in accordance with the Declaration, covering and protecting against such damages or injuries as the Board considers advisable (which coverage may include medical expenses of persons injured on the Common Property). The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on the Association's behalf.

2.9.7. Delegation. The power but not the duty to delegate its powers according to law.

2.9.8. Bylaws. The power and duty to adopt these Bylaws.

2.9.9. Records. The power and duty to keep a complete record of Association acts and corporate affairs.

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2.9.10. **Sale of Property.** The power but not the duty to sell property of the Association. Approval from at least a majority of the Association's voting power must be obtained before the Association sells, in any Fiscal Year, property having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for that Fiscal Year.

2.9.11. **Manager.** The power to engage a professional Manager for the Association at a compensation established by the Board to perform such duties and services as the Board authorizes.

2.9.12. **Agreements with Declarant.** The power but not the duty to negotiate and enter into agreements with Declarant.

2.9.13. **Telecommunications Contracts.** The power to enter into, accept an assignment of, or otherwise cause the Association to comply with an exclusive Telecommunications Services or Telecommunications Facilities contract.

2.10. **DISTRIBUTION OF INFORMATION.** The Board shall distribute the following financial information to all Owners (and any Beneficiary, insurer and guarantor of a first Mortgage on request), regardless of the number of Owners or the amount of assets of the Association:

2.10.1. **Budget.** A pro forma operating budget for each Fiscal Year consisting of at least the following information must be distributed not less than forty-five (45) nor more than sixty (60) days before the beginning of the Fiscal Year:

(a) Estimated revenue and Common Expenses computed on an accrual basis.

(b) A summary of the Association's reserves based on the most recent review or study conducted pursuant to Section 1365.5 of the California Civil Code, which must be printed in bold type and include all of the following:

(i) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component of the Common Property for which the Association is responsible.

(ii) As of the end of the Fiscal Year for which the study is prepared:

(A) The current estimate of the amount of cash reserves necessary to restore or maintain the major components of the Common Property for which the Association is responsible ("**Estimated Reserves**").

(B) The current amount of accumulated cash reserves actually set aside to restore or maintain the major components of the Common Property for which the Association is responsible ("**Actual Reserves**").

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(iii) The percentage that the Actual Reserves is of the Estimated Reserves.

(c) A statement of whether the Board has determined or expects that the levy of one or more Capital Improvement or Reconstruction Assessments will be required to repair, replace, or restore any major component of the Common Property for which the Association is responsible or to provide adequate reserves therefor.

(d) A general statement setting forth the procedures used by the Board in calculating and establishing reserves to defray the costs of repair and replacement of, or additions to, major components of the Common Property and facilities for which the Association is responsible.

The Board may distribute a summary of the Budget instead of the Budget itself, so long as the Board complies with the provisions of Section 1365(c) of the California Civil Code.

2.10.2. Financial Report. A report consisting of the following must be distributed within one hundred twenty (120) days after the close of the Fiscal Year:

- (a) A balance sheet as of the end of the Fiscal Year,
- (b) An operating (income) statement for the Fiscal Year,
- (c) A statement of changes in financial position for the Fiscal Year,
- (d) Any information required to be reported under Section 8322 of the California Corporations Code,
- (e) For any Fiscal Year in which the Association's gross income exceeds \$75,000, a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy, and
- (f) A statement of the place where the names and addresses of the current Owners are located.

If the report referred to in Section 2.10.2 is not prepared by an independent accountant, it must be accompanied by the certificate of an authorized Association officer stating that the statement was prepared from the Association's books and records without independent audit or review.

2.10.3. Insurance Information. The Association shall distribute to all Owners a summary of the Association's property, general liability, and flood insurance policies within sixty (60) days before the beginning of the Fiscal Year, that includes all of the following information: (a) the name of the insurer, (b) the type of insurance, (c) the limits of coverage, and (d) the amount of the deductibles, if any.

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(a) The Association shall, as soon as reasonably practical, notify the Owners by first-class mail if any of the policies described above have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described above, the Association shall immediately notify the Owners if replacement coverage will not be in effect by the date the existing coverage will lapse.

(b) To the extent that any of the information required to be disclosed is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all Owners.

(c) The summary distributed above shall contain, in at least 10-point boldface type, the following statement:

“This summary of the Association’s policies of insurance provides only certain information, as required by subdivision (e) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions in the actual policies of insurance. Any Association member may, on request and provision of reasonable notice, review the Association’s insurance policies and, on request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association keeps the policies of insurance specified in this summary, the Association’s policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur in or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.”

2.10.4. **Enforcement Policies.** In addition to financial statements, the Board shall annually distribute within sixty (60) days before the beginning of the Fiscal Year a statement of the Association’s policies and practices in enforcing its remedies against Owners for defaults in the payment of Assessments, including the recording and foreclosing of liens against Condominiums.

2.10.5. **Assessment and Foreclosure Notice.**

(a) The Association shall distribute the written notice described in subsection (b) to each member of the Association during the sixty (60) day period immediately preceding the beginning of the Association’s Fiscal Year. The notice shall be printed in at least 12-point type.

(b) The notice required by this Section shall read as follows:

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NOTICE

ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND NONJUDICIAL FORECLOSURE

The failure to pay association assessments may result in the loss of an owner's property without court action, often referred to as nonjudicial foreclosure. When using nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the lien is not paid. Assessments become delinquent 15 days after they are due, unless the governing documents of the association provide for a longer time. (Sections 1366 and 1367.1 of the Civil Code)

In a nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code)

The association must comply with the requirements of Section 1367.1 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 1367.1 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail. Among these documents, the association must send a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 1367.1 of the Civil Code)

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If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 1367.1 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Sections 1367 and 1367.1 of the Civil Code)

An owner may dispute an assessment debt by giving the board of the association a written explanation, and the board must respond within 15 days if certain conditions are met. An owner may pay assessments that are in dispute in full under protest, and then request alternative dispute resolution. (Sections 1366.3 and 1367.1 of the Civil Code)

An owner is not liable for charges, interest and costs of collection, if it is established that the assessment was paid properly on time. (Section 1367.1 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exist. (Section 1367.1 of the Civil Code)

The board of the directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)

2.10.6. **Accounts.** On at least a quarterly basis, the Board shall: (a) cause to be completed and review a current reconciliation of the Association's operating and reserve accounts, (b) review the current Fiscal Year's actual reserve revenues and expenses compared to the Budget for the then current Fiscal Year, (c) review the income and expense statement for the Association's operating and reserve accounts, (d) review the most current account statements

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prepared by the financial institutions where the Association keeps its operating and reserve accounts, and (e) fulfill any additional duties established by Civil Code Section 1365.5. The signatures of either (i) two (2) Directors, or (ii) one (1) Director and one (1) Association officer (who is not also a Director) are required for the withdrawal of money from the Association's reserve accounts. As used in this Subsection, the term "reserve accounts" means Budgeted funds that the Board has designated for use to defray the future repair and replacement of, or additions to, those major components of the Common Property which the Association is obligated to maintain.

2.10.7. **Reserve Study.** The Board shall cause a study of the reserve account requirements of the Properties to be conducted in accordance with Section 1365.5(e) of the California Civil Code. As used in this Subsection, "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components of the Common Property which the Association is obligated to maintain.

2.11. **MEETINGS.**

2.11.1. **Organization Meeting.** The first regular meeting of a newly elected Board must be held within ten (10) days of election of the Board, at such place as is fixed and announced by the Directors at the meeting at which such Directors were elected, to organize, elect officers and transact other business. No notice is necessary to the newly elected Directors to hold such meeting; provided that (a) a majority of the whole Board is present when the time and place are announced at the annual meeting and (b) the meeting is held on the same day and at the same place as the annual meeting of the Owners at which the newly constituted Board was elected.

2.11.2. **Regular Meetings.** Regular meetings may be held at such time and place in the Properties as is determined by a resolution adopted by a majority of a quorum of the Directors; however, regular meetings must be held no less frequently than quarterly. Notice of the time and place of regular meetings of the Board shall be given to each Director at least four (4) days before the date of the meeting. Notices may be given personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means or posted at a prominent place or places in the Common Property.

2.11.3. **Special Meetings.** Special meetings may be called by the President or by any two (2) Directors by posting notice at least four (4) days before such meeting at a prominent place or places in the Common Property or on four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The notice must state the time, place and the purpose of the meeting.

2.11.4. **Executive Sessions.** The Board may convene in executive session to discuss and vote upon personnel matters, litigation, matters relating to the formation of contracts with third parties, Owner discipline, or to meet with an Owner, upon the Owner's

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request regarding the Owner's payment of Assessments, as specified in Civil Code Sections 1367 or 1367.1. The nature of business to be considered in executive session must first be announced in an open session. Any matter discussed in executive session must be generally noted in the minutes immediately following meeting that is open to the entire membership.

2.11.5. Other Meetings. Any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate on any item of business scheduled to be heard by the Board, except those matters that may be discussed in executive session, shall constitute a meeting of the Board. All Owners shall have the right to attend any regular, special or other meeting of the Board, except an executive session. Owners who are not Directors may not participate in any deliberation or discussion at such meetings unless authorized by a vote of a majority of a quorum of the Board. However, at each Board meeting, except for executive sessions, the Board must set aside time for Owners to speak, subject to reasonable limits imposed by the Board.

2.11.6. Notice to Owners. Generally, if a meeting of the Board is not a regular or special meeting, Owners shall be given notice of the time and place of the meeting at least four (4) days before the meeting. Notice required by this Section shall be given by posting the notice in a prominent place or places in the Common Property, and by mail to any Owner who had requested notification of Board meetings by mail, at the address requested by the Owner. Notice may also be given by mail or delivery of the notice to each Condominium in the Properties, or by newsletter or other similar means of communication. If there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impractical to provide notice to the Owners, then an emergency meeting of the Board may be called by the President or any two other members of the Board without providing notice to the Owners.

2.11.7. Waiver of Notice. Before or at any meeting of the Board, any Director may, in writing, waive personal notice of such meeting. Attendance by a Director at any Board meeting waives the requirement of personal notice. If all Directors are present at a Board meeting, no notice to Directors is required and any business may be transacted at such meeting. The transactions of any Board meeting, however called and noticed or wherever held, are valid as though had at a meeting duly held after regular call and notice, if (a) a quorum is present, (b) notice to the Owners of such meeting was posted as provided in Sections 2.11.2, 2.11.3 or 2.11.6, and (c) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. The Secretary shall file all such waivers, consents and approvals with the Association's records or make them a part of the minutes of the meeting.

2.12. ACTION WITHOUT MEETING. The Board may act without a meeting if all Directors consent in writing to such action. Written consents must be filed with the minutes of the Board. Each action by written consent has the same effect as a unanimous vote of such Directors. Within three (3) days after the written consents of all Directors have been obtained, an explanation of any action taken by unanimous written consent without a meeting must be either (a) posted by the Board in a prominent place or places in the Common Property, or (b) communicated to the Owners by other means the Board determines to be appropriate.

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2.13. **QUORUM AND ADJOURNMENT.** Except as otherwise expressly provided in these Bylaws, at all meetings of the Board, a majority of the Directors constitutes a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present, are the acts of the Board. At any meeting of the Board when less than a quorum is present, the majority of those present may adjourn the meeting to another time. At any such reconvened meeting, any business which might have been transacted at the meeting as originally called, may be transacted without further notice if a quorum is present.

2.14. **COMMITTEES.** The Board may by resolution establish such committees as it desires, and may establish the purposes and powers of each such committee created. The resolution establishing the committee must (a) provide for the appointment of its members and a chairman, (b) state the purposes of the committee, and (c) provide for reports, termination and other administrative matters as the Board considers appropriate.

ARTICLE III **OFFICERS**

3.1. **DESIGNATION.** The Association's principal officers are a President, a Vice President, a Secretary, and a Treasurer, all elected by the Board. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as it determines to be necessary. Officers other than the President need not be Directors. Any person may hold more than one office.

3.2. **ELECTION OF OFFICERS.** The Board shall annually elect the Association's officers at the new Board's organization meeting. Each officer shall hold his office at the pleasure of the Board, until he resigns or is removed, is otherwise disqualified to serve or a successor is elected and qualified to serve.

3.3. **REMOVAL OF OFFICERS.** On an affirmative vote of a majority of the entire Board, any officer may be removed, either with or without cause, and a successor elected at any meeting of the Board. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified therein. Unless specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective.

3.4. **COMPENSATION.** No officer may receive any compensation for services performed in the conduct of the Association's business unless such compensation is approved by the vote or written consent of Owners representing at least a majority of the Association's voting power; however (a) nothing in these Bylaws precludes any officer from serving the Association in some other capacity and receiving compensation therefor, and (b) any officer may be reimbursed for actual expenses incurred in the performance of Association duties. Appointment of any officer does not create contractual rights of compensation for services performed by such officer. No officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation for service as an officer of the Association.

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3.5. **PRESIDENT.** The President is the chief executive officer of the Association and shall (a) preside at all Association and Board meetings, (b) have the general powers and duties which are usually vested in the office of the President of a corporation, including but not limited to the power to appoint committees from among the Owners as the President decides is appropriate to assist in the conduct of the Association's affairs, and (c) subject to the control of the Board, have general supervision, direction and control of the Association's business. The President is ex officio a member of all standing committees and has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.6. **VICE PRESIDENT.** The Vice President shall take the President's place and perform the President's duties whenever the President is absent, disabled, fails or refuses to act. If neither the President nor the Vice President is available to perform the President's duties, the Board shall appoint another member of the Board to do so on an interim basis. The Vice President has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.7. **SECRETARY.** The Secretary shall (a) keep the minutes of all meetings of the Board and of the Association at the Association's principal office or at such other place as the Board may order, (b) keep the Association's seal in safe custody, (c) have charge of such books and papers as the Board may direct, (d) in general, perform the duties incident to the office of Secretary, (e) give, or cause to be given, notices of meetings of the Owners and of the Board required by these Bylaws or by law to be given, (f) keep a record book of Owners, listing the names, mailing addresses and telephone numbers of Owners, as furnished to the Association ("Membership Register"), and (g) record in the Membership Register the termination or transfer of ownership by any Owner, together with the date of the transfer. The Secretary has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.8. **TREASURER.** The Treasurer is the Association's chief financial officer and is responsible for Association funds. The Treasurer shall (a) keep, or cause to be kept, full and accurate accounts and tax and business records of the Association, including accounts of all assets, liabilities, receipts and disbursements, (b) be responsible for the deposit of all funds in the name of the Association in such depositories as the Board designates, (c) disburse the Association's funds as ordered by the Board, and (d) render to the President and Directors, on request, an account of all transactions as Treasurer and of the Association's financial condition. The Treasurer has such other powers and duties as may be prescribed by the Board or these Bylaws.

ARTICLE IV OWNERS

4.1. VOTING RIGHTS.

4.1.1. **General Voting Rights.** The Association has three (3) classes of Membership, as described in the Declaration, although the Class C appointment right is not part of the "voting power" of the Association. The Class A and Class B Memberships are voting Memberships. Except as provided in Section 2.3.3, any provision of the Bylaws which requires the vote or written consent of a specified percentage of the Association's voting power before action may be undertaken (i.e., other than actions requiring merely the vote or written consent of

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a majority of a quorum) requires the approval of such specified percentage of (a) the Class A Membership and the Class B Membership (so long as a Class B Membership exists), and (b) both the Association's total voting power and the Association's voting power represented by Owners other than Declarant. Whenever a reference is made in these Bylaws or the Declaration to the Association's voting power, it is a reference to the voting power of the Class A and Class B Memberships and not to the Class C membership.

4.1.2. **Vote to Initiate Construction Defect Claims.** Commencing on the date of the first annual meeting of Owners, Declarant relinquishes control over the Association's ability to decide whether to initiate a construction defect claim under the Right to Repair Law (a "Defect Claim"). This means that Declarant, current employees and agents of Declarant, Board members who are appointed by Declarant, Board members elected by a majority of votes cast by Declarant, and all other Persons whose vote or written consent is inconsistent with the intent of the preceding sentence, are prohibited from participating and voting in any decision of the Association or Owners to initiate a Defect Claim. This Section may not be amended without the vote or approval by written ballot of at least (a) sixty-seven percent (67%) of the voting power of Members of the Association other than Declarant, and (b) at least sixty-seven percent (67%) of the Mortgagees.

4.2. **MAJORITY OF QUORUM.** Unless otherwise provided in the Restrictions, any action which may be taken by the Association may be taken by a majority of a quorum of the Association's voting power.

4.3. **QUORUM.** Except as otherwise provided in these Bylaws, the presence in person or by proxy of at least twenty-five percent (25%) of the Association's voting power constitutes a quorum of the Membership. Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, despite the withdrawal of enough Owners to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of a quorum. If a meeting is actually attended, in person or by proxy, by Owners having less than one-third (1/3) of the Association's voting power, then no matter may be voted on except matters which were generally described in the notice of the meeting. No action by the Owners on any matter is effective if the votes cast in favor are fewer than the minimum number of votes required by the Restrictions to approve the action.

4.4. **PROXIES.** Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary in advance of each meeting. Every proxy is revocable and automatically ceases after completion of the meeting for which the proxy was filed. Any form of proxy or written ballot distributed by any Person to the Owners must afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted on, except it is not mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice. The proxy must also identify the person authorized to exercise the proxy and the length of time it will be valid. No proxy is valid with respect to a vote on any matter described in Section 7613(g) of the California Corporations Code unless the general nature of the proposal was described in the proxy.

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4.5. **PLACE OF MEETINGS OF OWNERS.** Meetings of the Owners shall be held in the Properties, or such other suitable place as proximate thereto as practical and convenient to the Owners, as designated by the Board.

4.6. **ANNUAL MEETINGS OF OWNERS.** The first annual meeting of Owners shall be held within six (6) months after the Close of Escrow for the sale of the first Condominium in the Properties. Thereafter, the annual meetings shall be held on or about the anniversary date of the first annual meeting. Each first Mortgagee may designate a representative to attend all annual meetings.

4.7. **SPECIAL MEETINGS OF OWNERS.** The Board shall call a special meeting of the Owners (a) as directed by resolution of a majority of a quorum of the Board, (b) by request of the President of the Association, or (c) on receipt of a petition signed by Owners representing at least five percent (5%) of the Association's total voting power. The Secretary shall give notice of any special meeting within twenty (20) days after adoption of such resolution or receipt of such request or petition. The notice must state the date, time and place of the special meeting and the general nature of the business to be transacted. The special meeting must be held not less than thirty-five (35) nor more than ninety (90) days after adoption of such resolution or receipt of such request or petition. No business may be transacted at a special meeting except as stated in the notice. Each first Mortgagee may designate a representative to attend all special meetings.

4.8. **NOTICE.** The Secretary shall send to each Owner of record, and to each first Mortgagee who has filed a written request for notice with the Secretary, a notice of each annual or special meeting. The notice must be sent by first-class mail, at least ten (10) but not more than thirty (30) days before the meeting. The notice must state the purpose for the meeting as well as the day, hour and place where it is to be held. The notice may establish time limits for speakers and nominating procedures for the meeting. The notice must specify those matters the Board intends to present for action by the Owners, but, except as otherwise provided by law, any proper matter may be presented for action at the meeting. The notice of any meeting at which Directors are to be elected must include the names of all nominees when the notice is given to the Owners. The mailing of a notice, postage prepaid, in the manner provided in this Section, shall be considered notice served, forty-eight (48) hours after the notice has been deposited in a regular depository of the United States mail. Such notice must be posted in a conspicuous place on the Common Property and is deemed served on an Owner on posting if no address for such Owner has been furnished to the Secretary.

Notwithstanding any other provision of these Bylaws, approval by the Owners of any of the following proposals, other than by unanimous approval of those Owners entitled to vote, is not valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice: (a) removing a Director without cause, (b) filling vacancies on the Board, (c) approving a contract or transaction between the Association and one or more Directors, or between the Association and any entity in which a Director has a material financial interest, (d) amendment of the Articles, or (e) electing to wind up and dissolve the Association.

4.9. **RECORD DATES.** The Board may fix a date in the future as a record date for determining which Owners are entitled to notice of any meeting of Owners. The record

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date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for notice to Owners, the record date for notice is the close of business on the business day preceding the day on which notice is given. In addition, the Board may fix a date in the future as a record date for determining the Owners entitled to vote at any meeting of Owners. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for determining Owners entitled to vote, Owners on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

4.10. **ADJOURNED MEETINGS.** If a quorum is not present at the time and place established for a meeting, a majority of the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the original meeting date, at which meeting the quorum requirement is the presence in person or by proxy of Owners holding at least twenty-five percent (25%) of the Association's voting power. Such an adjourned meeting may be held without the notice required by these Bylaws if notice thereof is given by announcement at the meeting at which such adjournment is taken.

4.11. **ORDER OF BUSINESS.** Meetings of Owners must be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. The order of business at all meetings of the Owners is as follows: (a) roll call to determine the voting power represented at the meeting, (b) proof of notice of meeting or waiver of notice, (c) reading of minutes of preceding meeting, (d) reports of officers, (e) reports of committees, (f) election of inspector of election (at annual meetings or special meetings held for such purpose), (g) election of Directors (at annual meetings or special meetings held for such purpose), (h) unfinished business, and (i) new business.

4.12. **ACTION WITHOUT MEETING.** Except for election of Directors, any action which may be taken at a meeting of the Owners may be taken without a meeting by written ballot of the Owners. Ballots must be solicited in the same manner as provided in these Bylaws for giving of notice of meetings to Owners. Such solicitations must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received to be counted. The form of written ballot must afford an opportunity to specify a choice between approval and disapproval of each matter and must provide that, where the Owner specifies a choice, the vote shall be cast in accordance therewith. Receipt within the time period specified in the solicitation of (i) ballots which equal or exceed the quorum which would be required if the action were taken at a meeting, and (ii) approvals which equal or exceed the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast, constitutes approval by written ballot.

4.13. **CONSENT OF ABSENTEES.** The actions taken at any meeting of Owners, however called and noticed, are valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present either in person or by proxy, and (b) either before or after the meeting, each of the Owners not present in person or by proxy signs (i) a written waiver of notice, (ii) a consent to the holding of such meeting, or (iii) an approval of the

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minutes thereof. The Secretary shall file all such waivers, consents or approvals with the corporate records or make them a part of the minutes of the meeting.

4.14. **MINUTES, PRESUMPTION OF NOTICE.** Minutes or a similar record of the proceedings of meetings of Owners, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters described therein. A recitation in the minutes executed by the Secretary that proper notice of the meeting was given constitutes prima facie evidence that such notice was given.

**ARTICLE V
AMENDMENTS**

These Bylaws may be amended by the vote or written consent of Owners representing at least (a) a majority of the voting power of each class of the Owners, and (b) a majority of the Association's voting power represented by Owners other than Declarant; provided that the specified percentage of each class of Owners necessary to amend a specific provision of these Bylaws may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. These Bylaws may be amended by a majority of the entire Board, (i) at any time before the Close of Escrow for the sale of the first Condominium, or (ii) if the amendment is within the Board's power to adopt without Owner approval pursuant to the California Corporations Code and either (a) the proposed amendment conforms the Bylaws to California law or the requirements of VA, FHA, DRE, FNMA, GNMA or FHLMC, or (b) the proposed amendment corrects a typographical error in the Bylaws. Any amendment to these Bylaws which materially affects matters listed in Article XI or Section 13.2 of the Declaration must be approved by the Beneficiaries of that percentage of first Mortgages on the Condominiums which is specified in the affected provision of Article XI or Section 13.2 of the Declaration, respectively. If an amendment to these Bylaws materially affects matters listed in both Article XI and Section 13.2 of the Declaration, the amendment must be approved pursuant to the requirements of both Article XI and Section 13.2.

**ARTICLE VI
MISCELLANEOUS**

6.1. **CHECKS, DRAFTS AND DOCUMENTS.** All checks, drafts, orders for payment of money, notes and other evidences of indebtedness issued in the name of or payable to the Association must be signed or endorsed in the manner and by the person or persons the Board designates by resolution, subject to the requirements of Section 2.10.5 for withdrawing money from the Association's reserve accounts.

6.2. **CONFLICTS.** If any of these Bylaws conflict with any laws of the State of California, such conflicting Bylaws shall be void on final court determination to such effect, but all other Bylaws shall remain in full force. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

6.3. **EXECUTION OF DOCUMENTS.** The Board may authorize any officer or agent to enter into any contract or execute any instrument in the name and on behalf of the

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Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent, committee member or employee may bind the Association by any contract, pledge the Association's credit, or render the Association liable for any purpose in any amount.

6.4. AVAILABILITY OF ASSOCIATION DOCUMENTS.

6.4.1. Records Maintenance. The Association shall keep at its principal office (or at such other place in or near the Properties as the Board may prescribe) the Restrictions and the Association's books of account, minutes of meetings of Owners, the Board and committees, and the Membership Register (collectively, the "Association Documents"), each of which shall be made available for inspection and copying by any Owner or the Owner's duly appointed representative for a purpose reasonably related to the Owner's interest as an Owner.

6.4.2. Limits on Availability. The Board may establish reasonable rules regarding (a) notice to be given to the custodian of the Association Documents by the Owner desiring to make the inspection, (b) hours and days of the week when such an inspection may be made, and (c) payment of the cost of copying any of the Association Documents requested by an Owner; provided that every Director may at any reasonable time inspect all Association Documents and the physical properties owned or controlled by the Association, and make extracts and copies of documents.

6.4.3. Time of Availability. The minutes, minutes that are proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board (other than an executive session) must be available to Owners within thirty (30) days of the meeting. The minutes, proposed minutes or summary minutes must be distributed to any Owner on request and on reimbursement of the Association's cost in making that distribution.

6.4.4. Distribution to Owners. No later than ten (10) days after the Association receives written request from any Owner, the Association shall provide to that Owner a copy of each of the documents listed in California Civil Code Section 1368(a) that have been requested by the Owner. Owners must be notified in writing when the budget required in Section 2.10.1 is distributed or at the time of any general mailing to the entire Association Membership of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

6.5. FISCAL YEAR. The Board shall select the Association's Fiscal Year. The Fiscal Year is subject to change as the Board determines.

**ARTICLE VII
NOTICE AND HEARING PROCEDURE**

7.1. INITIAL COMPLAINT. Persons who believe a violation of the Restrictions has occurred may file a complaint with a Person designated by the Board on a form approved by the Board. The Board will commence the enforcement process. In its discretion, the Board may issue one or two violation letters to the Person alleged to have committed the violation ("respondent") or set a hearing described in Section 7.2 below. The Board may direct

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the Manager to assist the Board in any of the steps the Board chooses to take in enforcing the Restrictions except that decisions made at hearings must be made by the Board.

7.2. **SCHEDULING HEARINGS.** A hearing before the Board to determine whether a sanction should be imposed may be initiated by the Board after receipt of at least one complaint. To initiate a hearing, the Board must deliver to the respondent a notice which includes the following:

7.2.1. **Complaint.** A written statement setting forth in ordinary and concise language the acts or omissions with which the respondent is charged,

7.2.2. **Basis for Violation.** A reference to the specific provisions of the Restrictions which the respondent is alleged to have violated,

7.2.3. **Hearing Schedule.** The date, time and place of the scheduled hearing, and

7.2.4. **Sanctions.** A list of sanctions which may be imposed at the hearing.

The date for the hearing may be no less than fifteen (15) days after the date the notice of hearing is mailed or delivered to the respondent. The respondent is entitled to attend the hearing, submit a statement of defense to the Board in advance of the hearing, or present a statement of defense and supporting witnesses at the hearing. If the respondent does not attend the hearing, the respondent waives these rights.

7.3. **CONDUCT OF HEARING.** The Board shall conduct the hearing in executive session, affording the respondent a reasonable opportunity to be heard. Before a sanction is effective, proof of notice and the invitation to be heard must be placed in the minutes of the meeting. Such proof is adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the Association officer or Board member who mailed or delivered such notice. The record of the meeting must contain a written statement of the results of the hearing and the sanction, if any, imposed.

7.4. **IMPOSITION OF SANCTIONS.** After affording the respondent an opportunity for a hearing before the Board, the Board may impose any one or more of the following sanctions: (a) levy a Special Assessment as authorized in the Declaration, (b) suspend or condition the right of any respondent who is not a Declarant to use any recreational facilities the Association owns, operates or maintains commencing on a date in the future selected by the Board, (c) suspend the voting privileges of any respondent who is not a Declarant, (d) enter upon a Condominium to perform maintenance which, according to the Declaration, is the responsibility of the respondent, or (e) record a notice of noncompliance if allowed by law. Any suspension of Membership privileges may not be for a period of more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues. Written notice of any sanctions to be imposed must be delivered to the respondent personally, by any system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means, via first class mail or certified mail return

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receipt requested, or any combination of the foregoing. No action against the respondent arising from the alleged violation may take effect less than five (5) days after the hearing. No sanction imposed on the Declarant may interfere with Declarant's exercise of the rights reserved in Article XV of the Declaration.

7.5. **LIMITS ON REMEDIES.** The Board's failure to enforce the Restrictions does not waive the right to enforce them. The remedies provided by the Restrictions are cumulative and not exclusive. However, any individual Owner must exhaust all available internal Association remedies prescribed by the Restrictions before that Owner may resort to a court of law for relief with respect to any alleged violation of the Restrictions by another Owner.

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CERTIFICATE OF SECRETARY

I, the undersigned, certify that:

1. I am the duly elected and acting Secretary of WEST OCEAN ASSOCIATION, a California nonprofit mutual benefit corporation ("*Association*"); and

2. The foregoing Bylaws comprising 22 pages including this page constitute the Bylaws of the Association duly adopted by Consent of Directors in Lieu of First Meeting dated November 1, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the seal of the Association effective this 1st day of November, 2004.

Joanne Rowland, Secretary

(SEAL)

07 0519293

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EXHIBIT D

OWNER MAINTENANCE RESPONSIBILITIES

This exhibit is not intended to be an exhaustive list of Owner and Association maintenance obligations. It is intended to supplement relevant provisions of the Declaration, any applicable Notice of Addition, any applicable Supplemental Declaration, the Maintenance Guidelines, and the Association's latest adopted budget. If there is any conflict between the maintenance obligations in this Exhibit and any Maintenance Guidelines, the Maintenance Guidelines shall control.

ITEM	OWNER RESPONSIBILITY
UNIT OR BUILDING EXTERIOR	
Unit entry door	Maintain interior surfaces, the threshold, and all hardware, glass and the handle and lock mechanism. Replace door as necessary. Owner maintenance obligations do not include responsibility for painting, staining or waterproofing exterior surface.
Exclusive Use Areas - Balcony	Sweep balconies, clean and keep free of debris and trash. Change light bulbs for any lighting on the balcony. No Owner is responsible for the periodic structural repair, resurfacing, sealing, caulking, replacement or painting of the fencing, floor and wall surfaces in such Exclusive Use Area so long as the need for such painting, repair or replacement is not caused by the willful or negligent acts of the Owner or his Family, tenants or guests.
Mailbox	Owner is responsible for replacement of key and lock, in the event of lost key.
Windows and glass doors	Maintain all interior surfaces of glass, any screens and lock mechanism. The Association shall maintain exterior glass, frame, weather stripping, sliders and caulking.
Exclusive Use Areas - parking space	The Owner keeps the Exclusive use Area parking spaces free from debris and reasonably protected against damage.

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Exclusive Use Areas - storage spaces	The Owner keeps the Exclusive Use Area storage spaces free from debris. No Owner is responsible for the periodic structural repair, resurfacing, sealing, caulking, replacement or painting of the floor and wall surfaces in such Exclusive Use Area so long as the need for such painting, repair or replacement is not caused by the willful or negligent acts of the Owner or his Family, tenants or guests.
Wine locker	The Owner keeps the wine locker free from debris and is responsible for repair and maintenance of any locking mechanism. No Owner is responsible for the periodic structural repair, resurfacing, sealing, caulking, replacement or painting of the floor and wall surfaces in such Exclusive Use Area so long as the need for such painting, repair or replacement is not caused by the willful or negligent acts of the Owner or his Family, tenants or guests.
Exterior Building Lighting	Maintain light fixtures controlled by switches in Unit or separately metered to Unit. Replace light bulbs as necessary.

UNIT INTERIOR

Unit interior	Maintain all interior doors, interior wall surfaces (including paint), drywall, cabinets, floor coverings, ceilings, permanent fixtures, appliances, toilets, smoke detectors, washing machine water hoses, the interior surface of the chimney, the flue, the firebox, door frames, and door hardware. However, no bearing walls, ceilings, floors or other structural or utility bearing portions of the buildings housing the Units may be pierced or otherwise altered or repaired without approval from the Design Review Committee
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<p>Water, gas and sewer pipes, water pressure regulator, water heater, plumbing outlets and fixtures, ducts (HVAC, dryer, stove, oven), electrical, circuit breakers, electrical outlets and fixtures.</p>	<p>Maintain portions which are sub-metered to the Unit, or located within, or otherwise exclusively serve Unit (i.e., from the interior surface of the Unit's walls to the appliances, and kitchen and bathroom facilities within the Unit). An Owner may plunge blocked kitchen and bathroom facilities in his Unit, but may not use a snake, or cause a snake to be used, in any pipes unless instructed to do so by the Association. Owner is obligated to hire Association, or to hire a contractor approved by the Association to perform any maintenance of water, gas and sewer pipes located within the Unit.</p>
<p>UTILITIES</p>	
<p>Telephone Wiring</p>	<p>Maintain portions within or which exclusively serve Unit.</p>
<p>Gas, Telephone, Electric and Water Service</p>	<p>Owner responsible for obtaining and having serviced.</p>

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EXHIBIT E

ELEMENTS OF VARIABLE ANNUAL ASSESSMENT

Variable Common Expenses:

1. Domestic Gas
2. Domestic Water
3. Paint
4. Roof
5. Reserves
6. Electricity

Variable Assessment: The variable Common Expense components of the Annual Assessment shall be allocated and assessed against all Condominiums in proportion to the base square footage of the Unit Type of each Condominium Unit. The share of the variable Common Expenses allocated to each Condominium Unit Type (the "**Variable Assessment**") shall be determined as follows:

1. Add the total of the budgeted annual variable Common Expenses described above to arrive at the total annual "**Variable Cost.**"
2. Divide the Variable Cost by the aggregate Unit Type base square footage of all Condominiums for which Annual Assessments have commenced, to determine the annual "**Variable Cost Factor.**"
3. Multiply the Variable Cost Factor by the base square footage of each Unit Type for which Annual Assessments have commenced to determine the Variable Assessment portion of the Annual Assessment for each Condominium Unit.

Unit Type: The Unit Type of each Condominium Unit is identified on the Unit Location Map pages of the Condominium Plan for the Phase in which the Condominium Unit is located.

Base Square Footage: The base square footage of each Unit Type shall be the square footage stated below. The Unit Type base square footage is only an approximation of the actual interior footage of each Unit. Actual square footage will vary from the base square footage, but any such variance shall not be considered in calculating the Variable Assessment.

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<u>Unit Types</u>	<u>Base Square Footage</u>
A/ A-1	1,426
B	1,070
C/ C-1	1,414
D/ D-1	984
F	1,630
F-1	1,636
G	3,249
H	1,735
J/ J-1	1,443
1	893
2	1,040
2-A	1,654
2-B	1,374
3	1,323
4	1,397
4-A	1,531
5	1,651
6	3,055

07 0519293

MIKE DUNFEE

GROUP

Sales · Leasing · Property Management

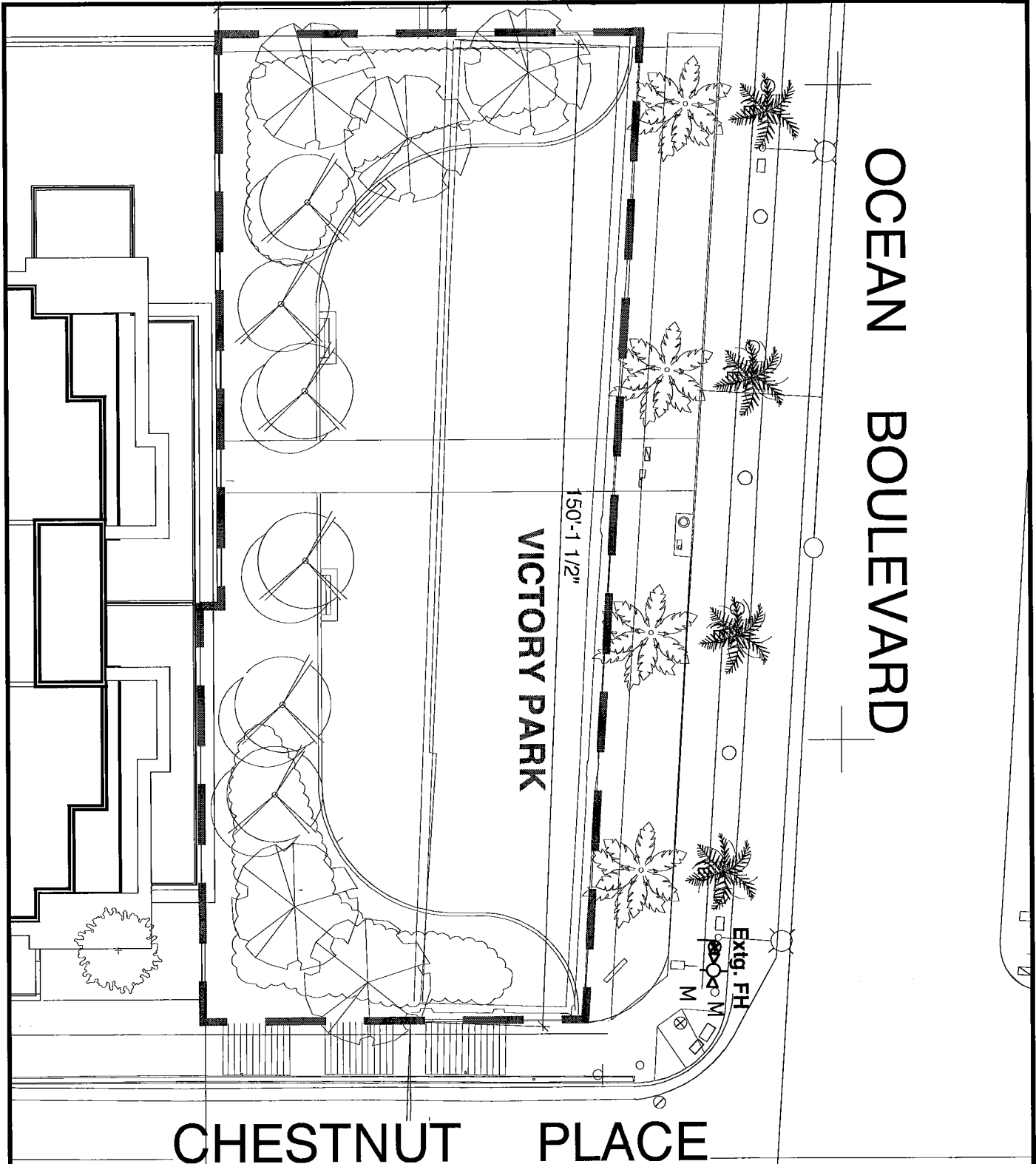
125

EXHIBIT F

ASSOCIATION MAINTENANCE AREAS

07 0519293

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CHESTNUT PLACE

OCEAN BOULEVARD

VICTORY PARK

150'-1 1/2"

Extg. FH

Perkins & Company
 Architecture and Urban Design Inc.

1498 West Fifth Ave.
 Vancouver, BC
 V6H 4G3

Telephone • (604) 685-2428
 Fax • (604) 685-2467

E-Mail • files@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT:	# 2279 WEST OCEAN TOWERS, PHASE 1, LONG BEACH CA
SKETCH TITLE:	PARTIAL PLAN - SITE PLAN EXISTING
SKETCH SUBJECT:	VICTORY PARK, EXHIBIT 'F'
SCALE:	NTS
REFER TO FULL SIZE DRAWING:	A1.0 - SITE PLAN

SKETCH #	ARCH. SK-29.1
DATE:	JAN 17, 2007

07 0519293

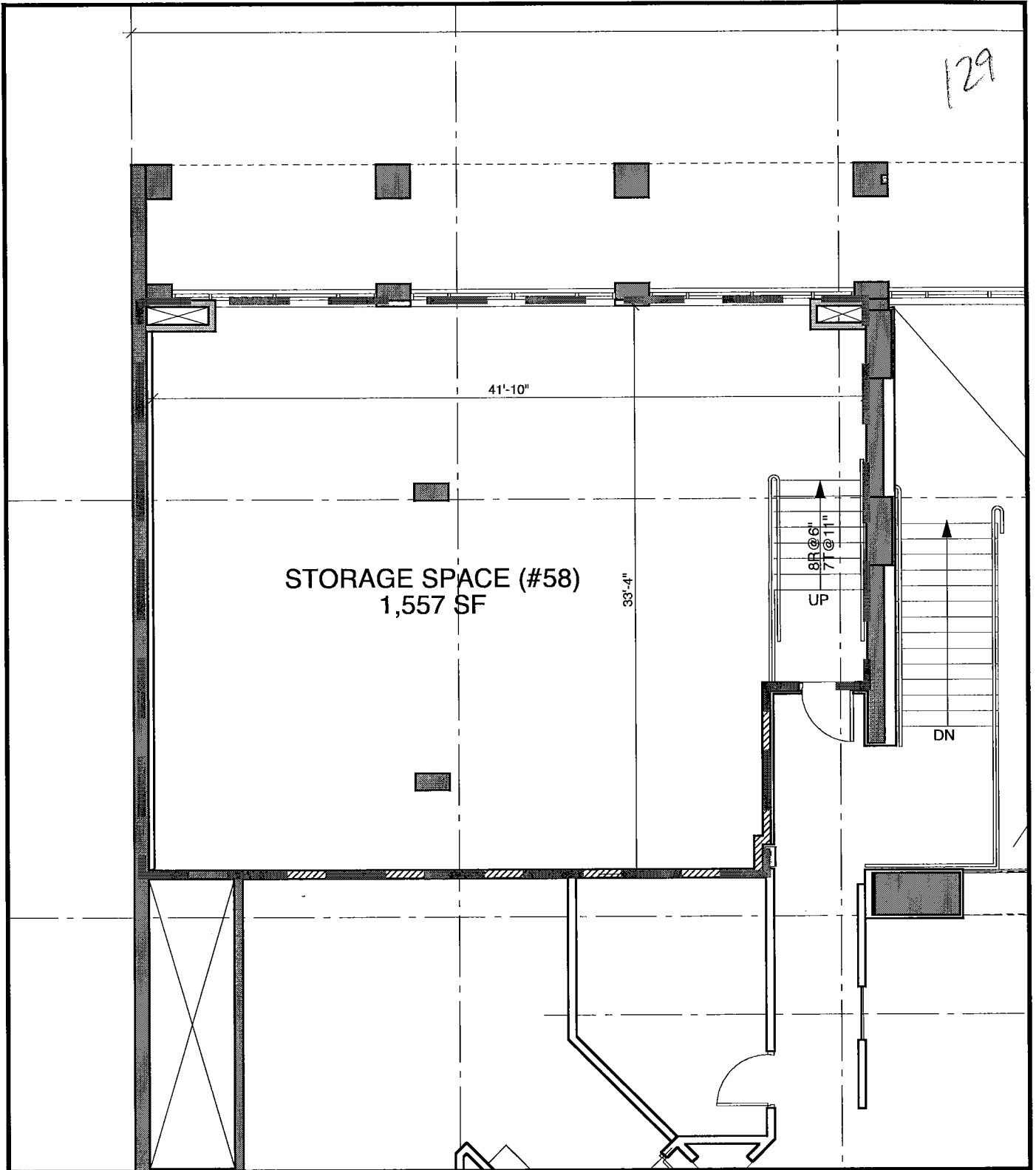
127

EXHIBIT G

EXCLUSIVE USE STORAGE AND PARKING SPACES

07 0519295

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STORAGE SPACE (#58)
1,557 SF

41'-10"

33'-4"

8R @ 6"
71 @ 11"
UP

DN

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PROJECT: # 2279 WEST OCEAN TOWERS, PHASE 1, LONG BEACH CA

SKETCH TITLE: PARTIAL PLAN - PODIUM EXISTING

SKETCH SUBJECT: STORAGE ROOM #1 LAYOUT, **EXHIBIT 'G'**

SCALE: NTS

REFER TO FULL SIZE DRAWING:
A1.5a - PODIUM PLAN

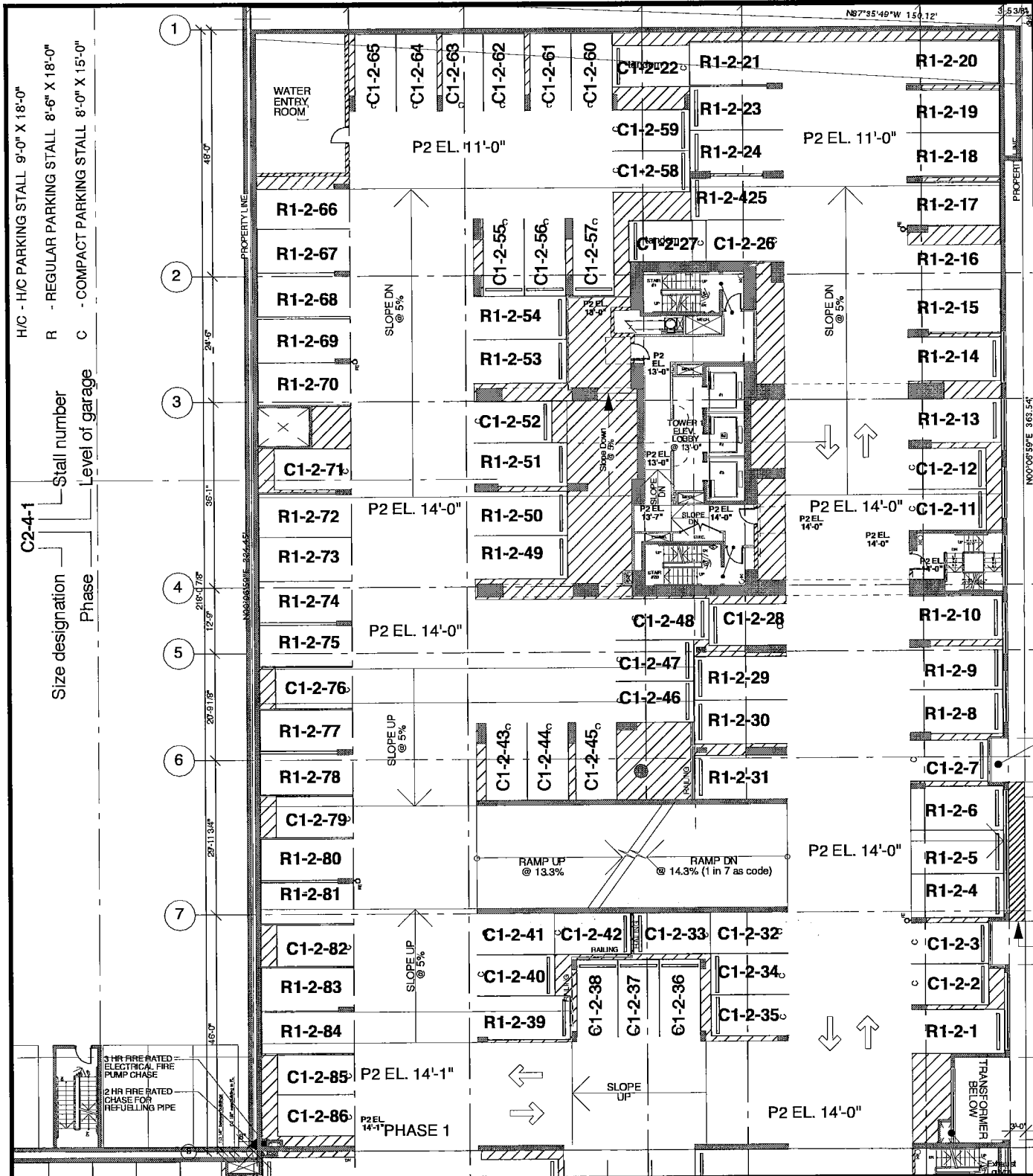
SKETCH #

ARCH.
SK-29.2

DATE:
JAN 17, 2007

07 0519293

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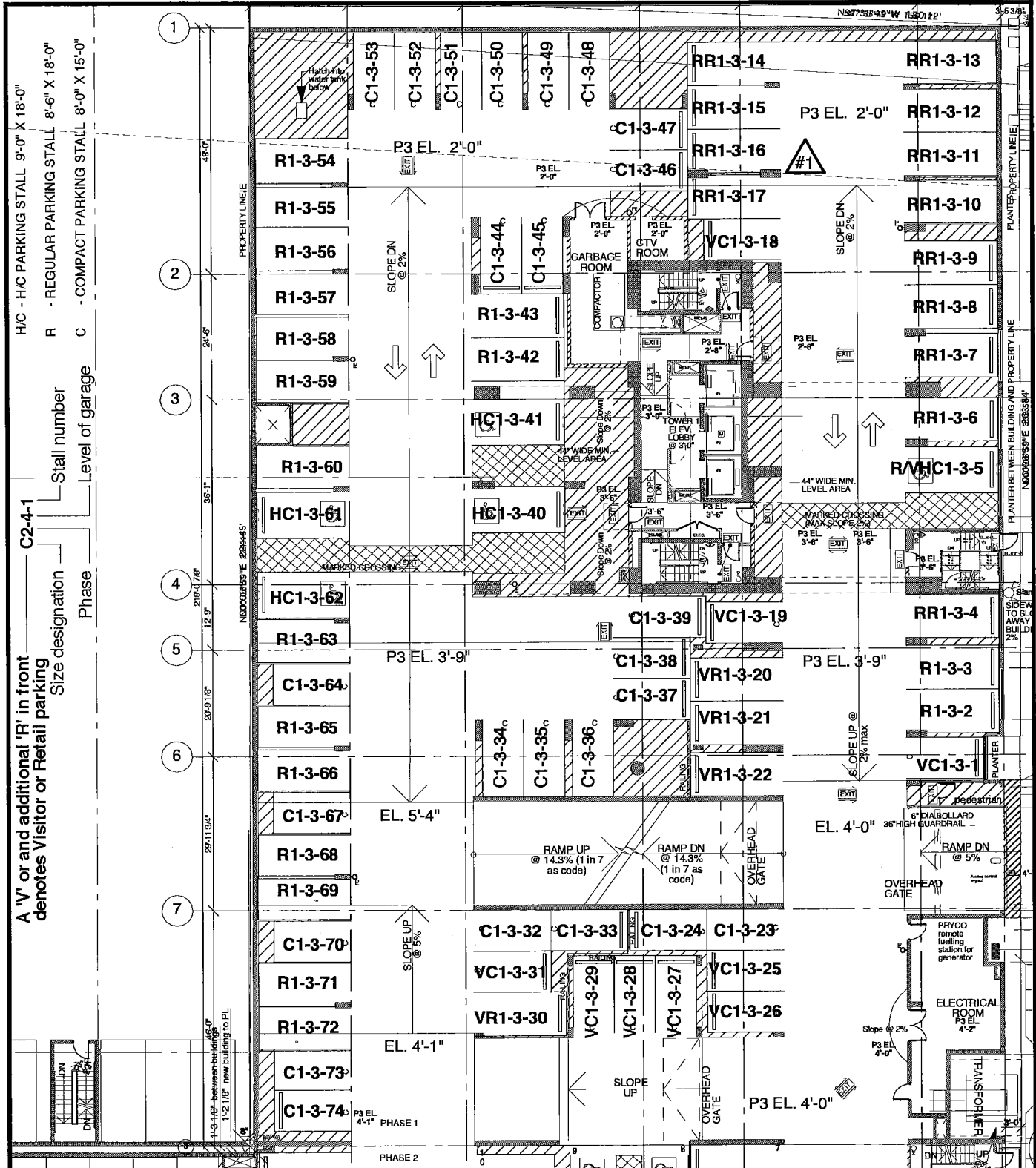
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 Fax • (604) 685-2467
 E-Mail • files@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT:	# 2279 WEST OCEAN TOWERS, PH 1, LONG BEACH CA
SKETCH TITLE:	PLAN - P2 EXISTING
SKETCH SUBJECT:	PARKING LAYOUT, EXHIBIT 'G'
SCALE:	NTS
REFER TO FULL SIZE DRAWING:	A1.3 & 1.3a - P2 PLAN

SKETCH #	
ARCH.	SK-29.10
DATE:	JAN 17, 2007

132



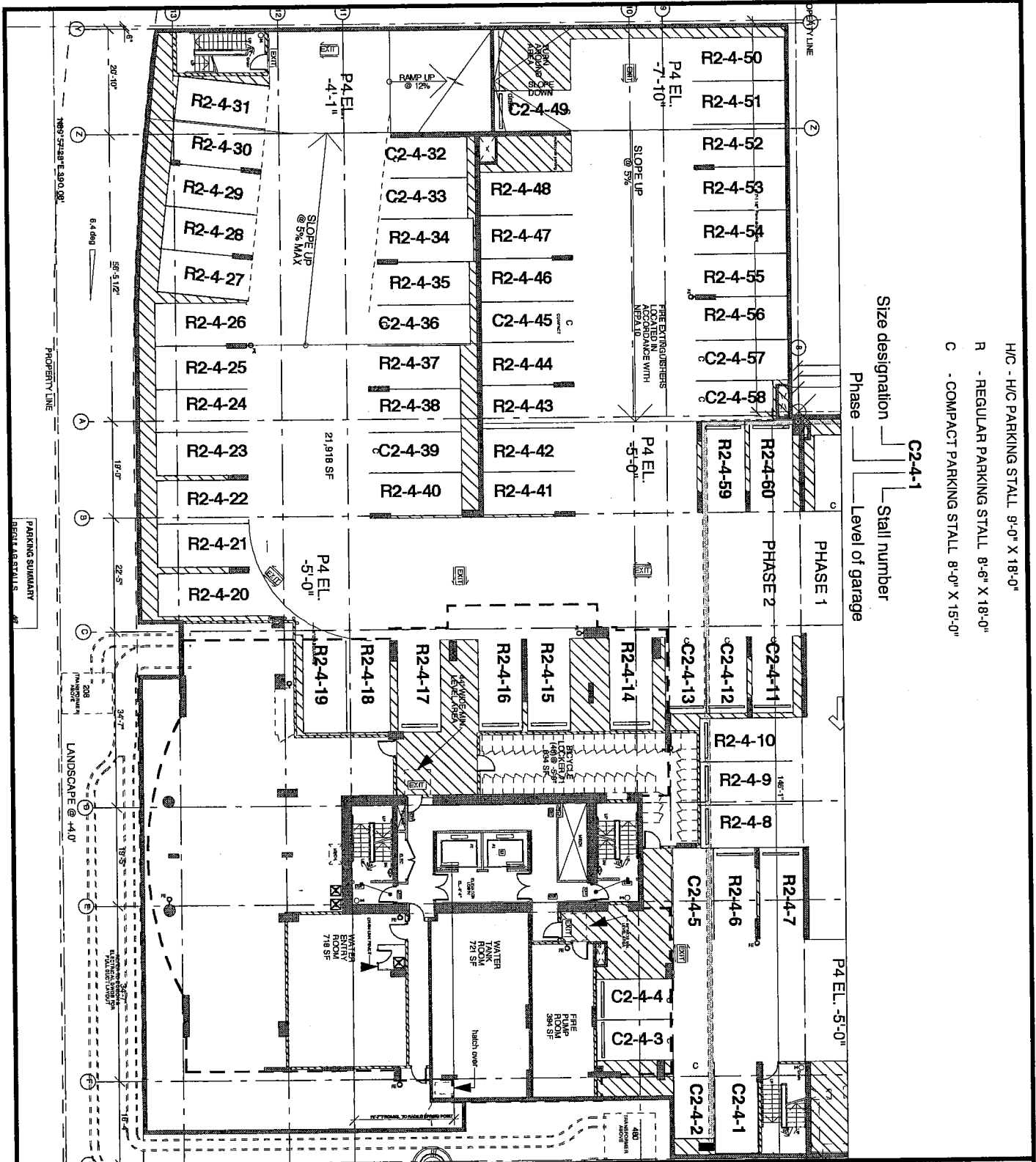
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 Fax • (604) 685-2467
 E-Mail • files@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT:	# 2279 WEST OCEAN TOWERS, PH 1, LONG BEACH CA
SKETCH TITLE:	PLAN - P3 EXISTING
SKETCH SUBJECT:	PARKING LAYOUT, EXHIBIT 'G'
SCALE:	NTS
REFER TO FULL SIZE DRAWING:	A1.2 & 1.2a - P3 PLAN

SKETCH #	ARCH. SK-29.8
DATE:	JAN 17, 2007

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H/C - H/C PARKING STALL 9'-0" X 18'-0"
 R - REGULAR PARKING STALL 8'-6" X 18'-0"
 C - COMPACT PARKING STALL 8'-0" X 15'-0"

Size designation
 Phase
 Stall number
 Level of garage

C2-4-1

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - P4 EXISTING

SKETCH SUBJECT: PARKING LAYOUT, **EXHIBIT 'G'**

SCALE: NTS

REFER TO FULL SIZE DRAWING: A1.1 PH2 - P4 PLAN

SKETCH #

ARCH. SK-29.7

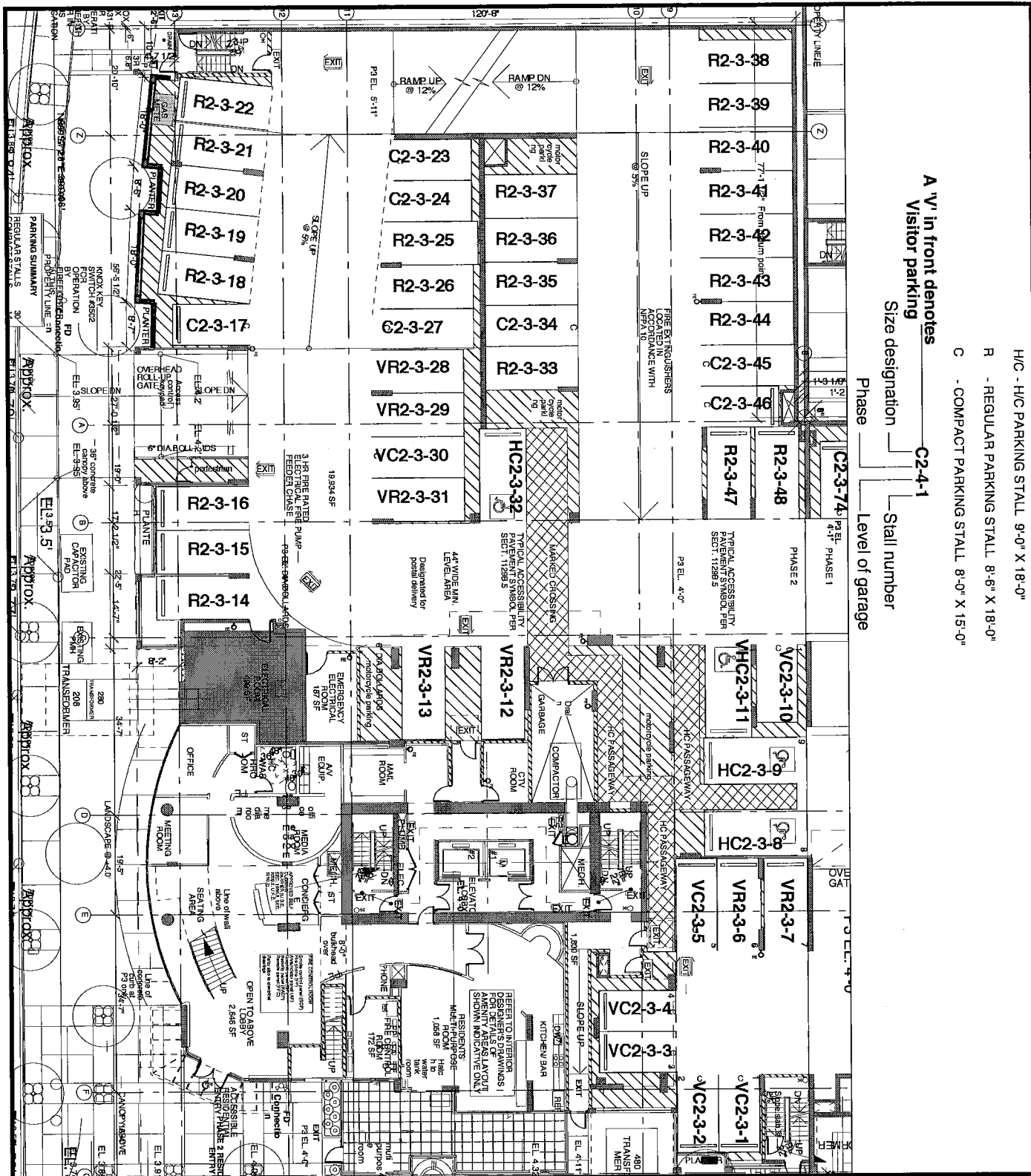
DATE: JAN 17, 2007

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 Web Page • www.perkinsandcompany.com

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - P3 EXISTING

SKETCH SUBJECT: PARKING LAYOUT, **EXHIBIT 'G'**

SCALE: NTS

REFER TO FULL SIZE DRAWING:
 A1.2 PH2 - P3 PLAN

SKETCH #

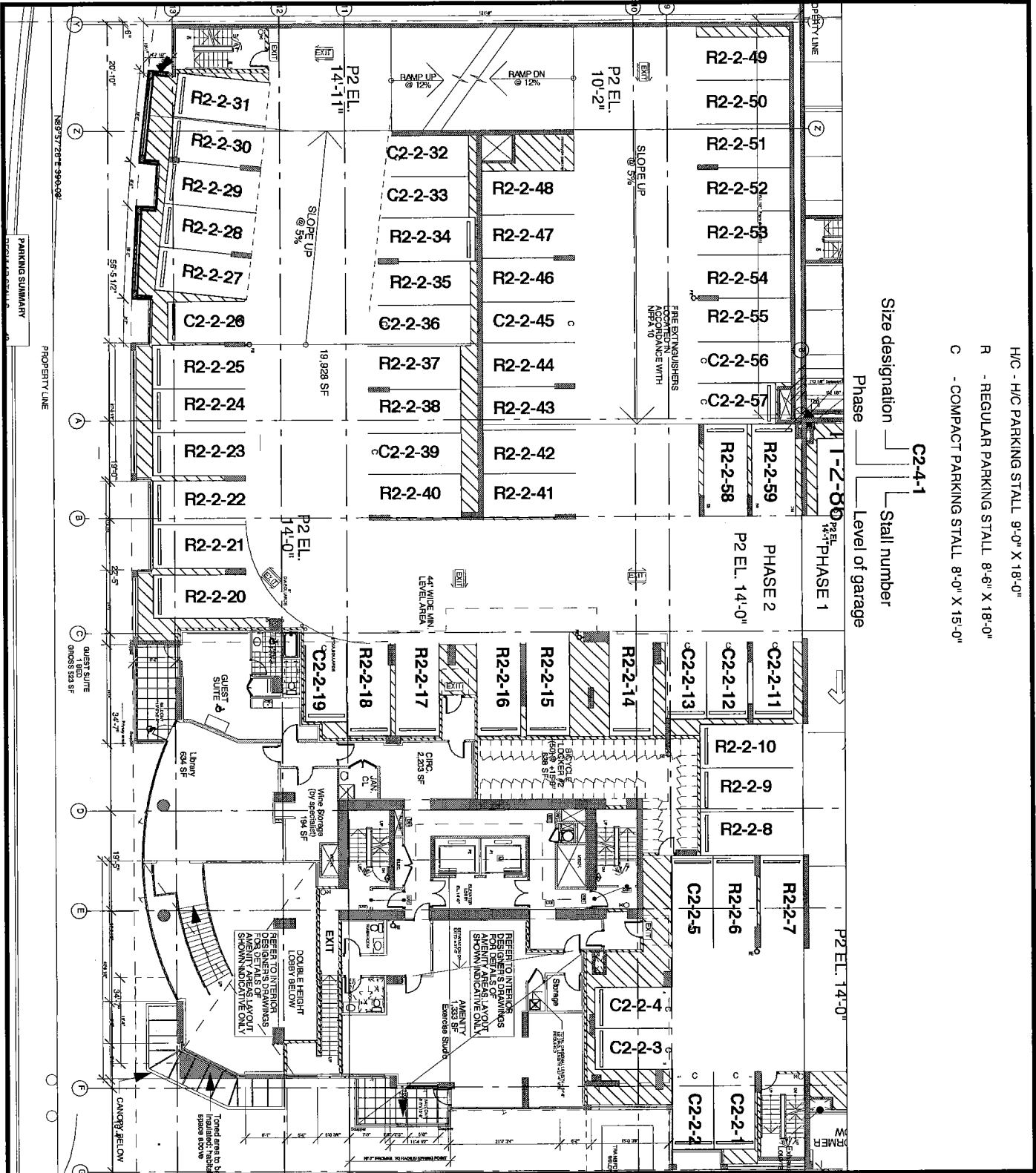
ARCH.
SK-29.9

DATE:

JAN 17, 2007

07 0519293

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H/C - H/C PARKING STALL 9'-0" X 18'-0"
 R - REGULAR PARKING STALL 8'-6" X 18'-0"
 C - COMPACT PARKING STALL 8'-0" X 15'-0"

Size designation
 Phase
 Stall number
 Level of garage

PARKING SUMMARY

PROPERTY LINE

PROPERTY LINE

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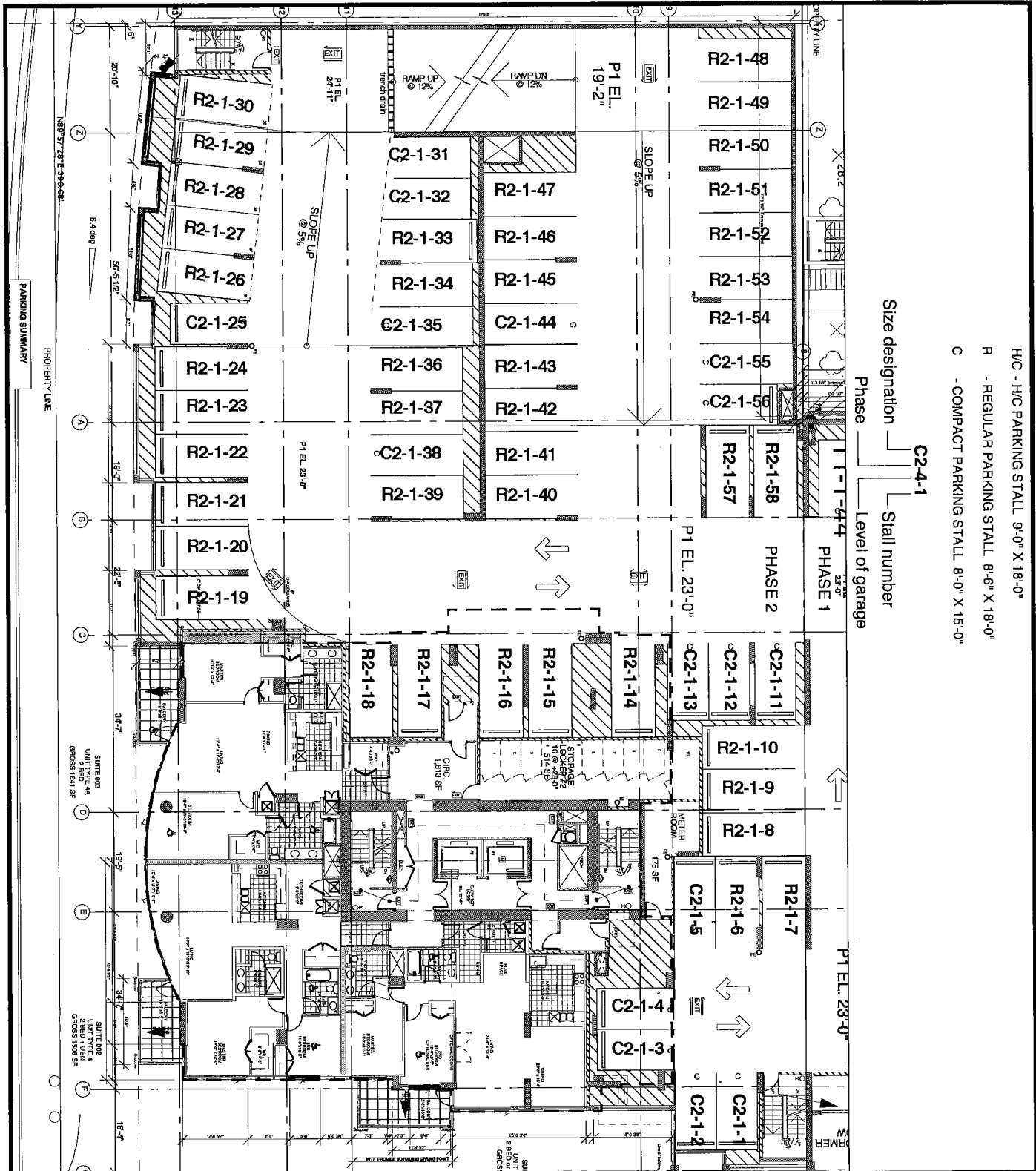
Perkins & Company
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 Telephone • (604) 685-2428
 Fax • (604) 685-2467
 E-Mail • files@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA
 SKETCH TITLE: PLAN - P2 EXISTING
 SKETCH SUBJECT: PARKING LAYOUT, **EXHIBIT 'G'**
 SCALE: NTS
 REFER TO FULL SIZE DRAWING: A1.3 PH2 - P2 PLAN

SKETCH #
 ARCH. **SK-29.11**
 DATE: JAN 17, 2007

07 0519293

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- HC - HC PARKING STALL 9'-0" X 18'-0"
- R - REGULAR PARKING STALL 8'-6" X 18'-0"
- C - COMPACT PARKING STALL 8'-0" X 15'-0"

Size designation
Phase
Stall number
Level of garage

PARKING SUMMARY

PROPERTY LINE

SUITE 003
UNIT 103 4A
GROSS 184 SF

SUITE 004
UNIT 103 4B
GROSS 180 SF

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PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - P1 EXISTING

SKETCH SUBJECT: PARKING LAYOUT, **EXHIBIT 'G'**

SCALE: NTS

REFER TO FULL SIZE DRAWING: A1.4 PH2 - P1 PLAN

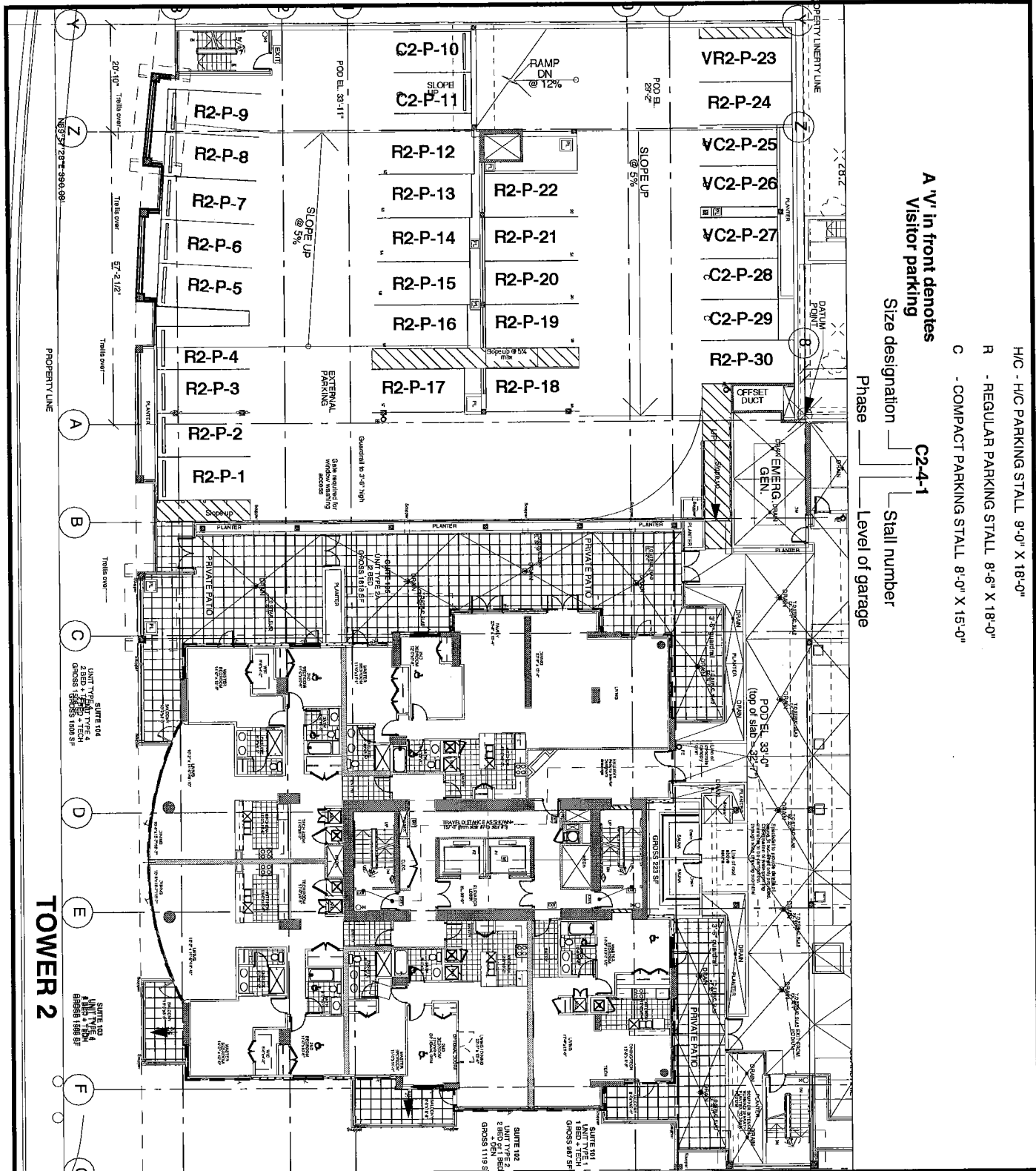
SKETCH #

ARCH.
SK-29.13

DATE:
JAN 17, 2007

07 0519293

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H/C - H/C PARKING STALL 9'-0" X 18'-0"
R - REGULAR PARKING STALL 8'-6" X 18'-0"
C - COMPACT PARKING STALL 8'-0" X 15'-0"

A 'V' in front denotes
Visitor parking

Size designation
C2-4-1

Phase
Level of garage

Stall number

TOWER 2

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Web Page • www.perkinsandcompany.com

PROJECT:
2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - PODIUM EXISTING

SKETCH SUBJECT: PARKING LAYOUT, **EXHIBIT 'G'**

SCALE: NTS

REFER TO FULL SIZE DRAWING:
A1.5 PH2 - PODIUM PLAN

SKETCH #

ARCH.
SK-29.14

DATE:
JAN 17, 2007

07 0519293

RECORDING REQUESTED BY:

FIDELITY NATIONAL TITLE
INSURANCE COMPANY

WHEN RECORDED, MAIL TO:

JACKSON, DeMARCO, TIDUS,
PETERSEN & PECKENPAUGH (FSJ)
2030 Main Street, Suite 1200
Irvine, CA 92614

05/22/07

20071239134

(Space Above for Recorder's Use)

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN**

This First Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean ("**First Amendment**") is entered into as of the date written below by VIEWCOR LONG BEACH I, LP, a Delaware limited partnership ("**Declarant**").

RECITALS

A. Declarant owns the real property in the City of Long Beach, Los Angeles County, State of California (the "**Property**") described as follows:

That portion of Lot 1 described below, as shown on the Condominium Plan for Phase 1 of West Ocean (the "**Phase 1 Condominium Plan**") recorded on March 9, 2007, as Instrument No. 07-0519291, in the Official Records of Los Angeles County, California. The Phase 1 Condominium Plan covers a portion of Lot 1 of Tract No. 60109, as shown on a Subdivision Map, Recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the office of the Los Angeles County Recorder.

B. On March 9, 2007, Declarant recorded a Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as Instrument No. 20070519293 in Official Records of Los Angeles County, California (the "**Declaration**"). All capitalized terms not otherwise defined herein shall have the meaning given such terms in the Declaration.

C. Declarant desires to replace portions of Exhibit G of the Declaration for the purpose of conforming Exhibit G to as-built conditions at the Property.

D. Pursuant to Section 13.2.7(ix) of the Declaration, Declarant has the unilateral right to amend, replace or substitute any exhibit in the Declaration to conform to as-built conditions.

Therefore, Declarant declares that the Declaration is amended as follows:

1. **AMENDMENT OF EXHIBIT G.** Exhibit G of the Declaration is hereby replaced in its entirety with the replacement Exhibit G attached hereto.
2. **RATIFICATION.** Except as expressly modified herein, the capitalized terms used in this First Amendment shall have the meanings given them in the Declaration. Except as amended by this First Amendment, the Declaration is ratified and affirmed by Declarant.

[SIGNATURES ON FOLLOWING PAGES]

07 1230134

[SIGNATURE PAGE TO FIRST AMENDMENT]

Dated: May 18, 2007

VIEWCOR LONG BEACH I, LP,
a Delaware limited partnership

By: Harborcor, LLC,
a California limited liability company,
its general partner

By: [Signature]
Name: Patrick B. Patterson
Executive Vice President
Title: Operations

Declarant

STATE OF CALIFORNIA
COUNTY OF orange

On May, 18, before me, Katie Fromkes notary public
(here insert name and title of the officer)

personally appeared Patrick B. Patterson
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he she executed the same in his her authorized capacity, and that by his her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Katie Fromkes

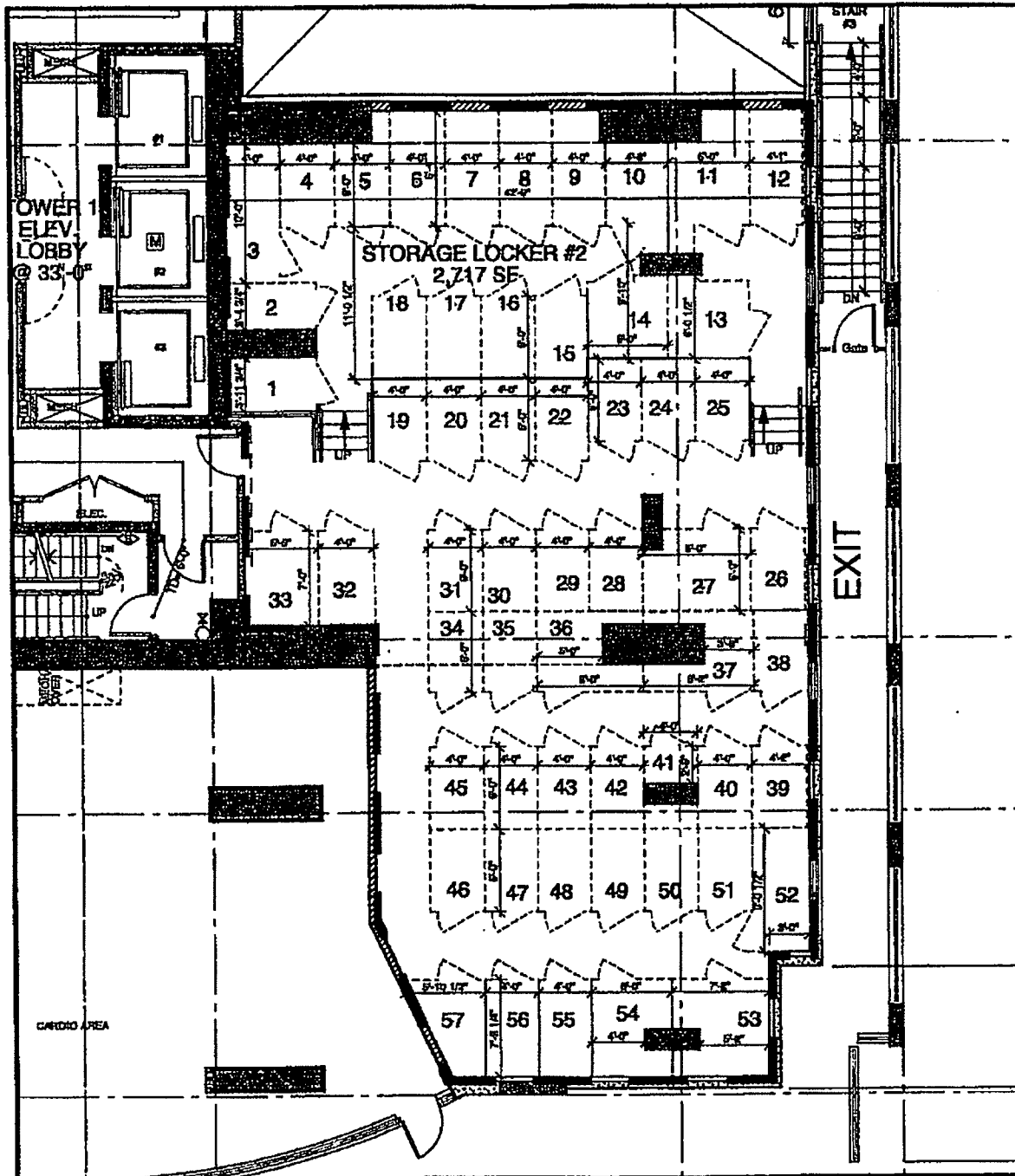
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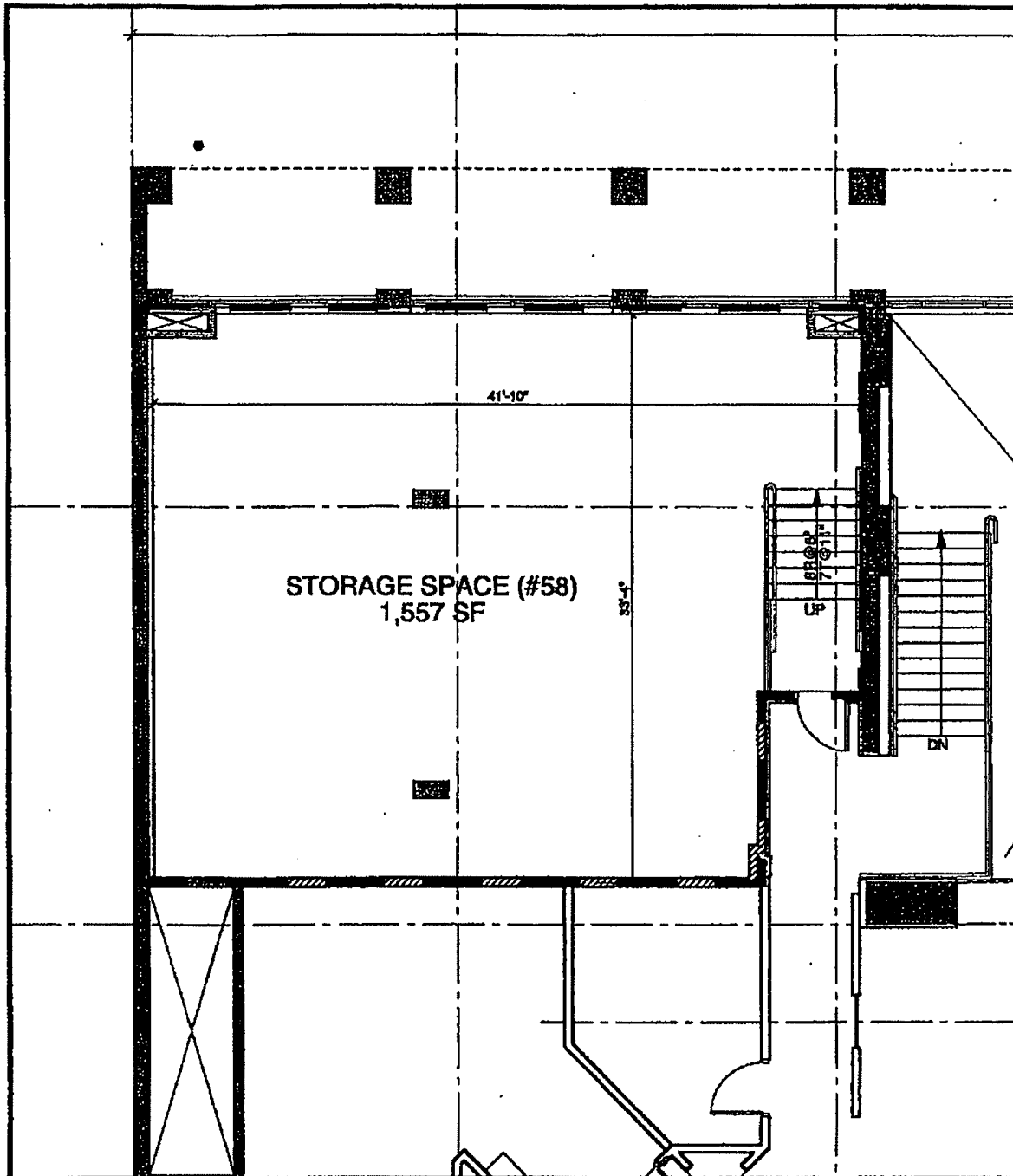
07 1230134

EXHIBIT G

EXCLUSIVE USE STORAGE AND PARKING SPACES



<p>Perkins & Company Architecture and Urban Design Inc. 1498 West 19th Ave. Vancouver, BC V6J 4C3 Telephone: (604) 683-3423 Fax: (604) 683-0447 E-Mail: info@perkinsandcompany.com Web Page: www.perkinsandcompany.com</p>	<p>PROJECT: # 2278 WEST OCEAN TOWERS, PHASE 1, LONG BEACH CA</p>	<p>SKETCH #</p>
	<p>SKETCH TITLE: PARTIAL PLAN - PODIUM EXISTING</p>	<p>ARCH. SK-29.3</p>
	<p>SKETCH SUBJECT: STORAGE ROOM #2 LAYOUT, EXHIBIT 'G'</p>	
	<p>SCALE: NTS</p>	
<p>REFER TO FULL SIZE DRAWING: A1.5a - PODIUM PLAN</p>	<p>DATE: 17 JAN, 2007</p>	



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 Architecture and Urban Design Inc.

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 E-Mail • info@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT: # 2278 WEST OCEAN TOWERS, PHASE 1, LONG BEACH CA

SKETCH TITLE: PARTIAL PLAN - PODIUM EXISTING

SKETCH SUBJECT: STORAGE ROOM #1 LAYOUT, **EXHIBIT 'G'**

SCALE: NTB

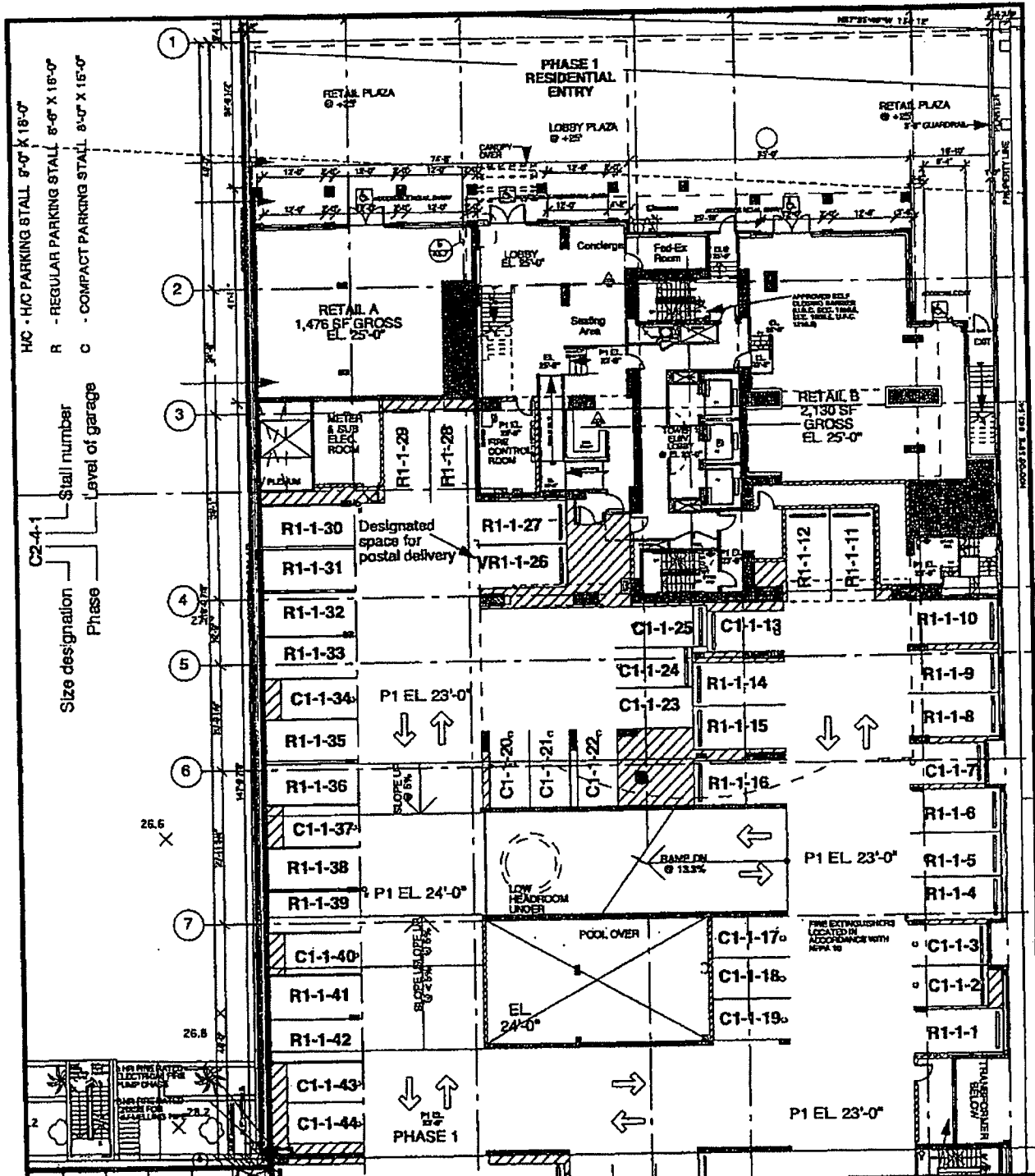
REFER TO FULL SIZE DRAWING:
 A1.5a - PODIUM PLAN

SKETCH #

ARCH.
SK-29.2

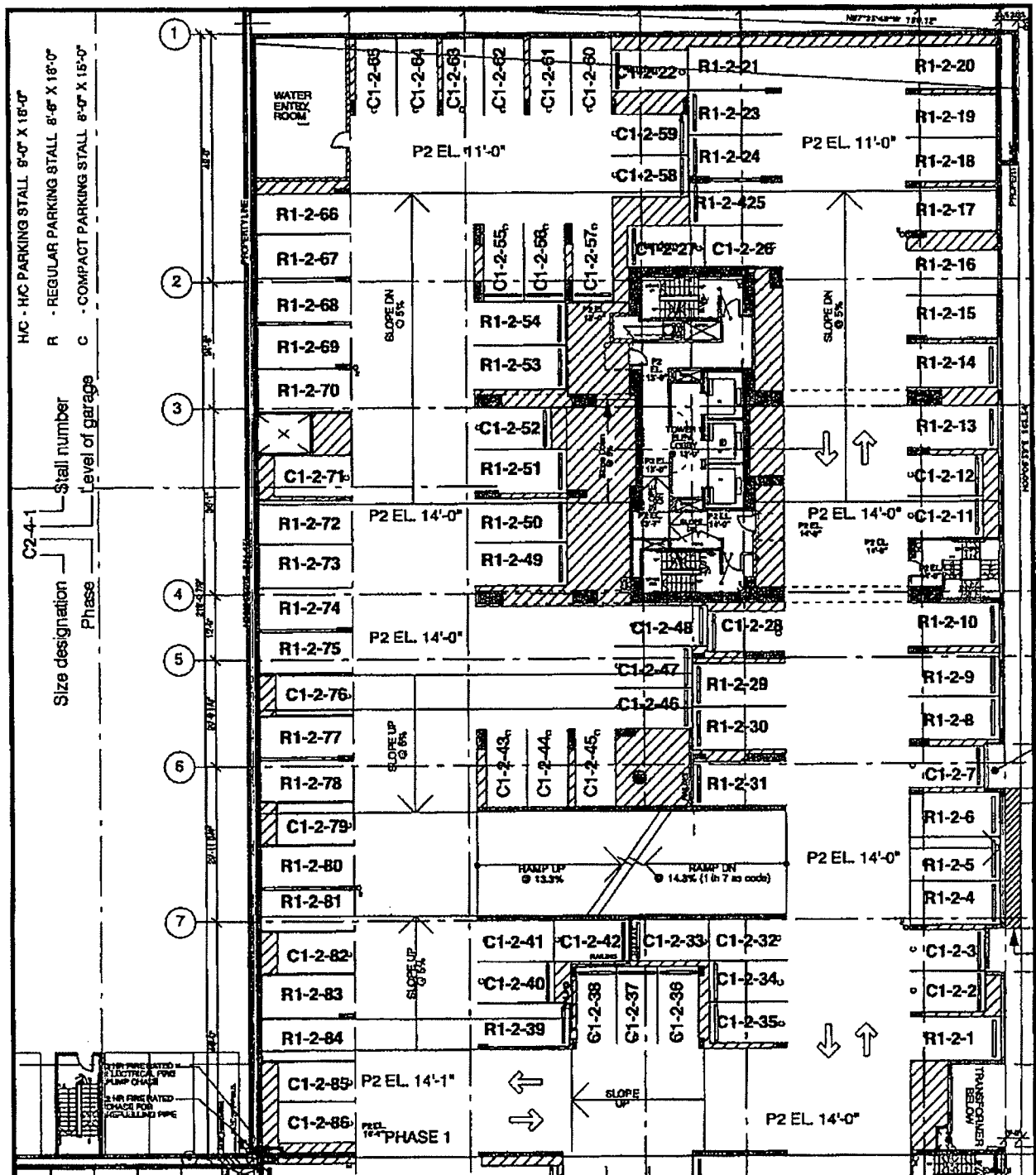
DATE:
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07-1-25-07-28



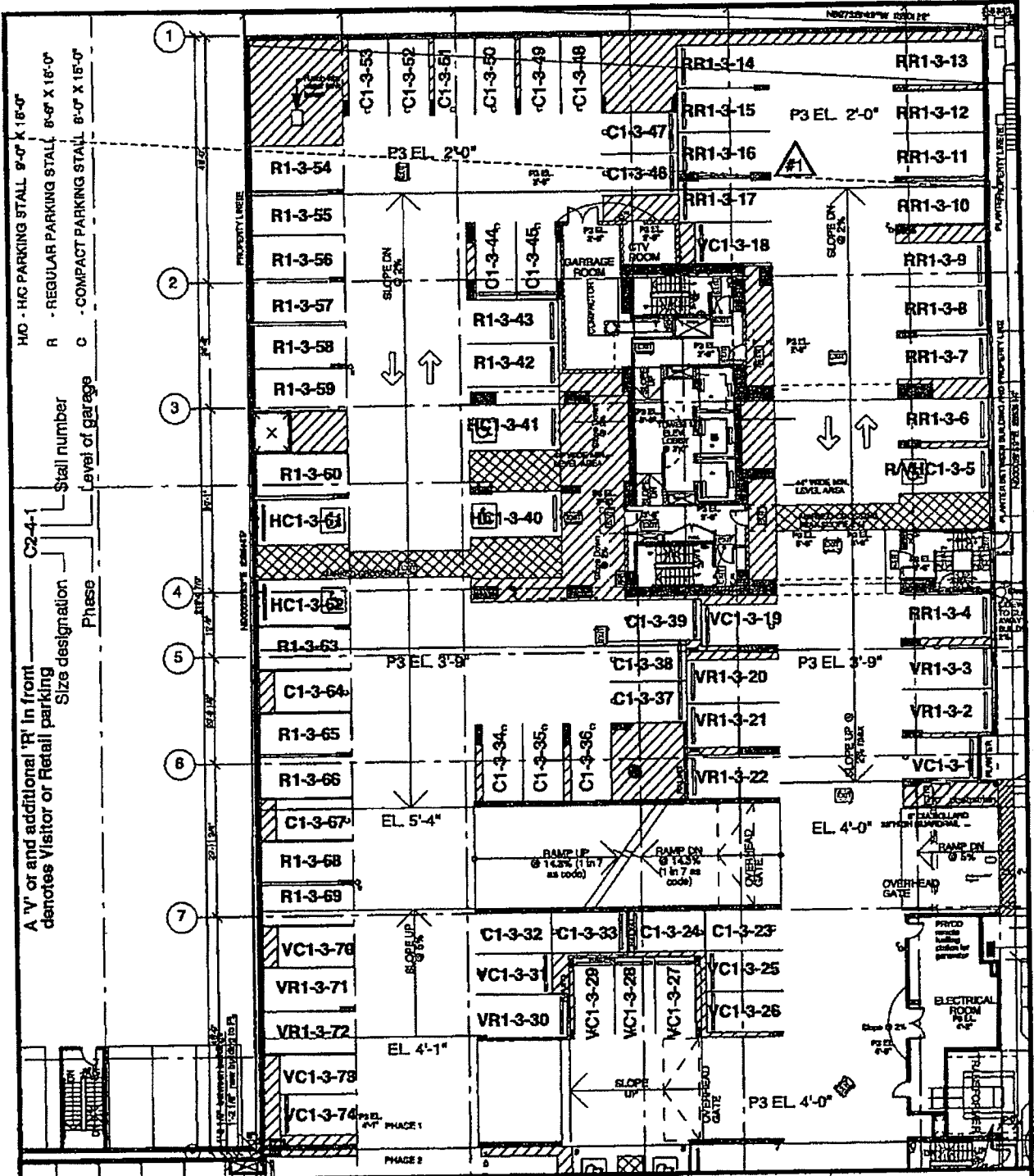
<p>Perkins & Company Architecture and Urban Design Inc. 1498 West 8th Ave. Vancouver, BC V6H 4G3 Telephone: (604) 683-2428 Fax: (604) 683-3407 E-Mail: info@perkinsandcompany.com Web Page: www.perkinsandcompany.com</p>	<p>PROJECT: # 2278 WEST OCEAN TOWERS, PH 1, LONG BEACH CA</p>	<p>SKETCH #</p>
	<p>SKETCH TITLE: PLAN - P1 EXISTING</p>	<p>ARCH. SK-29.12</p>
	<p>SKETCH SUBJECT: PARKING LAYOUT, EXHIBIT 'G'</p>	
	<p>SCALE: NTS</p>	<p>DATE: MAY 08, 2007</p>

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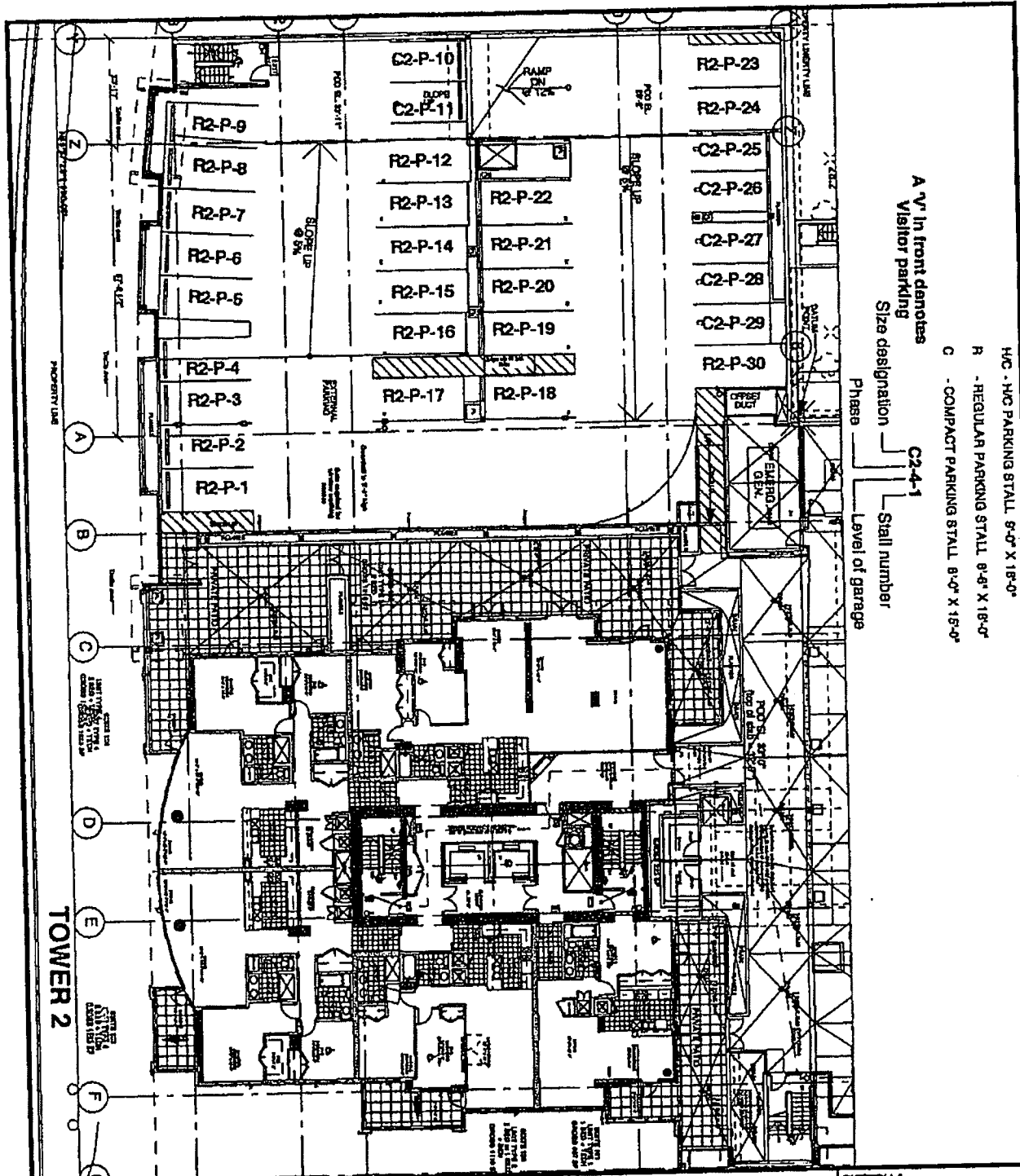
<p>Perkins & Company Architecture and Urban Design Inc.</p> <p>1438 West Fifth Ave. Vancouver, BC V6J 4G3 Telephone - (604) 683-2423 Fax - (604) 683-2467 E-Mail - info@perkinsandcompany.com Web Page - www.perkinsandcompany.com</p>	PROJECT: # 2278 WEST OCEAN TOWERS, PH 1, LONG BEACH CA	SKETCH #
	SKETCH TITLE: PLAN - P2 EXISTING	ARCH. SK-29.10
	SKETCH SUBJECT: PARKING LAYOUT, EXHIBIT 'G'	
	SCALE: NTS	REFER TO FULL SIZE DRAWING: A1.3 & 1.3a - P2 PLAN

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<p>Perkins & Company Architecture and Urban Design Inc. 1498 West Fifth Ave. Vancouver, BC V5R 4C3 Telephone: (604) 683-3433 Fax: (604) 683-3467 E-Mail: info@perkinsandcompany.com Web Page: www.perkinsandcompany.com</p>	PROJECT: # 2278 WEST OCEAN TOWERS, PH 1, LONG BEACH CA	SKETCH # ARCH. SK-29.8
	SKETCH TITLE: PLAN - P3 EXISTING	DATE: MAY 08, 2007
	SKETCH SUBJECT: PARKING LAYOUT, EXHIBIT 'G'	
	SCALE: NTS	
REFER TO FULL SIZE DRAWING: A1.2 & 1.2a - P3 PLAN		

3-10-07 20



HC - HC PARKING STALL 8'-0" X 18'-0"
 R - REGULAR PARKING STALL 8'-6" X 18'-0"
 C - COMPACT PARKING STALL 8'-0" X 15'-0"
 A 'V' in front denotes Visitor parking
 Size designation C2-4-1
 Stall number
 Level of garage
 Phase

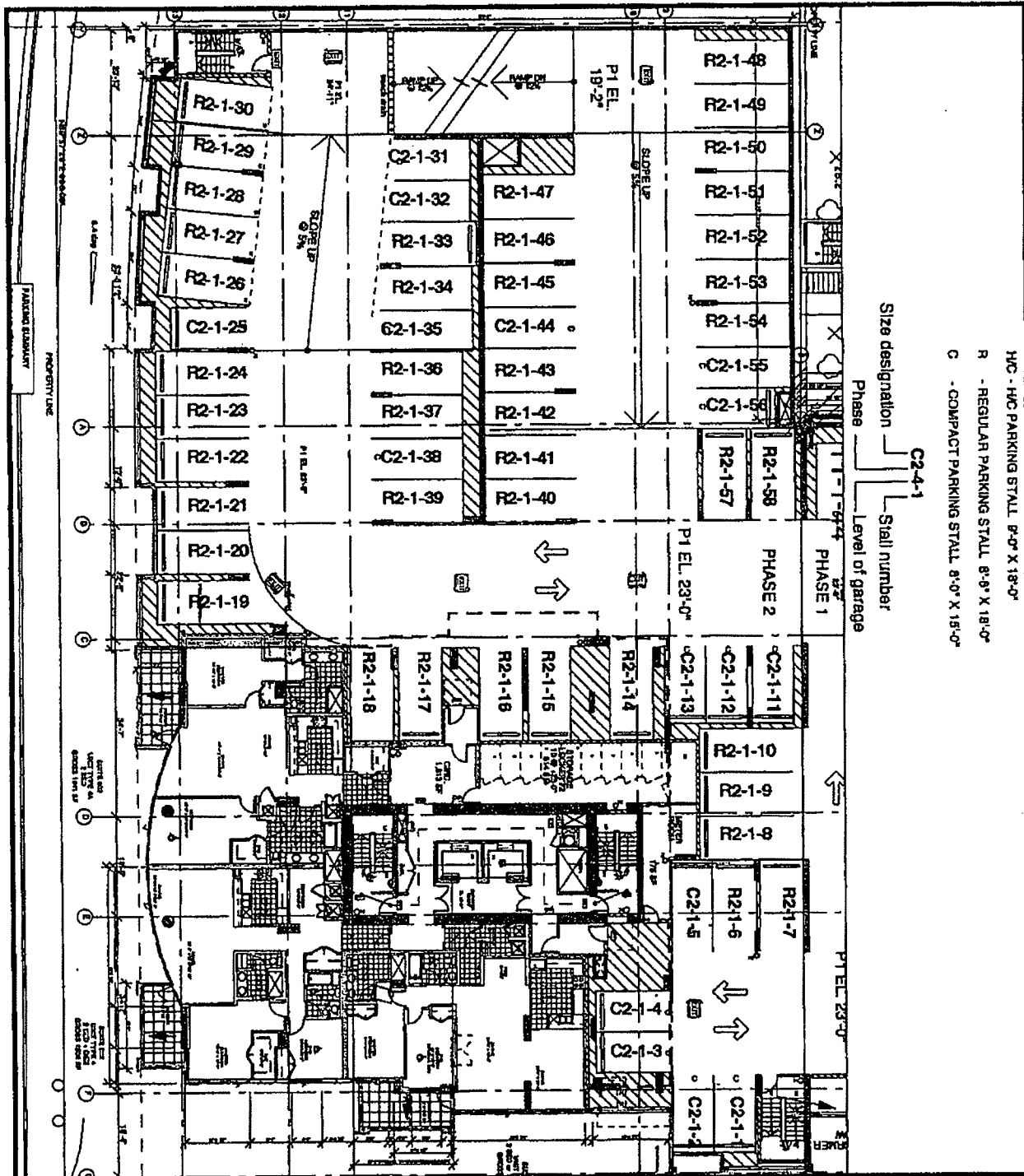
TOWER 2

Perkins & Company
 Architecture and Urban Design Inc.
 1496 West 5th Ave
 Vancouver, BC
 V6H 4C9
 Telephone • (604) 685-2428
 Fax • (604) 685-2467
 E-Mail • files@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA
 SKETCH TITLE: PLAN - PODIUM EXISTING
 SKETCH SUBJECT: PARKING LAYOUT, EXHIBIT 'G'
 SCALE: NTS
 REFER TO FULL SIZE DRAWING: A1.5 PH2 - PODIUM PLAN

SKETCH #
 ARCH. SK-29.14
 DATE: MAY 08, 2007

07 2007



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Architecture and Urban Design Inc.

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Vancouver, BC
V6H 4C8
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Web Page • www.perkinsandcompany.com

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - P1 EXISTING

SKETCH SUBJECT: PARKING LAYOUT, EXHIBIT 'A'

SCALE: NTS

REFER TO FULL SIZE DRAWING:
A1.4 PH2 - P1 PLAN

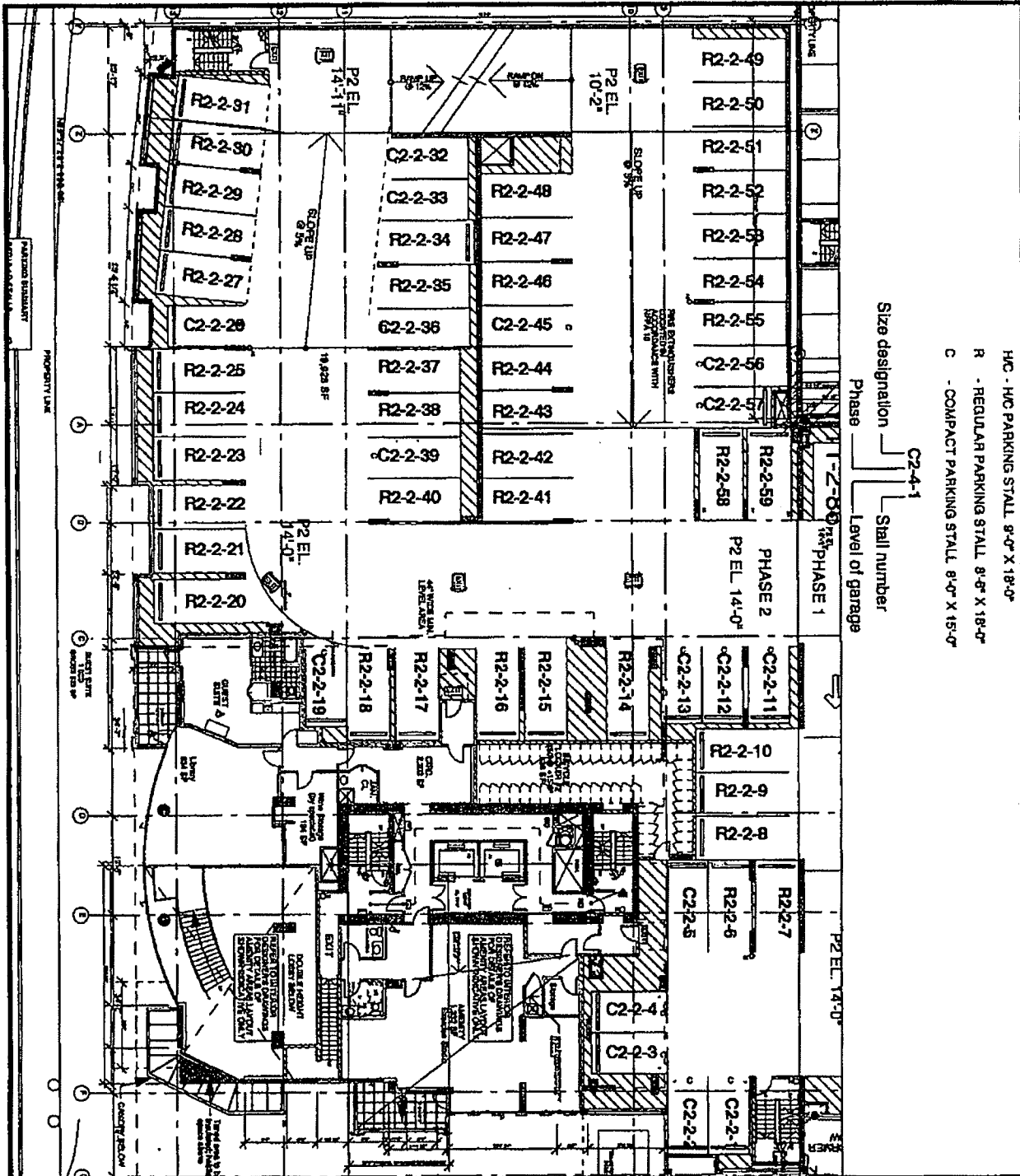
SKETCH #

ARCH.
SK-29.13

DATE

JAN 17, 2007

07 1 2 5 3 7 5



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Architecture and Urban Design Inc.

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Vancouver, BC
V6H 4C8

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Web Page • www.perkinsandcompany.com

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - P2 EXISTING

SKETCH SUBJECT: PARKING LAYOUT, **EXHIBIT 'A'**

SCALE: NTS

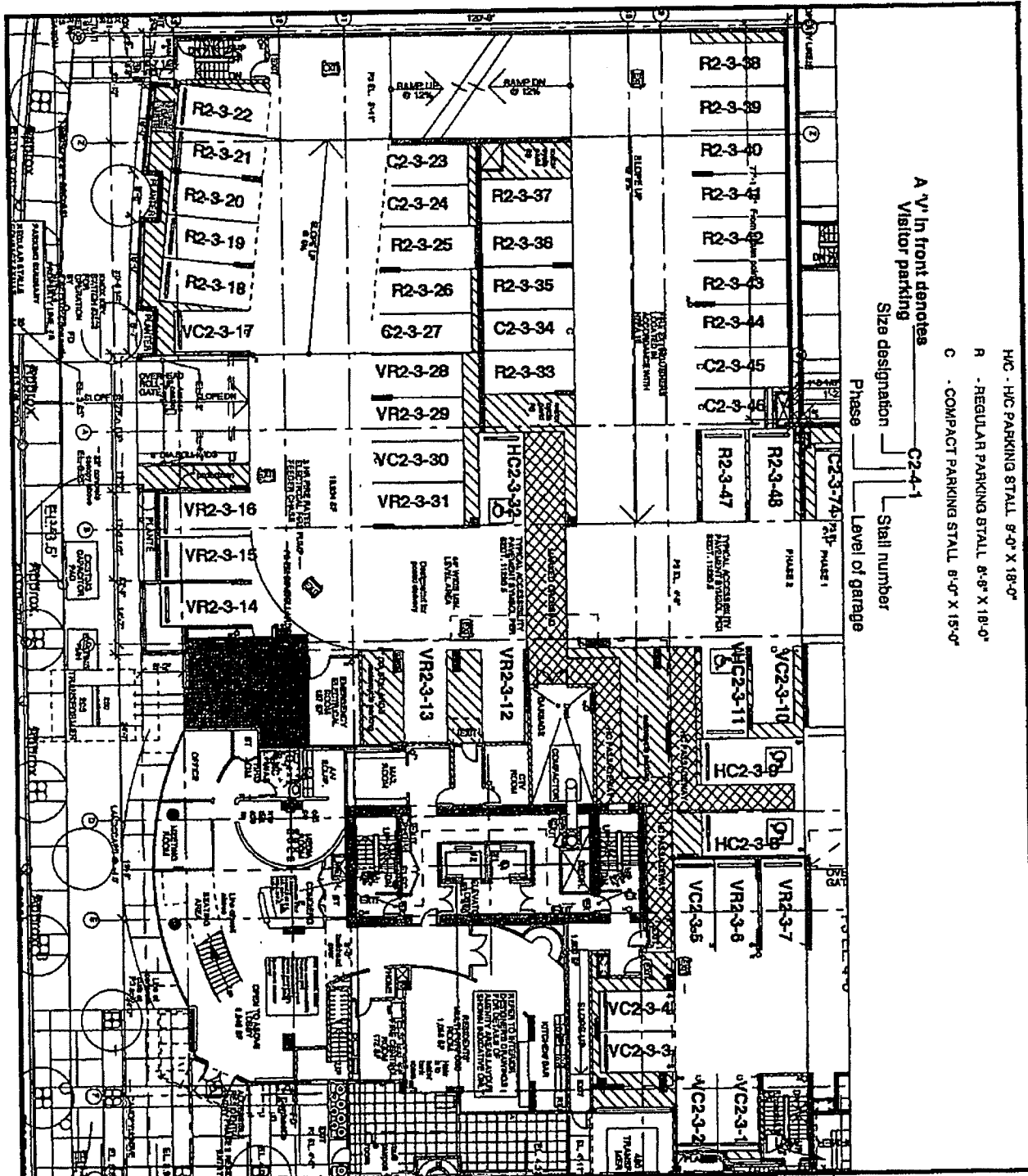
REFER TO FULL SIZE DRAWING:
A1.3 PH2 - P2 PLAN

SKETCH #

ARCH.
SK-29.11

DATE:
JAN 17, 2007

07 12 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100



HC - HIGH PARKING STALL 8'-0" X 18'-0"
 R - REGULAR PARKING STALL 8'-6" X 18'-0"
 C - COMPACT PARKING STALL 8'-0" X 15'-0"

A 'V' in front denotes
 Visitor parking

Size designation
 C2-4-1

Phase
 Level of garage

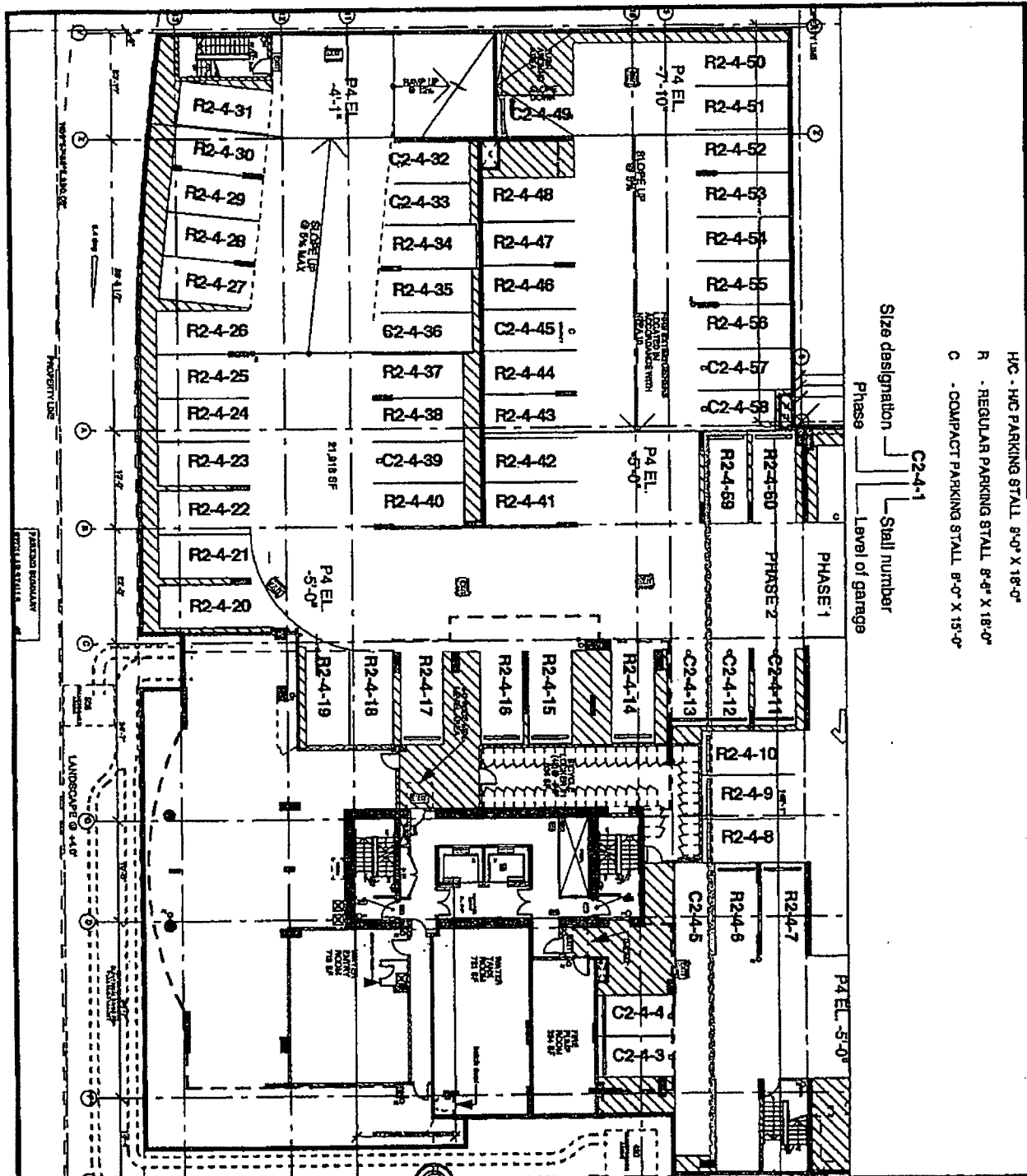
Perkins & Company
 Architecture and Urban Design Inc.

1408 West 8th Ave.
 Vancouver, BC
 V6H 4G8
 Telephone • (604) 685-2428
 Fax • (604) 685-2457
 E-Mail • info@perkinsandcompany.com
 Web Page • www.perkinsandcompany.com

PROJECT:	# 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA
SKETCH TITLE:	PLAN - P3 EXISTING
SKETCH SUBJECT:	PARKING LAYOUT, EXHIBIT 'G'
SCALE:	NTS
REFER TO FULL SIZE DRAWING:	A1.2 PH2 - P3 PLAN

SKETCH #	
ARCH.	SK-29.9
DATE	MAY 08, 2007

07 1230128



HC - HC PARKING STALL 8'-0" X 18'-0"
 R - REGULAR PARKING STALL 8'-6" X 18'-0"
 C - COMPACT PARKING STALL 8'-0" X 15'-0"

Size designation
 Phase
 C2-4-1
 Level of garage
 Stall number

Perkins & Company
 Architecture and Urban Design Inc.

1408 West Fifth Ave.
 Vancouver, BC
 V6H 4C8
 Telephone: (604) 683-9428
 Fax: (604) 683-9467
 E-Mail: mike@perkinsandcompany.com
 Web Page: www.perkinsandcompany.com

PROJECT: # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA

SKETCH TITLE: PLAN - P4 EXISTING

SKETCH SUBJECT: PARKING LAYOUT, EXHIBIT 'G'

SCALE: NTS

REFER TO FULL SIZE DRAWING:
 A1.1 PH2 - P4 PLAN

SKETCH #

ARCH.
 SK-29.7

DATE

MAY 08, 2007

07 1230134

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Pages:
004



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

Fee: 15.00

Tax: 0.00

Other: 0.00

Total: 15.00

04/23/08 AT 08:00AM

Title Company

TITLE(S) :



L E A D S H E E T

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

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RECORDING REQUESTED BY:

FIDELITY NATIONAL TITLE
INSURANCE COMPANY

WHEN RECORDED, MAIL TO:

JACKSON, DeMARCO, TIDUS,
PETERSEN & PECKENPAUGH (FSJ)
2030 Main Street, Suite 1200
Irvine, CA 92614

04/23/08



20080709240

(Space Above for Recorder's Use)

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN**

This Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean ("**Second Amendment**") is entered into as of the date written below by VIEWCOR LONG BEACH I, LP, a Delaware limited partnership ("**Declarant**").

RECITALS

A. On March 9, 2007, Declarant recorded a Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as Instrument No. 20070519293 in Official Records of Los Angeles County, California (as amended, the "**Declaration**"). The Declaration encumbers real property in the City of Long Beach, Los Angeles County, State of California (the "**Property**") described as follows:

That portion of Lot 1 described below, as shown on the Condominium Plan for Phase 1 of West Ocean (the "**Phase 1 Condominium Plan**") recorded on March 9, 2007, as Instrument No. 07-0519291, in the Official Records of Los Angeles County, California. The Phase 1 Condominium Plan covers a portion of Lot 1 of Tract No. 60109, as shown on a Subdivision Map, Recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the office of the Los Angeles County Recorder.

B. Declarant desires to add language to the Declaration to comply with certain City conditions of approval for the Properties.

C. Pursuant to Section 13.2.7(vi) of the Declaration, Declarant has the unilateral right to amend the Declaration to comply with any City regulations.

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Therefore, Declarant declares that the Declaration is hereby amended as follows:

1. **DEFINITIONS.** Section 1.1.57 of the Declaration is hereby replaced in its entirety with the following:

“Properties. Properties means (a) Phase 1, and (b) each Phase described in a Notice of Addition. The Properties are a “condominium project” as defined in Section 1351(f) of the California Civil Code. The Properties are a “common interest development” as defined in Section 1351(c) of the California Civil Code. Any references in this Declaration to the Properties are references to the Properties as a whole and to portions thereof. If developed as planned, the Properties will consist of two residential condominium Buildings with one hundred thirty-two (132) residential Units and two hundred eighty-six (286) parking spaces in one Building and one hundred fourteen (114) residential Units and two hundred fifty-two (252) parking spaces in the other Building.”

2. **RATIFICATION.** Except as expressly modified herein, the capitalized terms used in this First Amendment shall have the meanings given them in the Declaration. Except as amended by this First Amendment, the Declaration is ratified and affirmed by Declarant.

[SIGNATURES ON FOLLOWING PAGES]

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[SIGNATURE PAGE TO FIRST AMENDMENT]

Dated: 4-22-08

VIEWCOR LONG BEACH I, LP,
a Delaware limited partnership

By: Harborcor, LLC,
a California limited liability company,
its general partner

By: Patrick B. Patterson
Name: Executive Vice President
Operations
Title: _____

Declarant

STATE OF CALIFORNIA
COUNTY OF Orange

On April 22, 2008, before me, Katie Fromkes, Notary Public
(here insert name and title of the officer)

personally appeared Patrick B. Patterson
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person
whose name is subscribed to the within instrument and acknowledged to me that he/she executed the
same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the
entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Katie Fromkes



(SEAL)

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Pages:
020



Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

Fee: 64.00
Tax: 0.00
Other: 0.00

Total: 64.00

08/20/08 AT 08:00AM

Title Company

TITLE(S) :



L E A D S H E E T

Assessor's Identification Number (AIN)

To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

2

RECORDING REQUESTED BY:

FIDELITY NATIONAL TITLE
INSURANCE COMPANY

WHEN RECORDED, MAIL TO:

JACKSON, DeMARCO, TIDUS,
& PECKENPAUGH (FSJ)
2030 Main Street, Suite 1200
Irvine, CA 92614

08/20/08



20081501314

r L+

(Space Above for Recorder's Use)

**THIRD AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN**

This Third Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean ("*Third Amendment*") is entered into as of the date written below by VIEWCOR LONG BEACH I, LP, a Delaware limited partnership ("*Declarant*").

RECITALS

A. On March 9, 2007, Declarant recorded a Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as Instrument No. 20070519293 in Official Records of Los Angeles County, California (as amended, the "*Original Declaration*"). The Original Declaration encumbers real property in the City of Long Beach, Los Angeles County, State of California (the "*Property*") described as follows:

Lot 1 described below, as shown on the Condominium Plan for Phase 1 of West Ocean (the "*Phase 1 Condominium Plan*") recorded on March 9, 2007, as Instrument No. 07-0519291, in the Official Records of Los Angeles County, California. The Phase 1 Condominium Plan covers a portion of Lot 1 of Tract No. 60109, as shown on a Subdivision Map, Recorded in Book 1296, at Pages 84 to 86, inclusive of Maps (the "*Map*"), in the Office of the Los Angeles County Recorder; and

Parcel 1 described below, as shown on the Condominium Plan for Phase 2 of West Ocean (the "*Phase 2 Condominium Plan*") recorded on March 14, 2007, as Instrument No. 07-0567565, in the Official Records of Los Angeles County, California. The Phase 2 Condominium Plan covers Parcel 1 of Lot Line Adjustment No. 0303-02, recorded as Instrument No. 05-1603473, of Official Records, being a part of Tract No. 60109, as shown on the Map.

B. According to Section 13.2.7(i) of the Original Declaration, for so long as Declarant owns any portion of the Properties or Annexable Territory, Declarant may unilaterally amend the Original Declaration by Recording a written instrument signed by Declarant to conform the Original Declaration to the rules, regulations or requirements of VA, FHA, DRE, Fannie Mae, Ginnie Mae, or Freddie Mac. Pursuant to Section 13.2.7(iv) of the Declaration, Declarant also has the unilateral right to amend, replace or substitute any exhibit in the Declaration to correct typographical or engineering errors. As of the date hereof, Declarant still owns portions of the Properties and Annexable Territory and now desires to amend the Original Declaration to conform to the rules, regulations and requirements of FHA and VA as required by HUD and to replace Exhibit G to the Original Declaration to correct typographical errors.

Therefore, Declarant declares that the Original Declaration is hereby amended as follows:

1.1 **ARTICLE I – DEFINITIONS.** The following are hereby added as new Sections to Article I of the Original Declaration:

“Development Plan. Development Plan means Declarant’s overall development plan for the Properties, including building types, architectural style and Unit size, that Declarant has submitted to HUD, and all HUD approved amendments thereto.

FHA/VA Requirements. FHA/VA Requirements means the requirements applicable to the Properties set forth in (a) HUD Condominium Regulations (see 24 CFR 234); and (b) HUD Revised Legal Policy attached to Appendix 24 of HUD Handbook 4265.1, entitled Home Mortgage Insurance Condominium Units Section 234(c).

HUD. HUD means the United States Department of Housing and Urban Development.

Seventh Anniversary Date. Seventh Anniversary Date means the date which is the seventh (7th) anniversary of the first Close of Escrow in the Properties.”

1.2 **SECTION 1.1.57 – DEFINITION OF PROPERTIES.** Section 1.1.57 of the Original Declaration is hereby deleted in its entirety and replaced with the following:

“1.1.57 Properties. Properties means (a) Phase 1, and (b) each Phase described in a Notice of Addition. The Properties are a “condominium project” as defined in Section 1351(f) of the California Civil Code. The Properties are a “common interest development” as defined in Section 1351(c) of the California Civil Code. Any references in this Declaration to the Properties are references to the Properties as a whole and to portions thereof. If developed as planned, the Properties will consist of two residential condominium Buildings with one hundred thirty-two (132) residential Units and two hundred eighty-six (286) parking spaces in one Building and one hundred fourteen (114) residential Units and two hundred fifty-two (252)

4

parking spaces in the other Building, in accordance with the Development Plan. Additional information concerning the Condominiums in the Properties is set out in the Condominium Plan for each Phase, in the Declaration, and in the Development Plan.”

1.3 **SECTION 1.2.6 - FHA/VA REQUIREMENTS.** Section 1.2.6 of the Original Declaration is deleted in its entirety and replaced with the following:

“**1.2.6 FHA/VA Requirements.** The FHA/VA Requirements are incorporated herein by reference and shall control and prevail over all other provisions of the Declaration to the extent of any inconsistency between them.”

1.4 **SECTION 4.4.3(B) – CLASS B.** Section 4.4.3(b) of the Original Declaration is hereby deleted in its entirety and replaced with the following:

“(b) **Class B.** The Class B Member is Declarant. The Class B Member is entitled to three (3) votes for each Condominium owned by Declarant which is subject to assessment by the Association. The Class B Membership shall convert to Class A Membership on the earlier to occur of the following events:

- (i) The second (2nd) anniversary of the first Close of Escrow in the most recent Phase; or
- (ii) The fourth (4th) anniversary of the first Close of Escrow in Phase 1; or
- (iii) The date that is 120 days after the date on which seventy-five percent (75%) of the Units in the Properties have been conveyed to Owners in transactions subject to Public Reports; or
- (iv) The Seventh Anniversary Date.”

1.5 **SECTION 4.4.3(C) – CLASS C.** Section 4.4.3(c) of the Original Declaration is hereby deleted in its entirety and replaced with the following:

“(c) **Class C.** The Class C Member shall be Declarant (whether or not Declarant is an Owner). The Class C Membership shall not be considered a part of the voting power of the Association. The Class C Member is entitled to select a majority of the members of the Board of Directors until the Class C Termination Date. The “Class C Termination Date” shall be the earlier to occur of the following events:

- (i) The date that is 120 days after the date on which seventy-five percent (75%) of the Units in the Properties have been conveyed to Owners in transactions subject to Public Reports; or
- (ii) The Seventh Anniversary Date.”

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1.6 **SECTION 8.1.4 – INSURANCE REQUIRED BY FANNIE MAE, GINNIE MAE AND FREDDIE MAC.** Section 8.1.4 of the Original Declaration is hereby deleted in its entirety and replaced with the following:

“8.1.4 Insurance Requirements of FHA, VA, Fannie Mae, Ginnie Mae and Freddie Mac. Notwithstanding anything in the Governing Documents to the contrary, the amount, term and coverage of any policy of insurance required under this Article VIII (including the endorsements, the amount of the deductible, the named insureds, the loss payees, standard mortgage clauses, notices of changes or cancellations, and the insurance company rating) shall also satisfy the minimum requirements established for this type of development (if applicable) by FHA, VA, Fannie Mae, Ginnie Mae and Freddie Mac, or any successor to those entities, so long as any of those entities is a Mortgagee or Owner of a Condominium in the Properties, except to the extent such coverage is not reasonably available or has been waived in writing by the entity requiring the insurance coverage. If the above entities have not established requirements on any policy required hereunder, the term, amount and coverage of such policy shall, subject to Section 8.1.1 above, be no less than that which is customary for similar policies on similar projects in the area of the Properties.”

1.7 **SECTION 8.1.7 – FLOOD INSURANCE.** The following is hereby added to the Original Declaration as a new Section 8.1.7:

“8.1.7 Flood Insurance. If the Properties are located in an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (“NFIP”), the Association must carry at all times a “master” or “blanket” policy of flood insurance on the Association Property in an amount deemed appropriate by the Association, but not less than the lesser of: (a) the maximum coverage available under NFIP for all Association Property in the Properties to the extent the Association Property is located in an area having special floor hazards; or (b) 100% of current replacement cost of all Association Property located in such area.”

1.8 **SECTION 11.2.3 – NOTICES.** Section 11.2.3 of the Original Declaration is hereby deleted in its entirety and replaced with the following:

“11.2.3 Notices. Each Mortgagee, insurer and guarantor of a Mortgage encumbering one (1) or more Condominiums, upon filing a written request for notification with the Board, is entitled to written notification from the Association of: (a) any proposed amendment to the Governing Documents affecting a change in (i) the boundaries of

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any Unit, (ii) the interest in the Association Property appurtenant to any Unit or the liability for Common Expenses, (iii) the number of Association votes appurtenant to any Unit, or (iv) the purposes to which any Unit or the Association Property are restricted, (b) any proposed termination of the status of the Properties as a "condominium project" as defined in California Civil Code Section 1351(f), (c) any condemnation or casualty loss which affects either a material portion of the Properties or the Condominium(s) securing the respective First Mortgage, (d) any delinquency of sixty (60) days or more in the performance of any obligation under the Governing Documents, including the payment of Assessments or charges owed by the Owner(s) of the Condominium(s) securing the Mortgage, which notice each Owner hereby consents to and authorizes, (e) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond kept by the Association, and (f) any proposed action that requires the consent of a specified percentage of First Mortgagees who have submitted a written request to the Association for notice of such proposed action."

1.9 **SECTION 11.2.16 – AVAILABILITY OF ASSOCIATION DOCUMENTS.** The following is hereby added to the Original Declaration as a new Section 11.2.16:

"11.2.16 Availability of Association Documents. Notwithstanding any requirements of the Bylaws, upon request by a First Mortgagee, insurer or guarantor of a First Mortgage or prospective purchaser, the Association shall make available for inspection, during normal business hours, those documents listed in California Civil Code Section 1368(a). Notwithstanding the foregoing, within a reasonable time after receipt of written request by a First Mortgagee, insurer or guarantor of a First Mortgage or prospective purchaser, the Association shall prepare and furnish to such First Mortgagee, insurer or guarantor of such First Mortgage or prospective purchaser an audited financial statement of the Association for the immediately preceding fiscal year. The Association shall have the right to be reimbursed by any First Mortgagee, insurer or guarantor of a First Mortgage or prospective purchaser making such a request for reasonable costs associated with furnishing an audited financial statement, and the reasonable costs associated with preparing an audited financial statement if the Association is not otherwise obligated to prepare such audited financial statement."

1.10 **SECTION 13.2.3 – MORTGAGEE CONSENT.** Sections 13.2.3(g)(v), (g)(vi) and (g)(xiii) of the Original Declaration are hereby deleted in their entirety and replaced as follows:

- "(v)** Redefinition of any Unit or Exclusive Use Area boundaries;
- (vi)** Reallocation of interest in the Association Property, liability for Common Expenses, or rights to use the Association Property;

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(xiii) Increases in Assessments that raise the previously assessed amount by more than twenty percent (20%), Assessment liens, or the priority of such liens; or Restoration or repair of the Properties (after damage or partial condemnation) in a manner (a) other than that specified in this Declaration or (b) that deviates from the original Development Plan;”

1.11 **SECTION 13.2.3 - MORTGAGEE CONSENT.** The following is added to the Original Declaration as a new Section 13.2.3(h):

“(h) The termination of the legal status of the Properties after substantial destruction or condemnation.”

1.12 **SECTION 13.2.4 – TERMINATION APPROVAL.** Section 13.2.4 of the Original Declaration is hereby deleted in its entirety and replaced with the following:

“**13.2.4 Termination Approval.** Termination of this Declaration or the status of the Properties as a “condominium project” as defined in California Civil Code Section 1351(f) requires approval of (a) sixty-seven percent (67%) of the First Mortgagees, and (b) the Owners as provided in Section 13.2.1, and (c) Declarant (until the expiration of all applicable statutes of limitation or repose for the filing of a complaint or suit or other legal remedies against Declarant or its affiliates under the Right to Repair Law); provided however, in the event a material portion of the Properties is affected by either damage or destruction (as described in Article IX) or a taking (as described in Article X), then any election to terminate the status of the Properties as a “condominium project” as defined in California Civil Code Section 1351(f) requires approval of a Mortgagee Majority and the Owner approvals described above.”

1.13 **SECTION 15.1 – CONSTRUCTION RIGHTS.** The following is hereby added to the end of Section 15.1 of the Original Declaration:

“For purposes of compliance with the FHA/VA Requirements, Declarant’s right to change the overall Development Plan by electing not to construct planned Condominiums or Association Property Improvements, shall be exercised, if at all, only if all of the following are satisfied:

15.1.1 Declarant determines that continuing with the existing Development Plan is economically infeasible; and

15.1.2 Such determination shall be made no later than the Seventh Anniversary Date; and

15.1.3 The change concerns only those portions of the Properties that are still owned by Declarant; and

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15.1.4 Declarant obtains all required approvals from the DRE prior to making such change.”

1.14 AMENDMENT OF EXHIBIT G. Exhibit G of the Declaration is hereby replaced in its entirety with the replacement Exhibit G attached hereto.

1.15 CONFLICTS OR INCONSISTENCIES. If there are any conflicts or inconsistencies between this Third Amendment and the Articles, Bylaws, Rules and Regulations or the Condominium Plans, the provisions of this Third Amendment shall prevail.

1.16 TERMS; RATIFICATION. Except as modified herein, the capitalized terms used in this Third Amendment shall have the meanings given them in the Original Declaration. The Original Declaration, as amended by this Third Amendment, is hereby ratified and affirmed by Declarant.

[SIGNATURES ON FOLLOWING PAGES]

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[SIGNATURE PAGE TO THIRD AMENDMENT]

Dated: August 13, 2008

VIEWCOR LONG BEACH I, LP,
a Delaware limited partnership

By: Harborcor, LLC,
a California limited liability company,
its general partner

By: [Handwritten Signature]

Name: Patrick B. Patterson

Title: Executive Vice President

Declarant

STATE OF CALIFORNIA

COUNTY OF Orange

On August 13, 2008, before me, Katie Fromkes, notary public
(here insert name and title of the officer)

personally appeared Patrick B. Patterson
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he she executed the same in his her authorized capacity, and that by his her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Katie Fromkes



(SEAL)

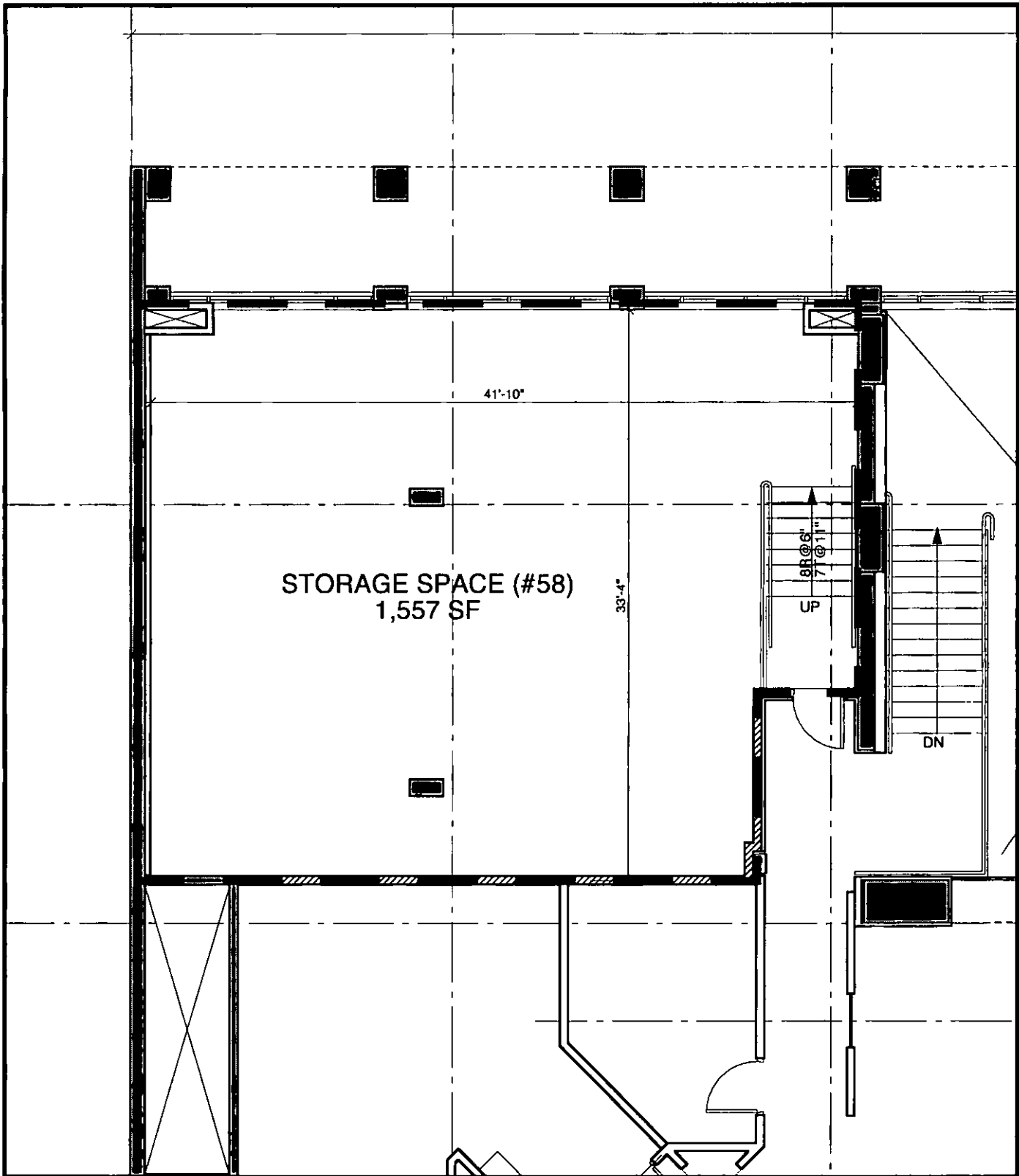
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10

EXHIBIT G

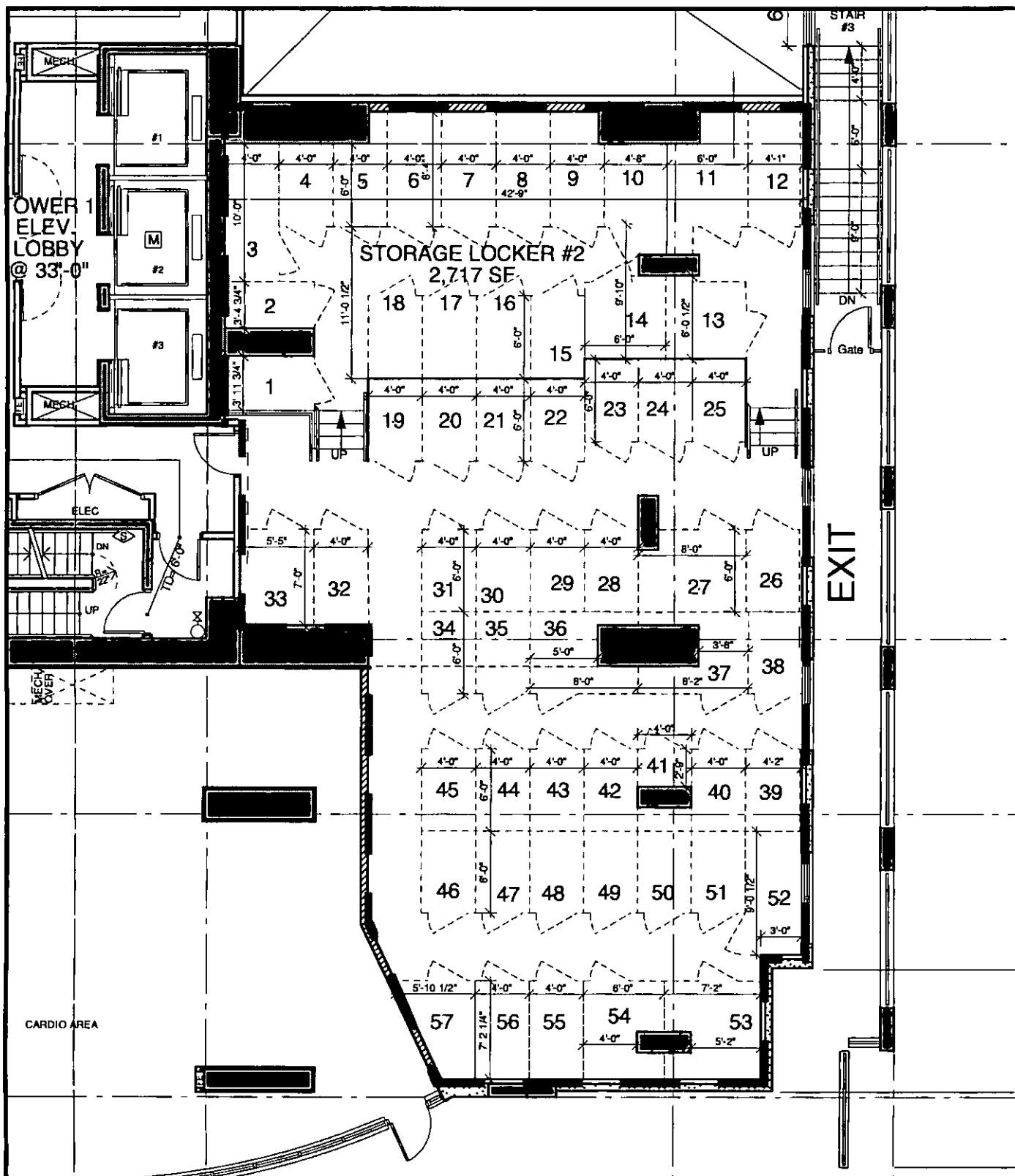
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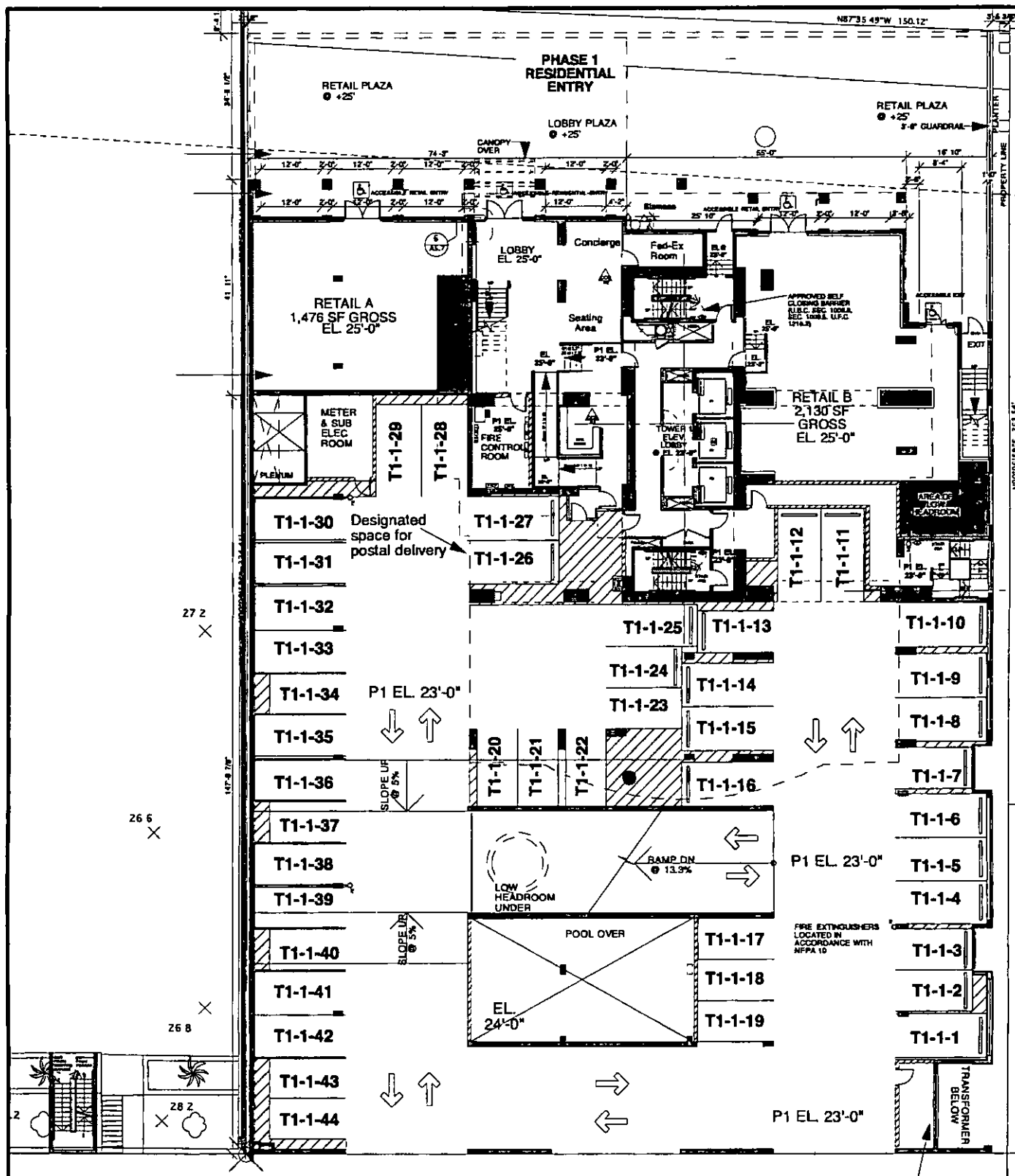
08 1501314

Perkins & Company Architecture and Urban Design Inc. 1498 West Fifth Ave. Vancouver, BC V6H 4G3 Telephone • (604) 685-2428 Fax • (604) 685-2467 E-Mail • files@perkinsandcompany.com Web Page • www.perkinsandcompany.com	PROJECT	# 2279 WEST OCEAN TOWERS, PHASE 1, LONG BEACH CA	SKETCH #
	SKETCH TITLE	PARTIAL PLAN - PODIUM EXISTING	ARCH. SK-29.2
	SKETCH SUBJECT	STORAGE ROOM #1 LAYOUT, EXHIBIT 'G'	
	SCALE	NTS	DATE
	REFER TO FULL SIZE DRAWING	A1 5a - PODIUM PLAN	JAN 17, 2007



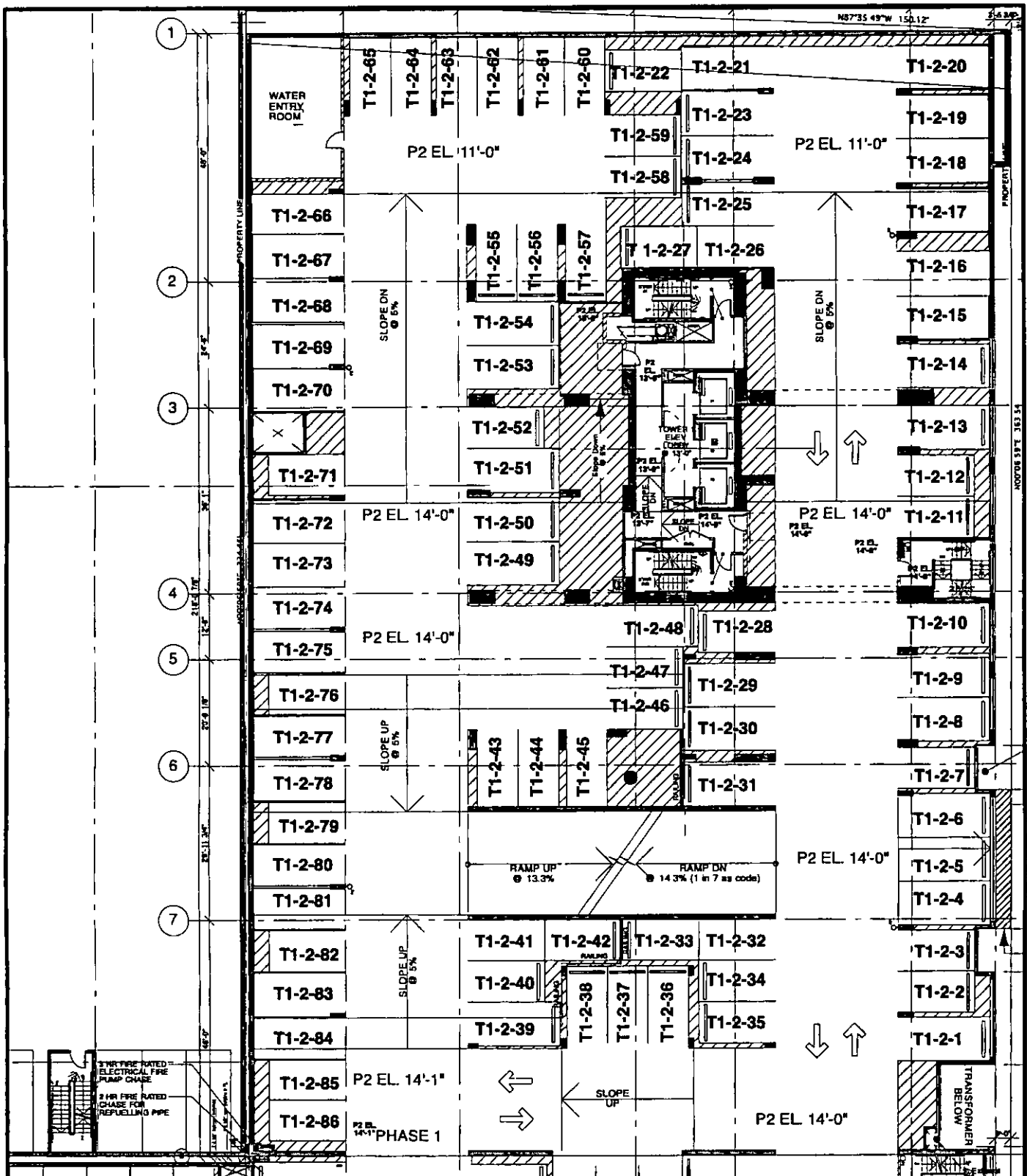
08 1501314

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	<p>SKETCH TITLE PARTIAL PLAN - PODIUM EXISTING</p>	<p>ARCH. SK-29.3</p>
	<p>SKETCH SUBJECT STORAGE ROOM #2 LAYOUT, EXHIBIT 'G'</p>	
	<p>SCALE NTS</p>	<p>DATE</p>
<p>REFER TO FULL SIZE DRAWING A1 5a - PODIUM PLAN</p>		<p>17 JAN, 2007</p>



08 1501314

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	<p>SKETCH TITLE PLAN - P1 EXISTING</p>	<p>ARCH. SK-29.12 REV01</p>
	<p>SKETCH SUBJECT PARKING LAYOUT, EXHIBIT 'G'</p>	
	<p>SCALE NTS</p> <p>REFER TO FULL SIZE DRAWING A14 & 14a - P1 PLAN</p>	<p>DATE: JULY 24, 2008</p>



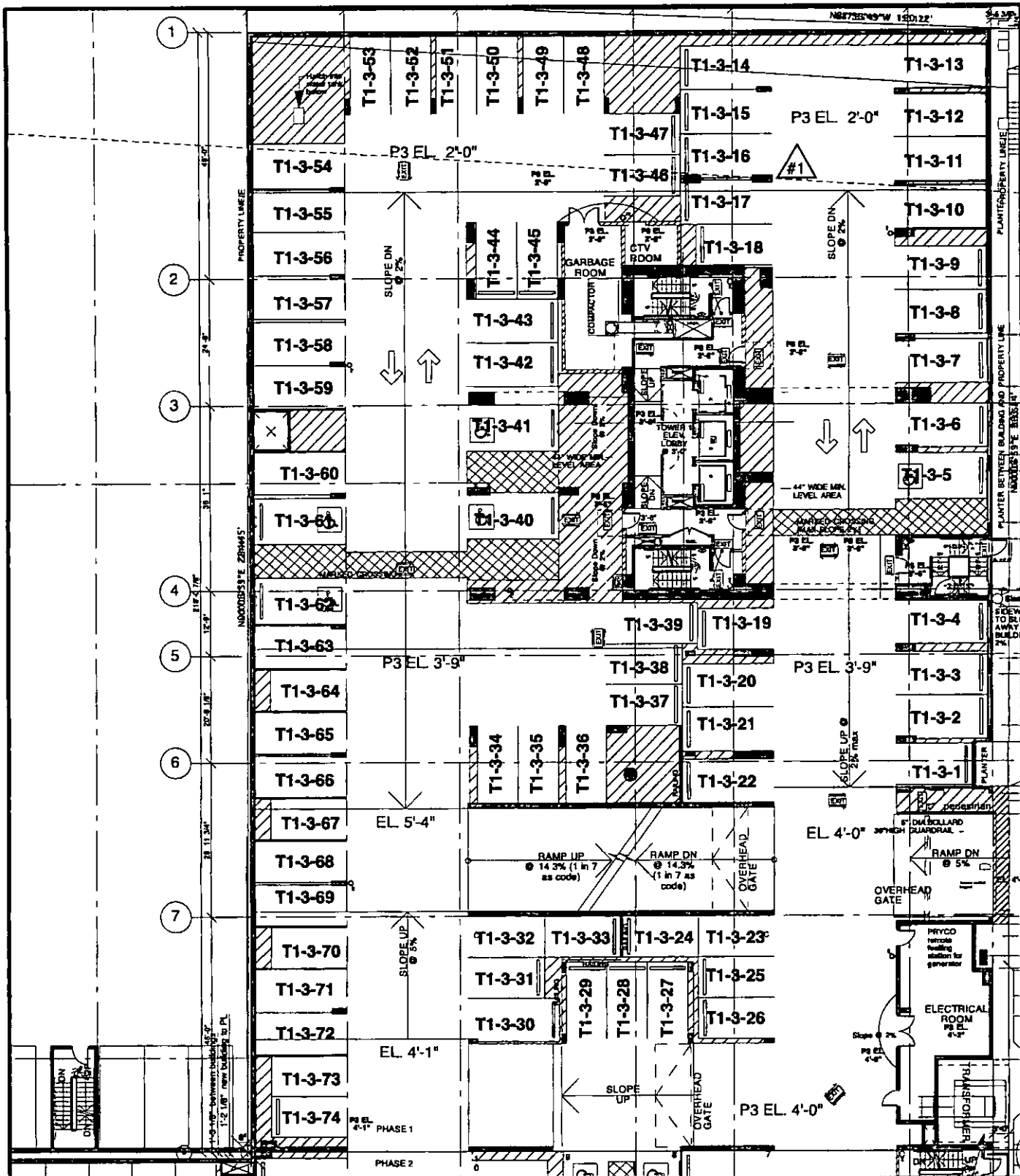
08 1501314

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 V6H 4G3
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 Fax • (604) 685-2467
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PROJECT	# 2279 WEST OCEAN TOWERS, PH 1, LONG BEACH CA
SKETCH TITLE	PLAN - P2 EXISTING
SKETCH SUBJECT	PARKING LAYOUT, EXHIBIT 'G'
SCALE	NTS
REFER TO FULL SIZE DRAWING	A1 3 & 1 3a - P2 PLAN

SKETCH #	
ARCH.	SK-29.10
REV01	
DATE	JULY 24, 2008

15



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Vancouver, BC
V6H 4G3
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E-Mail • 61es@perkinsandcompany.com
Web Page • www.perkinsandcompany.com

PROJECT # 2279 WEST OCEAN TOWERS, PH 1, LONG BEACH CA

SKETCH TITLE PLAN - P3 EXISTING

SKETCH SUBJECT PARKING LAYOUT, **EXHIBIT 'G'**

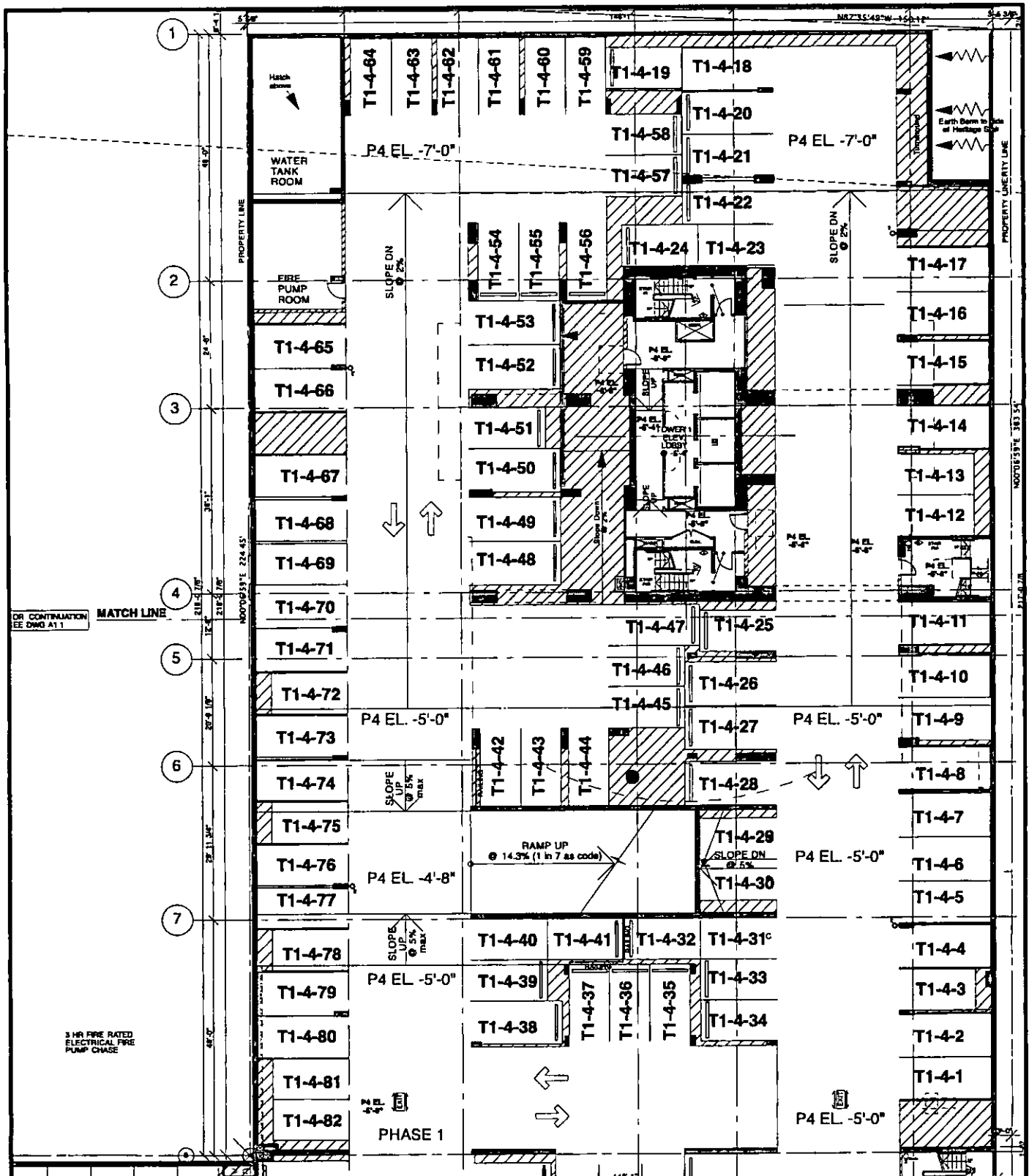
SCALE NTS

REFER TO FULL SIZE DRAWING
A1 2 & 1 2a - P3 PLAN

SKETCH #

ARCH.
SK-29.8
REV 01

DATE
JULY 24, 2008



OR CONTINUATION
SEE DWG A1.1

MATCH LINE

3 HR FIRE RATED
ELECTRICAL FIRE
PUMP CHASE

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Architecture and Urban Design Inc.

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Vancouver, BC
V6H 4G3
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PROJECT # 2279 WEST OCEAN TOWERS, PH 1, LONG BEACH CA

SKETCH TITLE. PLAN - P4 EXISTING

SKETCH SUBJECT PARKING LAYOUT, **EXHIBIT 'G'**

SCALE NTS

REFER TO FULL SIZE DRAWING
A1.1 & 1.1a - P4 PLAN

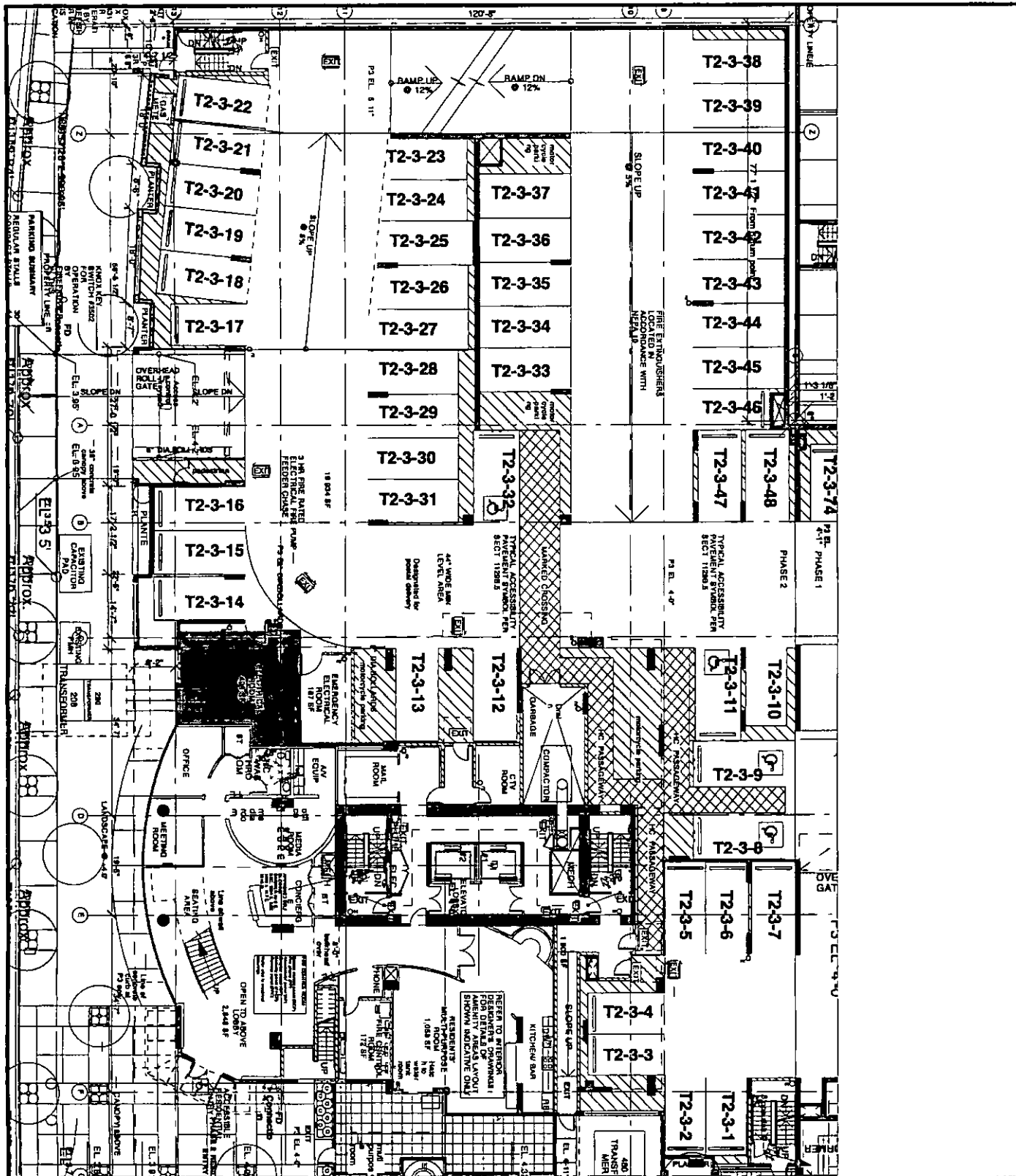
SKETCH #

ARCH.
SK-29.6
REV01

DATE
JULY 24, 2008

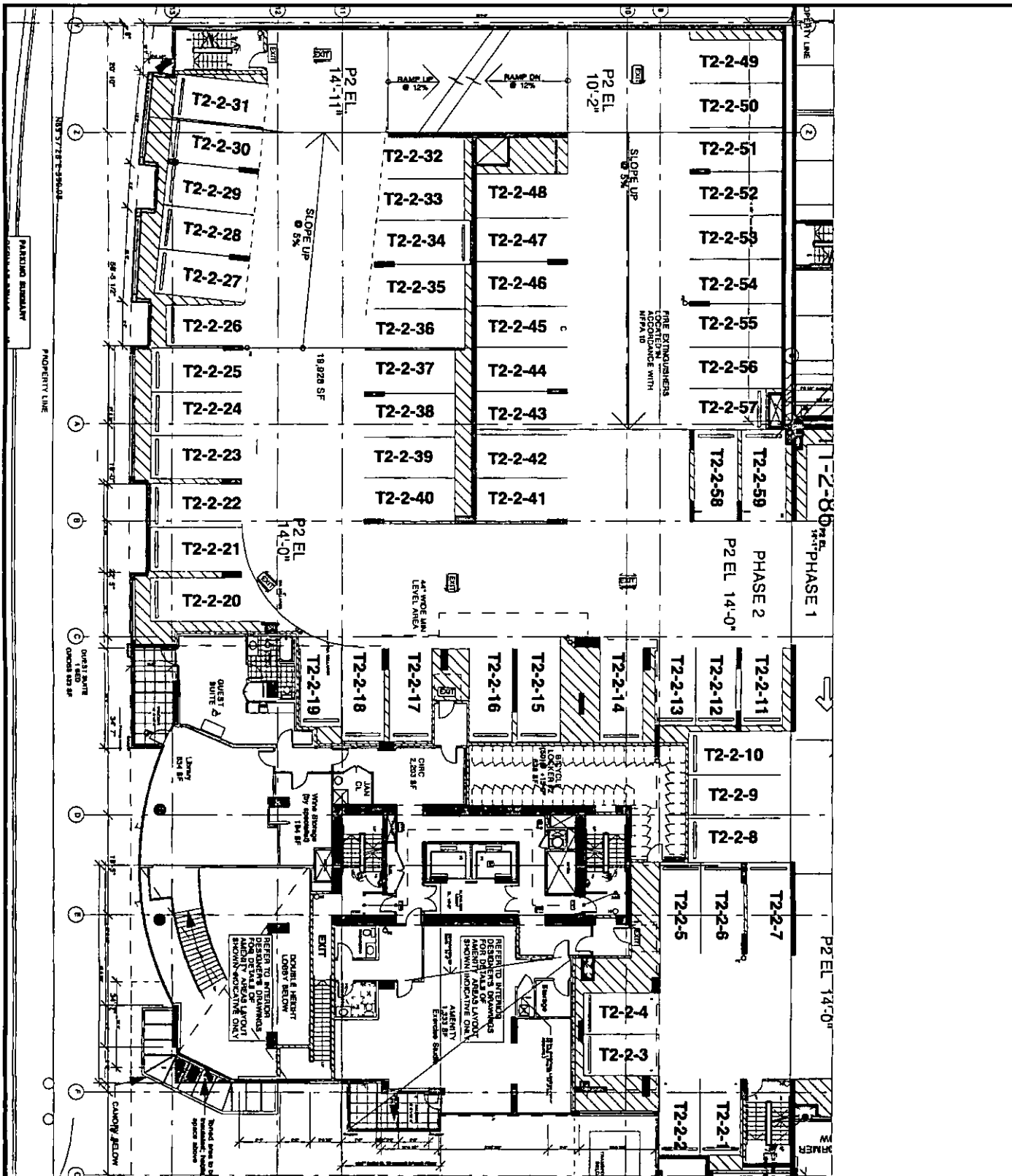
08 1501314

17



08 1501314

<p>Perkins & Company Architecture and Urban Design Inc.</p> <p>1498 West Fifth Ave. Vancouver, BC V6H 4C3 Telephone • (604) 685-2428 Fax • (604) 685-2467 E-Mail • 616@perkinsandcompany.com Web Page • www.perkinsandcompany.com</p>	<p>PROJECT # 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA</p>	<p>SKETCH #</p>
	<p>SKETCH TITLE PLAN - P3 EXISTING</p>	<p>ARCH. SK-29.9 REV01</p>
	<p>SKETCH SUBJECT PARKING LAYOUT, EXHIBIT 'G'</p>	
	<p>SCALE NTS</p>	<p>DATE JULY 4, 2008</p>
<p>REFER TO FULL SIZE DRAWING A1 2 PH2 - P3 PLAN</p>		



08 1501314

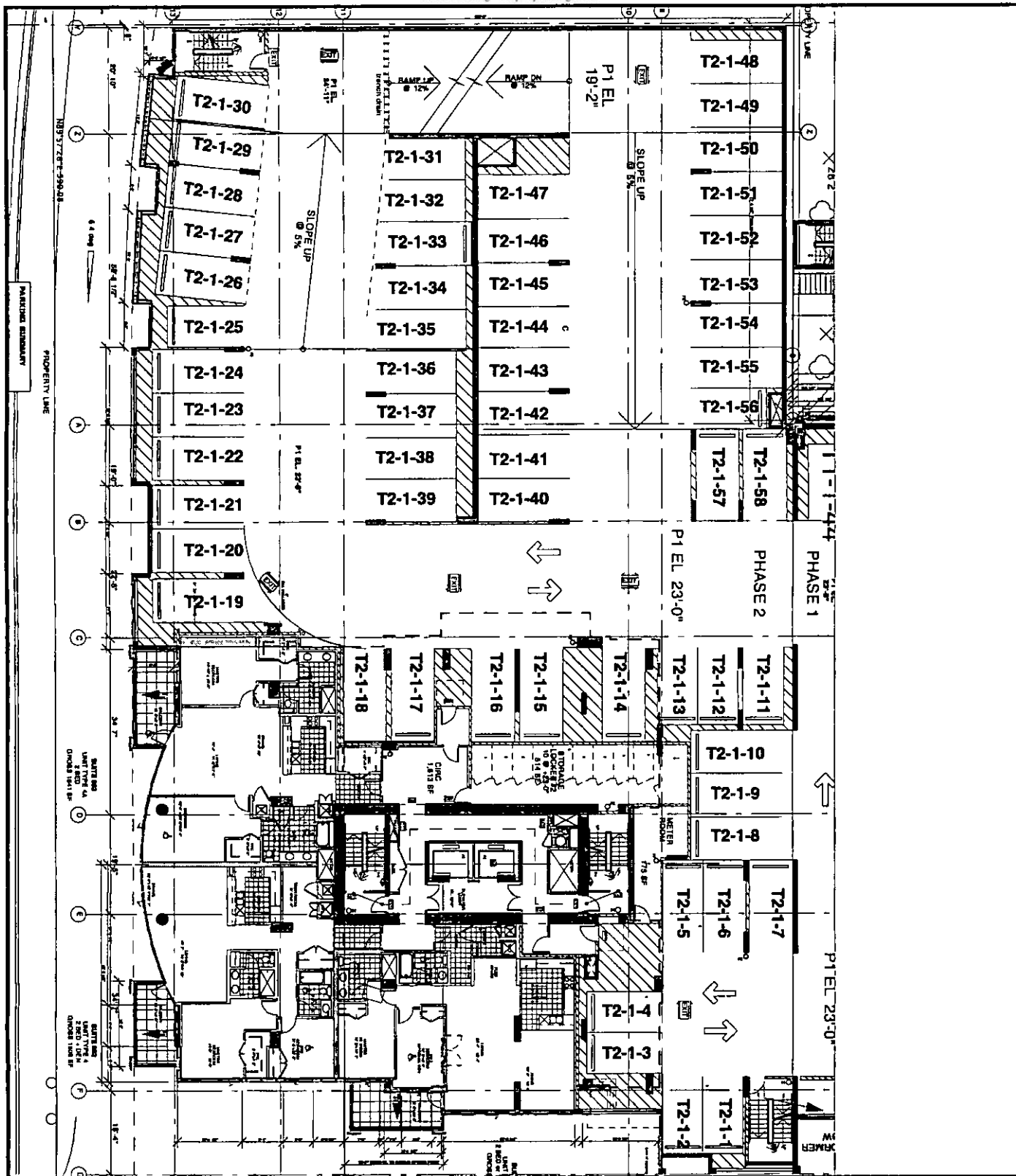
Perkins & Company
Architecture and Urban Design Inc.

1498 West Fifth Ave.
Vancouver, BC
V6H 4G3
Telephone: (604) 683-2428
Fax: (604) 683-2467
E-Mail: files@perkinsandcompany.com
Web Page: www.perkinsandcompany.com

PROJECT	# 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA
SKETCH TITLE	PLAN - P2 EXISTING
SKETCH SUBJECT	PARKING LAYOUT, EXHIBIT 'G'
SCALE	NTS
REFER TO FULL SIZE DRAWING	A1.3 PH2 - P2 PLAN

SKETCH #	ARCH. SK-29.11 REV01
DATE	JULY 24, 2008

19



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Architecture and Urban Design Inc.

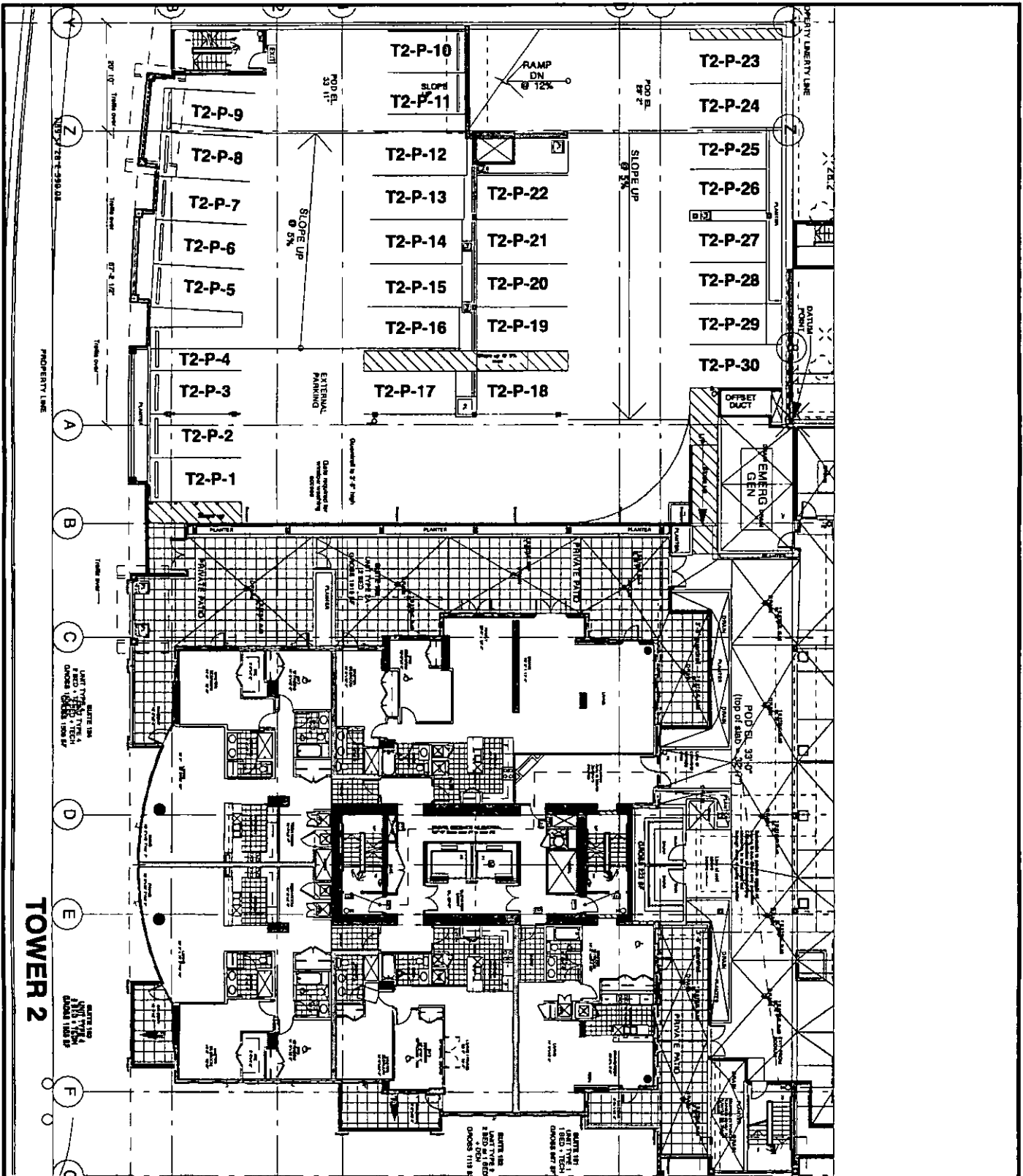
1498 West Fifth Ave.
Vancouver, BC
V6H 4G3
Telephone • (604) 683-2428
Fax • (604) 683-2467
E-Mail • files@perkinsandcompany.com
Web Page • www.perkinsandcompany.com

PROJECT	# 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA
SKETCH TITLE	PLAN - P1 EXISTING
SKETCH SUBJECT	PARKING LAYOUT, EXHIBIT 'G'
SCALE	NTS
REFER TO FULL SIZE DRAWING	A1 4 PH2 - P1 PLAN

SKETCH #	
ARCH.	SK-29.13
REV	REV01
DATE	JULY 24, 2008

08 1501314

20



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 Fax • (604) 685-2467
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PROJECT	# 2420 WEST OCEAN TOWERS, PH 2, LONG BEACH CA
SKETCH TITLE	PLAN - PODIUM EXISTING
SKETCH SUBJECT	PARKING LAYOUT, EXHIBIT 'G'
SCALE	NTS
REFER TO FULL SIZE DRAWING	A1 5 PH2 - PODIUM PLAN

SKETCH #	ARCH. SK-29.14 REV01
DATE.	JULY 24, 2008

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MIKE DUNFEE

GROUP

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20090330973



Pages:
0006

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Recorder's Office, Los Angeles County,
California

03/09/09 AT 08:00AM

FEES:	23.00
TAXES:	0.00
OTHER:	0.00
PAID:	23.00



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SEQ:
23

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2

RECORDING REQUESTED BY:

FIDELITY NATIONAL TITLE COMPANY
SUBDIVISION DEPARTMENT



WHEN RECORDED, MAIL TO:

JACKSON, DeMARCO, TIDUS,
& PECKENPAUGH (FSJ)
2030 Main Street, Suite 1200
Irvine, CA 92614

✓

(Space Above for Recorder's Use)

**FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN**

This Fourth Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean ("**Fourth Amendment**") is entered into as of the date written below by VIEWCOR LONG BEACH I, LP, a Delaware limited partnership ("**Declarant**").

RECITALS

A. Declarant owns the real property in the City of Long Beach, Los Angeles County, State of California (the "**Property**") described as follows:

That portion of Lot 1 described below, as shown on the Condominium Plan for Phase 1 of West Ocean (the "**Phase 1 Condominium Plan**") recorded on March 9, 2007, as Instrument No. 07-0519291, in the Official Records of Los Angeles County, California. The Phase 1 Condominium Plan covers a portion of Lot 1 of Tract No. 60109, as shown on a Subdivision Map, Recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the office of the Los Angeles County Recorder.

B. On March 9, 2007, Declarant recorded a Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as Instrument No. 20070519293 in Official Records of Los Angeles County, California (together with any amendments, collectively, the "**Declaration**"). All capitalized terms not otherwise defined herein shall have the meaning given such terms in the Declaration.

C. Declarant desires to replace portions of Exhibit G of the Declaration for the purpose of conforming Exhibit G to as-built conditions at the Property.

RECORDER MEMO: This COPY has not been QUALITY ASSURED.

23

D. Pursuant to Section 13.2.7(ix) of the Declaration, Declarant has the unilateral right to amend, replace or substitute any exhibit in the Declaration to conform to as-built conditions. 3

Therefore, Declarant declares that the Declaration is amended as follows:

1. **AMENDMENT OF EXHIBIT G.** That portion of Exhibit G of the Declaration depicting Storage Locker No. 2 is hereby replaced in its entirety with the depiction of Storage Locker No. 2 attached hereto.

2. **RATIFICATION.** Except as expressly modified herein, the capitalized terms used in this Fourth Amendment shall have the meanings given them in the Declaration. Except as amended by this Fourth Amendment, the Declaration is ratified and affirmed by Declarant.

[SIGNATURES ON FOLLOWING PAGES]

4

[SIGNATURE PAGE TO FIRST AMENDMENT]

Dated: March 4, 2009

VIEWCOR LONG BEACH I, LP,
a Delaware limited partnership

By: Harborcor, LLC,
a California limited liability company,
its general partner

By: [Signature]

Name: Patrick B. Patterson

Title: Chief Financial officer

Declarant

STATE OF CALIFORNIA
COUNTY OF Orange

On March 4, 2009, before me, Katie Fromkes, notary public
(here insert name and title of the officer)

personally appeared Patrick B. Patterson
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is) are
subscribed to the within instrument and acknowledged to me that (he) she/they executed the same in
(his) her/their authorized capacity(ies), and that by (his) her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Katie Fromkes



(SEAL)

RECORDER MEMO: This COPY has not been QUALITY ASSURED.

MIKE DUNFEE

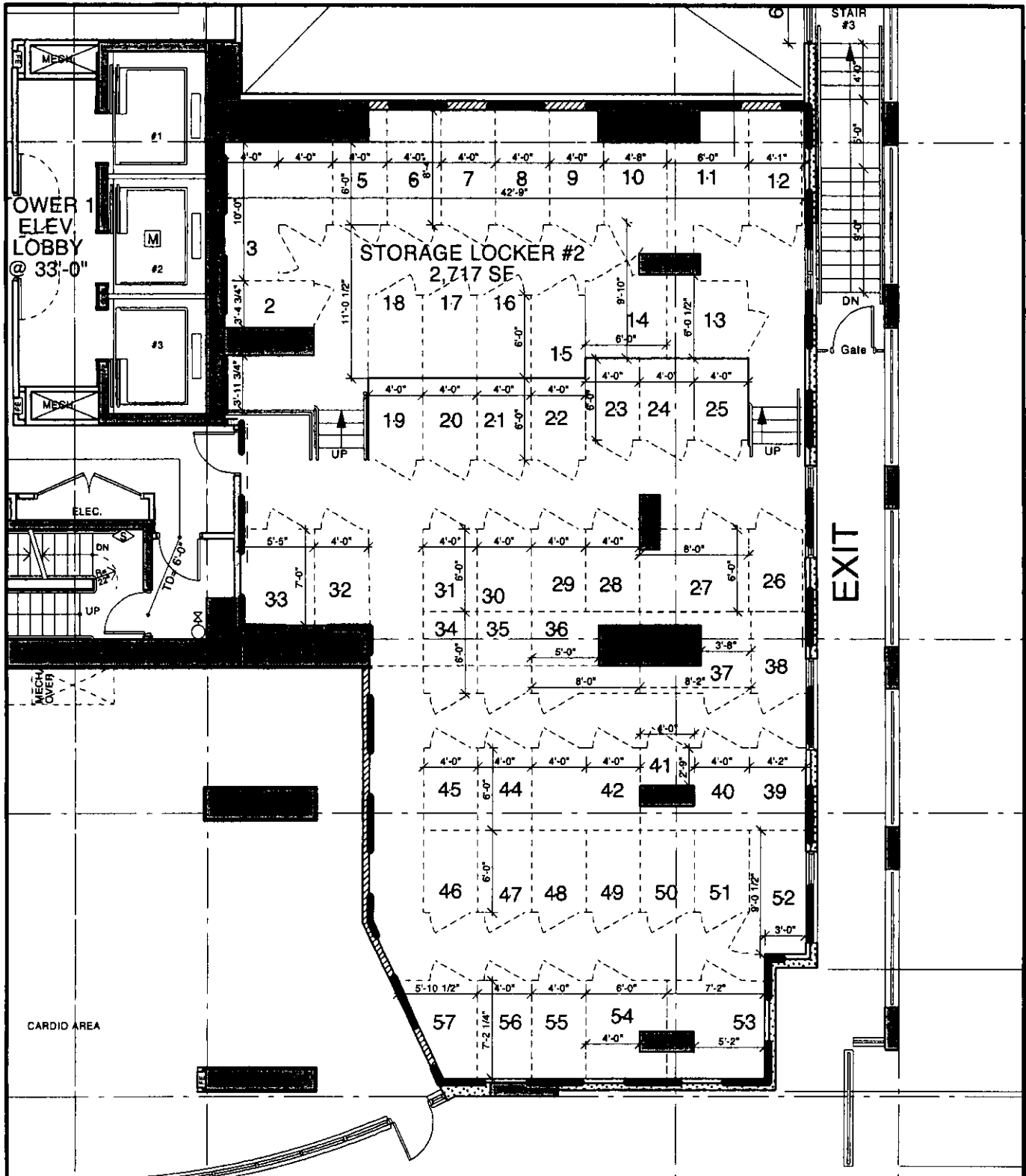
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EXHIBIT G
(Storage Locker No. 2)

5

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<p>Perkins & Company Architecture and Urban Design Inc. 1498 West Fifth Ave. Vancouver, BC V6H 4G3 Telephone • (604) 685-2428 Fax • (604) 685-2467 E-Mail • files@perkinsandcompany.com Web Page • www.perkinsandcompany.com</p>	PROJECT:	# 2279 WEST OCEAN TOWERS, PHASE 1, LONG BEACH CA	SKETCH #
	SKETCH TITLE:	PARTIAL PLAN - PODIUM EXISTING	ARCH. SK-29.3 REV01
	SKETCH SUBJECT:	STORAGE ROOM #2 LAYOUT, EXHIBIT 'G'	
	SCALE:	NTS	DATE:
	REFER TO FULL SIZE DRAWING:	A1.5a - PODIUM PLAN	

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Pages:
0005

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Recorder's Office, Los Angeles County,
California

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TAXES:	0.00
OTHER:	0.00
PAID:	21.00



LEADSHEET



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SEQ:
11

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MIKE DUNFEE

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2

RECORDING REQUESTED BY:



**FIDELITY NATIONAL TITLE COMPANY
SUBDIVISION DEPARTMENT**

WHEN RECORDED, MAIL TO:

JACKSON, DeMARCO, TIDUS,
& PECKENPAUGH (FSJ)
2030 Main Street, Suite 1200
Irvine, CA 92614

(Space Above for Recorder's Use

4

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN**

This Fifth Amendment to the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean ("*Fifth Amendment*") is entered into as of the date written below by VIEWCOR LONG BEACH I, LP, a Delaware limited partnership ("*Declarant*").

RECITALS

A. Declarant owns the real property in the City of Long Beach, Los Angeles County, State of California (the "*Property*") described as follows:

That portion of Lot 1 described below, as shown on the Condominium Plan for Phase 1 of West Ocean (the "*Phase 1 Condominium Plan*") recorded on March 9, 2007, as Instrument No. 07-0519291, in the Official Records of Los Angeles County, California. The Phase 1 Condominium Plan covers a portion of Lot 1 of Tract No. 60109, as shown on a Subdivision Map, Recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the office of the Los Angeles County Recorder.

B. On March 9, 2007, Declarant recorded a Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean, as Instrument No. 20070519293 in Official Records of Los Angeles County, California (together with any amendments, collectively, the "*Declaration*"). All capitalized terms not otherwise defined herein shall have the meaning given such terms in the Declaration.

C. Declarant desires to replace portions of Exhibit G of the Declaration for the purpose of conforming Exhibit G to as-built conditions at the Property.

RECORDER MEMO: This COPY has not been QUALITY ASSURED.

11



D. Pursuant to Section 13.2.7(ix) of the Declaration, Declarant has the unilateral right to amend, replace or substitute any exhibit in the Declaration to conform to as-built conditions.

Therefore, Declarant declares that the Declaration is amended as follows:

1. **AMENDMENT OF EXHIBIT G.** That portion of Exhibit G of the Declaration depicting Storage Space No. 58 is hereby deleted in its entirety and replaced with the portion of Exhibit G attached hereto.
2. **RATIFICATION.** Except as expressly modified herein, the capitalized terms used in this Fifth Amendment shall have the meanings given them in the Declaration. Except as amended by this Fifth Amendment, the Declaration is ratified and affirmed by Declarant.

[SIGNATURES ON FOLLOWING PAGES]

MIKE DUNFEE

GROUP

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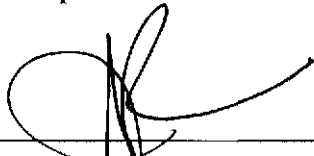
4

[SIGNATURE PAGE TO FIFTH AMENDMENT]

Dated: 8/26/09

VIEWCOR LONG BEACH I, LP,
a Delaware limited partnership

By: Harborcor, LLC,
a California limited liability company,
its general partner

By: 
Name: Joanne Rowland
Title: Vice President

Declarant

STATE OF CALIFORNIA
COUNTY OF Orange

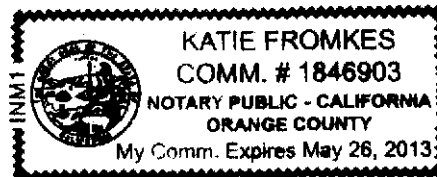
On August 26, 2009, before me, Katie Fromkes, notary public
(here insert name and title of the officer)

personally appeared Joanne Rowland
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are
subscribed to the within instrument and acknowledged to me that he she they executed the same in
his her their authorized capacity(ies), and that by his her their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Katie Fromkes



(SEAL)

RECORDER MEMO: This COPY has not been QUALITY ASSURED.

RECORDING REQUESTED BY:

and

AND WHEN RECORDED MAIL TO:

Lisa A. Tashjian, Esq.

BEAUMONT GITLIN TASHJIAN

21650 Oxnard Street, Suite 1620

Woodland Hills, California 91367

COPY of Document Recorded

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LOS ANGELES COUNTY REGISTRAR-RECORDER

03/20/2014



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(For Recorder's Use Only)

WEST OCEAN ASSOCIATION

SIXTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,

RESTRICTIONS AND RESERVATION OF EASEMENT FOR WEST OCEAN

RECORDING REQUESTED BY:
WEST OCEAN ASSOCIATION

WHEN RECORDED, MAIL TO:

BEAUMONT GITLIN TASHJIAN
21650 Oxnard Street, Suite 1620
Woodland Hills, CA 91367

**SIXTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN**

This **Sixth Amendment to the Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for West Ocean** is made as of the date written below, by the undersigned, with reference to the following:

RECITALS

A. A Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for West Ocean was recorded on March 9, 2007, as Instrument Number 20070519293 (together with any and all amendments, collectively, the "Declaration"), in the Official Records of Los Angeles County, California, establishing a plan of condominium ownership (the "Project") upon the real property located in the City of Long Beach, County of Los Angeles, described as:

That portion of Lot 1 of Tract No. 60109, in the City of Long Beach, County of Los Angeles, State of California, as shown on the Subdivision Map recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the Official Records of Los Angeles County (the "Map"), and as further shown on the Condominium Plan for Phase 1 of West Ocean recorded on March 9, 2007, as Instrument Number 20070519291 in the Official Records of said County (the "Phase 1 Condominium Plan"), as the same may have been amended; and

Parcel 1 of Lot Line Adjustment No. 0303-02, recorded as Instrument No. 05-1603473, Official Records of Los Angeles County, being a part of Tract No. 60109, as shown on the Map, and as shown on the Condominium Plan for Phase 2 of West Ocean recorded on March 14, 2007, as Instrument No. 20070567565 in the Official Records of said County (the "Phase 2 Condominium Plan"), as the same may have been amended.

//

B. The Declaration has previously been amended by five (5) prior instruments, identified as follows: by the First Amendment thereto recorded on May 22, 2007 as Instrument Number 20071239134; by the Second Amendment thereto recorded on April 23, 2008 as Instrument Number 20080709240; by the Third Amendment thereto recorded on August 20, 2008 as Instrument Number 20081501314; by the Fourth Amendment thereto recorded on March 9, 2009 as Instrument Number 20090330973; and by the Fifth Amendment thereto recorded on August 27, 2009 as Instrument Number 20091319055; all of Official Records of Los Angeles County.

C. The undersigned have confirmed, and placed in the records of the Association, the signatures representing the necessary voting power of the owners of the separate interests within the Project to amend said Declaration, and as further authorized by the Superior Court (as described in Recital "D" below), reflecting their confirmation and approval to make this Sixth Amendment to said Declaration.

D. Upon a petition by the Association pursuant to then-effective Civil Code Section 1356 (recodified, as amended, as Civil Code Section 4275, eff. Jan. 1, 2014) filed in Case No. NS026876, in the Superior Court of California, for the County of Los Angeles, the Court deemed the within Sixth Amendment to have been approved by the necessary percentage of owners of the separate interests in the Project to authorize amendment of the Declaration. The order of the Superior Court reflecting its grant of said petition and approval of Sixth Amendment to the Declaration is attached hereto as "Exhibit A" and incorporated herein by this reference.

E. The undersigned desire to amend, and by this Sixth Amendment do amend, the Declaration in the following particulars:

1. **AMENDMENT.** Article XIII, Section 13.2.1 of the Declaration is hereby replaced in its entirety with the following:

"13.2.1 **Amendment Approval.** Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form must be included in the notice of any Association meeting or election at which a proposed amendment is to be considered. To be effective, a proposed amendment (other than an amendment by the Board, as described in Section 13.2.8 respectively) must be (a) adopted by the vote, by secret ballot, of Owners representing not less than a majority (50.1%) of the voting power of the Association, provided that the specified percentage of the Association's voting power necessary to amend a specific provision of this Declaration may not be less than the percentage of affirmative votes prescribed for action to be taken under the provision that is the subject of the proposed amendment, and (b) approved by a Mortgagee Majority as described in Section 11.2 when required. As long as the VA or FHA is making or insuring a Mortgage in the Community, the prior approval of the VA or FHA (whichever is making or insuring a Mortgage) is required for any amendment to the Declaration for the purpose of terminating the Declaration, dissolving the Association (except pursuant to merger or consolidation) or conveying all of the Association Property."

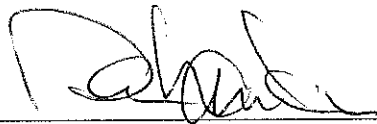
2. **RATIFICATION.** Except as amended by this Sixth Amendment, the Declaration (as previously amended) is ratified and affirmed and all terms and provisions thereof remain in effect.

IN WITNESS WHEREOF, this Sixth Amendment to the Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for West Ocean has been adopted as provided above, and is effective this 21st day of February, 2014.

WEST OCEAN ASSOCIATION

By: 
Ron Cheek, President

FEB 27, 2014
Dated

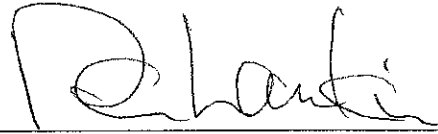
By: 
Dan Lamkin, Secretary

2/27/14
Dated

CERTIFICATE

I, the undersigned, the duly elected and acting Secretary of WEST OCEAN ASSOCIATION, A California Non-profit Mutual Benefit Corporation, do hereby certify that the foregoing Sixth Amendment to Declaration of Covenants, Conditions, and Restrictions for West Ocean was duly adopted by vote of the necessary percentage of the Owners of Condominiums within West Ocean Association, as determined by the order of the Superior Court, and that the same does now constitute an amendment to said Declaration.

This Certificate is executed under penalty of perjury on February 27, 2014, in LONG BEACH, California.



Dan Lamkin, Secretary

EXHIBIT “A”

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/11/14

DEPT. S27

HONORABLE ROSS M. KLEIN

JUDGE

L. HERNANDEZ
 R. HICKMAN, CA

DEPUTY CLERK

HONORABLE
 5

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

NONE

Reporter

8:30 am

NS026876

Plaintiff
 Counsel

Russell Higgins (X)

WEST OCEAN ASSOCIATION
 VS
 MEMBERS OF WEST OCEAN ASSOCIATI

Defendant
 Counsel

Noah Sherrill (X) PP
 Kellie Sherrill (X) PP
 Mark Suchenek (X) PP

NATURE OF PROCEEDINGS:

PETITION TO REDUCE THE PERCENTAGE OF AFFIRMATIVE VOTES NECESSARY TO AMEND THE "DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR WEST OCEAN ASSOCIATION;"

Petition is called for hearing, is argued, and is taken under submission.

After submission, the Court rules as follows:

The Petition is controlled by the prior version of the statute, Civil Code section 1356. The Petition was filed prior to its repeal and the effective date of the successor statute Civil Code section 4275.

Civil Code section 4010 provides:

"Nothing in the act that added this part shall be construed to invalidate a document prepared or action taken before January 1, 2014, if the document or action was proper under the law governing common interest developments at the time that the document was prepared or the action was taken. For the purposes of this action, 'document' does not include a governing document."

The Court finds that the Petition is in compliance with both statutes.

The Court has read and considered all timely filed

MINUTES ENTERED 02/11/14 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

02/11/14

DEPT. S27

HONORABLE ROSS M. KLEIN

JUDGE

L. HERNANDEZ

DEPUTY CLERK

R. HICKMAN, CA

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

5

Deputy Sheriff

NONE

Reporter

8:30 am

NS026876

Plaintiff
Counsel

Russell Higgins (X)

WEST OCEAN ASSOCIATION

VS

Defendant

MEMBERS OF WEST OCEAN ASSOCIATI

Counsel

Noah Sherrill (X) PP
Kellie Sherrill (X) PP
Mark Suchenek (X) PP

NATURE OF PROCEEDINGS:

opposition, i.e. filed on or before January 24, 2014.

The Court finds the proposed amendment is reasonable and is not made for any improper purpose. The Petitioner has met its burden with respect to all elements required by either Civil Code section 1356 or Civil Code section 4275. The Petitioner has shown that balloting was in accordance with the governing documents; the opposition has not controverted that by admissible evidence.

The statute does not impose a burden of proving that opponents to the amendment had equal access to HOA "media" except insofar as that is a requirement of the governing documents. The opposition did not prove such a failure by admissible evidence. The substance of this Petition, service of the amendment after recording, is ordered to be effected by individual delivery to each member as provided by Civil Code section 4275.

The Petition is granted.

SO ORDERED.

JUDGE ROSS M. KLEIN

ROSS M. KLEIN, JUDGE Dated: 2/11/14

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/11/14

DEPT. S27

HONORABLE ROSS M. KLEIN

JUDGE

L. HERNANDEZ

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HONORABLE
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R. HICKMAN, CA

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

NONE

Reporter

8:30 am

NS026876

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VS

Defendant

MEMBERS OF WEST OCEAN ASSOCIATI

Counsel

Noah Sherrill (X) PP

Kellie Sherrill (X) PP

Mark Suchenek (X) PP

NATURE OF PROCEEDINGS:

Clerk to notice Moving Party. Moving Party is ordered to give notice.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the MINUTE ORDER upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in LONG BEACH, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: 2/11/2014

Sherri R. Carter, Executive Officer/Clerk

By: _____

L. HERNANDEZ

MINUTES ENTERED
02/11/14
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 02/11/14

DEPT. S27

HONORABLE ROSS M. KLEIN

JUDGE

L. HERNANDEZ
R. HICKMAN, CA

DEPUTY CLERK

HONORABLE
5

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

NONE

Reporter

8:30 am

NS026876

Plaintiff
Counsel

Russell Higgins (X)

WEST OCEAN ASSOCIATION
VS
MEMBERS OF WEST OCEAN ASSOCIATI

Defendant
Counsel

Noah Sherrill (X) PP
Kellie Sherrill (X) PP
Mark Suchenek (X) PP

NATURE OF PROCEEDINGS:

BEAUMONT GITLIN TASHJIAN
RUSSELL HIGGINS
21650 OXNARD ST. STE. 1620
WOODLAND HILLS, CA 91367

MINUTES ENTERED
02/11/14
COUNTY CLERK

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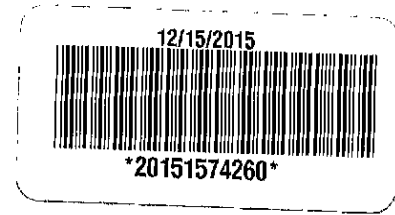
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RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

Jeffrey A. Beaumont, Esq.
c/o Beaumont Gitlin Tashjian
21650 Oxnard St. Suite 1620
Woodland Hills, CA 91367



Space above for Recorder's Office Only

Title of Document

**SEVENTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN ASSOCIATION**

ORIGINAL

RECORDING REQUESTED BY:
WEST OCEAN ASSOCIATION

WHEN RECORDED, MAIL TO:
Jeffrey A. Beaumont, Esq.
BEAUMONT GITLIN TASHJIAN
21650 Oxnard Street, Suite 1620
Woodland Hills, CA 91367

**SEVENTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS
RESTRICTIONS AND RESERVATION OF EASEMENTS FOR
WEST OCEAN ASSOCIATION**

This **Seventh Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for WEST OCEAN** is made this 7th day of DECEMBER, 2015, by the undersigned with reference to the following facts:

RECITALS

A. A Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for West Ocean was recorded on March 9, 2007, as Instrument Number 20070519293 (together with any and all amendments, collectively, the "Declaration"), in the Official Records of Los Angeles County, California, establishing a plan of condominium ownership (the "Project") upon the real property located in the City of Long Beach, County of Los Angeles, described as:

That portion of Lot 1 of Tract No. 60109, in the City of Long Beach, County of Los Angeles, State of California, as shown on the Subdivision Map recorded in Book 1296, at Pages 84 to 86, inclusive of Maps, in the Official Records of Los Angeles County (the "Map"), and as further shown on the Condominium Plan for Phase 1 of West Ocean recorded on March 9, 2007, as Instrument Number 20070519291 in the Official Records of said County (the "Phase 1 Condominium Plan"), as the same may have been amended; and

Parcel 1 of Lot Line Adjustment No. 0303-02, recorded as Instrument No. 05-1603473, Official Records of Los Angeles County, being a part of Tract No. 60109, as shown on the Map, and as shown on the Condominium Plan for Phase 2 of West Ocean recorded on March 14, 2007, as Instrument No. 20070567565 in the Official Records of said County (the "Phase 2

4

Condominium Plan"), as the same may have been amended.

B. The Declaration has previously been amended by six (6) prior instruments, identified as follows: by the First Amendment thereto recorded on May 22, 2007 as Instrument Number 20071239134; by the Second Amendment thereto recorded on April 23, 2008 as Instrument Number 20080709240; by the Third Amendment thereto recorded on August 20, 2008 as Instrument Number 20081501314; by the Fourth Amendment thereto recorded on March 9, 2009 as Instrument Number 20090330973; by the Fifth Amendment thereto recorded on August 27, 2009 as Instrument Number 20091319055; and by the Sixth Amendment thereto recorded on March 20, 2014 as Instrument Number 20140281154; all of Official Records of Los Angeles County.

C. The undersigned certify and confirm that the necessary percentage of the Owners of the Condominiums required by the Declaration, as amended or restated, have approved this Seventh Amendment, which follows.

D. The undersigned desire to amend and by this Seventh Amendment to Declaration of Establishment of Covenants, Conditions and Restrictions in fact, amend said Declaration as follows:

"2.1 SINGLE FAMILY RESIDENCES. Except as provided in Section 2.2.2, the Residence shall only be used as a dwelling for a single Family. An Owner may rent his or her entire Condominium (but not a portion thereof) to a single Family provided that the Condominium is rented pursuant to a lease or rental agreement which is (a) in writing, and (b) subject to all of the provisions of this Declaration, and (c) which lease or rental agreement includes a Lease Addendum as determined by the Board of Directors and made available through the Association's managing agent. Both a copy of the written lease and Association Lease Addendum shall be provided to the Association prior to move-in."

"2.2.1 Generally. No Owner or other occupant of the Properties may undertake any activity in any Unit or in any portion of the Common Property for business or commercial purposes including manufacturing, mercantile, storage, vending, auctions, transient occupancy (such as vacation rental, hotel, or time-share), vehicle or equipment repair, or other non-residential purposes. Any lease or rental agreement for a term of fewer than one (1) year or pursuant to which the lessor provides any services normally associated with transient occupancy shall be deemed to be for transient purposes and prohibited under this Declaration. Such activities are prohibited whether they are engaged in full- or part-time, whether they are for-profit or non-profit, and whether they are licensed or unlicensed."

"2.6 ANIMALS. Domestic dogs, cats, birds, or other customary household pets may be kept in each Unit, provided that they are not kept, bred, or maintained for commercial purposes or in unreasonable quantities. Notwithstanding, no more than two (2) pets total,

in any combinations, whether dogs or cats, may be kept in each Unit. No Person may keep any animal that is determined by the Board to be a nuisance to other residents in the Properties. The Board has the power and discretion to determine whether types or numbers of animals kept in the Properties are a nuisance, and the Board shall have the power to abate the nuisance through any legal procedure that is available to the Association. All pets should be suitable for living in confined quarters. Small household pets such as fish and caged birds may be kept in reasonable numbers so long as there is no external evidence of their presence in the Properties. Animals belonging to Owners, tenants, residents or guests in the Properties must be kept in the Unit. When outside the Unit, animals must be kept under the control of a Person capable of controlling the animal either on a leash or other appropriate restraint. Furthermore, each Owner shall be absolutely liable to each and all remaining Owners, their Families, tenants, residents and guests, for damages or injuries caused by any animals brought or kept on the Properties by an Owner, by members of the Owner's Family, or by the Owner's tenants, residents or guests. Each Owner shall immediately remove any excrement or clean other unsanitary conditions caused by such Owner's animals on any portion of the Properties. All Owners shall carry with them the necessary means to remove excrement. If an Owners fails to immediately remove any excrement or clean other unsanitary conditions caused by such Owner's animals, such Owner may be subject to a Special Assessment or other Board imposed action, including prohibiting the Owner's pet in the Properties."

[Signatures to Follow]

IN WITNESS WHEREOF, this Seventh Amendment to Declaration of Covenants, Conditions, Restrictions have been adopted as provided above effective this 7th day of DECEMBER 2015.

WEST OCEAN ASSOCIATION

By: *Donald M. Mealy*, President

By: *Eddy W. Hryz*, Secretary

CERTIFICATE

I, the undersigned, the duly elected and acting Secretary of WEST OCEAN ASSOCIATION, A California Non-profit Mutual Benefit Corporation, do hereby certify that the foregoing SEVENTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS was adopted on DECEMBER 7, 2015.

This Certificate is executed under penalty of perjury on DECEMBER 7, 2015, in LONG BEACH, California.

Eddy W. Hryz, Secretary

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

State of California)
County of LOS ANGELES) ss:

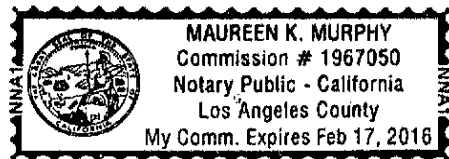
On DECEMBER 7, 2015,
before me, MAUREEN K. MURPHY, Notary Public,
personally appeared RONALD M. CHEEK, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: FEB. 17, 2016 [SEAL]



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

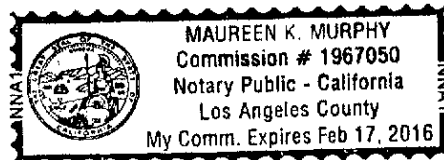
State of California)
County of LOS ANGELES) ss:

On DECEMBER 7, 2015,
before me, EDDY W. HUANG MAU MAUREEN K. MURPHY Notary Public,
personally appeared EDDY W. HUANG, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

Witness my hand and official seal.

[Signature]
Notary Public
My commission expires: FEB. 17, 2016 [SEAL]



MIKE DUNFEE

GROUP

Sales · Leasing · Property Management

**BYLAWS
OF
WEST OCEAN ASSOCIATION**

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3/29/06

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FOR BYLAWS
OF
WEST OCEAN ASSOCIATION

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BYLAWS
OF
WEST OCEAN ASSOCIATION

ARTICLE I
PLAN OF CONDOMINIUM OWNERSHIP

1.1. DEFINITIONS AND INTERPRETATION. Unless otherwise provided in these Bylaws, the capitalized terms used in these Bylaws have the same meanings as in the Declaration. These Bylaws shall be interpreted in accordance with Sections 1.2.1 to 1.2.4 of the Declaration.

1.2. NAME. The name of the corporation is West Ocean Association. The principal office of the Association shall be located in the County.

1.3. APPLICATION. These Bylaws apply to the residential condominium project known as West Ocean, located in the County. All Persons who use the facilities of the Properties in any manner, are subject to the regulations in these Bylaws and in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for West Ocean, Recorded in the Official Records of the County against the Properties. Use of any Condominium in the Properties signifies acceptance and ratification of these Bylaws.

ARTICLE II
BOARD OF DIRECTORS

2.1. NUMBER. Until the first annual meeting of the Owners, the Association's property, business and affairs shall be governed and managed by a Board of Directors composed of three (3) persons. Beginning with the first annual meeting of the Owners, the property, business and affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) persons, each of whom must be either an Owner, agent of an Owner, or, so long as Declarant owns a Condominium or any of the Annexable Territory, an agent of Declarant. The authorized number of Directors may be changed by a duly adopted amendment to these Bylaws.

2.2. QUALIFICATIONS FOR HOLDING OFFICE.

2.2.1. Qualifications for Nominees to Office.

(a) Other than Declarant appointees, only Owners who meet the following criteria are qualified to be elected to the Board of Directors:

(b) The Owner must be in compliance with the Restrictions for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors. To be in compliance, the Owner must correct,

within five (5) days of receipt of notice, any violation of the Restrictions for which the Owner has been determined to be responsible pursuant to applicable due process requirements.

(c) The Owner must be current in the payment of all Assessments for the three (3) months immediately preceding the date of the election at which the Owner is being considered for election to the Board of Directors.

2.2.2. Qualifications for Holding Office. In addition, to remain qualified to serve on the Board of Directors, an Owner who has been elected to the Board of Directors must:

(a) Attend no less than six (6) Board meetings, regular or special, within a twelve (12) month period and not miss more than two (2) consecutive, regularly scheduled Board meetings;

(b) Comply with every duly approved action of the Board;

(c) Comply with the Restrictions and correct, within five (5) days of receipt of notice, any violation of the Restrictions for which that Director has been determined to be responsible pursuant to applicable due process requirements;

(d) Not be more than three (3) months in arrears in the payment of any Assessment;

(e) Refuse any type of gain, such as money, services, products, gifts or gratuities of a significant value, as determined by a majority vote of the Directors who meet all of the required qualifications to serve as such, which gain is offered in relation to the Owner's service as a Director. In addition, the Owner must disclose such offers at an open meeting of the Board. Compensation for services duly approved by the Board and unrelated to duties as a Director or Officer of the Association, and reimbursement of expenses associated with services to the Association, do not constitute prohibited gain within the meaning of this subsection; and

(f) Not act in a manner determined by a majority vote of the Directors to be grossly detrimental to the general safety, health or welfare of the Association and its members.

2.3. ELECTION.

2.3.1. General Procedure. At each annual meeting of the Owners, the Owners shall elect new Directors to fill vacancies on the Board. If an annual meeting is not held, or all positions on the Board are not filled at the annual meeting, the vacancies may be filled in accordance with the procedure set in Section 2.5.

2.3.2. Voting. Voting shall be by secret written ballot. An Owner may cumulate his votes for any candidate for the Board in any election in which more than two (2) Directors are to be elected if (a) the candidate's name has been placed in nomination before the voting, and (b) an Owner has given notice at the meeting before the voting of such Owner's

intent to cumulate votes. If an Owner cumulates his votes, such Owner may cast a number of votes equal to the Owner's share of the voting power multiplied by the number of Directors to be elected.

2.3.3. Special Election Requirement. So long as either (a) Declarant is entitled to exercise a Class B or Class C vote, or (b) Declarant is entitled to exercise a majority of the Association's voting power, not less than twenty percent (20%) of the members of the Board must be elected solely by the votes of Owners other than Declarant.

2.4. TERM OF OFFICE. Each Director shall hold office until the earlier to occur of (a) the end of the Director's term of office after a successor has been elected, or (b) his death, resignation, removal or judicial adjudication of mental incompetence. At the first annual meeting, the term of office of the three (3) Directors receiving the highest number of votes shall be three (3) years and the term of office of the two (2) Directors receiving the next highest number of votes shall be two (2) years. The term of office of each Director elected to fill a vacancy created by expiration of a Director's term of office shall be two (2) years. Directors appointed by Declarant with the Class C vote at the first annual meeting are deemed to receive the highest number of votes and so are given the longest term of office. The term of office of each Director elected or appointed to the Board for any other reason shall be the balance of the unserved term. Any person serving as a Director may be reelected. There is no limit on the number of terms which a Director may serve.

2.5. VACANCIES. A vacancy on the Board is deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any Director or if the Owners fail to elect the full number of authorized Directors at any meeting at which a Directors election is to take place. Vacancies on the Board caused by any reason other than the removal of a Director may be filled by either (a) vote of a majority of the remaining Directors, even though they may constitute less than a quorum, or (b) by vote of the Owners at a meeting. Any vacancy caused by the removal of a Director must be filled by a vote of the Owners. Until termination of the Class C vote, a vacancy in the office of a Director appointed by Declarant with the Class C vote shall be filled only by an appointee of Declarant. A Director may resign at any time by giving notice to the President, the Secretary or the Board. Any Director who ceases to be an Owner, agent of an Owner or an agent of Declarant is deemed to have resigned from the Board.

2.6. REMOVAL OF DIRECTORS. At any meeting of the Owners, any individual Director or the entire Board may be removed before the expiration of their terms of office with or without cause by the vote of Owners representing a majority of the Association's voting power (including votes attributable to Declarant).

However, if the entire Board is not removed as a group pursuant to a single vote, no individual Director may be removed if the number of votes cast against removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been proposed by the Owners must be given an opportunity to be heard at the meeting. If any Directors are removed, new Directors may be elected at the same meeting. However, any

Director elected to office solely by the votes of Owners other than Declarant pursuant to Section 2.3.3 may be removed only by the vote of at least a simple majority of the Association's voting power represented by Owners other than Declarant. Any Director elected to office solely by votes of Declarant may only be removed by Declarant, and the vacancy filled only by a Director elected by the votes of Declarant. The Board, by majority vote of the Directors who meet all of the qualifications to be a Director, may declare vacant the office of any Director not appointed by Declarant who, while in office, fails to meet the qualification criteria set forth in Section 2.2.

2.7. COMPENSATION. Directors may not receive any compensation for their services as Directors unless such compensation is first approved by Owners representing at least a majority of the Association's voting power. However, (a) nothing in these Bylaws precludes any Director from serving the Association in some other capacity and receiving compensation therefor, (b) any Director may be reimbursed for actual expenses incurred in performance of Association duties, and (c) no officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation for service as a Director of the Association.

2.8. POWERS AND DUTIES. The Board has the powers and duties necessary to administer the Association's affairs. All the Association's powers shall be exercised by the Board except those powers specifically reserved to the Owners.

2.9. SPECIAL POWERS AND DUTIES. Without limiting the scope of the Board's general powers and duties, the Board is granted the following powers and duties:

2.9.1. Officers, Agents and Employees. The power and duty to select, appoint and remove all Association officers, agents and employees, to prescribe such powers and duties for them as may be consistent with law and with the Restrictions, to fix their compensation, to require from them such security for faithful service as the Board considers advisable, and to contract to provide them with such indemnification as the Board determines is appropriate.

2.9.2. Contracts. The power to enter into contracts. This includes contracts (a) for maintenance, landscaping, and common utilities services, (b) materials, supplies and other Common Expenses relating to the Condominiums, (c) employing personnel necessary to manage the Properties, including legal and accounting services, and (d) paying for Improvements on the Common Property. The Board may not enter into any contract with a term in excess of one (1) year, without the vote or written consent of Owners representing at least a majority of the Association's voting power, except for the following:

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

(b) prepaid casualty or liability insurance policies of not more than three (3) years' duration provided that the policies permit short-term cancellation by the Association;

(c) agreements for Telecommunications Services and Telecommunications Facilities that meet the requirements of Section 2.9.13;

(d) contracts in which the Association enters into litigation or any alternative dispute resolution procedure when the Association's obligation to pay for services is set, in whole or in part, on a contingency basis, only if they are (i) contracts for collection of assessments or other accounts receivable, (ii) contracts involving evaluation of services, or (iii) contracts with a total amount to be paid by the Association not in excess of Forty Thousand Dollars (\$40,000.00);

(e) agreements for sale, lease or installation of burglar alarm and fire alarm equipment and related services with terms not in excess of five (5) years, provided that Declarant does not have a direct or indirect ownership interest in the supplier of such services or equipment equal to or greater than ten percent (10%);

(f) a contract approved by the DRE;

(g) a contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause or penalty or other obligation on ninety (90) days written notice of termination to the other party.

2.9.3. Enforcement. The power to enforce the Restrictions and any agreements entered into by the Association and to impose sanctions against Owners for violating the Restrictions.

2.9.4. Principal Office, Place of Meetings, Seal. The power but not the duty to move the Association's principal office from one location to another in the County; to designate any place in the County for holding any meetings of Owners consistent with the provisions of Section 4.5; and to adopt and use a corporate seal and to alter the form of such seal.

2.9.5. Assessments. The power and duty to fix and levy Assessments and identify the due date for payment of Assessments. The Board may incur Common Expenses. The Association's funds shall be held in trust for the Owners.

2.9.6. Insurance. The power and duty to contract and pay for insurance in accordance with the Declaration, covering and protecting against such damages or injuries as the Board considers advisable (which coverage may include medical expenses of persons injured on the Common Property). The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on the Association's behalf.

2.9.7. Delegation. The power but not the duty to delegate its powers according to law.

2.9.8. Bylaws. The power and duty to adopt these Bylaws.

2.9.9. Records. The power and duty to keep a complete record of Association acts and corporate affairs.

2.9.10. Sale of Property. The power but not the duty to sell property of the Association. Approval from at least a majority of the Association's voting power must be obtained before the Association sells, in any Fiscal Year, property having an aggregate fair market value greater than five percent (5%) of the Association's budgeted gross expenses for that Fiscal Year.

2.9.11. Manager. The power to engage a professional Manager for the Association at a compensation established by the Board to perform such duties and services as the Board authorizes.

2.9.12. Agreements with Declarant. The power but not the duty to negotiate and enter into agreements with Declarant.

2.9.13. Telecommunications Contracts. The power to enter into, accept an assignment of, or otherwise cause the Association to comply with an exclusive Telecommunications Services or Telecommunications Facilities contract.

2.10. DISTRIBUTION OF INFORMATION. The Board shall distribute the following financial information to all Owners (and any Beneficiary, insurer and guarantor of a first Mortgage on request), regardless of the number of Owners or the amount of assets of the Association:

2.10.1. Budget. A pro forma operating budget for each Fiscal Year consisting of at least the following information must be distributed not less than forty-five (45) nor more than sixty (60) days before the beginning of the Fiscal Year:

(a) Estimated revenue and Common Expenses computed on an accrual basis.

(b) A summary of the Association's reserves based on the most recent review or study conducted pursuant to Section 1365.5 of the California Civil Code, which must be printed in bold type and include all of the following:

(i) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component of the Common Property for which the Association is responsible.

(ii) As of the end of the Fiscal Year for which the study is prepared:

(A) The current estimate of the amount of cash reserves necessary to restore or maintain the major components of the Common Property for which the Association is responsible ("*Estimated Reserves*").

(B) The current amount of accumulated cash reserves actually set aside to restore or maintain the major components of the Common Property for which the Association is responsible ("*Actual Reserves*").

(iii) The percentage that the Actual Reserves is of the Estimated Reserves.

(c) A statement of whether the Board has determined or expects that the levy of one or more Capital Improvement or Reconstruction Assessments will be required to repair, replace, or restore any major component of the Common Property for which the Association is responsible or to provide adequate reserves therefor.

(d) A general statement setting forth the procedures used by the Board in calculating and establishing reserves to defray the costs of repair and replacement of, or additions to, major components of the Common Property and facilities for which the Association is responsible.

The Board may distribute a summary of the Budget instead of the Budget itself, so long as the Board complies with the provisions of Section 1365(c) of the California Civil Code.

2.10.2. Financial Report. A report consisting of the following must be distributed within one hundred twenty (120) days after the close of the Fiscal Year:

- (a) A balance sheet as of the end of the Fiscal Year,
- (b) An operating (income) statement for the Fiscal Year,
- (c) A statement of changes in financial position for the Fiscal Year,
- (d) Any information required to be reported under Section 8322 of the California Corporations Code,
- (e) For any Fiscal Year in which the Association's gross income exceeds \$75,000, a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy, and
- (f) A statement of the place where the names and addresses of the current Owners are located.

If the report referred to in Section 2.10.2 is not prepared by an independent accountant, it must be accompanied by the certificate of an authorized Association officer stating that the statement was prepared from the Association's books and records without independent audit or review.

2.10.3. Insurance Information. The Association shall distribute to all Owners a summary of the Association's property, general liability, and flood insurance policies within sixty (60) days before the beginning of the Fiscal Year, that includes all of the following information: (a) the name of the insurer, (b) the type of insurance, (c) the limits of coverage, and (d) the amount of the deductibles, if any.

(a) The Association shall, as soon as reasonably practical, notify the Owners by first-class mail if any of the policies described above have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described above, the Association shall immediately notify the Owners if replacement coverage will not be in effect by the date the existing coverage will lapse.

(b) To the extent that any of the information required to be disclosed is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all Owners.

(c) The summary distributed above shall contain, in at least 10-point boldface type, the following statement:

"This summary of the Association's policies of insurance provides only certain information, as required by subdivision (c) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions in the actual policies of insurance. Any Association member may, on request and provision of reasonable notice, review the Association's insurance policies and, on request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association keeps the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur in or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

2.10.4. Enforcement Policies. In addition to financial statements, the Board shall annually distribute within sixty (60) days before the beginning of the Fiscal Year a statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of Assessments, including the recording and foreclosing of liens against Condominiums.

2.10.5. Assessment and Foreclosure Notice.

(a) The Association shall distribute the written notice described in subsection (b) to each member of the Association during the sixty (60) day period immediately preceding the beginning of the Association's Fiscal Year. The notice shall be printed in at least 12-point type.

(b) The notice required by this Section shall read as follows:

NOTICE

ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND NONJUDICIAL FORECLOSURE

The failure to pay association assessments may result in the loss of an owner's property without court action, often referred to as nonjudicial foreclosure. When using nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the lien is not paid. Assessments become delinquent 15 days after they are due, unless the governing documents of the association provide for a longer time. (Sections 1366 and 1367.1 of the Civil Code)

In a nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code)

The association must comply with the requirements of Section 1367.1 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 1367.1 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail. Among these documents, the association must send a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 1367.1 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 1367.1 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Sections 1367 and 1367.1 of the Civil Code)

An owner may dispute an assessment debt by giving the board of the association a written explanation, and the board must respond within 15 days if certain conditions are met. An owner may pay assessments that are in dispute in full under protest, and then request alternative dispute resolution. (Sections 1366.3 and 1367.1 of the Civil Code)

An owner is not liable for charges, interest and costs of collection, if it is established that the assessment was paid properly on time. (Section 1367.1 of the Civil Code)

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exist. (Section 1367.1 of the Civil Code)

The board of the directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)

2.10.6. **Accounts.** On at least a quarterly basis, the Board shall: (a) cause to be completed and review a current reconciliation of the Association's operating and reserve accounts, (b) review the current Fiscal Year's actual reserve revenues and expenses compared to the Budget for the then current Fiscal Year, (c) review the income and expense statement for the Association's operating and reserve accounts, (d) review the most current account statements

prepared by the financial institutions where the Association keeps its operating and reserve accounts, and (e) fulfill any additional duties established by Civil Code Section 1365.5. The signatures of either (i) two (2) Directors, or (ii) one (1) Director and one (1) Association officer (who is not also a Director) are required for the withdrawal of money from the Association's reserve accounts. As used in this Subsection, the term "reserve accounts" means Budgeted funds that the Board has designated for use to defray the future repair and replacement of, or additions to, those major components of the Common Property which the Association is obligated to maintain.

2.10.7. Reserve Study. The Board shall cause a study of the reserve account requirements of the Properties to be conducted in accordance with Section 1365.5(e) of the California Civil Code. As used in this Subsection, "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace or restore those major components of the Common Property which the Association is obligated to maintain.

2.11. MEETINGS.

2.11.1. Organization Meeting. The first regular meeting of a newly elected Board must be held within ten (10) days of election of the Board, at such place as is fixed and announced by the Directors at the meeting at which such Directors were elected, to organize, elect officers and transact other business. No notice is necessary to the newly elected Directors to hold such meeting; provided that (a) a majority of the whole Board is present when the time and place are announced at the annual meeting and (b) the meeting is held on the same day and at the same place as the annual meeting of the Owners at which the newly constituted Board was elected.

2.11.2. Regular Meetings. Regular meetings may be held at such time and place in the Properties as is determined by a resolution adopted by a majority of a quorum of the Directors; however, regular meetings must be held no less frequently than quarterly. Notice of the time and place of regular meetings of the Board shall be given to each Director at least four (4) days before the date of the meeting. Notices may be given personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means or posted at a prominent place or places in the Common Property.

2.11.3. Special Meetings. Special meetings may be called by the President or by any two (2) Directors by posting notice at least four (4) days before such meeting at a prominent place or places in the Common Property or on four (4) days' notice by first-class mail or forty-eight (48) hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The notice must state the time, place and the purpose of the meeting.

2.11.4. Executive Sessions. The Board may convene in executive session to discuss and vote upon personnel matters, litigation, matters relating to the formation of contracts with third parties, Owner discipline, or to meet with an Owner, upon the Owner's

request regarding the Owner's payment of Assessments, as specified in Civil Code Sections 1367 or 1367.1. The nature of business to be considered in executive session must first be announced in an open session. Any matter discussed in executive session must be generally noted in the minutes immediately following meeting that is open to the entire membership.

2.11.5. Other Meetings. Any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate on any item of business scheduled to be heard by the Board, except those matters that may be discussed in executive session, shall constitute a meeting of the Board. All Owners shall have the right to attend any regular, special or other meeting of the Board, except an executive session. Owners who are not Directors may not participate in any deliberation or discussion at such meetings unless authorized by a vote of a majority of a quorum of the Board. However, at each Board meeting, except for executive sessions, the Board must set aside time for Owners to speak, subject to reasonable limits imposed by the Board.

2.11.6. Notice to Owners. Generally, if a meeting of the Board is not a regular or special meeting, Owners shall be given notice of the time and place of the meeting at least four (4) days before the meeting. Notice required by this Section shall be given by posting the notice in a prominent place or places in the Common Property, and by mail to any Owner who had requested notification of Board meetings by mail, at the address requested by the Owner. Notice may also be given by mail or delivery of the notice to each Condominium in the Properties, or by newsletter or other similar means of communication. If there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impractical to provide notice to the Owners, then an emergency meeting of the Board may be called by the President or any two other members of the Board without providing notice to the Owners.

2.11.7. Waiver of Notice. Before or at any meeting of the Board, any Director may, in writing, waive personal notice of such meeting. Attendance by a Director at any Board meeting waives the requirement of personal notice. If all Directors are present at a Board meeting, no notice to Directors is required and any business may be transacted at such meeting. The transactions of any Board meeting, however called and noticed or wherever held, are valid as though had at a meeting duly held after regular call and notice, if (a) a quorum is present, (b) notice to the Owners of such meeting was posted as provided in Sections 2.11.2, 2.11.3 or 2.11.6, and (c) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. The Secretary shall file all such waivers, consents and approvals with the Association's records or make them a part of the minutes of the meeting.

2.12. ACTION WITHOUT MEETING. The Board may act without a meeting if all Directors consent in writing to such action. Written consents must be filed with the minutes of the Board. Each action by written consent has the same effect as a unanimous vote of such Directors. Within three (3) days after the written consents of all Directors have been obtained, an explanation of any action taken by unanimous written consent without a meeting must be either (a) posted by the Board in a prominent place or places in the Common Property, or (b) communicated to the Owners by other means the Board determines to be appropriate.

2.13. QUORUM AND ADJOURNMENT. Except as otherwise expressly provided in these Bylaws, at all meetings of the Board, a majority of the Directors constitutes a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present, are the acts of the Board. At any meeting of the Board when less than a quorum is present, the majority of those present may adjourn the meeting to another time. At any such reconvened meeting, any business which might have been transacted at the meeting as originally called, may be transacted without further notice if a quorum is present.

2.14. COMMITTEES. The Board may by resolution establish such committees as it desires, and may establish the purposes and powers of each such committee created. The resolution establishing the committee must (a) provide for the appointment of its members and a chairman, (b) state the purposes of the committee, and (c) provide for reports, termination and other administrative matters as the Board considers appropriate.

ARTICLE III OFFICERS

3.1. DESIGNATION. The Association's principal officers are a President, a Vice President, a Secretary, and a Treasurer, all elected by the Board. The Board may appoint an Assistant Treasurer, an Assistant Secretary and such other officers as it determines to be necessary. Officers other than the President need not be Directors. Any person may hold more than one office.

3.2. ELECTION OF OFFICERS. The Board shall annually elect the Association's officers at the new Board's organization meeting. Each officer shall hold his office at the pleasure of the Board, until he resigns or is removed, is otherwise disqualified to serve or a successor is elected and qualified to serve.

3.3. REMOVAL OF OFFICERS. On an affirmative vote of a majority of the entire Board, any officer may be removed, either with or without cause, and a successor elected at any meeting of the Board. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified therein. Unless specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective.

3.4. COMPENSATION. No officer may receive any compensation for services performed in the conduct of the Association's business unless such compensation is approved by the vote or written consent of Owners representing at least a majority of the Association's voting power; however (a) nothing in these Bylaws precludes any officer from serving the Association in some other capacity and receiving compensation therefor, and (b) any officer may be reimbursed for actual expenses incurred in the performance of Association duties. Appointment of any officer does not create contractual rights of compensation for services performed by such officer. No officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation for service as an officer of the Association.

3.5. **PRESIDENT.** The President is the chief executive officer of the Association and shall (a) preside at all Association and Board meetings, (b) have the general powers and duties which are usually vested in the office of the President of a corporation, including but not limited to the power to appoint committees from among the Owners as the President decides is appropriate to assist in the conduct of the Association's affairs, and (c) subject to the control of the Board, have general supervision, direction and control of the Association's business. The President is ex officio a member of all standing committees and has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.6. **VICE PRESIDENT.** The Vice President shall take the President's place and perform the President's duties whenever the President is absent, disabled, fails or refuses to act. If neither the President nor the Vice President is available to perform the President's duties, the Board shall appoint another member of the Board to do so on an interim basis. The Vice President has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.7. **SECRETARY.** The Secretary shall (a) keep the minutes of all meetings of the Board and of the Association at the Association's principal office or at such other place as the Board may order, (b) keep the Association's seal in safe custody, (c) have charge of such books and papers as the Board may direct, (d) in general, perform the duties incident to the office of Secretary, (e) give, or cause to be given, notices of meetings of the Owners and of the Board required by these Bylaws or by law to be given, (f) keep a record book of Owners, listing the names, mailing addresses and telephone numbers of Owners, as furnished to the Association ("Membership Register"), and (g) record in the Membership Register the termination or transfer of ownership by any Owner, together with the date of the transfer. The Secretary has such other powers and duties as may be prescribed by the Board or these Bylaws.

3.8. **TREASURER.** The Treasurer is the Association's chief financial officer and is responsible for Association funds. The Treasurer shall (a) keep, or cause to be kept, full and accurate accounts and tax and business records of the Association, including accounts of all assets, liabilities, receipts and disbursements, (b) be responsible for the deposit of all funds in the name of the Association in such depositories as the Board designates, (c) disburse the Association's funds as ordered by the Board, and (d) render to the President and Directors, on request, an account of all transactions as Treasurer and of the Association's financial condition. The Treasurer has such other powers and duties as may be prescribed by the Board or these Bylaws.

ARTICLE IV OWNERS

4.1. VOTING RIGHTS.

4.1.1. **General Voting Rights.** The Association has three (3) classes of Membership, as described in the Declaration, although the Class C appointment right is not part of the "voting power" of the Association. The Class A and Class B Memberships are voting Memberships. Except as provided in Section 2.3.3, any provision of the Bylaws which requires the vote or written consent of a specified percentage of the Association's voting power before action may be undertaken (i.e., other than actions requiring merely the vote or written consent of

a majority of a quorum) requires the approval of such specified percentage of (a) the Class A Membership and the Class B Membership (so long as a Class B Membership exists), and (b) both the Association's total voting power and the Association's voting power represented by Owners other than Declarant. Whenever a reference is made in these Bylaws or the Declaration to the Association's voting power, it is a reference to the voting power of the Class A and Class B Memberships and not to the Class C membership.

4.1.2. Vote to Initiate Construction Defect Claims. Commencing on the date of the first annual meeting of Owners, Declarant relinquishes control over the Association's ability to decide whether to initiate a construction defect claim under the Right to Repair Law (a "Defect Claim"). This means that Declarant, current employees and agents of Declarant, Board members who are appointed by Declarant, Board members elected by a majority of votes cast by Declarant, and all other Persons whose vote or written consent is inconsistent with the intent of the preceding sentence, are prohibited from participating and voting in any decision of the Association or Owners to initiate a Defect Claim. This Section may not be amended without the vote or approval by written ballot of at least (a) sixty-seven percent (67%) of the voting power of Members of the Association other than Declarant, and (b) at least sixty-seven percent (67%) of the Mortgagees.

4.2. MAJORITY OF QUORUM. Unless otherwise provided in the Restrictions, any action which may be taken by the Association may be taken by a majority of a quorum of the Association's voting power.

4.3. QUORUM. Except as otherwise provided in these Bylaws, the presence in person or by proxy of at least twenty-five percent (25%) of the Association's voting power constitutes a quorum of the Membership. Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, despite the withdrawal of enough Owners to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of a quorum. If a meeting is actually attended, in person or by proxy, by Owners having less than one-third (1/3) of the Association's voting power, then no matter may be voted on except matters which were generally described in the notice of the meeting. No action by the Owners on any matter is effective if the votes cast in favor are fewer than the minimum number of votes required by the Restrictions to approve the action.

4.4. PROXIES. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary in advance of each meeting. Every proxy is revocable and automatically ceases after completion of the meeting for which the proxy was filed. Any form of proxy or written ballot distributed by any Person to the Owners must afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted on, except it is not mandatory that a candidate for election to the Board be named in the proxy or written ballot. The proxy or written ballot must provide that, when the Owner specifies a choice, the vote shall be cast in accordance with that choice. The proxy must also identify the person authorized to exercise the proxy and the length of time it will be valid. No proxy is valid with respect to a vote on any matter described in Section 7613(g) of the California Corporations Code unless the general nature of the proposal was described in the proxy.

4.5. PLACE OF MEETINGS OF OWNERS. Meetings of the Owners shall be held in the Properties, or such other suitable place as proximate thereto as practical and convenient to the Owners, as designated by the Board.

4.6. ANNUAL MEETINGS OF OWNERS. The first annual meeting of Owners shall be held within six (6) months after the Close of Escrow for the sale of the first Condominium in the Properties. Thereafter, the annual meetings shall be held on or about the anniversary date of the first annual meeting. Each first Mortgagee may designate a representative to attend all annual meetings.

4.7. SPECIAL MEETINGS OF OWNERS. The Board shall call a special meeting of the Owners (a) as directed by resolution of a majority of a quorum of the Board, (b) by request of the President of the Association, or (c) on receipt of a petition signed by Owners representing at least five percent (5%) of the Association's total voting power. The Secretary shall give notice of any special meeting within twenty (20) days after adoption of such resolution or receipt of such request or petition. The notice must state the date, time and place of the special meeting and the general nature of the business to be transacted. The special meeting must be held not less than thirty-five (35) nor more than ninety (90) days after adoption of such resolution or receipt of such request or petition. No business may be transacted at a special meeting except as stated in the notice. Each first Mortgagee may designate a representative to attend all special meetings.

4.8. NOTICE. The Secretary shall send to each Owner of record, and to each first Mortgagee who has filed a written request for notice with the Secretary, a notice of each annual or special meeting. The notice must be sent by first-class mail, at least ten (10) but not more than thirty (30) days before the meeting. The notice must state the purpose for the meeting as well as the day, hour and place where it is to be held. The notice may establish time limits for speakers and nominating procedures for the meeting. The notice must specify those matters the Board intends to present for action by the Owners, but, except as otherwise provided by law, any proper matter may be presented for action at the meeting. The notice of any meeting at which Directors are to be elected must include the names of all nominees when the notice is given to the Owners. The mailing of a notice, postage prepaid, in the manner provided in this Section, shall be considered notice served, forty-eight (48) hours after the notice has been deposited in a regular depository of the United States mail. Such notice must be posted in a conspicuous place on the Common Property and is deemed served on an Owner on posting if no address for such Owner has been furnished to the Secretary.

Notwithstanding any other provision of these Bylaws, approval by the Owners of any of the following proposals, other than by unanimous approval of those Owners entitled to vote, is not valid unless the general nature of the proposal was stated in the notice or in any written waiver of the notice: (a) removing a Director without cause, (b) filling vacancies on the Board, (c) approving a contract or transaction between the Association and one or more Directors, or between the Association and any entity in which a Director has a material financial interest, (d) amendment of the Articles, or (e) electing to wind up and dissolve the Association.

4.9. RECORD DATES. The Board may fix a date in the future as a record date for determining which Owners are entitled to notice of any meeting of Owners. The record

date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for notice to Owners, the record date for notice is the close of business on the business day preceding the day on which notice is given. In addition, the Board may fix a date in the future as a record date for determining the Owners entitled to vote at any meeting of Owners. The record date so fixed must be not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Board does not fix a record date for determining Owners entitled to vote, Owners on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

4.10. ADJOURNED MEETINGS. If a quorum is not present at the time and place established for a meeting, a majority of the Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the original meeting date, at which meeting the quorum requirement is the presence in person or by proxy of Owners holding at least twenty-five percent (25%) of the Association's voting power. Such an adjourned meeting may be held without the notice required by these Bylaws if notice thereof is given by announcement at the meeting at which such adjournment is taken.

4.11. ORDER OF BUSINESS. Meetings of Owners must be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. The order of business at all meetings of the Owners is as follows: (a) roll call to determine the voting power represented at the meeting, (b) proof of notice of meeting or waiver of notice, (c) reading of minutes of preceding meeting, (d) reports of officers, (e) reports of committees, (f) election of inspector of election (at annual meetings or special meetings held for such purpose), (g) election of Directors (at annual meetings or special meetings held for such purpose), (h) unfinished business, and (i) new business.

4.12. ACTION WITHOUT MEETING. Except for election of Directors, any action which may be taken at a meeting of the Owners may be taken without a meeting by written ballot of the Owners. Ballots must be solicited in the same manner as provided in these Bylaws for giving of notice of meetings to Owners. Such solicitations must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received to be counted. The form of written ballot must afford an opportunity to specify a choice between approval and disapproval of each matter and must provide that, where the Owner specifies a choice, the vote shall be cast in accordance therewith. Receipt within the time period specified in the solicitation of (i) ballots which equal or exceed the quorum which would be required if the action were taken at a meeting, and (ii) approvals which equal or exceed the number of votes which would be required for approval if the action were taken at a meeting at which the total number of votes cast was the same as the total number of ballots cast, constitutes approval by written ballot.

4.13. CONSENT OF ABSENTEES. The actions taken at any meeting of Owners, however called and noticed, are valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present either in person or by proxy, and (b) either before or after the meeting, each of the Owners not present in person or by proxy signs (i) a written waiver of notice, (ii) a consent to the holding of such meeting, or (iii) an approval of the

minutes thereof. The Secretary shall file all such waivers, consents or approvals with the corporate records or make them a part of the minutes of the meeting.

4.14. **MINUTES, PRESUMPTION OF NOTICE.** Minutes or a similar record of the proceedings of meetings of Owners, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters described therein. A recitation in the minutes executed by the Secretary that proper notice of the meeting was given constitutes prima facie evidence that such notice was given.

ARTICLE V AMENDMENTS

These Bylaws may be amended by the vote or written consent of Owners representing at least (a) a majority of the voting power of each class of the Owners, and (b) a majority of the Association's voting power represented by Owners other than Declarant; provided that the specified percentage of each class of Owners necessary to amend a specific provision of these Bylaws may not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. These Bylaws may be amended by a majority of the entire Board, (i) at any time before the Close of Escrow for the sale of the first Condominium, or (ii) if the amendment is within the Board's power to adopt without Owner approval pursuant to the California Corporations Code and either (a) the proposed amendment conforms the Bylaws to California law or the requirements of VA, FHA, DRE, FNMA, GNMA or FHLMC, or (b) the proposed amendment corrects a typographical error in the Bylaws. Any amendment to these Bylaws which materially affects matters listed in Article XI or Section 13.2 of the Declaration must be approved by the Beneficiaries of that percentage of first Mortgages on the Condominiums which is specified in the affected provision of Article XI or Section 13.2 of the Declaration, respectively. If an amendment to these Bylaws materially affects matters listed in both Article XI and Section 13.2 of the Declaration, the amendment must be approved pursuant to the requirements of both Article XI and Section 13.2.

ARTICLE VI MISCELLANEOUS

6.1. **CHECKS, DRAFTS AND DOCUMENTS.** All checks, drafts, orders for payment of money, notes and other evidences of indebtedness issued in the name of or payable to the Association must be signed or endorsed in the manner and by the person or persons the Board designates by resolution, subject to the requirements of Section 2.10.5 for withdrawing money from the Association's reserve accounts.

6.2. **CONFLICTS.** If any of these Bylaws conflict with any laws of the State of California, such conflicting Bylaws shall be void on final court determination to such effect, but all other Bylaws shall remain in full force. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

6.3. **EXECUTION OF DOCUMENTS.** The Board may authorize any officer or agent to enter into any contract or execute any instrument in the name and on behalf of the

Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent, committee member or employee may bind the Association by any contract, pledge the Association's credit, or render the Association liable for any purpose in any amount.

6.4. AVAILABILITY OF ASSOCIATION DOCUMENTS.

6.4.1. Records Maintenance. The Association shall keep at its principal office (or at such other place in or near the Properties as the Board may prescribe) the Restrictions and the Association's books of account, minutes of meetings of Owners, the Board and committees, and the Membership Register (collectively, the "Association Documents"), each of which shall be made available for inspection and copying by any Owner or the Owner's duly appointed representative for a purpose reasonably related to the Owner's interest as an Owner.

6.4.2. Limits on Availability. The Board may establish reasonable rules regarding (a) notice to be given to the custodian of the Association Documents by the Owner desiring to make the inspection, (b) hours and days of the week when such an inspection may be made, and (c) payment of the cost of copying any of the Association Documents requested by an Owner; provided that every Director may at any reasonable time inspect all Association Documents and the physical properties owned or controlled by the Association, and make extracts and copies of documents.

6.4.3. Time of Availability. The minutes, minutes that are proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board (other than an executive session) must be available to Owners within thirty (30) days of the meeting. The minutes, proposed minutes or summary minutes must be distributed to any Owner on request and on reimbursement of the Association's cost in making that distribution.

6.4.4. Distribution to Owners. No later than ten (10) days after the Association receives written request from any Owner, the Association shall provide to that Owner a copy of each of the documents listed in California Civil Code Section 1368(a) that have been requested by the Owner. Owners must be notified in writing when the budget required in Section 2.10.1 is distributed or at the time of any general mailing to the entire Association Membership of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

6.5. FISCAL YEAR. The Board shall select the Association's Fiscal Year. The Fiscal Year is subject to change as the Board determines.

ARTICLE VII
NOTICE AND HEARING PROCEDURE

7.1. INITIAL COMPLAINT. Persons who believe a violation of the Restrictions has occurred may file a complaint with a Person designated by the Board on a form approved by the Board. The Board will commence the enforcement process. In its discretion, the Board may issue one or two violation letters to the Person alleged to have committed the violation ("respondent") or set a hearing described in Section 7.2 below. The Board may direct

the Manager to assist the Board in any of the steps the Board chooses to take in enforcing the Restrictions except that decisions made at hearings must be made by the Board.

7.2. SCHEDULING HEARINGS. A hearing before the Board to determine whether a sanction should be imposed may be initiated by the Board after receipt of at least one complaint. To initiate a hearing, the Board must deliver to the respondent a notice which includes the following:

7.2.1. Complaint. A written statement setting forth in ordinary and concise language the acts or omissions with which the respondent is charged,

7.2.2. Basis for Violation. A reference to the specific provisions of the Restrictions which the respondent is alleged to have violated,

7.2.3. Hearing Schedule. The date, time and place of the scheduled hearing, and

7.2.4. Sanctions. A list of sanctions which may be imposed at the hearing.

The date for the hearing may be no less than fifteen (15) days after the date the notice of hearing is mailed or delivered to the respondent. The respondent is entitled to attend the hearing, submit a statement of defense to the Board in advance of the hearing, or present a statement of defense and supporting witnesses at the hearing. If the respondent does not attend the hearing, the respondent waives these rights.

7.3. CONDUCT OF HEARING. The Board shall conduct the hearing in executive session, affording the respondent a reasonable opportunity to be heard. Before a sanction is effective, proof of notice and the invitation to be heard must be placed in the minutes of the meeting. Such proof is adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the Association officer or Board member who mailed or delivered such notice. The record of the meeting must contain a written statement of the results of the hearing and the sanction, if any, imposed.

7.4. IMPOSITION OF SANCTIONS. After affording the respondent an opportunity for a hearing before the Board, the Board may impose any one or more of the following sanctions: (a) levy a Special Assessment as authorized in the Declaration, (b) suspend or condition the right of any respondent who is not a Declarant to use any recreational facilities the Association owns, operates or maintains commencing on a date in the future selected by the Board, (c) suspend the voting privileges of any respondent who is not a Declarant, (d) enter upon a Condominium to perform maintenance which, according to the Declaration, is the responsibility of the respondent, or (e) record a notice of noncompliance if allowed by law. Any suspension of Membership privileges may not be for a period of more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues. Written notice of any sanctions to be imposed must be delivered to the respondent personally, by any system or technology designed to record and communicate messages, facsimile, electronic mail, or other electronic means, via first class mail or certified mail return

receipt requested, or any combination of the foregoing. No action against the respondent arising from the alleged violation may take effect less than five (5) days after the hearing. No sanction imposed on the Declarant may interfere with Declarant's exercise of the rights reserved in Article XV of the Declaration.

7.5. LIMITS ON REMEDIES. The Board's failure to enforce the Restrictions does not waive the right to enforce them. The remedies provided by the Restrictions are cumulative and not exclusive. However, any individual Owner must exhaust all available internal Association remedies prescribed by the Restrictions before that Owner may resort to a court of law for relief with respect to any alleged violation of the Restrictions by another Owner.

CERTIFICATE OF SECRETARY

I, the undersigned, certify that:

1. I am the duly elected and acting Secretary of WEST OCEAN ASSOCIATION, a California nonprofit mutual benefit corporation ("*Association*"); and
2. The foregoing Bylaws comprising 22 pages including this page constitute the Bylaws of the Association duly adopted by Consent of Directors in Lieu of First Meeting dated November 1, 2004.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the seal of the Association effective this 1st day of November, 2004.



Joanne Rowland, Secretary

(SEAL)