



# City of San Leandro

Meeting Date: February 19, 2019

## Staff Report

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**File Number:** 19-031

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.G.

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Keith Cooke  
Engineering & Transportation Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for a City of San Leandro City Council Resolution to Approve Parcel Map 10850 for 84 Oakes Boulevard, Assessor's Parcel Number 076-0420-003; Owner, Subdivider and Applicant: Rongkang Wang

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### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council adopt a Resolution approving Parcel Map 10850 for 84 Oakes Boulevard, a single-lot subdivision for condominium purposes.

### BACKGROUND

The subject property is located on the north side of Oakes Boulevard between East 14th Street and Maple Court. The property is owned by Rongkang Wang and currently a single family residence is on the land. To the south and east sides of the property are single family homes, and to the north and west sides are multi-family residential buildings. The site is currently zoned as RM-1800, Residential Multi-Family.

### Analysis

The property is approximately 9,600 square feet (0.22 acres) with 60 feet of frontage on Oakes Boulevard, and a depth of 160 feet. The parcel map is for a three-unit condominium with two new units to be added to the rear of the existing single family home. The existing single family home is approximately 1,789 square feet in floor area and the proposed duplex in the rear will be approximately 3,111 square feet with two stories. The maintenance responsibilities of each residential unit will be defined in a Conditions, Covenants, and Restrictions (CC&Rs) document. A copy of the CC&Rs are attached to this report.

On November 2, 2017, the Board of Zoning Adjustment approved Planning application, PLN17-0002, approving the Planned Development. Parcel Map 10850 conforms to the approved Planned Development.

**City Planner's Review:** The City Planner examined the Parcel Map in relation to the existing zoning, the proposed size and location of lots, the requirements of the General Plan, the applicable Specific Plans and similar considerations per the attached City Planner's report.

**City Engineer's Findings:** The City Engineer examined Parcel Map 10850 and found that it complies with California State Law and local ordinances. In addition, the City's consulting Land Surveyor is satisfied that Parcel Map 10850 is technically correct pursuant to California Government Code §66450(b).

### **Current Agency Policies**

- Title VII, Chapter 1 of the San Leandro Municipal Code and the Subdivision Map Act set forth the authority and procedure for processing parcel maps.

### **Previous Actions**

- On November 2, 2017, by motion, the Board of Zoning Adjustments (BZA) approved the Conditional Use Permit and Site Plan Review, subject to Conditions of Approval, for PLN17-0002.

### **Applicable General Plan Policies**

**Policy LU-1.1 - Housing Maintenance:** Support the on-going conservation, maintenance and upgrading of the City's housing inventory.

**Policy LU-1.9 - Multi-Family Housing Upkeep:** Maintain and enforce high standards of property upkeep for existing and new multi-family rental housing development.

**Policy LU-2.8 - Alterations, Additions, and Infill:** Ensure that alterations, additions and infill development are compatible with existing homes and maintain aesthetically pleasing neighborhoods.

**Goal LU-3:** Provide housing opportunities and improve economic access to housing for all segments of the community.

**Policy LU-3.1 - Mix of Unit Types:** Encourage a mix of residential development types in the city, including single family homes on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments, garden apartments and medium to high density multi-family housing.

### **Permits and/or Variances Granted**

PLN17-0002.

**Board/Commission Review and Actions**

- On November 2, 2017, by motion, the Board of Zoning Adjustments (BZA) approved the Conditional Use Permit and Site Plan Review, subject to Conditions of Approval, for PLN17-0002.

**Fiscal Impacts**

All costs incurred in preparing and processing the Parcel Map 10850 will be paid by the applicant.

**ATTACHMENTS**

**Attachments to Staff Report**

1. Agreement to Conditions for PLN17-0002
2. CC&Rs

**Attachments to Related Legislative File**

1. Parcel Map 10850
2. City Planner's Report
3. City Engineer's Report

**PREPARED BY:** Vibha Deshmukh, Associate Engineer, Engineering and Transportation Department

**RECORDING REQUESTED BY:**

City of San Leandro  
Planning Services Division  
835 East 14th Street  
San Leandro, California 94577

**WHEN RECORDED MAIL TO:**

Tamika Greenwood, City Clerk  
City of San Leandro  
835 East 14th Street  
San Leandro, California 94577



2017278935

12/19/2017 02:55 PM

OFFICIAL RECORDS OF ALAMEDA COUNTY  
STEVE MANNING  
RECORDING FEE: 0.00



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**THIS SPACE FOR RECORDER'S USE ONLY**

*(No fee pursuant to Government Code Section 27383)*

**AGREEMENT TO CONDITIONS**

**PLN17-0002**

**84 Oakes Boulevard**

**Alameda County Assessor's Parcel Number 76-420-3**

**RongKang Wang (Applicant/Property Owner)**

THIS AGREEMENT is entered into by and between the CITY OF SAN LEANDRO, a municipal corporation, hereinafter referred to as "City", and RongKang Wang, hereinafter referred to as "Applicant/Property Owner".

Applicant applied for and received a Conditional Use Permit and Site Plan Review Approval, for a multi-family residential project where two new residential units with covered parking are proposed behind an existing single family residence, on a substandard lot, at 84 Oakes Boulevard, Alameda County Assessor's Parcel Number 76-420-3. A total of seven covered parking spaces will be added to the site, four of the parking spaces will be within garages and the remaining three will be within carports. The existing house will be slightly modified to allow for driveway access and the existing detached garage will be demolished. For the new units, the middle unit will be located above a proposed garage and the carports and will be approximately 1,337 square feet with two bedrooms and two bathrooms. The rear unit will be approximately 1,317 square feet and will have three bedrooms and two bathrooms with an attached garage.

NOW, THEREFORE, pursuant to the applicable provisions of the Zoning Code, it is mutually agreed as follows:

1. Applicant\Property Owner agrees to comply with the Conditions of Approval adopted by the City of San Leandro Board of Zoning Adjustments, more specifically described in the list of Conditions of Approval, attached hereto, and as described in the exhibits on file in the Community Development Department, all of which are incorporated herein by this reference.

2. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

3. City is authorized to record this agreement and any amendments thereto with the Alameda County Recorder, California. All amendments hereto must be in writing and signed by the appropriate

authorities of the City and Applicant. The Applicant\Property Owner will be charged the costs of recordation and agrees to pay same. Conditions run with the land and are binding to future owners of the property.

4. Applicant\Property Owner has read and fully understands all of the foregoing terms and conditions, and hereby agrees that all said terms and conditions are as approved by the San Leandro Board of Zoning Adjustments in accordance with law, and hereby agree to comply with all of said terms and conditions.

**IN WITNESS WHEREOF**, duly executed by the parties as of the day and year below written.

This **CONDITIONAL USE PERMIT** must be exercised within **ONE YEAR** or it expires.

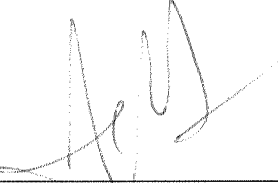
(Acknowledgment)

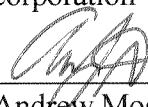
**RongKang Wang, as Applicant/Property Owner.**


RongKang Wang 12/31/2017  
**Signature** **Date**

RongKang Wang  
**Print Name**

Receipt of Executed Approval: I hereby certify that I am the Secretary to the Board of Zoning Adjustments of the City of San Leandro and in that capacity did receive this copy of **PLN17-0002** Agreement to Conditions fully executed by all parties thereto, and that the effective date of this zoning approval granted herein is **November 2, 2017**.

Attest:   
Tamika Greenwood, City Clerk

CITY OF SAN LEANDRO, a municipal corporation  
  
Andrew Mogensen, AICP, Secretary  
Board of Zoning Adjustments

Approved as to Form:  
  
Richard Pio Roda, City Attorney

# California All-Purpose Certificate of Acknowledgment

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 Alameda s.s.

On December 3, 2017 before me, Doug Ricardo (Notary Public)

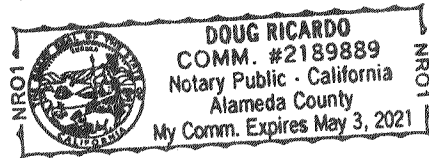
personally appeared Rongkang Wang

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.

Doug Ricardo  
Signature of Notary Public



### OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

### Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of \_\_\_\_\_

"Agreement to conditions"  
containing \_\_\_\_\_ pages, and dated \_\_\_\_\_.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-fact
- Corporate Officer(s) \_\_\_\_\_
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: \_\_\_\_\_

representing: \_\_\_\_\_

### Additional Information

#### Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

form(s) of identification  credible witness(es)

Notarial event is detailed in notary journal on:

Page # \_\_\_\_\_ Entry # \_\_\_\_\_

Notary contact: \_\_\_\_\_

Other

Additional Signer  Signer(s) Thumbprints(s)

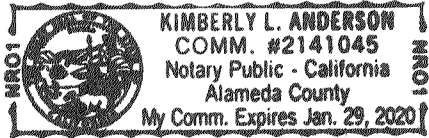
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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 )
) ss.
County of Alameda )

On December 4, 2017 before me, KIMBERLY L. ANDERSON, NOTARY PUBLIC,
personally appeared Andrew Mogensen,

My commission number is 2141045.



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 executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

My commission expires on January 29, 2020.

WITNESS my hand and official seal.

Handwritten signature of Kimberly L. Anderson, Notary Public, with printed text 'Signature of Notary Public' below it.

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: Agreement to Conditions, PLN17-0002; 84 Oakes Blvd.

Document Date: November 2, 2017

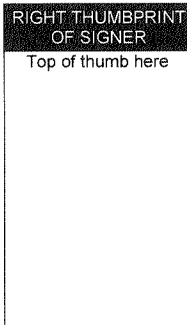
Number of Pages: 9

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

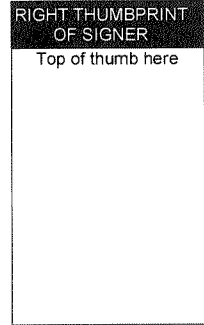
- Individual
Corporate Officer - Title(s):
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:



Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

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



Signer is Representing: \_\_\_\_\_

## CONDITIONS OF APPROVAL

PLN17-0002  
84 Oakes Boulevard  
Alameda County Assessor's Parcel Number 76-420-3  
RongKang Wang (Applicant/Property Owner)

### I. COMPLIANCE WITH APPROVED PLANS

- A. The project shall comply with Exhibits A through G, approved November 2, 2017, except as herein modified. Exhibits are on file at the City of San Leandro, Community Development Department, 835 East 14th Street, San Leandro, California.

Exhibit A – Proposed Site Plan, Streetscape  
Exhibit B – Proposed Ground Floor Plan  
Exhibit C – Proposed Second Floor Plan  
Exhibit D – House Elevations  
Exhibit E – Proposed Landscape and Drainage Plan  
Exhibit F – Building Cross Section A-A  
Exhibit G – Existing Floor Plan, Elevations, Site Demolition Plan

- B. The property owner and/or applicant shall be responsible for assuring that any successor in interest who assumes responsibility for this zoning approval is informed of its terms and conditions.
- C. Construction shall commence within one (1) year following Board of Zoning Adjustments approval of the Conditional Use Permit and Site Plan Review; and shall be substantially completed one year after commencement of construction. For the purpose of compliance with this condition, commencement of construction shall be defined as the construction of a substantial portion of the building foundation structures.
- D. Prior to issuance of building permits, all building specifications shall be submitted for review and approval to the Zoning Enforcement Official to ensure the quality of the exterior design. Said plans shall indicate the exact type of wood siding, composition shingles, wood trims and corbels, light fixtures, and window and door manufacturers to ensure that exterior materials and finishes match the existing dwelling and meet the standards specified in the approved exhibits. Any changes to the approved building specifications must be made in writing to the Zoning Enforcement Official, who may either administratively approve the modification or bring it back to the Board of Zoning Adjustments for review. In addition, a final color and materials board shall be submitted for the exterior for the review and approval of the Zoning Enforcement Official, prior to issuance of building permits.



- E. Prior to issuance of building permits a final landscape and irrigation plan shall be submitted to the Zoning Enforcement Official for review and approval. Said plans shall include, but is not limited to, trees with a minimum size of 15 gallons, a pallet of shrubs and ground cover planting that is flowering plants, or plants that have colorful foliage. The minimum size for the shrubs shall be five gallons and the ground cover shall be one gallon or shall be from flats with the necessary spacing to cover the planter areas in one growing season.
- F. Prior to issuance of a Certificate of Occupancy for the new units, the final landscaping and irrigation specified on the final landscape and irrigation plan shall be completely installed to the satisfaction of the Zoning Enforcement Official.
- G. Prior to issuance of building permits, the applicant shall submit final details and specifications and a sample of the proposed concrete (color or wash details) driveway, and/or concrete/stone pavers to be used for the project for the review and approval of the Zoning Enforcement Official and City Engineer.
- H. Prior to issuance of building permits, applicant shall submit a checklist showing that the project meets the minimum green building rating for a residential buildings, according to the most current GreenPoint Rated for Newly-Constructed Residential Buildings, or equivalent green building rating system as adopted by the City of San Leandro at the time of submittal for building permits. Features indicated on said checklist shall be incorporated into building permit plans.

## **II. PERMITTED USE**

- A. This is an approval of a Conditional Use Permit and Site Plan Review Approval, for a multi-family residential project where two new residential units with covered parking are proposed behind an existing single family residence, on a substandard lot, at 84 Oakes Boulevard, Alameda County Assessor's Parcel Number 76-420-3. A total of seven covered parking spaces will be added to the site, four of the parking spaces will be within garages and the remaining three will be within carports. The existing house will be slightly modified to allow for driveway access and the existing detached garage will be demolished. For the new units, the middle unit will be located above a proposed garage and the carports and will be approximately 1,337 square feet with two bedrooms and two bathrooms. The rear unit will be approximately 1,317 square feet and will have three bedrooms and two bathrooms with an attached garage.

- B. No application for amendment of the application or Conditions of Approval may be submitted or accepted for processing by the city unless (i) there is full compliance with all other legally binding documents regulating development on the property; and (ii) there is full compliance with all terms of the application and Conditions of Approval, or (iii) the Zoning Enforcement Official has waived compliance with the terms of the application because they are minor in content.
- C. Construction of the project shall remain in substantial compliance with the approved exhibits and plans. Any change to the project design, materials or colors shall be subject to the review and approval of the Zoning Enforcement Official who may administratively approve or require review by the Board of Zoning Adjustments as a modification to appropriate application approval listed above. Revisions involving substantial changes in project use, design, or conditions of approval shall be treated as new applications, to be reviewed as a new project.

**III. ENGINEERING AND TRANSPORTATION REQUIREMENTS**

- A. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the applicant for this Project that the 90-day approval period (in which the applicant may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project. If the applicant fails to file a protest within this 90-day period, complying with all of the requirements of Government Code Section 66020, the applicant will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
- B. The proposed development shall comply with City ordinances, policies and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the Principal Engineer.
- C. A Development Fee for Street Improvements (DFSI) shall be assessed for the two proposed dwelling units approximately in the amount of \$2,669.68 which is calculated at \$1,334.84 per housing unit and shall be paid prior to issuance of the building permit. These fees are subject to change each fiscal year and will not be vested until issuance of building permit.
- D. A Park Facilities Development Impact Fee shall be assessed assuming 2 dwelling unit (du) will be added to the property as follows:

Park Land Acquisition Fee:	\$12,681.94/du or \$25,237.88
Park Improvement Fee:	\$2,123.42/du or \$4,246.84
Total Park Impact Fee:	\$14,805.36/du or <u>\$29,610.72</u>

Please note that this is an estimated amount. These fees are subject to change at the start of each fiscal year and will not be vested until issuance of building permit.

#### **IV. FENCING AND SCREENING REQUIREMENTS**

- A. All fencing and walls on the project site shall be structurally sound, graffiti free and well maintained at all times.
- B. Barbed or razor wire shall not be installed on any fence or buildings on the property.
- C. All walls, fences, and landscaping within the 10 foot front setback or driveway shall be maintained at a height of not more than 36 inches above the top of the nearest adjacent curb and gutter to allow for adequate sight distance, or unless otherwise approved by the City's Transportation Engineer.
- D. Prior to issuance of Certificate of Occupancy, all electrical or gas meters, utility switch boxes, telephone interface cabinets, outdoor refuse, or other utility areas shall be enclosed or screened from view by a fence, wall or landscaping; details subject to approval of the Zoning Enforcement Official. The enclosure or screen shall be painted to match the color of the exterior of the building wall that it is affixed to.

#### **V. MAINTENANCE**

- A. The project site and public right-of-way shall be well maintained and shall be kept free of litter, debris, and weeds at all times; during construction, the site shall be well maintained and shall be kept free of litter, debris, and weeds. Post construction, the project site and public right of way shall be well maintained and shall be kept free of litter, debris and weeds. The property owner shall be responsible for the maintenance of the project site and adjacent public right-of-way.
- B. Any graffiti shall be promptly removed from building walls and/or fences. The developer and its successors in interest shall comply with the rules and regulations of the City's graffiti removal program and shall grant a license and right of entry as requested to enforce the terms of such program.
- C. All landscaping improvements located on the project site and within adjacent public right-of-way shall be maintained in a healthy, growing condition at all times. Any trees by the sidewalks shall be maintained so as not to interfere or obstruct the public right-of-way for pedestrians and vehicles. The landscaping adjacent to the driveways and in the parkway strips shall be maintained so it does not exceed three feet in height above the top of the nearest adjacent curb and gutter to allow for adequate sight distance, or unless otherwise approved by the City's Transportation Engineer.

- D. The trash and recycle bins shall be kept inside the designated trash enclosure space and kept out of public view, except when it is necessary to place them at the curbside on days that the contents of the containers are picked up for disposal.
- E. There shall be no parking or storage of boats, trailers, camper tops, inoperable vehicles and the like outside the buildings, within the project. In addition, the garages shall not be used for storage, converted to living area, or any other use that would obstruct the garage to prevent its use for vehicle parking.

## **VI. CONSTRUCTION PROVISIONS**

- A. Construction activity shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m. Monday through Friday, and construction activity shall not commence prior to 8:00 a.m. and shall cease by 7:00 p.m. on Sunday and Saturday. No such construction is permitted on Federal holidays. As provided in this City of San Leandro's Noise Ordinance (ORDINANCE NO. 2003-005), "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public right-of-way, streets, structures, utilities, facilities or similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-1-1130, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity.
- B. Construction activity shall not create dust, noise, or safety hazards for adjacent residents and properties. Dirt and mud shall not be tracked onto Oakes Boulevard from the project site. Standard construction dust control procedures, such as wetting, daily roadwashing and other maintenance functions to control emissions, shall be implemented at all times during outdoor construction. Dust generating activities such as grading, excavation, paving, etc. shall be scheduled the early morning and other hours when wind speeds are low. All construction activities entailing soil disturbance shall cease when winds exceed 30 miles per hour as an hourly average.
- C. The developer shall prepare a construction truck route plan that would restrict trucks to arterial streets that have sufficient pavement section to bear the heavy truck traffic, thereby minimizing noise and traffic impacts to the community. The construction truck route plan shall be reviewed and approved by the City Transportation Administrator prior to receipt of the grading permit.
- D. Truck hauling activities shall be restricted to 8:00 a.m. to 5:00 p.m. There shall be no truck hauling activity on Saturdays, Sundays and Federal holidays.
- E. Procedures with the highest noise potential shall be scheduled for daylight hours, when ambient noise levels are highest.

- F. The contractor(s) shall be required to employ the quietest among alternative equipment or to muffle/control noise from available equipment.
- G. All construction contracts shall include the following requirements: 1) Unpaved construction sites shall be sprinkled with water at least twice per day; 2) Trucks hauling construction materials shall be covered with tarpaulins or other effective covers; 3) Streets surrounding demolition and construction sites shall be swept at least once per day; and 4) Paving and planting shall be done as soon as possible. City shall charge developer, and developer shall pay, for all costs of sweeping city streets in the vicinity of the project as necessary to control dust and spillage.
- H. The property shall be secured during construction with a six (6) foot tall chain link fence and any other security measures in accordance with recommendation of the San Leandro Police Department.
- I. Pest and vermin control shall be instituted prior to the demolition and construction of the project.

## **VII. FIRE DEPARTMENT REQUIREMENTS**

- A. A Fire Protection system will be required for the project (all residences).
- B. A Fire Alarm System meeting the requirements of monitoring will be required for this project.
- C. All emergency egress windows shall have the ability to achieve a rescue ladder angle of 65 degrees.
- D. Carbon monoxide detectors are required in all units per the California Building and Fire Code.
- E. Smoke Alarm are required for per the California Building Code.
- F. A Monument sign for address will be required for this project.

## **VIII. GENERAL CONDITIONS**

- A. All exterior mechanical equipment such as air conditioning/heating units and radio/television antennas shall be screened from view so as not to be visible from adjacent properties or streets to the satisfaction of the Zoning Enforcement Official. This condition shall not apply to wireless cable receivers that do not exceed three feet in diameter.
- B. All garage doors shall be equipped with electronic remote controlled garage door openers.

- C. Garage and carport parking spaces shall only be used for passenger vehicle parking.
- D. Final building plans submitted for building permit shall incorporate a range of water conservation measures to substantially reduce average per capita daily use. These measures shall include the use of equipment, devices and methods for plumbing fixtures and irrigation that provide for long-term efficient water use, subject to the review and approval of the Building Official.
- E. A range of energy conservation measures, such as use of energy conserving appliances and indoor and outdoor lighting, shall be incorporated into the final building plans, to substantially reduce average per capita daily consumption.
- F. Cable Television facilities for the project shall be installed in conformance with the City's design and Construction Standards for ground mounted Cable TV facilities.
- G. Any outstanding planning deposit fees shall be paid prior to issuance of a building permit.
- H. Developer shall pay its City development, permitting, and plan checking fees in accordance with the fee schedules in effect at the time of the Building Permit approval.
- I. The approvals granted by the City as a result of this application, as well as the Conditions of Approval, shall be recorded in the Office of the County Recorder of Alameda County.
- J. No application for amendment of the application or Conditions of Approval may be submitted or accepted for processing by the city unless (i) there is full compliance with all terms of the application and Conditions of Approval; or (ii) the Zoning Enforcement Official can waive compliance with the terms of the application if they are minor in content.
- K. Pursuant to Zoning Code Section 5-2218.A and 5-2516.B, this approval shall lapse on **November 2, 2018** unless a) a grading permit or building permit has been issued, coupled with diligent progress evidencing good faith intention to commence the intended use; or b) an occupancy permit has been issued; or c) the approval is renewed, as provided for in Section 5-2218.E.

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP FOR 84 OAKES BOULEVARD CONDOMINIUMS

THIS DECLARATION is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by RONGKANG WANG, hereinafter referred to as “Declarant.”

### RECITALS

THIS DECLARATION is made with reference to the following facts:

A. Declarant is the Owner of all that certain real property (the “Property”) located in the City of San Leandro, Alameda County, State of California, and particularly described in Exhibit A attached.

B. The Property, along with its improvements, shall also be referred to as the “Project,” as defined in Section 1.26. By this Declaration, Declarant intends to establish a plan of Condominium ownership for three (3) residential Condominium Units and a Common Area within the meaning of California Civil Code Section 4125.

C. It is Declarant’s intention to subject the Project, and the use and ownership thereof, now and in the future, to certain limitations, covenants, conditions, restrictions, easements, liens, charges and equitable servitudes as are set forth in this Declaration for the benefit of the Project and the current and future Owners and users thereof.

D. This Declaration shall become effective upon the execution and recordation of this Declaration.

**NOW, THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:**

## ARTICLE 1 - DEFINITIONS

Unless otherwise indicated, the following terms shall have the following meanings when used in this Declaration:

1.1 Act. "Act" means Sections 4000 through 6150, inclusive, of the Civil Code of California, entitled "Davis-Stirling Common Interest Development Act," as the same may be amended from time to time.

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

1.3 Assessments. "Assessment" means a charge levied by the Association against an Owner and his or her Condominium in accordance with the provisions of this Declaration. The specific types of Assessments are defined as follows:

(A) "Regular Assessment" means a charge levied against an Owner and his or her Condominium for such Owner's proportionate share of the Association's annual costs as provided in Article 12.

(B) "Special Assessment" means a charge levied against an Owner and his or her Condominium for other purposes as provided in Article 12.

(C) "Reimbursement Assessment" means a charge levied against an Owner and his or her Condominium as a fine or to repay or reimburse the Association as provided in Section 12.11.

1.4 Association. "Association" shall mean and refer to 84 OAKES BOULEVARD HOMEOWNERS' ASSOCIATION, an unincorporated association, and its successors and assigns.

1.5 Association Rules. "Association Rules" shall mean the rules adopted by the Association as provided in Section 7.1(D).

1.6 Bylaws. "Bylaws" means the Association's Bylaws and any amendments which set forth procedural matters relating to the internal governance of the Project.

1.7 Common Area. "Common Area" means the entire Project except all Units as defined in this Declaration and as shown on the Condominium Plan.

1.8 Condominium. "Condominium" means an estate in real property, as defined in California Civil Code Section 4125, consisting of an undivided interest as a tenant in common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as are described in this Declaration, in the Condominium Plan, or in the deed conveying the Condominium.



1.9 Condominium Plan. "Condominium Plan" means that certain Condominium Plan prepared and recorded pursuant to California Civil Code Section 4285 with respect to the Project, and any amendments to the Condominium Plan. The Condominium Plan is attached hereto as Exhibit B. The execution of this Declaration by Declarant or the execution of a subordination by any lender constitutes consent to the recording of the Condominium Plan.

1.10 County. "County" means the County of Alameda, State of California.

1.11 Declarant. "Declarant" means RONGKANG WANG and any successor or assign to whom Declarant assigns its interest as Declarant in whole or in part.

1.12 Declaration. "Declaration" means this Declaration of Covenants, Conditions and Restrictions and any amendments or supplements hereto.

1.13 Eligible Insurer or Guarantor. "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a first Mortgage who has requested notice of certain matters from the Association pursuant to Section 16.5 of this Declaration.

1.14 Eligible Mortgage. "Eligible Mortgage" means a mortgage held by an "Eligible Mortgagee".

1.15 Eligible Mortgagee. "Eligible Mortgagee" means a first Mortgagee who has requested notice of certain matters from the Association pursuant to Section 16.5 of this Declaration.

1.16 Exclusive Use Common Area. "Exclusive Use Common Area" means that portion of the Common Area that is reserved for the exclusive use of an Owner but located outside the boundaries of that Owner's Unit. The boundaries or location of and limitations on the Exclusive Use Common Area are described in Section 4.3 and shown on the Condominium Plan.

1.17 Governing Documents. "Governing Documents" is a collective term that means and refers to this Declaration, the Bylaws, the Articles and to the Association Rules.

1.18 Improvement. "Improvement" includes, without limitation, the physical existence, construction, installation, alteration, or remodeling of any building, walls, ceilings, floors and floor coverings, decks, appliances, fixtures, paint, framing, windows, doors, fences, landscaping, landscaping structures, skylights, utility systems, or any structure of any kind within the Project, including within the Units.

1.19 Insurance Trustee. "Insurance Trustee" means an institutional lender, commercial escrow company or title company with trust powers in the County as may be designated by the Association to hold and disburse funds as trustee for the Association and the Owners, as provided in Section 13.1(A).

1.20 Insurer or Guarantor. “Insurer” or “Guarantor” shall mean an insurer or governmental guarantor of a Mortgage.

1.21 Map. “Map” shall mean and refer to that Parcel Map No. 10850, filed for record the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in Book \_\_\_\_ of Parcel Maps at pages \_\_\_\_ and \_\_\_\_\_, Alameda County Records.

1.22 Member. “Member” means every person or entity holding a membership in the Association, and whose rights as a Member are not suspended pursuant to Section 7.1(D).

1.23 Mortgage. “Mortgage” means a bona fide mortgage or deed of trust which encumbers a Condominium or other portion of the Project.

1.24 Mortgagee. “Mortgagee” means the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage. A “first” Mortgage, or “first” Mortgagee is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Condominium or other portions of the Project. An “institutional” Mortgagee is a Mortgagee that is a bank or savings and loan association or Mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property or investing in such loans, or any insurance company or any federal or state agency or instrumentality, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. The term “Mortgagee” also shall mean the United States Department of Housing and Urban Development, or the United States Department of Veterans Affairs, if either are a first Mortgagee or a first Mortgagee Insurer or Guarantor.

1.25 Owner. “Owner” means the record fee title Owner, whether one or more persons or an entity, of a fee simple title to any Condominium and shall include a contract purchaser, provided the contract purchaser is in possession under a recorded contract of sale. “Owner” shall also mean Member of the Association. “Owner” shall not include any person who holds an interest in a Condominium merely as security for the performance of an obligation or as a tenant.

1.26 Project. “Project” means the Property and all the Improvements on the Property.

1.27 Property. “Property” means that parcel of real property described in Recital A, and more particularly described in Exhibit A attached.

1.28 Unit. “Unit” means the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Project. Such Units and their respective boundaries are shown on and more particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration. “Unit” does not include other interests in real property that are less than estates in real property, such as exclusive or nonexclusive easements. In interpreting deeds and plans the

existing physical boundaries of a Unit or of a Unit reconstructed in substantial accordance with the original plan shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan, regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Declaration, in the Condominium Plan, in any deed, or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements.

1.29 Utility Systems. "Utility Systems" means any sanitary sewer, drainage, water, electric, and gas, pipes, fire sprinkler system, cables and/or lines, as the case may be, serving any Unit or the Common Area.

## **ARTICLE 2 - APPLICABILITY OF RESTRICTIONS**

2.1 Submission. Declarant declares that the Project is, and shall be, held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in the Act for the subdivision, improvement, protection, maintenance, and sale of Condominiums within the Project, and all of which are declared to be for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Project and every part thereof. All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in the Project, and shall be binding upon and inure to the benefit of the successors in interest of such persons.

2.2 Incorporation of Declaration Into Instruments. Any deed or other instrument by which a Condominium is conveyed shall be subject to the provisions of this Declaration and shall incorporate the provisions of this Declaration, whether or not such deed or other instrument makes reference hereto.

## **ARTICLE 3 - COMPLIANCE WITH GOVERNING DOCUMENTS**

3.1 Compliance with Governing Documents. All present and future Owners, occupants and tenants of Units within the Project shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Condominium, the entering into a lease, sublease or contract of sale with respect to any Unit, or the occupancy of any Unit shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of the Governing Documents, as the same or any of them may be amended from time to time, shall be binding upon such Owner, tenant or

occupant and that such Owner, tenant or occupant will observe and comply with the Governing Documents.

3.2 Resolution of Conflicts Between Documents. To the extent of any conflict between the Governing Documents and the law, the law shall prevail. To the extent of any conflict between the Articles and the Declaration, the Declaration shall prevail. To the extent of any conflict between the Bylaws and the Articles or Declaration, the Articles or Declaration shall prevail. To the extent of any conflict between the Association Rules and the Bylaws, Articles, or Declaration, the Bylaws, Articles, or Declaration shall prevail.

## **ARTICLE 4 - PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS**

4.1 Elements of Condominium. Ownership of each Condominium within the Project shall include a fee interest to a Unit; an undivided percentage or fractional interest in the Common Area which is set forth in Exhibit C and shall be specified in the deed from Declarant to each Owner and which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a Condominium remains in effect as provided in this Declaration; a membership in the Association; and the exclusive use of any Exclusive Use Common Area appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan and the deed to the Condominium.

4.2 Owners' Nonexclusive Rights; Association Rights. Every Owner has nonexclusive rights of use, enjoyment, ingress, egress, and support in, to, and throughout the Common Area and any Improvements or facilities on the Common Area. However, such nonexclusive rights shall be subordinate to, and shall not interfere with, any Owner's rights with respect to Exclusive Use Common Area. Each such nonexclusive right shall be appurtenant to the respective Condominium and shall pass with the title to the Condominium. Nonexclusive rights shall be subject to the right of the Association to adopt and to enforce Association Rules with respect to the Common Area, including any Exclusive Use Common Area.

4.3 Exclusive Use Common Area. Exclusive Use Common Area for each Unit is shown on the Condominium Plan and described in this Section.

(A) Parking Spaces. The Owner of Unit B shall have the exclusive right to use and enjoy those parking spaces designated on the Condominium Plan as "P-B." The approximate dimensions of each parking space are shown on the Condominium Plan.

(B) Garage. The Owner of Unit A shall have the exclusive right to use and enjoy that garage space designated on the Condominium Plan as "G-A." The approximate dimensions of the garage space are shown on the Condominium Plan.

(C) Entry. The Owner of Unit C shall have the exclusive right to use and enjoy that entry designated on the Condominium Plan as "E-C." The approximate

dimensions of the entry are shown on the Condominium Plan.

(D) Storage. The Owner of each Unit shall have the exclusive right to use and enjoy that storage area designated on the Condominium Plan as such and bearing each Owner's Unit designation (e.g., "S-A" designates the storage area to be used exclusively by the Owner of Unit A, etc.). The approximate dimensions of each storage area are shown on the Condominium Plan.

(E) Trash Areas. The Owner of each Unit shall have the exclusive right to use and enjoy that trash area designated on the Condominium Plan as such and bearing each Owner's Unit designation (e.g., "T-A" designates the trash area to be used exclusively by the Owner of Unit A, etc.). The approximate dimensions of each trash area are shown on the Condominium Plan.

(F) Yard Areas. The Owner of each Unit shall have the exclusive right to use and enjoy that yard area designated on the Condominium Plan as such and bearing each Owner's Unit designation (e.g., "Y-A" designates the yard area to be used exclusively by the Owner of Unit A, etc.). The approximate dimensions of the yard areas are shown on the Condominium Plan.

(G) Mailbox. The Owners of Unit B and Unit C shall share equally the exclusive right to use and enjoy that mailbox designated on the Condominium Plan as "M-B/C." The approximate dimensions of the mailbox are shown on the Condominium Plan.

(H) Partition Wall. The Owners of Unit B and Unit C shall share equally the exclusive right to use and enjoy that partition wall designated on the Condominium Plan as "W-B/C." The approximate dimensions of the partition wall are shown on the Condominium Plan.

Exclusive Use Common Area reserved for each Owner shall be appurtenant to such Owner's Unit and may not be conveyed or transferred apart from the Unit. Except as expressly provided in this Declaration, no other portion of the Project is Exclusive Use Common Area. All easements to Exclusive Use Common Area are subject to the right of the Association to enter in and upon Exclusive Use Common Area as provided by and pursuant to the limitations upon such right as set forth in this Declaration.

4.4 No Severance. No Owner shall be permitted to sever his or her Unit from his or her membership in the Association and none of the component interests in a Condominium can or shall be severed from the other component interests or separately sold, conveyed, encumbered, hypothecated or otherwise transferred. Any sale, conveyance, encumbrance, hypothecation, transfer or other action in violation of this prohibition shall be void.

4.5 Provisions For Partition of Common Area. Except as expressly provided in this clause, an Owner shall have no right to partition or divide his or her ownership of the Common Area. Partition of the Common Area can be had on a showing that the

conditions for such partition as stated in Section 14.6 (relating to damage or destruction) or in Section 15.2 (relating to condemnation) or in Civil Code Section 4610 have been met. Nothing in this Declaration shall prevent partition of a cotenancy in a Condominium. Proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums determined as provided in Section 15.4, but as of a date immediately prior to the event giving rise to the right of Owners to partition the Common Area.

#### 4.6 Leasing of Units and Delegation of Use.

(A) Subject to the Governing Documents, any Owner may delegate the Owner's rights to use and enjoy the Common Area to members of the Owner's family, guests, the Owner's tenants, employees and invitees.

(B) An Owner may rent his or her Unit subject to the following rules and restrictions: No Unit may be rented for transient or hotel purposes, which shall be defined as (i) a rental for any period less than thirty (30) days, or (ii) any rental if the occupants are provided customary hotel services such as room service for food and beverage, maid service, or laundry service. Any lease or rental agreement between an Owner and a tenant (including a roommate) shall be in writing and shall provide that it is in all respects subject to the provisions of the Governing Documents, that any failure by the tenant to comply with such provisions shall be a default under the lease or rental agreement, and that all provisions of the Governing Documents shall be deemed incorporated by reference in such lease or rental agreement. However, the failure of any lease or rental agreement to so provide shall not excuse the tenant from complying with such provisions. Any lease or rental agreement shall also provide that the tenant may not sublease the Unit. In the event of any default under the lease or rental agreement, the Owner shall take all action to cure the default including, if necessary, eviction of the tenant. Each Owner-lessor shall provide any tenant or lessee with a current copy of all Governing Documents. A renting Owner shall comply with any and all applicable state and local laws regarding the rental of residential property.

(C) An Owner shall not be released or relieved from the obligation to pay Assessments by reason of any lease or rental of such Owner's Unit, regardless of whether the obligation to pay Assessments has been delegated to the tenant. The Association and each Owner shall have a right of action directly against any tenant, as well as against the Owner, for nonperformance of any of the provisions of the Governing Documents to the same extent that such right of action exists against such Owner.

4.7 Obligations of Owners. Owners of Condominiums within the Project shall be subject, without limitation, to the following:

(A) Notification of Use Delegation. Each Owner shall provide the other Owners with the names of any contract purchaser or tenant of the Owner's

Condominium, the current address and telephone number of the Owner if the Owner is not residing on the Project and a true and complete copy of any lease or rental agreement.

(B) Notification Regarding Governing Documents. This Section is intended to implement the requirements established by Section 4525 of the California Civil Code. To the extent that Section 4525 is amended or replaced, the provisions of this Section shall be automatically amended and replaced by the new statutory provisions. As more particularly provided for in California Civil Code Section 4525, the Owner of a separate interest shall provide the following documents to a prospective purchaser of the separate interest, as soon as practicable before the transfer of title or the execution of a real property sales contract, as defined in Civil Code Section 2985: (i) A copy of all Governing Documents. If the Association is not incorporated, this shall include a statement in writing from an authorized representative of the Association that the Association is not incorporated; (ii) If there is a restriction in the Governing Documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Civil Code Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3; (iii) A copy of the most recent documents distributed pursuant to Article 7 (commencing with Civil Code Section 5300) of Chapter 6; (iv) A true statement in writing obtained from an authorized representative of the Association as to the amount of the Association's current regular and special Assessments and fees, any Assessments levied upon the Owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the Owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the Owner's interest in a common interest development pursuant to Article 2 (commencing with Civil Code Section 5650) of Chapter 8; (v) A copy or a summary of any notice previously sent to the Owner pursuant to Civil Code Section 5855 that sets forth any alleged violation of the Governing Documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the Association's right to enforce the Governing Documents against the Owner or the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require an Association to inspect an Owner's separate interest; (vi) A copy of the initial list of defects provided to each member pursuant to Civil Code Section 6000, unless the Association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the association complies with Section 6100. Disclosure of the initial list of defects pursuant to this paragraph does not waive any privilege attached to the document. The initial list of defects shall also include a statement that a final determination as to whether the list of defects is accurate and complete has not been made; (vii) A copy of the latest information provided for in Civil Code Section 6100; (viii) Any change in the Association's current regular and special Assessments and fees which have been approved by the Owners, but have not become due and payable as of the date disclosure is provided pursuant to this subdivision; (ix) If there is a provision in the Governing Documents that prohibits the

rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition; and (x) If requested by the prospective purchaser, a copy of the minutes of Owners meetings conducted over the previous 12 months, that were approved by the Owners.

(C) Payment of Assessments. Each Owner shall pay when due all Assessments levied in accordance with Article 12.

(D) Joint Ownership. In the event of joint ownership of any Condominium, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several.

## **ARTICLE 5 - EASEMENTS AND RIGHTS OF ENTRY**

5.1 Rights of Entry and Use. Each Condominium and its Unit or the Common Area, as the case may be, shall be subject to the following rights of entry and use:

(A) The right of the Association, or its agents, to enter any Unit, Common Area and Exclusive Use Common Area to cure any violation or breach of the Governing Documents, or to perform maintenance as described in Section 8.5, provided that the Owner has received notice and a hearing as required by Section 7.4 (except in the case of an emergency as reasonably determined by the Association or its agents) and such Owner has failed to cure such violation within thirty (30) days after the finding of such violation by the Association or, if such violation cannot reasonably be cured within thirty (30) days, such Owner has failed to diligently take steps necessary to cure such violation within thirty (30) days after the finding of such violation by the Association;

(B) The right of the Association, or its agents to enter any of the Units and Common Area, including Exclusive Use Common Area, to perform its obligations and duties under this Declaration, including any obligations or duties with respect to construction, maintenance or repair for the benefit of the Common Area or the Owners in common;

(C) The Association's rights of entry and cure shall be immediate in case of an emergency, as reasonably determined by the Association, originating upon or threatening any Unit or Exclusive Use Common Area, whether or not its Owner is present. For all non-emergency entry purposes except as provided in Section 5.1(A), the Association or its agents shall furnish the Owner or his or her lessee with at least forty-eight (48) hours' written notice of its intent to enter the Unit or Exclusive Use Common Area, specifying the purpose and scheduled time of such entry and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing within the Unit; and

(D) Any easements as shown on the Map.

5.2 Support, Maintenance and Repair Easement. The Association and each



Owner shall have a non-exclusive right and easement appurtenant to the Common Area and to all Units through each Unit and the Common Area, including Exclusive Use Common Area, for the support, maintenance and repair of the Common Area, including Exclusive Use Common Area, and all Units so that the Units, Common Area and Exclusive Use Common Area can be properly maintained pursuant to this Declaration.

5.3 Utility Maintenance Easement. The rights and duties of the Owners with respect to Utility Systems shall be as follows: Each Owner shall have the right of reasonable access over, under and through any Unit and the Common Area, including Exclusive Use Common Area, to repair, to replace and to generally maintain any Utility Systems serving such Owner's Unit, wherever such Utility Systems may be located.

5.4 Encroachment Easements. If any portion of the Common Area encroaches on any Unit or if any portion of a Unit encroaches on the Common Area due to engineering errors, errors in original construction, settlement or shifting of structures, or any other similar cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements, and the rights and obligations of Owners shall not be altered in any way by such encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if such encroachment occurred due to the intentional conduct of such Owner or Owners. In the event any structure containing a Unit is partially or totally destroyed, and then repaired or rebuilt and any minor encroachment on the Common Area results, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements.

5.5 Power to Grant Easements. The Association, by unanimous vote, shall have the power to grant and convey in the name of all the Owners as their attorney-in-fact (or in the name of the Association as to any property to which the Association holds title) to any Owner or other party easements and rights-of-way in, on, over, or under the Common Area for the purpose of establishing Exclusive Use Common Area or other easements and for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkler systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities.

5.6 Easements to Maintain Heating Systems. An easement over and through the Common Area, including Exclusive Use Common Area, is reserved by Declarant in favor of each Owner for the purpose of allowing each Owner to maintain, repair or replace the heating system and hot water heaters exclusively serving such Owner's Unit, wherever such heating system and hot water heaters may be located.

5.7 Easements to Maintain Telephone and Cable Television Lines. Any Owner shall have the right of reasonable access, for himself or herself and for the telephone or cable company, over and through the Common Area, including Exclusive Use Common Area, for the purpose of allowing each Owner to install, maintain, repair

or replace the telephone and cable television lines serving such Owner's Unit exclusively.

5.8 Other Easements. Each Condominium is subject to all easements, dedications, and rights-of-way granted or reserved in, on, over, and under the Property as shown on the Map.

## **ARTICLE 6 - THE ASSOCIATION: MEMBERSHIP AND VOTING RIGHTS**

6.1 Unincorporated Association. The Association shall be an unincorporated Association. The Association shall be charged with the duties and invested with the powers set forth in this Declaration.

The specific and primary purpose of this Association is to be a residential condominium management association organized and operated to provide for the management, maintenance and care of the Project.

This Association is intended to qualify as a nonprofit homeowners' association under the applicable provisions of the Internal Revenue Code and of the Revenue and Taxation Code of California. No part of the net earnings of this Association shall inure to the benefit of any Member other than by providing management, maintenance, and care of Project and other than by a rebate of excess Assessments.

Notwithstanding any of the above statements of purposes and powers, this Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purposes of this Association.

6.2 Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in a Condominium, pursuant to the terms of this Declaration, shall be a Member of the Association; provided, however, that no Owner shall hold more than one (1) membership even though such Owner owns an interest in more than one (1) Condominium. Membership shall be appurtenant to and may not be separate from the fee ownership of any Condominium. Membership shall be held in accordance with this Declaration.

6.3 Transferred Membership. Membership in the Association shall not be transferred, encumbered, pledged, or alienated in any way, except upon the sale or encumbrance of the Condominium to which it is appurtenant, and then only to the purchaser, in the case of a sale, or the holder of a bona fide mortgage or deed of trust, in the case of an encumbrance of such Condominium. Membership shall terminate automatically when the Owner no longer holds any ownership interest in any Condominium. Upon any transfer of title to an Owner's Condominium, including a transfer upon the death of an Owner, membership passes automatically with the title to the transferee.

Notwithstanding anything to the contrary in this Declaration, a holder of a bona

fide mortgage or deed of trust does not have membership rights until it obtains title to the Condominium through foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. No Owner may resign his or her membership. On notice of a transfer, the Association shall record the transfer on its books.

6.4 Membership Voting. An Owner shall be entitled to one (1) vote for each Condominium owned. When more than one person holds an undivided fee interest in any Condominium, all such persons shall be entitled to all rights and privileges of membership. The vote of such Condominium shall be exercised as its Owners collectively determine, but in no event shall more than one vote be cast with respect to any Condominium.

6.5 Vesting of Voting Rights. Voting rights shall vest at the time Assessments are levied against the Owner's Condominium.

6.6 Voting Procedures. Any Owner may attend meetings of the Association and vote in person or by an agent duly appointed by an instrument in writing signed by the Owner.

6.7 Joint Ownership Votes. The vote that is attributed to each Condominium may not be cast on a fractional basis. If the Condominium has more than one Owner and the Owners are unable to agree as to how the vote should be cast, the vote shall be forfeited on the matter in question. If one Owner casts the vote attributed to a Condominium, the vote shall conclusively bind all the Owners of that Condominium. If more than one Owner casts the vote attributed to a Condominium, the votes cast by such Owners shall not be counted and shall be considered void. Under no circumstances shall the Association be responsible to settle voting disputes between joint Owners.

6.8 Approvals Required. Except as otherwise provided in the Governing Documents, all decisions and actions requiring the approval of Owners shall be deemed approved if the Owners assent to them by written consent or by written ballot in accordance with the procedures outlined in the Bylaws, or if approved at any duly called meeting at which a quorum is present, either in person or by proxy, by Owners holding a majority of the total voting power of all Owners present, either in person or by proxy. Documents to be executed by the Association shall be signed by the appropriate required percentage of Owners. A "quorum" for purposes of voting at a duly called meeting shall be two thirds (2/3rds) of the total voting power of the Association.

## **ARTICLE 7 - THE ASSOCIATION: POWERS AND DUTIES**

7.1 Powers of the Association. The Association shall have all the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, subject only to such limitations on the exercise of its powers as are set forth in this Declaration and the Bylaws. However, the Association, so long as it remains unincorporated, may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code. The purposes

and powers of the Association are to provide for the operation, control and maintenance of certain parts of the Project, and to provide enforcement of the provisions of the Governing Documents and any other instruments relating to the management and control of the Association and the Project. Without in any way limiting the generality of the foregoing, the Association shall have the power and authority to do all of the following acts:

(A) Contracts. The Association shall have the right and power to contract for such services, labor, goods and materials for those parts of the Project the Association is responsible to maintain as it may deem reasonable or necessary.

(B) Maintenance. The Association shall have the power to maintain, repair, and make capital Improvements to the Project in accordance with Article 8. The Association may also purchase equipment, tools, supplies and other personal property as the Association deems necessary for use in such maintenance and repair.

(C) Assessments. The Association shall have the power to fix, levy, and collect Assessments as provided in Article 12.

(D) Association Rules. The Association shall have the power from time to time and subject to the provisions of Article 5 of Chapter 3 of the Act (Civil Code Section 4340 et seq.), and this Declaration and Bylaws, to adopt, amend and repeal Association Rules which may include the establishment of a system of monetary penalties for failure of an Owner to comply with the provisions of the Governing Documents. The Association Rules shall not be inconsistent with the provisions of the Articles, Bylaws or this Declaration. No Association Rule may be adopted which discriminates among Owners or which materially affects the rights, preferences or privileges of any Owner set forth in this Declaration or Bylaws. In the event of a breach or threatened breach of the Association Rules or any provision of the Governing Documents by any Owner, such Owner's tenant, guest or invitee, or an occupant of such Owner's Unit, the Association may impose financial penalties on such Owner as provided herein, and/or may temporarily suspend the voting rights of such Owner. The imposition of any financial penalties or suspension of voting rights for violations of an Association Rule must conform to the notice and hearing requirements set forth in Section 7.4.

Notwithstanding anything to the contrary in the Governing Documents, the Association cannot be empowered to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Condominium on account of the failure by the Owner to comply with provisions of the Governing Documents, including duly enacted Association Rules, except by judgment of a court or a decision arising out of an arbitration or on account of a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments duly levied by the Association.

(E) Right to Enter. The Association's agents shall have the right to enter the Common Area in accordance with Section 5.1.

(F) Enforcement. The Association shall have the power and authority to enforce the provisions and restrictions of the Governing Documents.

(G) Legal Action. The Association shall have standing to institute, defend, settle or intervene in litigation, arbitration, mediation or administrative proceedings in its own name as the real party in interest and without joining with it the individual owners of Condominiums, in matters pertaining to enforcement of the Governing Documents as well as matters pertaining to the exercise of its powers and the fulfillment of its duties in accordance with the Governing Documents and applicable law.

The costs of any such legal action, including any reasonable attorneys' fees, shall be charged against any Owner whose breach or threatened breach of the Governing Documents caused the preparation and filing of such legal action, and may be recovered in the legal action or through separate proceedings. Failure to enforce the provisions of the Governing Documents shall not be deemed a waiver of the right to do so thereafter. All remedies provided in the Governing Documents shall be cumulative and in addition to any other legal remedies available.

(H) Manager. The Association may employ a professional Manager with homeowner's association management experience, and the Association may delegate any or all of its powers to such Manager subject to the limitations set forth in Section 7.3.

(I) Common Area. The Association is hereby irrevocably appointed as the attorney-in-fact for the Owners of each and every Unit to manage, control and deal with the interests of such Owners in the Common Area so as to permit the Association to fulfill all of its obligations hereunder and to exercise all of its rights hereunder. The acceptance by any person or entity of any interest in any Unit shall constitute an appointment of the Association as the Owner's attorney-in-fact as provided above.

7.2 Duties of Association. In addition to the duties and powers enumerated in the Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following duties:

(A) Maintenance. The Association shall maintain and repair parts of the Project in accordance with Article 8.

(B) Acceptance of Members. Subject to the Association's right to suspend a Member's voting rights in accordance with this Declaration, the Association shall accept all Owners as Members.

(C) Annual Membership Meeting. The Association shall hold an annual meeting of the members as provided in the Bylaws and any special meetings shall be called in accordance with the Bylaws.

(D) Payment of Taxes and Utilities. The Association shall pay all real

property taxes and assessments levied upon the Project to the extent not separately assessed to the Owners as provided in Section 9.3.

(E) Preparation and Distribution of Budgets, Financial Statements, Documents, Reports, and Copies of Governing Instruments. The Association shall prepare and distribute to its Members an annual budget report thirty (30) to ninety (90) days before the end of its fiscal year. Also, the Association shall prepare and distribute to its Members the financial statements, documents, reports, and copies of the Governing Documents as required pursuant to Section 5300 of the Act, as such Section may be amended from time to time.

(F) Schedule of Monetary Penalties. If the Association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any Member for a violation of the Governing Documents, including any monetary penalty relating to the activities of a guest or invitee of a Member, the Association shall adopt and distribute to each Member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for Member discipline contained in the Governing Documents. The Association shall not be required to distribute any additional schedules of monetary penalties unless there are changes from the schedule that was adopted and distributed to the Members pursuant to this section. Nothing in this section shall be construed to create, expand or reduce the authority of the Association to impose monetary penalties on a Member for a violation of the Governing Documents.

(G) Other Duties. The Association shall perform such other acts as may be reasonably necessary to exercise its powers or perform its duties under any of the provisions of the Governing Documents.

7.3 Limitations on Authority of a Manager. Except with the vote or written assent of a majority of the Owners, the manager shall not take any of the following actions:

(A) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

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

(C) Pay compensation to members of the Association for services performed in the conduct of the Association's business, provided that the Association may reimburse a Member for reasonable expenses incurred in conducting the business of the Association; or

(D) Enter into a contract with a third person to furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the

following exceptions:

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

(2) Prepaid casualty and/or liability insurance policies that do not exceed three (3) years duration, provided that the policy permits early cancellation by the insured.

7.4 Due Process Limitations of the Association. Before the Association imposes any Reimbursement Assessments, or suspensions of membership rights or Common Area use privileges against any Member for failure to comply with the Governing Documents, the Association must act in good faith and must satisfy each of the following requirements:

(A) The Member must be given fifteen (15) days prior notice of the discipline to be imposed and the reasons for the imposition of the discipline. The notice may be given by any method reasonably calculated to give actual notice. If the notice is given by mail, it must be sent by first-class or registered mail to the last address of the Member as shown on the Association's records; and

(B) The Member must be given an opportunity to be heard, orally or in writing, by the Association, not less than five (5) days before the effective date of the imposition of the discipline.

Notwithstanding anything to the contrary contained in this Section, the due process requirements of this Section shall not apply to the Association's right to enforce the payment of Regular or Special Assessments levied by the Association in accordance with the Declaration.

7.5 Impermissible Restrictions Upon Alienation. The Association shall not impose any restrictions, whether directly or indirectly, on the right of an Owner to sell his or her Condominium, except upon reasonable objective standards which are consistent within the general plan of enhancing and perfecting the value, desirability and attractiveness of the Project, none of which shall be based upon the race, color, religion, sex, sexual orientation, marital status, national origin or ancestry of the purchaser.

7.6 Inspection of Association Books and Records. Any Owner, or that Owner's duly appointed representative, after giving reasonable notice to the appropriate custodian, shall have access to the Association's membership register, books of account, and minutes from any meeting of the Owners, in order to inspect and copy such records for any purpose reasonably related to his or her interest as an Owner. Access shall be at any reasonable time at the office of the Association or such other place within the Project as the Association prescribes. The Association shall establish

rules regarding the notice the Owner must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied, and the charges imposed by the Association for copying records requested by the Owner.

7.7 Records Kept by the Association. Commencing as soon as reasonably available, but not later than thirty (30) days after the closing and recording of the sale of the first Condominium, the following documents shall be maintained at the office of the Association or at such other place within the Project as the Association shall prescribe:

(A) The recorded Map, the recorded Condominium Plan and all amendments thereto, and the deeds and easements executed by Declarant conveying the Common Area or other interest to the Association, to the extent applicable;

(B) The recorded Declaration including all amendments and annexations thereto and the Association's Bylaws, and all amendments thereto;

(C) All Association Rules promulgated by the Association, including architectural guidelines;

(D) The plans, if any, approved by the local agency or County where the Project is located for the construction or improvement of facilities that the Association is obligated to maintain or repair; provided, however, that the plans need not be as-built plans and that the plans may bear appropriate restrictions on their commercial exploitation or use and may contain appropriate disclaimers regarding their accuracy;

(E) All notice of completion certificates issued for Common Area Improvements (other than residential structures), any bond or other security device in which the Association is a beneficiary, and any written warranty being transferred to the Association for Common Area equipment, fixtures or Improvements;

(F) Any insurance policy procured for the benefit of the Association or the Common Area and any lease or contract to which the Association is a party;

(G) The Membership register, including mailing addresses and telephone numbers, books of account and any minutes of meetings of the Owners; and

(H) Any other instrument which establishes or defines the common, mutual and reciprocal rights and responsibilities of the Owners or lessees of Condominiums.

## **ARTICLE 8 - MAINTENANCE AND REPAIR OBLIGATIONS**

8.1 Unit Maintenance. Each Owner shall have the sole responsibility, at his or her sole cost and expense, to maintain, repair and replace his or her Unit, interior and exterior, including, without limitation, the roof, exterior walls, windows and doors,



foundation, except as otherwise provided herein, attached porches and decks, and damage to the Unit caused by the presence of wood-destroying pests and organisms. Each Unit shall be kept in good repair and condition. The Association shall determine standards for periodic exterior painting and sealing of Units to maintain conformity throughout the Project. Such standards shall include how often a Unit should be repainted and sealed, permissible quality and type of materials and permissible color schemes for painting.

8.2 Association's Maintenance Responsibilities. Except as provided for in Sections 8.1, 8.3 and 8.4, the Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Area. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any part of the Common Area or add any improvement to the Common Area or fill or change the natural or existing drainage of any portion of the Common Area.

8.3 Exclusive Use Common Area Maintenance Responsibilities. Notwithstanding anything to the contrary in Sections 8.1 and 8.2 above, the maintenance of Exclusive Use Common Area shall be as follows:

(A) Parking Spaces. The Association shall be responsible to maintain, repair and replace the parking spaces for Unit B, except that the Owner of Unit B shall maintain his or her Exclusive Use Common Area parking spaces in a neat and clean condition.

(B) Garage for Unit A. The garage for Unit A shown as "G-A" on the Condominium Plan is located within Unit B. The Owner of Unit A shall be responsible to maintain, repair and replace the interior, non-structural portions of his or her garage, such as drywall, windows, fixtures, the garage door and garage door opener. However, the Owner of Unit B shall be responsible to maintain, repair and replace the structural portions of garage "G-A," except for the concrete floor, for which the Association shall be responsible to maintain, repair and replace. The garage shall be kept in good condition and repair.

(C) Entry. The Owner of Unit C shall be solely responsible to maintain, repair and replace his or her entry shown as "E-C" on the Condominium Plan. The entry shall be kept in good repair and condition.

(D) Storage. The storage areas for Unit A and Unit C shown as "S-A" and "S-C" on the Condominium Plan are located within Unit B. The Owner of Unit A and the Owner of Unit C shall each be responsible to maintain, repair and replace the interior, non-structural portions of his or her storage space, such as drywall, fixtures, the storage area door and door frame. However, the Owner of Unit B shall be responsible to maintain, repair and replace the structural portions of such storage areas, except for the concrete floors, for which the Association shall be responsible to maintain, repair and replace. The Owner of Unit B shall be responsible to maintain, repair and replace the structural and non-structural portions of the storage area shown as "S-B" on the

Condominium Plan, except for the concrete floor, for which the Association shall be responsible to maintain, repair and replace. Storage areas shall be kept in good condition and repair.

(E) Trash Areas. The trash area for Unit A shown as "T-A" on the Condominium Plan is located within Unit B. The Owner of Unit A shall be responsible to maintain, repair and replace the interior, non-structural portions of his or her trash area, such as drywall, fixtures, and door. However, the Owner of Unit B shall be responsible to maintain, repair and replace the structural portions of trash area "T-A," except for the concrete floor, for which the Association shall be responsible to maintain, repair and replace. The Association shall be responsible to maintain, repair and replace the trash areas for Unit B and Unit C, except that the Owner of Unit B and the Owner of Unit C shall maintain his or her Exclusive Use Common Area trash area in a neat and clean condition.

(F) Yard Areas. The Owners shall each be responsible to maintain and landscape their respective yards, keeping them relatively weed free and in a neat and attractive condition. Such maintenance responsibilities shall include, but not be limited to, trees, sprinkler systems, bushes, pavement, walkways and any other property located within an Owner's Exclusive Use Common Area yard.

(G) Mailbox. The Owners of Unit B and Unit C shall share equally the responsibility to maintain, repair and replace their common mailbox shown as "M-B/C" on the Condominium Plan. The mailbox shall be kept in good repair and condition.

(H) Partition Wall. The Owners of Unit B and Unit C shall share equally the responsibility to maintain, repair and replace in good condition and repair that partition wall designated on the Condominium Plan as "W-B/C."

8.4 Maintenance of Utility Systems. Notwithstanding anything to the contrary in this Declaration, the maintenance, repair, replacement of Utility systems shall be pursuant to this Section 8.4.

(A) Electrical. Each Unit is and shall be separately metered for electrical service. Each Owner shall bear the responsibility and sole cost and expense to maintain, repair and replace the electrical lines, meters, junction boxes, outlets and fixtures serving his or her Unit exclusively, including any fixtures and bulbs that serve Common Areas, including Exclusive Use Common Areas.

(B) Gas. Each Unit is and shall be separately metered for gas service. Each Owner shall bear the responsibility and sole cost and expense to maintain, repair and replace the gas utilities, pipes, lines valves and flues servicing his or her Unit.

(C) Domestic Water. Each Unit is and shall be separately metered for domestic cold water. Each Owner shall bear the responsibility and sole cost and expense to maintain, repair and replace, without limitation, the water pipes, lines, valves, fixtures and faucets servicing his or her Unit.

(D) Sprinkler Systems. Each Unit has its own sprinkler system connected to the water meter serving such Unit. Each Owner shall be solely responsible to maintain, repair and replace his or her sprinkler system, including any portions thereof that serve the Common Area or any Exclusive Use Common Area for any Unit Owner.

(E) Sewer. Each Unit has a separate sewer lateral that connects to a common lateral. Each Owner is responsible to maintain, repair and replace his or her Unit's sewer lateral. The Association shall be responsible to maintain, repair and replace the common sewer lateral that connects to the public sewer.

(F) Utility Fixtures. Notwithstanding anything to the contrary herein, in all instances, each Owner shall be solely responsible to maintain, repair and replace those portions of the utility systems that extend from the Common Area into an Owner's Unit.

8.5 Association's Right to Maintain or Repair a Unit. Subject to the notice and hearing requirements provided in Section 7.4, the Association, subject to the unanimous approval of the other Owners, shall have the right to maintain, repair and replace at an Owner's expense any portion of an Owner's Unit or the Exclusive Use Common Area appurtenant to such Owner's Unit which such Owner has failed to maintain, repair or replace, if such maintenance or repair is reasonably necessary in the opinion of the other Owners to preserve the appearance and value of the Project, and such Owner has failed or refused to perform such maintenance and repair within thirty (30) days after written notice of the necessity of such maintenance and repair is delivered by the Association to such Owner or, if such maintenance and repair cannot reasonably be completed within thirty (30) days, such Owner has failed or refused to diligently take steps necessary to perform such maintenance and repair within thirty (30) days after written notice of the necessity of such maintenance and repair is delivered by the Association to such Owner. The Association may levy a Reimbursement Assessment to collect from such Owner any costs incurred with respect to such maintenance, repair or replacement.

8.6 Willful or Negligent Acts. To the extent not covered by casualty insurance in favor of the Association, each Owner shall be responsible and liable to the remaining Owners and to the Association for any willful or negligent acts or omissions committed by (i) such Owner, (ii) the occupants and tenants residing in such Owner's Unit, and (iii) the respective family members, guests, invitees and agents of such Owner and of the occupants and tenants residing in such Owner's Unit, who cause (a) the need for repair, maintenance or replacement of those parts of the Project that the Association has the right and responsibility to maintain other than that required due to ordinary wear and tear, or (b) the need for repair, maintenance or replacement to or for another Unit, any Exclusive Use Common Area appurtenant to such Unit or to the personal property of another Owner. The Association may levy a Reimbursement Assessment to collect from such Owner any costs incurred with respect to such maintenance, repair or replacement. Nothing herein shall be construed to enable any insurer to be subrogated to the rights of any insured party as to any loss as to which the insurer has waived its

right of subrogation.

## **ARTICLE 9 - UTILITIES AND TAXES**

9.1 Utilities. Each Owner shall pay for telephone, electricity, gas, water, garbage collection and other utilities or services furnished to or for his or her Unit and Exclusive Use Common Area which are separately metered to such Owner's Unit.

9.2 Segregated Taxes. To the extent allowed by law, all Condominiums, including their undivided interest in the Common Area and the membership of an Owner in the Association, shall be separately assessed and taxed so that all taxes, assessments, and charges that may become liens prior to Mortgages under local law shall relate only to the individual Condominiums and not to the Project as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by any governmental entity against such Owner's Condominium and against such Owner's personal property. The Association shall pay all taxes and assessments levied against the Association or the personal property owned by the Association.

9.3 Unsegregated Taxes. Until such time as real property taxes have been segregated by the Alameda County Tax Assessor, the Association shall pay all real property taxes and assessments levied upon the Project. As a part of the Regular Assessment, each Owner shall pay his or her proportionate share of any installment due under the tax bill to the Association. The proportionate share of the taxes for each Condominium shall be allocated to each Condominium in the proportion of each Unit's percentage interest in the Common Area as set forth in Exhibit C. Notwithstanding anything to the contrary in this Declaration, each Owner shall be solely responsible for (i) any personal property tax levied upon that Owner's personal property, (ii) any business tax levied upon that Owner's business property or income, and (iii) any increase in property taxes resulting from the sale or purchase of such Owner's Unit.

Such taxes and assessments may be contested by the Association; provided, however, that any such contested taxes shall be paid or a bond insuring the payment shall be posted prior to the sale or other disposition of any property to satisfy the payment of such taxes.

## **ARTICLE 10 - COVENANTS AND USE RESTRICTIONS**

10.1 Prohibited Uses. No Condominium shall be occupied and used except for residential purposes by the Owners, their tenants and social guests; provided, however, that an Owner may use his or her Unit as a combined residence and executive or professional office as permitted under local law, so long as such use does not interfere with the quiet enjoyment by other Owners of their Units and does not include visiting clients.

10.2 Unlawful Activity/Nuisances. No Owner shall permit anything to be done or kept in his or her Unit or within the Project that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal governmental agency. Nothing

shall be done within the Project that is an unreasonable annoyance, inconvenience or nuisance or that unreasonably interferes with the quiet enjoyment of occupants of Units. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Unit and its contents shall be placed or used within any Unit. No loud noises, loud music, electro-mechanical or electromagnetic disturbance, vibrations, noxious odors or radiation disturbance shall be permitted within the Project. No doorways, driveways, walkways shall be obstructed in any manner that would interfere with their use for ingress or egress in the event of a fire, earthquake or other emergency.

10.3 Parking Rules. No boats, trailers, recreational vehicles, campers, mobile home, truck having carrying capacity greater than 3/4 ton, van having seating capacity in excess of eight (8) persons, inoperable vehicle, or dilapidated vehicle or any other large or unsightly object shall at any time be stored on the Project. Signs or markings on a vehicle used for commercial purposes shall be unobtrusive and inoffensive, as determined by the Association. Repair or washing of any motor vehicle shall not be permitted anywhere on the Property, except an emergency repair. No vehicle shall be operated upon the Project which emits extraordinary and offensive levels of exhaust pollution, oil, grease or noise, as such levels may be determined by the Association. No parking space shall be offered for rent or rented. The garages shall not be used for storage, converted to living area, or any other use that would obstruct the garage to prevent its use for vehicle parking. The Association may cause the removal of any vehicle wrongfully parked on the Project, including a vehicle owned by an occupant in accordance with the provisions of applicable laws. A parking space may be rented, but only to an Owner or a tenant renting a Unit.

10.4 Occupancy Limitations. In no event shall a Unit be occupied by more individuals than permitted by applicable zoning laws or governmental regulations.

10.5 Fires. There shall be no external fires whatsoever except, if approved by the Association, barbecues burned in an appropriate barbecue receptacle located as designated by the Association.

10.6 Signs. Except as permitted under Civil Code Section 4710, no advertising signs or billboards shall be displayed on or within the Project except that Owners may post in the windows of their Units any signs required by legal proceedings and may post on the Common Area, in a location determined by the Association, a single "For Rent," "For Lease" or "For Sale" sign of customary and reasonable dimensions. Signs of real estate brokers advertising Units for sale or lease shall only be allowed within the Common Area in strict compliance with applicable Association Rules. The Association may summarily cause all unauthorized signs to be removed or destroyed.

10.7 Antennas and Other Additions. Except as permitted pursuant to Civil Code Section 4725, no Owner shall construct, install, erect or maintain any television or radio pole or antenna, satellite dish, flag pole, or clothes line within the Common Area or within the Project except wholly within such Owner's Unit, except as permitted by the Association Rules.

10.8 Pets. No animals, pets, livestock or poultry of any kind shall be raised, bred or kept within the Project, except that an Owner may keep no more than two (2) normal household pets, such as dogs, cats, and birds wholly within his or her Unit. Notwithstanding that two (2) pets are permitted, no more than one (1) dog weighing less than forty (40) pounds may be kept in any Unit; provided, however, no pit bull, rottweiler, doberman pinscher, mastiff, canaria presa, or any other breed known as a “fighting breed” or any dog being a mix thereof shall be permitted within the Project. No pet doors may be constructed in the exterior door of any Unit or fence, and no animal shall be allowed to make an unreasonable amount of noise or otherwise to become a nuisance. Each Owner or occupant shall promptly clean up after his or her animals which have used or soiled any portion of the Project. An Owner shall pay to repair any damage caused by pets kept in such Owner’s Unit. No pet shall be permitted on the Common Area; except, however, under the supervision and restraint of their Owners, a pet may be on the Common Area for that amount of time reasonably necessary to transfer such pet off the Property from a Unit or through the Property to a Unit.

10.9 Trash. Trash, garbage and other waste shall be regularly removed from each Unit and shall be disposed of in trash containers. The Association may designate permissible locations for trash containers within the Project. The Association may establish reasonable regulations to allow for the recycling of recyclable materials and for the maintenance and upkeep of the garbage area.

10.10 Outdoor Storage. There shall be no storage of goods or materials in the Common Area or outside of an Owner’s Unit except in such Owner’s storage space. No basketball standards or fixed sports apparatus shall be permitted within the Project unless approved by the Owners.

10.11 Insurance. Nothing shall be done or kept in or on any Unit or in the Common Area that would increase the rate of or cause the cancellation of insurance on the Project or any portion thereof without the prior written consent of the Association.

10.12 Diseases and Pests. No Owner shall permit any thing or condition to exist in his or her Unit or within the Project which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

10.13 Mechanic’s Liens. If a notice of mechanic’s lien is filed against the Project for labor or material alleged to have been furnished to or delivered for any Owner within the Project or at his or her Unit, the Owner shall immediately cause the lien to be discharged by payment, bond or otherwise. If the Owner fails to discharge the lien, the Association may hold a hearing in accordance with Section 7.4 to determine the effect of the lien and any offsets or defenses thereto. At the hearing, if the Association determines that the lien adversely and improperly affects and encumbers the ownership interests of other Owners and that no adequate protection of the interests of other Owners has been provided, the Association may cause the lien to be discharged by payment, bond or otherwise. The Association shall then levy a Reimbursement Assessment against the Owner(s) responsible for the existence of the lien. The Association may take whatever other action it deems necessary to properly protect the

interests of the Owners.

10.14 Alterations to Units. Notwithstanding the provisions of Article 11, Owners may alter or remodel the interiors of their Units (excluding load bearing walls), if the alterations do not (i) impair the structural or acoustical integrity of the Unit or of the building containing the Unit; (ii) impair or affect the utilities or other systems servicing the Common Area or another Unit; or (iii) involve altering the Common Area. Each Owner must comply with all laws and ordinances regarding alterations and remodeling.

10.15 Hazardous Substances. No hazardous substances shall be brought, stored, kept or used in or on any part of the Project. "Hazardous substances" shall be those substances defined as such by the Comprehensive Environmental Response, Compensation & Liability Act of 1980, the Resource Conservation & Recovery Act, the Hazardous Materials Transportation Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and any regulations adopted, published or promulgated pursuant thereto and as such may be amended from time to time, and any other similar such governmental laws or regulations now in effect or hereafter enacted and as such may be amended from time to time. Notwithstanding the foregoing, the Owners are permitted to reasonably use commercial products produced and sold for cleaning, maintenance and repair of the Units.

Any Owner shall protect, indemnify, defend and hold harmless the Association and all other Owners from and against any and all losses, liabilities, damages, demands, claims or judgments resulting from such Owner's violation of this Section 10.15.

10.16 Limitations on Use of Building Exterior. Nothing shall be hung or attached to the exterior of the building without the prior written consent of the Association.

## **ARTICLE 11 - ARCHITECTURAL CONTROL**

11.1 Architectural Control. Except as permitted pursuant to Section 10.14, no Improvement of any kind shall be commenced, erected or maintained within the Project, no addition to or change or alteration shall be made in or to any Unit or to any Exclusive Use Common Area and no exterior painting or exterior staining or alterations or replacement of the exterior windows shall be done within the Project until the plans and specifications showing the color, nature, kind, shape, height (including front, side and rear elevations), materials, and location of the same shall have been submitted to and approved in writing by the Association as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, setback lines, topography and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to paint the interior of his or her Unit any color desired.

11.2 Submission of Plans; Action by Association. Plans and specifications for the proposed Improvement shall be submitted to the secretary by personal delivery or certified mail, along with a fee as set forth in the Association Rules. In the event the

Association fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, the request shall be deemed to have been approved. The Association's approval may contain conditions or requests for modification of particular aspects of the Owner's plans and specifications. The Association's consent may not be unreasonably withheld.

11.3 Permits. Before commencement of any Improvements, the Owner shall comply with all appropriate and applicable governmental laws and regulations and shall obtain, at such Owner's sole expense, all required permits.

11.4 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the secretary by any Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the Association shall execute an estoppel certificate, executed by any two of its members, certifying (with respect to any Unit owned by the applicant Owner) that as of the date thereof, either (i) all Improvements made and other work completed by said Owner with respect to the Unit comply with this Declaration; or (ii) that such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the bases of such noncompliance. Any purchaser from the Owner, through the Owner, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

## **ARTICLE 12 - ASSESSMENTS**

12.1 Covenant to Pay Assessments. Declarant covenants and agrees for each Condominium owned by it in the Project that it is expressly made subject to Assessments as set forth in this Declaration, and each Owner by acceptance of a deed covenants and agrees for each Condominium owned, to pay to the Association the Assessments levied in accordance with the provisions of this Declaration, and to allow the Association to enforce any Assessment lien established in accordance with the provisions of this Declaration by non-judicial proceedings under a power of sale or by any other means authorized by law.

12.2 Personal Obligation. Each Assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the Owner, at the time such assessment or installment becomes due and payable, and shall bind such Owner's heirs, devisees, personal representatives and assigns. If there is more than one (1) Owner of a particular Condominium at such time, each Owner shall be jointly and severally liable. The personal obligation for any delinquent Assessments or installments and related sums shall not pass to an Owner's successor in interest unless expressly assumed by that successor in interest. No Owner can exempt himself or herself from payment of Assessments or installments by waiving the use or enjoyment of all or any portion of the Common Area, or by abandonment or leasing of his or her Unit or by any other means.



12.3 Use of Regular Assessments/Types of Accounts. Regular Assessments shall be used to pay for the expenses of the Association in performing its duties in accordance with this Declaration, to improve, replace, repair, operate, and maintain the Common Area and to promote the health, safety and welfare of the occupants of the Units. Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a responsible financial institution, which accounts shall be clearly designated as (i) the "current operation account," and (ii) the "reserve account." The Board shall deposit into the reserve account those portions of the Assessments collected as reserves for replacement and deferred maintenance on major components which the Association is obligated to repair.

12.4 Reserve Funds. Each annual Regular Assessment shall include a portion for reserves in such amount as the Association in its discretion considers appropriate to meet the cost of the future repair, replacement or additions to the major components that the Association is obligated to maintain and repair. Reserve funds shall be deposited in a separate account and the withdrawal of money from reserve accounts shall require (i) a duly executed resolution of the Association authorizing the withdrawal from the reserve account, and (ii) the signatures of at least two (2) Owners of separate Units, and at least one (1) of the two (2) Owners shall be an officer of the Association. Reserve funds may not be expended for any purpose other than repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components that the Association is obligated to maintain.

Notwithstanding the foregoing, the Association may authorize the temporary transfer of moneys from the reserve fund to the Association's general operating fund to meet short-term cash flow requirements or other expenses, if the Association has provided notice of the intent to consider the transfer in an Association meeting notice provided pursuant to Civil Code Section 4920. The notice shall include the reasons the transfer is needed, some of the options for repayment, and whether a Special Assessment may be considered. If the Association authorizes the transfer, the Association shall issue a written finding, recorded in the Association's minutes, explaining the reasons that the transfer is needed, and describing when and how the moneys will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one (1) year of the date of the initial transfer, except that the Association may, after giving the same notice required for considering a transfer, and, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Project, temporarily delay the restoration. The Association shall exercise prudent fiscal management in maintaining the integrity of the reserve account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this Section. This Special Assessment is subject to the limitation imposed by Civil Code Section 5605. The Association may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Association from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

When the decision is made to use reserve funds or to temporarily transfer

moneys from the reserve fund to pay for litigation pursuant to subdivision (b) of Civil Code Section 5510, the Association shall provide general notice pursuant to Civil Code Section 4045 of that decision, and of the availability of an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's office.

At least once every three (3) years pursuant to Civil Code Section 5550, the Association shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components that the Association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the Project, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the Association, excluding the Association's reserve account for that period. The Association shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the Association's analysis of the reserve account requirements as a result of that review. The study required by this Section shall at a minimum include those components and requirements pursuant to Civil Code Section 5550 et seq.

12.5 Levy of Regular Assessments. The Association shall establish and levy an annual Regular Assessment in an amount that has been approved by the Association which is estimated to be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year (as defined in Section 12.6). The Association shall fix the amount of the annual Regular Assessment not less than forty-five (45) or no more than sixty (60) days in advance of each fiscal year. If the Association fails to so fix the amount of the Regular Assessment, the Regular Assessment applicable for the previous fiscal year shall remain in effect until the Association shall fix a new Regular Assessment, which may be retroactive to the commencement of the fiscal year in question.

12.6 Commencement of Regular Assessments. Regular Assessments shall commence as to all Condominiums on the first day of the month next following the close of escrow of the sale of the first Condominium Unit. The first fiscal year shall be the period commencing on the date Regular Assessments commence and ending on the December 31 next following. Subsequent fiscal years shall be each successive calendar year; provided, however, that at any time the Association may change the fiscal year. Each Owner shall be entitled to pay annual Regular Assessments in twelve (12) equal monthly installments, one installment payable on the first day of each calendar month during the fiscal year, as long as the Owner is not delinquent in the payment of any monthly installment. If an Owner fails to pay any monthly installment by the thirtieth (30th) day of the month and after fifteen (15) days written notice from the Association, that Owner's right to continue to pay the Regular Assessment in monthly installments shall immediately terminate for that fiscal year and the Owner shall be required to immediately pay the entire balance of the current year's Regular Assessment.

12.7 Special Assessments. In addition to the Regular Assessment, the Association may, from time to time, levy a Special Assessment against all Condominiums if the Association determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including the maintenance of appropriate reserves, for a particular fiscal year for any reason, including, without limitation, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital Improvements or otherwise. The Association shall determine the amount necessary to meet the estimated expenses, and if the amount is approved by a majority vote of the Association, it shall become a Special Assessment. The Association may levy the entire Assessment immediately or levy it in installments over a period it considers appropriate.

12.8 Revised Assessments. If at any time during the course of any year the Association shall deem the amount of an Assessment to be inadequate or over-adequate by reason of a revision of its estimate of either expenses or income, or otherwise, the Association may revise the Assessment for the balance of the fiscal year. The Association shall provide notice pursuant to Civil Code Section 4040 to the Owners of any increase or decrease in a Regular or Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the increased or decreased Assessment becoming due.

12.9 Allocation of Assessments. Both Regular and Special Assessments shall be allocated among, assessed against, and charged to each Condominium and its Owner according to each Owner's undivided percentage interest in the Property as a tenant in common, as set forth in Exhibit C, unless the Owners otherwise agree unanimously pursuant to Association Rules. Reimbursement Assessments shall not be subject to these allocation provisions.

12.10 Reimbursement Assessments. After compliance with the notice and hearing requirements in Section 7.4, the Association may levy a Reimbursement Assessment against any Condominium and its Owner for the purpose of collecting (i) monetary penalties imposed by the Association for violation of the Governing Documents; (ii) amounts required to repay or reimburse the Association for any liability of an Owner pursuant to Section 8.6; (iii) amounts required to reimburse the Association for costs and expenditures incurred in performing work or rendering services in accordance with Section 8.5; and (iv) any other amounts owed to the Association in accordance with the Governing Documents.

(A) A Reimbursement Assessment imposed by the Association as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common Areas caused by a Member or the Member's guest or tenant may become a lien against the Member's Unit enforceable by the sale of the Unit under Civil Code Sections 2924, 2924b, and 2924c.

(B) Notwithstanding anything to the contrary in this Declaration, a Reimbursement Assessment imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents, except for the late

payments, may not be characterized nor treated in the Governing Documents as a Reimbursement Assessment that may become a lien against the Member's Unit enforceable by the sale of the Unit under Civil Code Sections 2924, 2924b, and 2924c.

**12.11 Delinquent Assessments.** Any Assessment due, including any installment due, shall become delinquent if payment is not received by the Association within fifteen (15) days after its due date. If an Owner allows any Assessment to become delinquent, such Owner shall also pay a late charge equal to ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10) whichever is greater. A late charge may not be imposed more than once on any delinquent payment, but it shall not eliminate or supersede any late charges imposed with respect to prior delinquent payments. Interest also shall accrue on any delinquent payments at the rate of twelve percent (12%) per annum, commencing thirty (30) days after the Assessment becomes due. The Association may suspend a delinquent Owner's right to vote on Association matters while any delinquent Assessment remains unpaid.

**12.12 Creation of Assessment Lien.** If an Owner fails to pay an Assessment when due, the Association has the right, and option, to bring legal action against the Owner to enforce collection of the unpaid and past due Assessment, or may impose an Assessment lien on the Unit owned by Owner pursuant to the provisions of Civil Code Section 5675. Suit to recover a money judgment for unpaid Assessments and attorneys' fees, shall be maintainable without foreclosing or waiving the lien securing the same. The Association shall distribute the written notice described in Civil Code Section 5730 entitled "Notice Assessments and Foreclosure" to each Member during the 60-day period immediately preceding the beginning of the Association's fiscal year. The notice is to be printed in at least 12-point type.

(A) **Statement of Charges.** Pursuant to Civil Code Section 5660, at least 30 days prior to the Association recording an Assessment Lien upon a Unit to collect a debt that is past due under Civil Code Section 5650, the Association shall notify the Owner of record in writing by certified mail of the following:

(1) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records pursuant to Section 5205, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

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

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

on time to the Association.

(4) The right to request a meeting with the Association as provided by Civil Code Section 5665.

(5) The right to dispute the assessment debt by submitting a written request for dispute resolution to the association pursuant to the association's "meet and confer" program required in Article 2 (commencing with Section 5900) of Chapter 10.

(6) The right to request alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with Section 5925) of Chapter 10 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.

(B) Recording Assessment Lien. After compliance with all the provisions of Article 2 of Chapter 8 of the Act (Civil Code Section 5650 et seq.), the Association may record a notice of delinquent Assessment and establish an Assessment lien against the Condominium of the delinquent Owner prior and superior to all other liens recorded subsequent to the notice of delinquent Assessment, 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 recorded prior to the notice. The notice shall comply with Civil Code Section 5675.

(C) Payment of Lien. Within 21 days of the payment of the sums specified in the notice of delinquent Assessment, the Association shall record or cause to be recorded in the office of the County recorder, a lien release or notice of rescission and provide the Owner a copy of the lien release or notice that the delinquent Assessment has been satisfied. If it is determined that a lien previously recorded against the Unit was recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the County recorder a lien release or notice of rescission and provide the Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission. If it is determined that the Association has recorded a lien for a delinquent Assessments 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 Civil Code Section 5660, and costs of recordation and release of the lien authorized under subdivision (b) of Civil Code Section 5720, and pay all costs related to any related dispute resolution or alternative dispute resolution.

12.13 Enforcement of Assessment Lien. Subject to the provisions of and limitations of Article 3 of Chapter 8 of the Act (Civil Code Sections 5700 through 5740), and after the expiration of 30 days following the recording of a lien created pursuant to Civil Code Section 5675, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Civil Code Section 2934a.

Nothing in Article 2 (commencing with Civil Code Section 5650) or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the Owner to recover sums for which a lien is created pursuant to Article 2 (commencing with Civil Code Section 5650) or prohibits the Association from taking a deed in lieu of foreclosure.

12.14 Waiver of Homestead Protections. Each Owner, to the extent permitted by law, waives the protections of any declared homestead or homestead exemption under the laws of California as applied to any action to enforce the Assessments levied by the Association.

12.15 Estoppel Certificate. Within ten (10) days of mailing or delivery of written request by any Owner, the Association shall provide the Owner with a written statement containing the following information: (i) whether, to the knowledge of the Association, the Owner or the Owner's Condominium is in violation of any of the provisions of the Governing Documents; (ii) the amount of Assessments, including installment payments, paid by the Owner during the fiscal year in which the request is received; (iii) the amount of any Assessments levied against the Owner's Condominium that are unpaid as of the date of the statement, including any late charges, interest, or costs of collection that as of the date of the statement are or may be made a lien against the Owner's Condominium, as provided by the Governing Documents; and (iv) any change in the Association's current Regular and Special Assessments and fees approved by the Association but not yet due and payable as of the date of the statement.

The Association may charge the Owner a fee to recover its reasonable costs in preparing the statement. Any prospective purchaser or mortgagee of the Owner's Condominium may rely on the information in this written statement, provided that reliance may not extend to any violation of the Governing Documents of which the Association does not have actual knowledge.

## **ARTICLE 13 - INSURANCE/INDEMNITY**

13.1 Fire And Casualty Insurance. The Association shall obtain and maintain a master or blanket policy of all risk property insurance coverage for all the Improvements within the Project, including, without limitation, all appliances, fixtures, walls, ceilings, windows, doors, drywall, paint, flooring, utilities and all other Improvements of any kind within or serving the Units, insuring against loss or damage by fire or other casualty, in an amount equal to the current full replacement cost (without respect to depreciation) of such Improvements, and exclusive of land, foundations, excavation and other items normally excluded from coverage. Replacement cost, inflation and building code upgrade endorsements should be part of the policy to the extent each endorsement is available. The policy shall name as insured the Association, the Owners and all Mortgagees of record, as their respective interests may appear, and may contain a loss payable endorsement in favor of the Insurance Trustee described below. Notwithstanding anything to the contrary herein, the replacement cost portion of the all risk property insurance for each Unit shall be paid by the Owner of such Unit.

(A) Insurance Trustee. If the insurance proceeds payable under this Section 13.1 exceed Fifty Thousand Dollars (\$50,000), then the proceeds shall be paid to and held by the Insurance Trustee in trust for the Association, Owners and Mortgagees, as their respective interests shall appear.

13.2 Other Insurance. Unless the Owners determine otherwise pursuant to Section 13.3, the Association shall also obtain and maintain the following insurance:

(A) A hazard policy insuring all equipment and fixtures owned by the Association, unless the Association determines that such insurance is not necessary;

(B) Comprehensive general liability insurance insuring the Association, its agents, and the Owners and their respective family members against any liability incident to the ownership or use of the Project, and including, if obtainable, a cross liability or severability of interest endorsement insuring each insured against liability to each other insured. Such insurance shall provide a combined single limit of not less than Two Million Dollars (\$2,000,000) covering all claims for death, personal injury, and/or property damage arising out of a single occurrence;

(C) Workers' compensation insurance to the extent required by law;

(D) To the extent available, insurance in an amount not less than One Million Dollars (\$1,000,000) on behalf of any officer of the Association against any liability asserted against or incurred by the officer in such capacity or arising out of the officer's status as such;

(E) Flood insurance if the Project is located in an area designated by an appropriate governmental agency as a special flood hazard area; and

(F) If obtainable at a cost deemed reasonable by the Owners, water damage insurance, liability for non-owned and hired automobile insurance, fidelity bonds or insurance covering officers, Members and employees that have access to any Association funds, and such other insurance as the Owners in their discretion consider necessary or advisable.

13.3 Requirements. If the Association is unable to purchase a policy or if the Owners believe that the cost of the policy is unreasonable, the Owners may decide to maintain policies of insurance that differ from the requirements of Sections 13.1 and 13.2.

However, notwithstanding anything to the contrary in this Declaration, the amount, term and coverage of any policy required hereunder shall satisfy the minimum requirements imposed for this type of project by the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the United States Department of Housing and Urban Development (FHA or HUD) or any successor thereto (except for earthquake insurance, the purchase of which is within the discretion of the Association). If the FNMA, FHLMC or FHA requirements conflict, the

more stringent requirement shall be met. If FNMA, FHLMC and FHA do not impose requirements on any policy required hereunder, the term, amount and coverage of such policy shall be no less than that which is customary for similar policies on similar projects in the area.

The following endorsements should be included, if applicable, and if obtainable by a cost deemed reasonable by the Association: (i) changes in building codes and demolition coverage (sometimes referred to as “ordinance or law endorsement”); (ii) inflation guard coverage; (iii) “Agreed-amount” endorsement (to eliminate a coinsurance problem); (iv) replacement cost endorsement; and (v) primary coverage endorsement.

Any insurance maintained by the Association shall contain “waiver of subrogation” as to the Association, its manager, its officers, directors, Owners and the occupants of the Units (including Declarant) and Mortgagees, and, if obtainable, a cross liability or severability of interest endorsement insuring each insured against liability to each other insured. The Association shall periodically (and not less than once every three (3) years) review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

To the extent possible, the Association shall make every reasonable effort to secure insurance policies that provide for the following: (i) that the coverage is not prejudiced by any act or neglect of an individual Owner who is not authorized to act on behalf of the Association; and (ii) a recognition of an insurance trust Agreement.

Any insurance maintained by the Association shall contain the standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the Project is located.

13.4 Owner’s Property Insurance. No Owner shall separately insure his or her Unit or any part of it against loss by fire or other casualty covered by any insurance carried by the Association. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the Association’s policies that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance.

However, the insurance maintained by the Association might not cover the Owner’s personal property, and might not insure the Owner individually against liability. Any Owner can insure his or her personal property against loss, and any Owner can and should obtain individual liability insurance if not individually covered by the Association’s policy. In addition, any Improvements made by an Owner within his or her Unit may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as “tenant’s improvements.” All such insurance that is individually carried must contain a waiver of subrogation rights by the insurer as to the Association, its Manager, its officers, directors, Owners and the occupants of the other Units and institutional first Mortgagees.



13.5 Indemnity. To the extent not covered by insurance maintained by the Association or any Owner, each Owner shall indemnify, protect, defend, and hold harmless the Association, its manager, the officers, and all other Owners from and against all liability, loss, claims, and demands of third persons to the extent arising out of the acts or omissions of (i) such Owner, and the occupants and tenants residing in such Owner's Unit, and (ii) such Owner's, occupant's or tenant's respective family members, guests, invitees and agents. Each Owner, by acceptance of his or her deed, agrees personally and for family members, contract purchasers, tenants, guests and invitees, to indemnify each and every other Owner, the Association, its manager and officers, and to hold them harmless from, and to defend them against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, except to the extent (i) that such injury or damage is covered by liability insurance in favor of the Association or other Owner or (ii) the injury or damage occurred by reason of the willful or negligent act or omission of another Owner, the Association, its manager or an officer.

13.6 Provision To Adjust Losses. Exclusive authority to adjust and negotiate losses under policies obtained by the Association and to perform all other functions necessary or appropriate to accomplish these purposes, shall be vested in the Association or such other authorized representative as the Association may designate, including but not limited to an Insurance Trustee with whom the Association has entered into an insurance trust agreement; provided, however, that no Mortgagee having an interest in such losses may be prohibited from participating in any settlement negotiations related thereto.

## **ARTICLE 14 - DAMAGE AND DESTRUCTION**

14.1 Proceeds Exceed 85 Percent of Reconstruction Costs. If there is a total or partial destruction of the Improvements in the Project, and if the available proceeds of the insurance carried pursuant to Section 13.1 are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction, the Improvements shall be promptly rebuilt.

14.2 Proceeds Less Than 85 Percent of Reconstruction Costs. If the proceeds of insurance carried pursuant to Section 13.1 are less than eighty-five percent (85%) of the costs of repair and reconstruction, the Improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, a majority of Owners entitled to vote, in person or by proxy at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the Improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction is to take place, the Association shall be required to execute, acknowledge, and record in the office of the County Recorder of the County not later than one hundred twenty (120) days from the date of destruction, a certificate declaring the intention of the Owners to

rebuild.

14.3 Separate Responsibility to Rebuild. If any damage or destruction to a Unit is to be rebuilt pursuant to Sections 14.1 or 14.2 above, each Owner shall be solely responsible to pay for the cost of rebuilding or reconstructing his or her respective Unit and Exclusive Use Common Area, over and above the available insurance proceeds.

14.4 Rebuilding Contract. If the Owners determine to rebuild, the Association or the Insurance Trustee shall, after obtaining bids from at least two (2) reputable contractors, award the repair and reconstruction work to the bidder that meets the requirements set forth by the Association in soliciting bids. The Association shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds shall be disbursed to this contractor according to the terms of the contract. It shall be the obligation of the Association to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date. The repair and reconstruction work will be subject to building codes then in effect.

14.5 Rebuilding Not Authorized. If the Owners determine not to rebuild, then subject to rights of institutional first Mortgagees as set forth in Section 16.7, any insurance proceeds then available for such rebuilding shall be distributed to each Owner according to the relative fair market values of their Condominiums. The Association shall select an independent appraiser who shall be a member of the Society of Real Estate Appraisers or other nationally recognized appraiser organization and who shall determine such relative values in accordance with the standards of such organizations as of the date immediately prior to such destruction. The cost of such appraisals shall be paid from the insurance proceeds. The Association shall, within one hundred twenty (120) days from the date of destruction, execute, acknowledge, and record in the office of the County Recorder of the County, a certificate declaring the intention of the Owners not to rebuild.

14.6 Revival of Right to Partition. On recordation of the certificate described above in Section 14.5, the right of an Owner to partition through legal action as described in Section 4.5 shall revive immediately. In addition, each Owner by accepting a deed to a Condominium, grants to the Association an irrevocable power of attorney to sell the entire Project for the benefit of the Owners, to terminate this Declaration, and to dissolve the Association. The net proceeds following the sale of the Project and dissolution of the Association shall be distributed to the Owners in the same manner that insurance proceeds are distributed under Section 14.5.

## **ARTICLE 15 - EMINENT DOMAIN**

15.1 Sale by Unanimous Consent. If an action for condemnation of all or a portion of the Project is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all the Owners and all Eligible Mortgagees, the Project or a portion of it may be sold and conveyed to the condemning authority by the Association or its designees acting as the attorney-in-fact

of all of the Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Condominium in the Project grants to the Association and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Association. If the requisite number of Owners or Eligible Mortgagees do not consent to a sale of all or a portion of the Project, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.

**15.2 Total Sale or Taking.** If there is a total sale or taking of the Project, meaning a sale or taking (i) that renders more than fifty percent (50%) of the Units uninhabitable (such determination to be made by the Association in the case of a sale and by the court in the case of a taking) or (ii) that renders the Project as a whole uneconomical as determined by the vote or written consent of a majority of those Owners and their respective Eligible Mortgagees whose Units will remain habitable after the taking, the right of any Owner to partition through legal action as described in Section 4.5 shall revive immediately. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Project, together with the proceeds of any sale pursuant to a partition action, after payment of all expenses relating to the sale, taking, or partition action, shall be paid to all Owners and to their respective Mortgagees in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market values of all Condominiums in the Project. The fair market value of Condominiums shall be determined in the condemnation action, if such be instituted, or by an Appraiser pursuant to Section 15.4.

**15.3 Partial Sale or Taking.** In case of a partial sale or taking of the Project, meaning a sale or taking that is not a total taking as described in Section 15.2, the proceeds from the sale or taking shall be paid or applied in the following order of priority, and any judgment of condemnation shall include the following provisions as part of its terms:

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

(B) To Owners and their respective Mortgagees, as their interests may appear, of Condominiums in the Project whose Units have been sold or taken, in an amount up to the fair market value of such Condominiums as determined by the court in the condemnation proceeding or by an appraiser selected by the Association, who meets the qualifications described in Section 15.4, less such Owner's share of expenses paid pursuant to the preceding subsection (A) (which share shall be in proportion to each Owner's undivided interest in the Common Area). After such payment, the recipient shall no longer be deemed an Owner, and the Association or individuals authorized by the Association, acting as attorney-in-fact of all Owners shall amend the Condominium Plan, the Map (if necessary), and this Declaration to eliminate from the Project the Condominiums so sold or taken and to adjust the undivided ownership interest of the remaining Owners in the Common Area based upon the ratio

that each remaining Owner's undivided interest bears to all the remaining Owner's undivided interest in the Common Area; then

(C) To any remaining Owner and to his or her Mortgagees, as their interests may appear, whose Condominium has been diminished in fair market value as a result of the sale or taking disproportionately to any diminution in value of all Condominiums, as determined pursuant to Section 15.4, but as of a date immediately after any announcement of condemnation, an amount up to the total diminution in value; then

(D) To all remaining Owners and to their respective Mortgagees, as their interests may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Condominium bears to the fair market value of all remaining Owners' Condominiums as determined by the court in the condemnation proceeding or by an appraiser pursuant to Section 15.4.

15.4 Fair Market Value as Appraisal Standard. Whenever in this Article 15 reference is made to a determination of the value or fair market value of one or more Condominiums, it shall mean the fair market value of each such Condominium as of a date immediately prior to the announcement of condemnation, as determined by an appraisal by an independent appraiser selected by the Association, who shall be a member of the Society of Real Estate Appraisers or other nationally recognized appraiser organization and who shall apply its or such other organization's standards in determining the value or fair market value of each Condominium. The costs of such appraisals shall be paid from the sale proceeds.

## **ARTICLE 16 - MORTGAGEE PROTECTION**

16.1 Interpretation. In the event any provision of this Article 16 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 16 shall control.

16.2 Effect of Breach of Declaration on Mortgagee. No breach of any provision of this Declaration shall invalidate the lien of any first Mortgage made in good faith and for value; but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Any first Mortgagee who acquires title to a Condominium by foreclosure or by deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is noncurable or of a type that is not practical or feasible to cure.

16.3 Copies of Governing Documents. The Association shall make available to Condominium Owners and first Mortgagees, and to holders, insurers, or guarantors of any first Mortgage, current copies of the Declaration, Bylaws and other Association Rules concerning the Project, and the books, records, and financial statements of the Association. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances. The

Association may impose a fee for providing the requested documents, which fee may not exceed the reasonable cost to prepare and reproduce them.

16.4 Deemed Consent. Any first Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within sixty (60) days after the notice of the proposed addition or amendment shall be deemed to have approved such request, provided the notice has been delivered to the first Mortgagee by certified or registered mail, return receipt requested.

16.5 Notice of Action. Upon written request to the Association, identifying the name and address of the Eligible Mortgagee or Eligible Insurer or Guarantor, and the Condominium number or address, that Eligible Mortgagee or Eligible Insurer or Guarantor will be entitled to timely written notice of: (i) Any condemnation loss or any casualty loss that affects a material portion of the Project or any Condominium on which there is a first Mortgage held, insured, or guaranteed by that Eligible Mortgagee or Eligible Insurer or Guarantor, as applicable; (ii) Any default in performance of obligations under the Governing Documents or delinquency in the payment of Assessments or charges owed by an Owner of a Condominium subject to a first Mortgage held, insured, or guaranteed by that Eligible Mortgagee or Eligible Insurer or Guarantor, which default remains uncured for a period of sixty (60) days; (iii) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and (iv) Any proposed action that would require the consent of a specified percentage of Eligible Mortgagee as specified in Section 16.6 and Section 16.7 of this Declaration.

The Association shall discharge its obligation to notify Eligible Mortgagees or Eligible Insurers or Guarantors by sending written notices required by this Declaration to them at the address given on the current request for notice in the manner prescribed by Section 18.4 of this Declaration.

16.6 Consent to Action. Except as provided by statute or by other provision of the Governing Documents in case of substantial destruction or condemnation of the Project:

(A) The consent of Owners of Condominiums to which at least sixty seven percent (67%) of the votes in the Association are allocated, and the approval of Eligible First Mortgagees holding mortgages on Condominiums that have at least fifty one percent (51%) of the votes of Condominiums subject to Eligible First Mortgages, shall be required to terminate the legal status of the Project as a Condominium Project; provided, however, that if termination is for reasons other than substantial destruction or condemnation, the agreement of Eligible First Mortgagees representing at least sixty seven percent (67%) of the votes of the mortgaged Units is required.

(B) The consent of Owners of Condominiums to which at least sixty seven percent (67%) of the votes in the Association are allocated, and the approval of Eligible First Mortgagees holding mortgages on Units that have at least fifty one

percent (51%) of the votes of the Condominiums subject to Eligible First Mortgages, shall be required to add or amend any material provisions of the Governing Documents that establish, provide for, govern, or regulate any of the following: (i) voting rights; (ii) increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment liens or priority of such liens; (iii) reductions in reserves for maintenance, repair and replacement of Common Area; (iv) responsibility for maintenance and repair; (v) reallocation of interests in the Common Area or Exclusive Use Common Area or rights to their use; (vi) redefinition of any Unit boundaries; (vii) convertibility of Units into Common Areas or vice-versa; (viii) expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project; (ix) hazard or fidelity insurance requirements; (x) imposition of any restrictions on the leasing of Units; (xi) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (xii) restoration or repair of the Project ( after damage or partial condemnation ) in a manner other than that specified in the Governing Documents; or (xiii) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

(C) An Eligible Mortgagee who receives a written request to approve additions or amendments without delivering or posting to the requesting party a negative response within sixty (60) days after the notice of the proposed addition or amendment shall be deemed to have approved that request, provided the notice has been delivered to the Eligible Mortgagee by certified or registered mail, return receipt requested.

(D) For purposes of this Section 16.6, an addition or amendment shall not be considered material if it is for the purpose of correcting technical errors, or clarification only.

16.7 Restriction on Certain Changes. Except as provided by statute in case of condemnation or substantial loss to the Condominiums or common elements of the Project, unless the holders of at least two-thirds of the first Mortgages ( based upon one vote for each first Mortgage owned ) or of the Owners of the individual Condominiums have given their prior written approval, the Association or the Owners shall not be entitled to: (i) By act or omission, seek to abandon or terminate the Project as a condominium project (except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain); (ii) Change the pro rata interest or obligations of any individual Condominium for the purpose of: (a) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the pro rata share of ownership of each Condominium in the Common Area, provided that no Owner's undivided interest in the Common Area may be changed without the consent of that Owner; (iii) Partition or subdivide any Condominium; (iv) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Condominium Project shall not be deemed a transfer within the meaning of this clause); (v) Use hazard insurance proceeds for losses to any of the Project (whether to

Condominiums or to Common Area) for other than the repair, replacement, or reconstruction of the Project.

16.8 Right of First Refusal. Any Mortgagee who obtains title to a Condominium pursuant to the remedies provided in the Mortgage or through foreclosure of the Mortgage, or deed or assignment in lieu of foreclosure, shall be exempt from any right of first refusal which may now or in the future exist for the benefit of the Association or other Owners, and no such right of first refusal shall impair the rights of any first Mortgagee to (i) foreclose or take title to a Condominium pursuant to the remedies provided in the Mortgage, or (ii) accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor, or (iii) sell or lease a Condominium acquired by the Mortgagee.

16.9 Contracts. Any agreement for professional management of the Project, or lease or any other contract providing for services of the developer, sponsor, or builder, may not exceed one (1) year. Any agreement, contract, or lease, including a management contract entered into prior to passage of control of the Association of the Association to purchasers, must provide for termination by either party for cause on thirty (30) days' written notice, or without cause and without payment of a termination fee or penalty on ninety (90) days' or less written notice.

16.10 Subordination and Priority of Liens. The provisions contained in this Declaration shall not defeat or render invalid the lien of any Mortgage which is made in good faith and for value. The lien of any Assessments plus any charges thereon, such as interest, late charges and costs (including attorneys' fees), shall be subordinate to the lien of any first Mortgage recorded before the date such Assessments or other charges become due. This subordination shall apply only to Assessments that have become due and payable before a sale or transfer of such Condominium pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Condominium pursuant to remedies provided for in the Mortgage including foreclosure by judicial action or exercise of power of sale, and any purchaser at a foreclosure sale, shall take the Condominium free of any claims for unpaid Assessments or charges against the Condominium that have accrued before the time such Mortgagee or purchaser acquires title to or comes into possession of the Condominium; provided, however, this exception shall not be applicable to any pro rata claim for Assessments or charges levied by the Association against all Condominiums for the purpose of recovering any revenue lost by reason of the nonpayment of past due Assessments upon such Condominium; and provided further, that except as otherwise provided in this Section 16.10, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, Assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Condominium shall not relieve such Condominium from a duly recorded lien for any such prior unpaid Assessment nor relieve a selling Owner from personal liability for any Assessments which became due and payable before such sale, transfer or conveyance.

16.11 Priority in Insurance and Condemnation Proceeds. No Owner, or any other party, shall have priority over any right of institutional first Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution of insurance proceeds or condemnation awards for losses to or taking of Units or Common Area. Any provision to the contrary in the Governing Documents is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected institutional first Mortgagees, naming the Mortgagees as their interests may appear.

16.12 Status of Loan to Facilitate Resale. Any first Mortgage given to secure a loan to facilitate the resale of the Condominium after acquisition by foreclosure or by a deed in lieu of foreclosure or by an assignment in lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of Mortgages under this Declaration.

16.13 Right to Appear at Meetings. Because of its financial interest in the Project, any Eligible Mortgagee may appear (but cannot vote) at meetings of Owners to draw attention to violations of this Declaration that have not been corrected or that have been made the subject of remedial proceedings or assessments.

## **ARTICLE 17 - ENFORCEMENT, ALTERNATIVE DISPUTE RESOLUTION**

17.1 Rights to Enforce. The Association and/or any Owner shall have the power to enforce the provisions of the Governing Documents in any manner provided by law or in equity and in any manner provided in this Declaration, and in such action or through a separate proceeding shall be entitled to recover reasonable attorneys' fees and costs as are ordered by the court or arbitrator. The Association may institute appropriate legal action, temporarily suspend an Owner's voting rights and/or levy a fine against an Owner in a standard amount to be determined by the Association from time to time.

17.2 Violation of Law. The Association may treat any Owner's violation of any state, municipal or local law, ordinance or regulation, which creates a nuisance to the other Owners in the Project or to the Association, in the same manner as a violation of the Governing Documents by making such violation subject to any or all of the enforcement procedures set forth in this Declaration, as long as the Association complies with the notice and hearing requirements set forth in Section 7.6.

17.3 Remedies Cumulative. Each remedy provided by this Declaration is cumulative and not exclusive.

17.4 Internal Dispute Resolution. Any dispute between the Association and a Member involving their rights, duties, or liabilities under the Act, under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), or under the Governing Documents shall be subject to the Internal Dispute Resolution provisions of Article 2 of Chapter 10 of the Act (Civil Codes Sections 5900 - 5920). This Internal Dispute Resolution requirement



supplements, and does not replace, Article 3 (commencing with Civil Code Section 5925), relating to alternative dispute resolution as a prerequisite to an enforcement action (Section 17.5 below).

**17.5 Alternative Dispute Resolution Prerequisite to Civil Action.** The Association or a Member may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to the Alternative Dispute Resolution Prerequisite to Civil Action provisions of Article 3 of Chapter 10 of the Act (Civil Codes Sections 5925 - 5965). This Section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure. This Section does not apply to a small claims action. Except as otherwise provided by law, this Section does not apply to an Assessment dispute.

(A) As used in Article 3 of Chapter 10 of the Act and this Section, “alternative dispute resolution” means mediation, arbitration, conciliation, or other non-judicial procedure that involves a neutral party in the decision making process. The form of alternative dispute resolution chosen pursuant to Article 3 of Chapter 10 of the Act may be binding or non-binding, with the voluntary consent of the parties. “Enforcement action” means a civil action or proceeding, other than a cross-complaint, for any of the following purposes: (i) Enforcement of the Act; (ii) Enforcement of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code); or (iii) Enforcement of the Governing Documents.

**17.6 Design or Construction Defect Claims.**

(A) Compliance with Chapter 10 of the Act. Before the Association files a complaint for damages against a builder, developer, or general contractor (“respondent”) of the Project based upon a claim for defects in the design or construction of the Project, the Association shall comply with the provisions of Chapter 10 of the Act (Civil Codes Sections 6000 - 6150) with respect to the builder, developer, or general contractor.

(B) Requirements For Actions For Construction Defects. Actions by the Association or any Owner pertaining to or based upon a claim for defects in the design or construction of Improvements within the Project against the Declarant, or any architect, engineer or other consultant, or any contractor, subcontractor or materials supplier engaged by or on behalf of Declarant for the design and/or construction of the Project, or any element thereof, or otherwise defined in Civil Code Sections 896 or 897 as an Actionable Defect (“Claim”), shall be resolved and administered in accordance with Title 7 of Part 2 of Division 2 of the Civil Code (Sections 895 through 945.5), as such sections may be amended, revised or superseded, from time to time. If a Claim is subject to pre-litigation procedures in Civil Code Sections 910 through 938, or any successor statutes, the Association, each Owner, and the Declarant, prior to filing any civil action, arbitration or action in judicial reference regarding such Claim shall comply

with the pre-litigation procedures of Civil Code Sections 910 through 938.

17.7 Binding Arbitration of Disputes. If a dispute is the subject of binding arbitration under this Declaration, the following shall apply:

(A) Costs and fees of the arbitration, including ongoing costs and fees of the arbitration, shall be paid as agreed by the parties, and, if the parties cannot agree, as determined by the arbitrator, with the costs and fees of the arbitration to ultimately be borne as determined by the arbitrator; provided, however, if the Declarant is a party to the arbitration, then any fee to initiate arbitration shall be paid by Declarant, but the cost of arbitration shall ultimately be borne as determined by the arbitrator;

(B) A neutral and impartial individual shall be appointed to serve as arbitrator, with the arbitrator to be selected by mutual agreement of the parties. If the parties are unable to agree on an arbitrator within fifteen (15) days after any party initiates the arbitration, a neutral and impartial arbitrator shall be selected by the American Arbitration Association. In selecting the arbitrator, the provisions of Section 1297.121 of the Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed in Section 1297.121, or in Section 1297.124 of the Code of Civil Procedure;

(C) Venue of the arbitration shall be in the County where the Project is located, unless the parties agree to some other location;

(D) The arbitration shall commence in a prompt and timely manner in accordance with (i) the Commercial Rules of the American Arbitration Association, or if the rules do not specify a date by which arbitration is to commence, then (ii) by a date agreed upon by the parties, and if they cannot agree as to a commencement date, (iii) a date determined by the arbitrator. The arbitrator shall apply California substantive law in rendering a final decision. When the arbitrator is prepared to make the award, the arbitrator shall first so inform the parties, who shall have ten (10) days to attempt to resolve the matter by a binding agreement between them. If the parties resolve the matter, the arbitrator shall not make any award. If the parties do not so resolve the matter within the ten (10) day period, the arbitrator shall make the award on the eleventh day following the arbitrator's notice of being prepared to make the award;

(E) The arbitration shall be conducted in accordance with the Commercial Rules of the American Arbitration Association;

(F) The arbitration shall be promptly and timely concluded;

(G) The arbitrators shall be authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of arbitration; provided, however, that there shall in no event be any award of punitive damages.

(H) A judgment upon the award rendered by the arbitrator may be

entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement. The parties agree to be bound by the decision of the arbitrator, which shall be final and non-appealable.

(I) If state or federal law requires an Owner, the Association or Declarant to take steps or procedures before commencing an action in arbitration, then the Owner, the Association or Declarant must take such steps or follow such procedures, as the case may be, before commencing the arbitration. For example, any claim or disputes pursuant to California Civil Code Sections 895 et seq., as hereafter amended may be subject to the non-adversarial procedures set forth in California Civil Code Sections 910 through 938, prior to the initiation of any arbitration. In addition, nothing contained herein shall be deemed a waiver or limitation of the provisions Section 17.4 and Section 17.5.

(J) An Owner, the Association and Declarant, to such extent any such party is defending a claim in the arbitration, may, if it chooses, have all necessary and appropriate parties included as parties to the arbitration;

(K) Because many of the materials and products incorporated into the Unit are manufactured in other states, the development and conveyance of the Property evidences a transaction involving interstate commerce and the Federal Arbitration Act (9 U.S.C. Sections 1 et seq.) now in effect and as it may be hereafter amended will govern the interpretation and enforcement of the arbitration provisions set forth herein;

**(L) AGREEMENT TO ARBITRATE. BY EXECUTING THIS DECLARATION, DECLARANT AND BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, EACH OWNER AND THE ASSOCIATION SHALL BE DEEMED TO HAVE AGREED TO HAVE ANY DISPUTE, OTHER THAN ASSOCIATION ASSESSMENTS, DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT, AND DECLARANT, THE ASSOCIATION AND EACH OWNER ARE GIVING UP ANY RIGHTS DECLARANT, THE ASSOCIATION AND EACH OWNER MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. DECLARANT, THE ASSOCIATION AND EACH OWNER ARE GIVING UP JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS "ARBITRATION OF DISPUTES" PROVISION. IF DECLARANT, THE ASSOCIATION OR ANY OWNER REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, DECLARANT, THE ASSOCIATION OR SUCH OWNER MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE.**

17.8 Judicial Reference for Certain Disputes. Notwithstanding the provisions of Section 17.6, any Claim not resolved pursuant to the provisions and requirements of Section 17.6 shall be submitted to Judicial Reference as hereinafter provided:

(A) The dispute shall be submitted to binding general judicial reference

pursuant to California Code of Civil Procedure Sections 638, subdivision (1) through 645.1, or any successor statutes thereto pertaining to proceedings under judicial reference. The parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. Declarant shall not be required to participate in the judicial reference proceeding unless Declarant is satisfied that all necessary and appropriate parties will participate. The parties shall share equally in the fees and costs of the Referee, unless the Referee orders otherwise.

(B) The Referee shall have the authority to try all issues, whether of fact or law, and to report a statement of decision to the court. The parties shall use the procedures adopted by Judicial Arbitration and Mediation Services (“JAMS”) for judicial reference (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties), provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise:

(1) If the Declarant is a party to the judicial reference, then any fee to initiate the judicial reference shall be paid by Declarant, provided however that the cost of the judicial reference shall ultimately be borne as determined by the Referee;

(2) The proceedings shall be heard in the County in which the Project is located;

(3) The Referee must be a neutral and disinterested party who is a retired judge or a licensed attorney with at least 10 years’ experience in relevant real estate matters;

(4) Any dispute regarding the selection of the Referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, by the court with appropriate jurisdiction;

(5) The Referee may require one or more pre-hearing conferences;

(6) The parties shall be entitled to discovery, and the Referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge;

(7) A stenographic record of the judicial reference proceedings shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and any appeals;

(8) The Referee’s statement of decision shall contain findings of fact and conclusions of law to the extent applicable;

(9) The Referee shall have the authority to rule on all post-

hearing motions in the same manner as a trial judge.

(10) The Referee shall be authorized to provide all recognized remedies available in law or equity for any cause of action that is the basis of the judicial reference; provided, however, that there shall in no event be any award of punitive damages; and

(11) The statement of decision of the Referee upon all of the issues considered by the Referee shall be binding upon the parties, and upon filing of the statement of decision with the clerk of the court, or with the judge when there is no clerk, judgment may be entered on the decision. The decision of the Referee shall be appealable as if rendered by the court.

## **ARTICLE 18 - ADDITIONAL FHA REQUIREMENTS**

18.1 Conflict. As long as any Condominium in the Project is subject to a first Mortgage that is insured or guaranteed by either the Federal Housing Administration (the "FHA") or the United States Department of Veteran's Affairs (the "VA"), the provisions of this Article shall apply to the Project. Notwithstanding any contrary provision in the Governing Documents, the provisions of this Article shall control with respect to the rights and obligations of the Mortgagees specified herein.

### 18.2 Definitions.

(A) Eligible Holder. The term "Eligible Holder" shall mean any first Mortgagee or first Mortgage Insurer who has delivered a written notice to the Association which contains its name, address and the number or address of the Condominium encumbered by the first Mortgage and requests that the Association deliver written notice to it of any or all of the events specified in Section 18.7 (Notices).

(B) First Mortgage Insurer. The term "First Mortgage Insurer" shall mean any person or entity which (i) is an insurer of a first Mortgage, or (ii) is a guarantor of a first Mortgage.

18.3 Eligible Holder Approval. The consent of Owners of Units to which at least sixty seven percent (67%) of the votes in the Association and the approval of fifty-one percent (51%) of the Eligible Holders must be obtained to amend any provision of this Declaration or the Bylaws which establishes, provides for, governs or regulates any of the following subjects:

- (a) Voting;
- (b) Assessments, assessment liens or subordination of such liens;
- (c) Reserves for maintenance, repair and replacement of Common Area or Exclusive Use Common Area;
- (d) Insurance or fidelity bonds;
- (e) Rights to use the Common Area;
- (f) Responsibilities for maintenance and repair of any portion of the Project;

- (g) Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;
- (h) Boundaries of any Unit or Exclusive Use Common Area;
- (i) The interest of an Owner in Common Area or Exclusive Use Common Area;
- (j) Convertibility of Units into Common Area or of Common Area into Units;
- (k) Leasing of Condominiums;
- (l) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Condominium;
- (m) Establishment of self-management by the Association where professional management has been required by any First Mortgage Insurer; or
- (n) The provisions of Section 16.10 (Subordination and Priority of Liens), Article 16 (Mortgagee Protection), this Article 18 (Additional FHA Requirements) and any other provision in the Governing Documents which confers voting rights on First Mortgagees or First Mortgage Insurers.

18.4 Audited Financial Statements. If an audited financial statement for the immediately preceding fiscal year is available, the Association shall provide a copy to any Mortgagee who makes a written request for it. If an Institutional Mortgagee makes a written request for an audited financial statement for the immediately preceding fiscal year, the Association shall prepare and provide the audited financial statement within one hundred twenty (120) days of the request.

18.5 Agreements For Declarant Services. Any agreement providing for services of Declarant to or on behalf of the Association shall be for a term not to exceed one (1) year without the approval of fifty-one percent (51%) of each class of Members; provided, however, that in no event shall such an agreement exceed a term of three (3) years. Any such agreement is terminable by the Association without cause and without payment of a termination fee upon ninety (90) days written notice.

18.6 Inspection of Books and Records. Upon request, any Owner, Mortgagee, First Mortgagee or First Mortgage Insurer shall be entitled to inspect and copy, at its own expense, the books, records and financial statements of the Association, the Governing Documents and any amendments to the Governing Documents during normal business hours.

18.7 Notices. The Association shall give timely written notice of each of the following events to each Eligible Holder:

18.7.1 Amendments. Any proposed amendment to the Bylaws, Declaration or Condominium Plan effecting a change in:

- (a) The boundaries of any Unit or Exclusive Use Common Area;
- (b) The interest(s) of an Owner in Common Area or Exclusive Use Common Area;
- (c) The allocation of Assessments to Units;

- (d) The number of votes that may be cast by the Owner(s) of a Unit; or
- (e) The uses which may be made of Units or Common Area.

18.7.2 Termination of Project. Any proposed termination of the Project.

18.7.3 Loss. Any condemnation loss or casualty loss which affects the Condominium in which the Eligible Holder has an interest or a material portion of the Project.

18.7.4 Delinquency. Any delinquency in the payment of Assessments or charges owed by the Owner of a Condominium in which the Eligible Holder has an interest, if the delinquency is not cured within sixty (60) days after its due date.

18.7.5 Insurance. Any lapse, cancellation or material modification of any Association insurance policy; or

18.7.6 Specific Actions. Any proposal to take any action that requires the consent of a specified percentage of First Mortgagees or First Mortgage Insurers.

18.8 Reserve Account. The Association's reserve account described in Section 12.4 of the Declaration shall be funded by Regular Assessments at a level which is adequate to replace those Improvements that the Association is obligated to maintain, repair and replace.

18.9 Mortgage Protection. A breach of any of the conditions or the enforcement of any lien provisions contained in this Declaration shall not defeat or render invalid the lien of any First Mortgage made in good faith and for value as to any Condominium in the Project; but all of the covenants, conditions and restrictions contained in this Declaration shall be binding upon and effective against any Owner of a Condominium if the Condominium is acquired by foreclosure, trustee's sale or otherwise.

18.10 Mortgagee Voting. Each provision of this Declaration which requires the approval of First Mortgagees or Eligible Holders entitles the First Mortgagee or Eligible Holder to cast one (1) vote for each Condominium encumbered by a First Mortgage owned by the First Mortgagee or Eligible Holder. If an action is subject to multiple approvals, each Eligible Holder who casts a vote will be deemed to have cast the same vote as a First Mortgagee.

## **ARTICLE 19 - MISCELLANEOUS PROVISIONS**

19.1 Construction of Provisions. The provisions of this Declaration shall be construed liberally to effect its purpose of creating a uniform plan for the development and operation of a condominium project pursuant to the provisions of Section 4000, et. seq. of the California Civil Code.

19.2 Independence of Provision. The provisions of this Declaration shall be independent and severable. Invalidation or partial invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

19.3 Failure Not a Waiver. The failure of any Owner, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, right-of-way, liens charges or equitable servitudes contained in the Governing Documents shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or any of its officers or agents.

19.4 Notices. Unless otherwise indicated herein, notices shall be in writing and shall be addressed as follows: if to an Owner, to the address of his or her Condominium; and, if to the Association, to the president of the Association and the other Owners. The Owners may designate a different address for notices by giving written notice of such change of address to the Association. Any notice permitted or required by the Declaration or Bylaws may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the notice has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified. Pursuant to Civil Code Sections 4040 and 4045, any notice may also be delivered by e-mail, facsimile, or other electronic means, if the recipient has agreed to that method of delivery. If a document is delivered by electronic means, delivery is complete at the time of transmission.

19.5 Headings. The headings used in this Declaration are for convenience and reference only and the words contained therein shall not be held to expand, modify, or aid in the interpretation, construction, or meaning of this Declaration.

19.6 Number/Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary; and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context may require. "Person" shall include any individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

19.7 Amendments. This Declaration may be amended only by the unanimous vote (in person or by proxy) or unanimous written consent of Owners. Any amendment must be certified in a writing executed and acknowledged by all Owners and recorded in the Recorder's Office of the County of Alameda.

19.8 Successor Statutes. Any reference in the Governing Documents to a statute shall be deemed a reference to any amended or successor statute.

19.9 Recitals. The recitals contained on page 1 shall be incorporated in and made a part of this Declaration.



19.10 Exhibits. All Exhibits attached to this Declaration are incorporated herein and made a part hereof by this reference.

19.11 Term of Declaration. This Declaration shall continue for a term of fifty (50) years from its date of recording. Thereafter, this Declaration will automatically be extended for successive periods of ten (10) years until two-thirds of the Owners approve a termination of this Declaration.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein, has executed this Declaration of Covenants, Conditions and Restrictions as of the date first above set forth.

\_\_\_\_\_  
RONGKANG WANG

**“DECLARANT”**

**ACKNOWLEDGMENT**

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                    }ss  
COUNTY OF \_\_\_\_\_            }

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared Rongkang Wang 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\_\_\_\_\_

(This area for official notarial seal)

# EXHIBIT A

## PROPERTY DESCRIPTION

### 84 OAKES BOULEVARD CONDOMINIUMS

The Property is defined as follows:

That parcel of land in the City of San Leandro, County of Alameda, State of California, described as follows:

All of the real property shown as Lot 1 on Parcel Map No. 10865, filed for record the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in Book \_\_\_\_\_ of Parcel Maps at pages \_\_\_\_ and \_\_\_\_\_, Alameda County Records.

# EXHIBIT 'B'

## NOTES AND DEFINITIONS:

1. THIS PROJECT IS LOCATED IN LOT 1 OF PARCEL MAP No. 10850 IN THE CITY OF SAN LEANDRO, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AS PER MAP FILE IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_ OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER. THIS PROJECT IS COMPOSED OF A COMMON AREA AND 3 UNITS.
2. THE CONDOMINIUM DELINEATED HEREIN IS SUBJECT TO THE PROVISIONS OF THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT, SECTION 4000 THROUGH 6150.
3. THE BOUNDARIES OF UNITS A, B & C ARE DEFINED HORIZONTALLY TO THE EXTERIOR FINISHED SURFACES AND DOORS OF THE PERIMETER WALLS AND AT THE FACE OF THE COMMON WALL BETWEEN UNITS B & C, AND DEFINED VERTICALLY TO THE BASE ELEVATION AND THE UPPER ELEVATION. AS SHOWN HEREON, THESE UNITS SHALL INCLUDE THE FOUNDATION AND ROOF, INCLUDING ANY ROOF OVERHANGS AND AWNINGS.
4. THIS PLAN AND THE DIMENSIONS SHOWN HEREIN ARE TO CONFORM TO CIVIL CODE 4285, WHICH REQUIRES A THREE DIMENSIONAL DESCRIPTION OF THE PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREAS AND EACH SEPARATE INTEREST. THE DIMENSIONS SHOWN HEREIN ARE NOT INTENDED TO BE SUFFICIENTLY ACCURATE TO USE FOR THE COMPUTATION OF FLOOR AREA OR AIR SPACE VOLUME IN ANY OR ALL OF THE UNITS.
5. THE DIAGRAMMATIC PLANS INTENTIONALLY OMIT DETAILED INFORMATION OF INTERNAL PARTITIONING WITHIN INDIVIDUAL UNITS. LIKEWISE, SUCH DETAIL AS PROTRUSIONS OF VENTS, BEAMS, COLUMNS, WINDOW CASINGS, AND OTHER SUCH FEATURES ARE NOT INTENDED TO BE REFLECTED ON THIS PLAN.
6. THE COMMON AREA IS ALL OF THE LAND AND REAL PROPERTY INCLUDED WITHIN THE BOUNDARY LINES OF SAID LOT 1, EXCEPT THOSE PORTIONS SHOWN AND DEFINED HEREIN AS CONDOMINIUM UNITS.
7. FOR ALL OTHER DEFINITIONS REFER TO THE "DECLARATIONS OF THE COVENANTS, CONDITIONS AND RESTRICTIONS OF THE 84 OAKES BOULEVARD CONDOMINIUMS".
8. IF THERE ARE ANY MATTERS OF CONFLICT OR INCONSISTENCIES BETWEEN THIS CONDOMINIUM PLAN AND THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, THEN THE PROVISIONS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS SHALL PREVAIL.

## SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR OF THE STATE OF CALIFORNIA; THAT THIS CONDOMINIUM PLAN, CONSISTING OF 6 SHEETS, CORRECTLY REPRESENTS A TRUE AND COMPLETE DEPICTION OF THE PROJECT MADE FROM PLANS IN JULY OF 2018 AND THE PLAN REFERS TO OR SHOW MONUMENTATION OF THE GROUND AND A THREE DIMENSIONAL DESCRIPTION OF A CONDOMINIUM PROJECT IN SUFFICIENT DETAIL TO IDENTIFY THE COMMON AREA AND EACH SEPARATE INTEREST PURSUANT TO THE REQUIREMENTS OF CALIFORNIA CIVIL CODE SUBSECTION 4285.

## CONDOMINIUM PLANS FOR THE 84 OAKES BOULEVARD CONDOMINIUMS

BEING THE REAL PROPERTY DESCRIBED IN THAT CERTAIN DEED RECORDED APRIL 08, 2014 AS SERIES 2014085639, ALAMEDA COUNTY RECORDS, ALSO BEING A PORTION OF THAT CERTAIN FIVE ACRE TRACT OF LAND DESCRIBED IN THAT CERTAIN DEED RECORDED MAY 05, 1913, IN LIBER 2143 OF DEEDS, PAGE 418, ALAMEDA COUNTY RECORDS

SAN LEANDRO, COUNTY OF ALAMEDA, STATE OF CALIFORNIA  
SEPTEMBER, 2018

**OWNER/SUBDIVIDER:**  
RONGKANG WANG  
84 OAKES BOULEVARD  
SAN LEANDRO, CA 94577

**SURVEYOR:**  
BAY AREA LAND SURVEYING INC.  
3065 RICHMOND PARKWAY, STE. 101  
RICHMOND, CA 94086

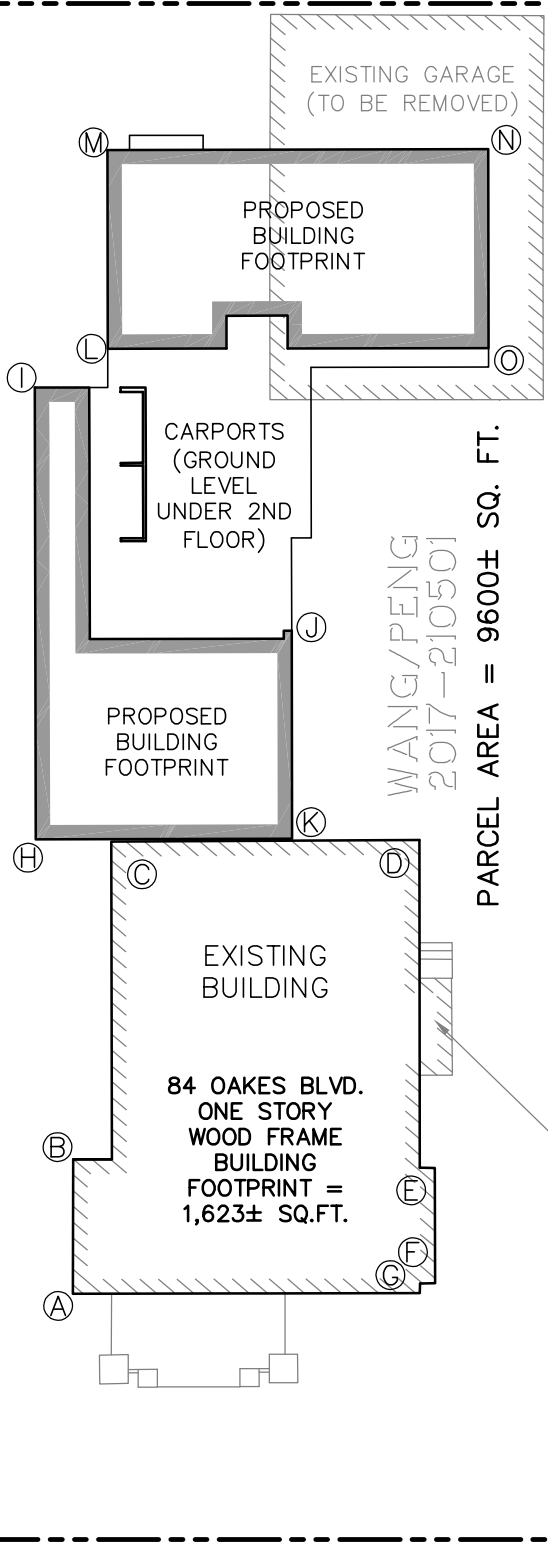
\_\_\_\_\_  
KEITH S. BUSH, L.S. 8494  
DATE:



# SITE PLAN

N59°11'00"E 60.00'

N30°55'20"W 160.00'



EXISTING GARAGE  
(TO BE REMOVED)

PROPOSED  
BUILDING  
FOOTPRINT

CARPORTS  
(GROUND  
LEVEL  
UNDER 2ND  
FLOOR)

PROPOSED  
BUILDING  
FOOTPRINT

EXISTING  
BUILDING

84 OAKES BLVD.  
ONE STORY  
WOOD FRAME  
BUILDING  
FOOTPRINT =  
1,623± SQ.FT.

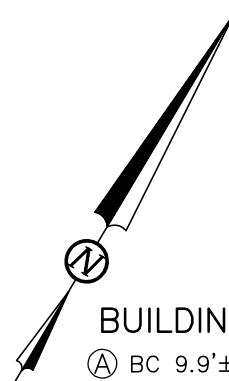
WANG/PENG  
2017-210501

PARCEL AREA = 9600± SQ. FT.

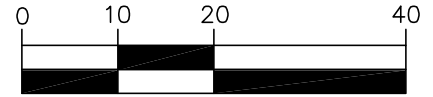
STAIRS &  
BUILDING  
AREA TO BE  
REMOVED

N59°11'00"E 60.00'

OAKES BLVD.



## GRAPHIC SCALE



( IN FEET )

1 inch = 20 ft.

### BUILDING TIES:

- Ⓐ BC 9.9± E'LY OF PL & 25.6± N'LY OF PC
- Ⓑ BC 10.0± E'LY OF PL & 39.6± N'LY OF PC
- Ⓒ BC 14.0± E'LY OF PL & 72.7± N'LY OF PC
- Ⓓ BC 13.8± W'LY OF PL & 72.9± N'LY OF PC
- Ⓔ BC 12.3± W'LY OF PL & 38.7± N'LY OF PC
- Ⓕ BC 12.3± W'LY OF PL & 26.7± N'LY OF PC
- Ⓖ BC 13.9± W'LY OF PL & 25.7± N'LY OF PC
- Ⓗ BC 6.2± E'LY OF PL & 72.9± N'LY OF PC
- Ⓘ BC 6.2± E'LY OF PL & 40.0± S'LY OF PC
- Ⓝ BC 27.1± W'LY OF PL & 65.3± S'LY OF PC
- Ⓚ BC 27.1± W'LY OF PL & 73.0± N'LY OF PC
- Ⓛ BC 13.8± E'LY OF PL & 36.0± S'LY OF PC
- Ⓜ BC 13.8± E'LY OF PL & 15.3± S'LY OF PC
- Ⓝ BC 6.6± W'LY OF PL & 15.2± S'LY OF PC
- Ⓞ BC 6.6± W'LY OF PL & 35.9± S'LY OF PC

MEASURED AT RIGHT ANGLES TO PROPERTY LINE

### LEGEND

	BUILDING FOOTPRINT (EXISTING)
	BUILDING FOOTPRINT (TO BE CONSTRUCTED)
APN	ASSESSOR'S PARCEL NUMBER
BC	BUILDING CORNER
PC	PROPERTY CORNER
PL	PROPERTY LINE

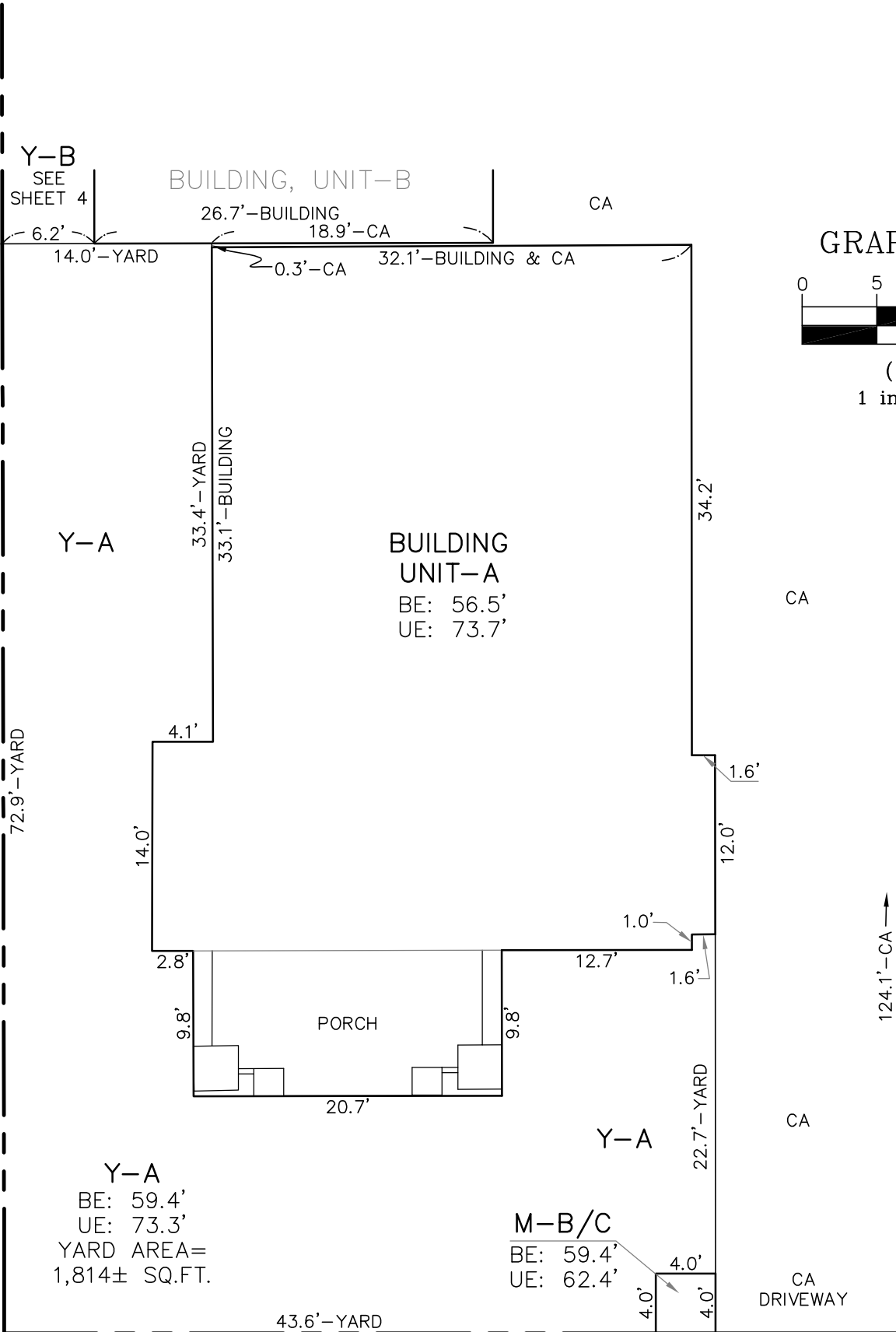
----- DEEDED PARCEL LINE  
 - - - - - SUBJECT PARCEL LINE

### BENCHMARK:

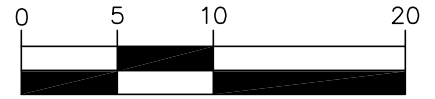
WELL MONUMENT IN SIDEWALK AT NORTHEASTERLY  
 CORNER OF EAST 14TH STREET & DUTTON AVENUE;  
 EL.= 56.863' (NGVD29)  
 PER CITY OF SAN LEANDRO RECORDS

# PARCEL FRONT AND UNIT A

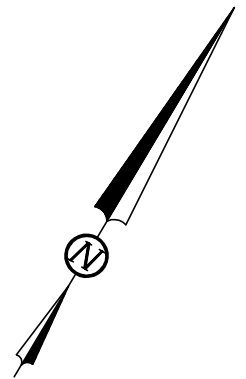
BUILDING/UNIT BOUNDARY		M-B/C	MAILBOX & ADDRESS MONUMENT, UNITS B & C
CA	COMMON AREA	Y-A	YARD, UNIT-A
BE	BOTTOM ELEVATION		
UE	UPPER ELEVATION		



## GRAPHIC SCALE



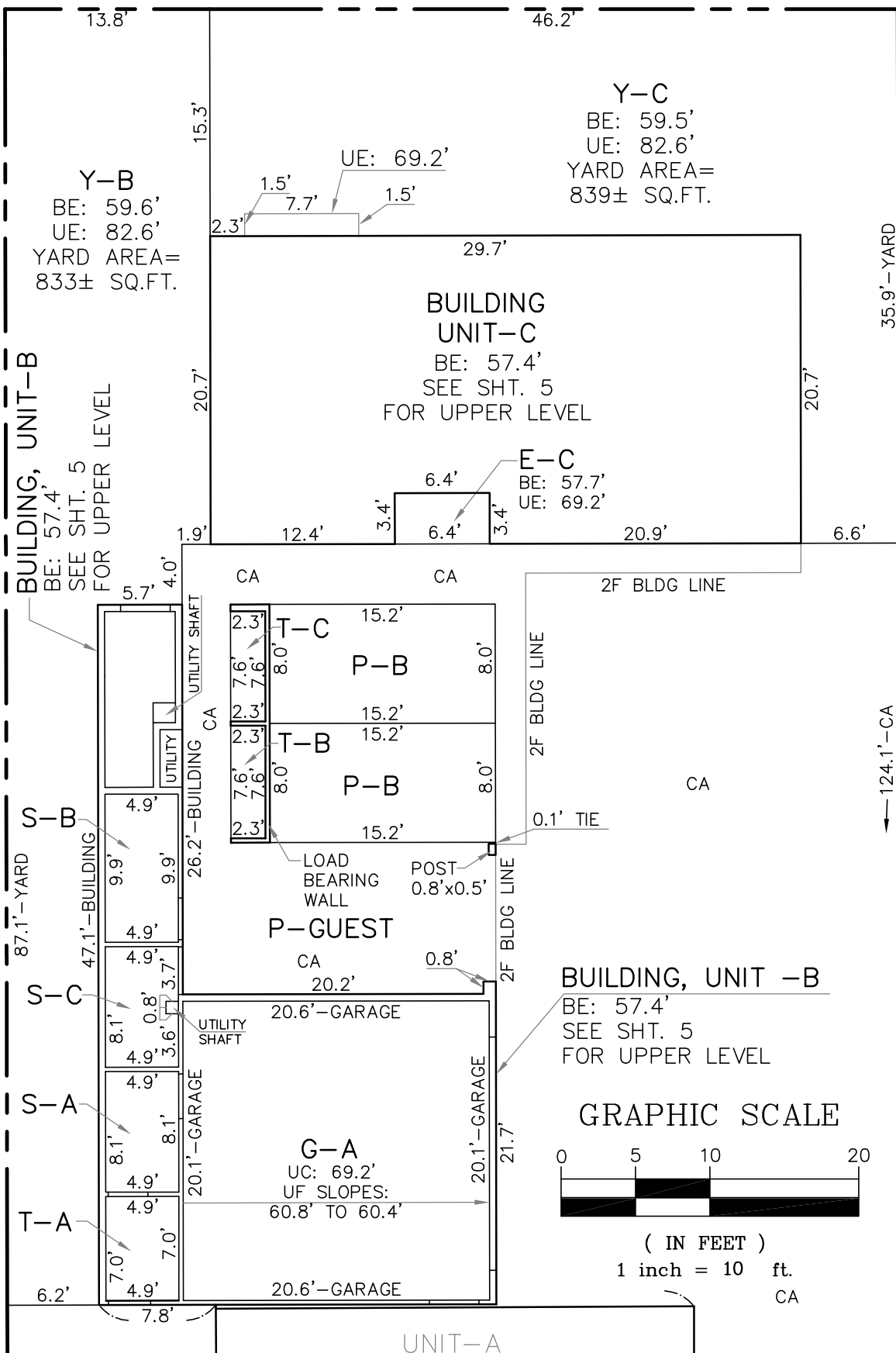
( IN FEET )  
1 inch = 10 ft.



Y-A  
BE: 59.4'  
UE: 73.3'  
YARD AREA=  
1,814± SQ.FT.

M-B/C  
BE: 59.4'  
UE: 62.4'

PARCEL REAR  
AND  
UNIT B & C  
1ST STORY

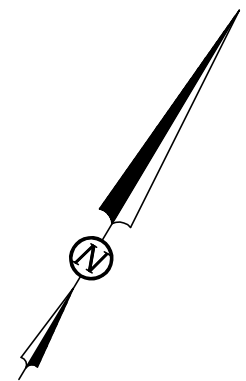
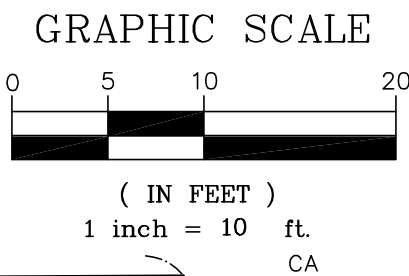


**NOTE:**  
TR & ST AREAS  
UF: 61.0', UC: 69.2'

PB AREAS  
UC: 69.2'  
UF SLOPES:  
60.7' TO 60.4'

P-GUEST AREA  
UC: 69.2'  
UF SLOPES:  
60.8' TO 60.4'

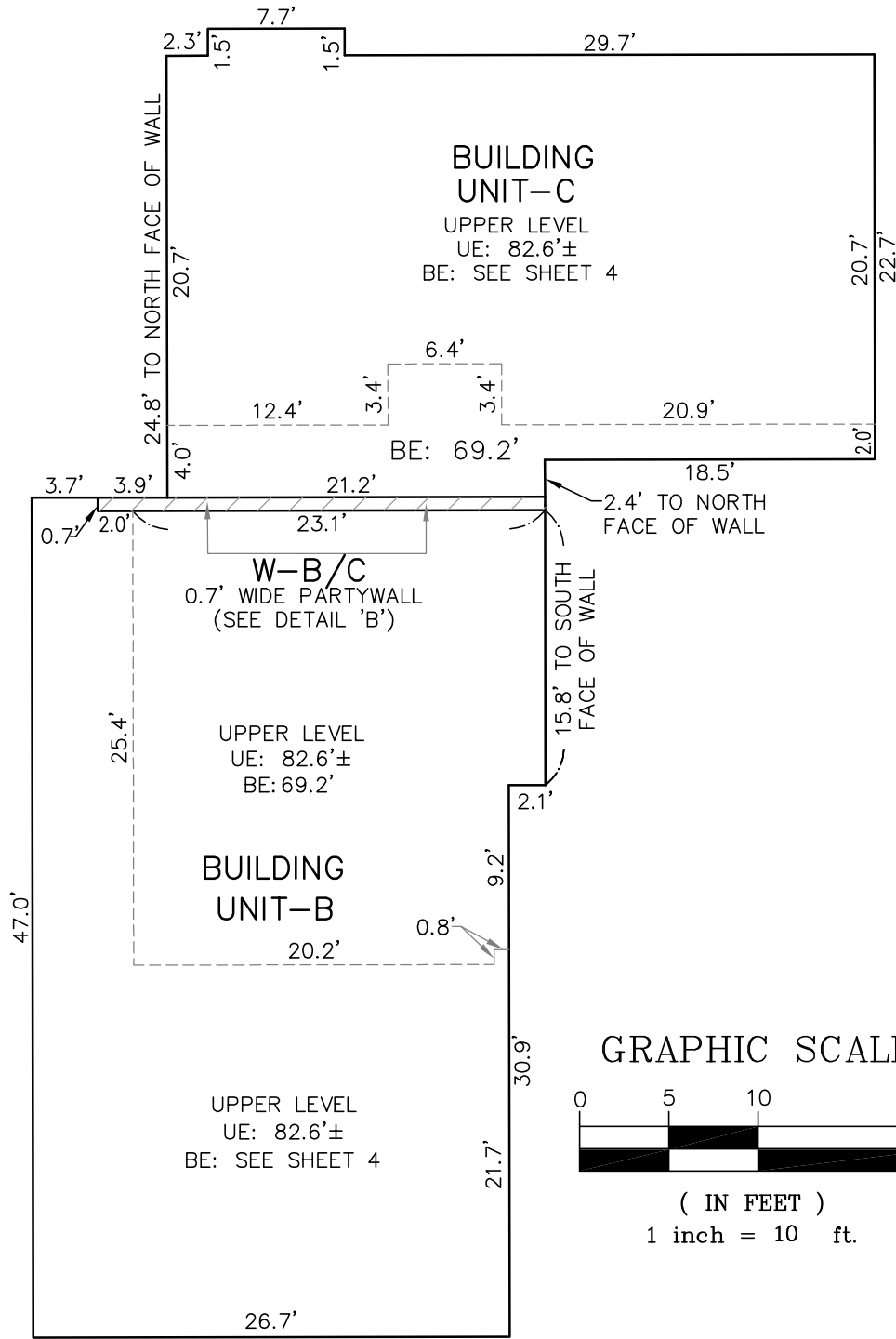
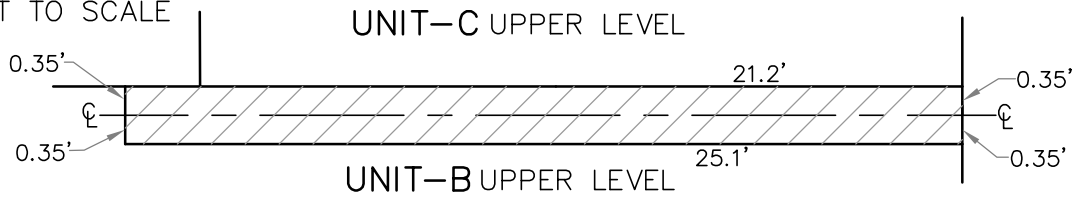
**BUILDING, UNIT -B**  
BE: 57.4'  
SEE SHT. 5  
FOR UPPER LEVEL



LEGEND						
UNIT BOUNDARY	BE	BOTTOM ELEVATION	S-A	STORAGE, UNIT-A	T-C	TRASH AREA, UNIT-C
	CA	COMMON AREA	S-B	STORAGE, UNIT-B	UC	UNFINISHED CEILING
	E-C	ENTRYWAY, UNIT-C	S-C	STORAGE, UNIT-C	UE	UPPER ELEVATION
	G-A	GARAGE, UNIT-A	T-A	TRASH AREA, UNIT-A	UF	UNFINISHED FLOOR
	P-B	PARKING, UNIT-B	T-B	TRASH AREA, UNIT-B		

**DETAIL 'B'**  
NOT TO SCALE

**UNIT B & C  
2ND STORY**



LEGEND	
	UNIT BOUNDARY
	ELEVATION BREAKLINE
BE	BOTTOM ELEVATION
CA	COMMON AREA
UE	UPPER ELEVATION
W-B/C	WALL - UNITS B & C



## EXHIBIT C

### SCHEDULE OF UNDIVIDED INTEREST IN COMMON AREA

#### 84 OAKES BOULEVARD CONDOMINIUMS

The percentage ownership interest of each Owner as a tenant in common is as follows:

<b>Condominium Unit No.</b>	<b>Percentage Interest</b>
Unit 1	36.5%
Unit 2	27.7%
Unit 3	35.8%

RECORDING REQUESTED BY

WHEN RECORDED RETURN TO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

# **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

## **ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP FOR 84 OAKES BOULEVARD CONDOMINIUMS**

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

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP FOR 84 OAKES BOULEVARD CONDOMINIUMS

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# City of San Leandro

Meeting Date: February 19, 2019

## Resolution - Council

---

**File Number:** 19-032

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Keith Cooke  
Engineering & Transportation Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** RESOLUTION of the City of San Leandro City Council to Approve Parcel Map 10850 for 84 Oakes Boulevard, Assessor's Parcel Number 076-0420-003; Owner, Subdivider and Applicant: Rongkang Wang

---

**WHEREAS**, the subdivider, Rongkang Wang, submitted Parcel Map 10850 to the City Council for approval; and

**WHEREAS**, the City Council finds that the proposed map, together with the provisions for the subdivision's design and improvement, is consistent with the City's 2035 General Plan; and

**WHEREAS**, the City Engineer attests that said parcel map complies with the provisions of San Leandro Municipal Code §7-1-210 et seq. and with the provisions of the Subdivision Map Act; and

**WHEREAS**, the City's consulting Land Surveyor attests that said parcel map is technically correct pursuant to California Government Code §66450(b); and

**WHEREAS**, the City Planner's Report for Parcel Map 10850 is incorporated herein.

**NOW, THEREFORE**, the City Council of the City of San Leandro does **RESOLVE** as follows:

- That said Parcel Map 10850 is categorically exempt from the environmental review requirements of CEQA according to §15315 "Minor Land Divisions" (Class 15) of the CEQA Guidelines; and
- That said Parcel Map 10850 is hereby approved, subject to the City Engineer's Report as well as the City Planner's Report, attached hereto and made a part hereof; and



- That the City Clerk is hereby authorized and directed to execute the City Clerk's Statement on Parcel Map 10850, and shall forward the executed map to the Alameda County Recorder for recordation.

**OWNERS' STATEMENT:**

I THE UNDERSIGNED, HEREINAFTER REFERRED TO AS OWNER, DO HEREBY STATE THAT I AM THE OWNER OF THE LAND DELINEATED AND EMBRACED WITHIN THE DISTINCTIVE BORDER OF THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10850", CONSISTING OF TWO (2) SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF, AND THAT I AM THE ONLY PERSON WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID REAL PROPERTY, AND THAT I CONSENT TO THE PREPARATION AND FILING OF THIS PARCEL MAP.

OWNER: Rongkang Wang 12/17/2018  
RONGKANG WANG DATE

**OWNER'S ACKNOWLEDGMENT:**

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 THE DOCUMENT.

STATE OF CALIFORNIA

COUNTY OF Alameda

ON 17 December 2018 BEFORE ME, MINAL A. JOSHI, Notary Public  
A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED Rongkang Wang

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 EXECUTED THE SAME IN HIS AUTHORIZED CAPACITY, AND THAT BY HIS SIGNATURE ON THE INSTRUMENT, THE PERSON, OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

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.

M. A. Joshi  
NOTARY PUBLIC

NAME: MINAL A. JOSHI

MY COMMISSION EXPIRES: Aug, 26 2022

MY COMMISSION NUMBER: 2255984

COUNTY OF PRINCIPAL PLACE OF BUSINESS: San leandro, California

**CITY SURVEYOR'S STATEMENT:**

I, ANNE-SOPHIE TRUONG, CITY SURVEYOR FOR THE CITY OF SAN LEANDRO, DO HEREBY STATE THAT I HAVE EXAMINED THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10850", CONSISTING OF TWO SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF, AND THAT THE SURVEY DATA SHOWN UPON SAID MAP IS TECHNICALLY CORRECT.

ASophie 01/03/2019  
ANNE-SOPHIE TRUONG, L.S. 8998  
CITY SURVEYOR, CITY OF SAN LEANDRO,  
ALAMEDA COUNTY, CALIFORNIA



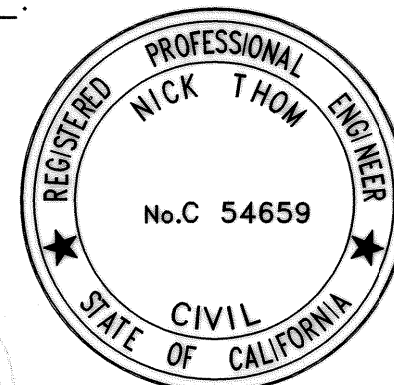
**CITY ENGINEER'S STATEMENT:**

I, NICK JAMES THOM, CITY ENGINEER OF THE CITY OF SAN LEANDRO, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE AS FOLLOWS:

- 1) THAT I HAVE EXAMINED THE HEREON EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10850", CONSISTING OF TWO (2) SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF.
- 2) THE SUBDIVISION AS SHOWN UPON SAID PARCEL MAP IS SUBSTANTIALLY THE SAME AS SAID SUBDIVISION APPEARED ON THE TENTATIVE MAP, IF REQUIRED, AND ANY APPROVED ALTERATION THEREOF.
- 3) ALL PROVISIONS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA AND AMENDMENTS THERETO AND ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18<sup>th</sup>  
DAY OF January 2019.

N. Thom  
NICK JAMES THOM, R.C.E. No. 54659  
CITY ENGINEER FOR CITY OF SAN LEANDRO  
ALAMEDA COUNTY, CALIFORNIA



**SURVEYOR'S STATEMENT:**

THIS PARCEL MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF RONGKANG WANG IN APRIL OF 2018. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE PARCEL MAP, IF ANY. I HEREBY STATE THAT THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, AND THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

Keith S. Bush  
KEITH S. BUSH, L.S. 8494  
DATE: 12/11/2018



**CERTIFICATE OF THE CLERK OF THE BOARD OF SUPERVISORS:**

I, ANIKA CAMPBELL-BELTON, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY CERTIFY, AS CHECKED BELOW, THAT:

- AN APPROVED BOND HAS BEEN FILED WITH THE BOARD OF SUPERVISOR OF SAID COUNTY AND STATE IN THE AMOUNT OF \$ \_\_\_\_\_, CONDITIONED FOR PAYMENT OF ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF BUT NOT YET PAYABLE, AND WAS DULY APPROVED BY SAID BOARD IN SAID AMOUNT.
- ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID, AS CERTIFIED BY THE TREASURER TAX COLLECTOR OF THE COUNTY OF ALAMEDA.

ANIKA CAMPBELL-BELTON  
CLERK OF THE BOARD OF SUPERVISORS,  
COUNTY OF ALAMEDA,  
STATE OF CALIFORNIA

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DEPUTY CLERK

**CITY CLERK'S STATEMENT:**

I, MARIAN HANDBA, CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF SAN LEANDRO, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP No. 10850" CONSISTING OF TWO (2) SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF, WAS PRESENTED TO SAID COUNCIL OF THE CITY OF SAN LEANDRO AS PROVIDED BY LAW, AT THE REGULAR MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AND THAT SAID COUNCIL OF THE CITY OF SAN LEANDRO DID THEREUPON BY RESOLUTION No. \_\_\_\_\_, DULY PASSED AND ADOPTED AT SAID MEETING, APPROVE SAID MAP.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

MARIAN HANDBA LETICIA MIGUEL  
CITY CLERK AND CLERK OF THE CITY COUNCIL  
OF THE CITY OF SAN LEANDRO,  
ALAMEDA COUNTY, CALIFORNIA

**RECORDER'S STATEMENT:**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ OF  
PARCEL MAPS, AT PAGES \_\_\_\_\_, AT THE REQUEST OF OLD REPUBLIC TITLE COMPANY.

FEE \$ \_\_\_\_\_ SERIES NUMBER \_\_\_\_\_

STEVE MANNING  
COUNTY RECORDER IN AND FOR THE COUNTY OF ALAMEDA,  
STATE OF CALIFORNIA

BY: \_\_\_\_\_  
DEPUTY COUNTY RECORDER

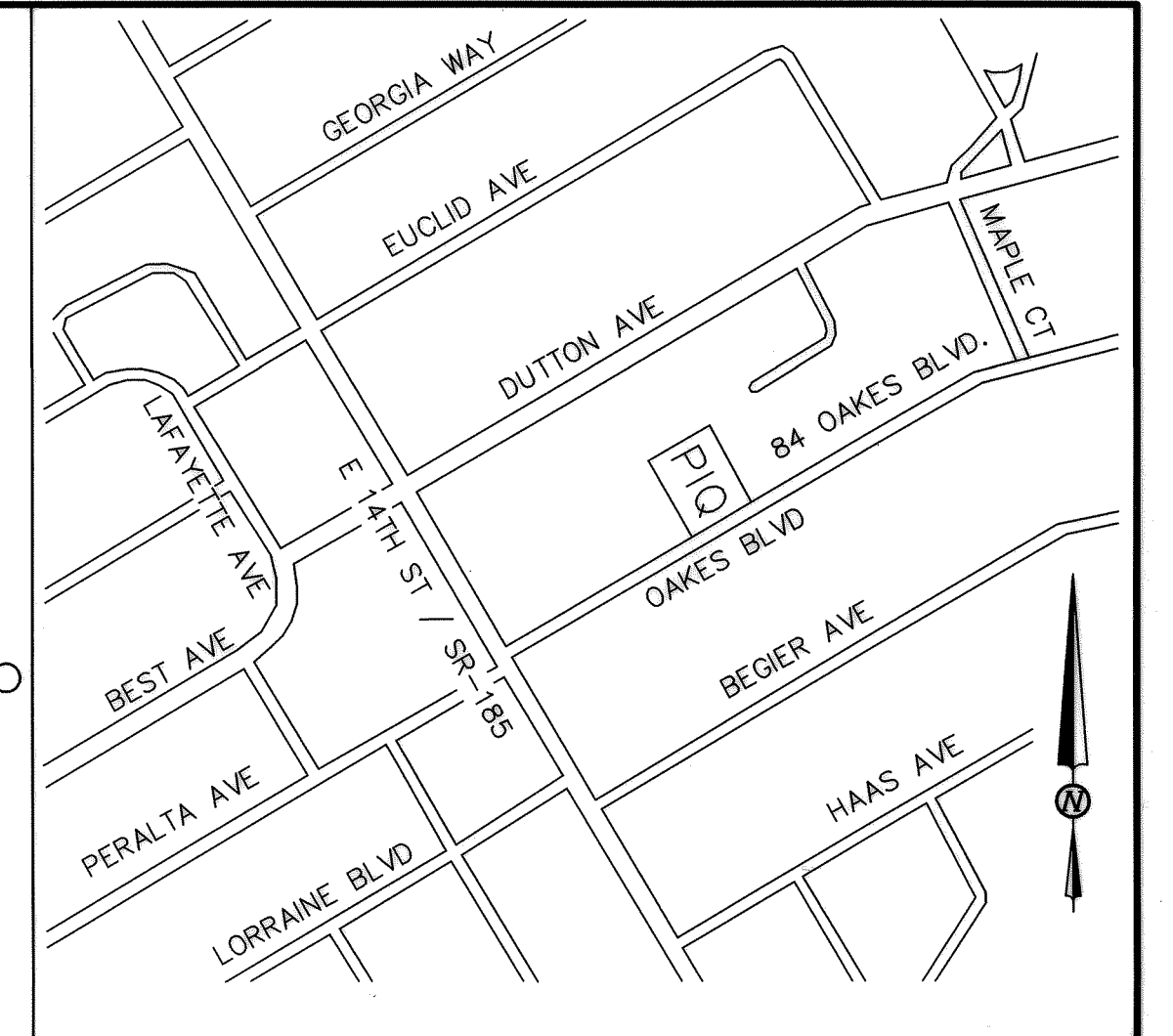
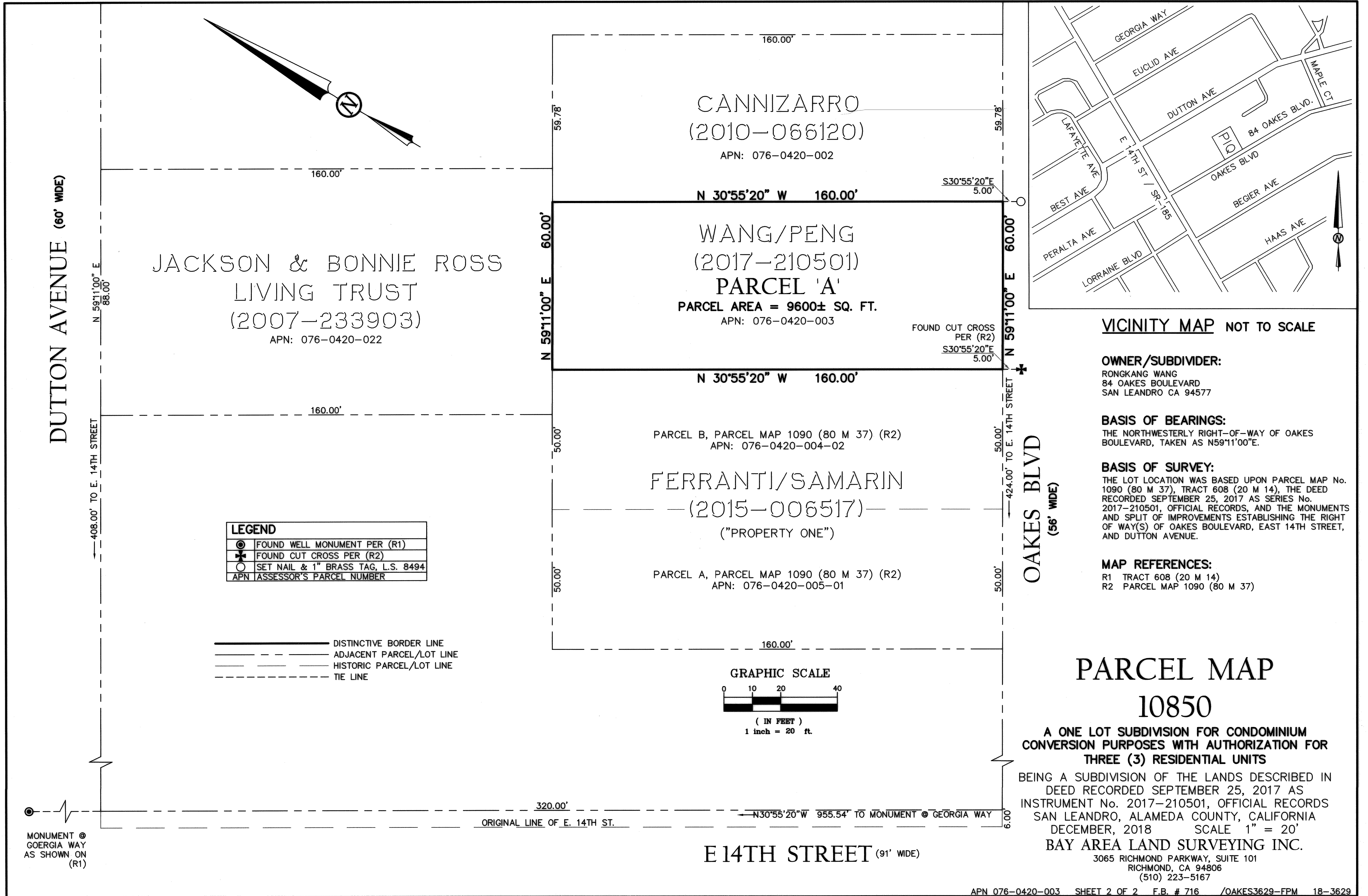
**PARCEL MAP 10850**

**A ONE LOT SUBDIVISION FOR CONDOMINIUM  
CONVERSION PURPOSES WITH AUTHORIZATION FOR  
THREE (3) RESIDENTIAL UNITS**

BEING A SUBDIVISION OF THE LANDS DESCRIBED IN  
DEED RECORDED SEPTEMBER 25, 2017 AS INSTRUMENT  
No. 2017-210501, OFFICIAL RECORDS  
SAN LEANDRO, ALAMEDA COUNTY, CALIFORNIA  
DECEMBER, 2018

**BAY AREA LAND SURVEYING INC.**

3065 RICHMOND PARKWAY, SUITE 101  
RICHMOND, CA 94806  
(510) 223-5167



**VICINITY MAP NOT TO SCALE**

**OWNER/SUBDIVIDER:**

RONGKANG WANG  
84 OAKES BOULEVARD  
SAN LEANDRO CA 94577

**BASIS OF BEARINGS:**

THE NORTHWESTERLY RIGHT-OF-WAY OF OAKES BOULEVARD, TAKEN AS N59°11'00"E.

**BASIS OF SURVEY:**

THE LOT LOCATION WAS BASED UPON PARCEL MAP No. 1090 (80 M 37), TRACT 608 (20 M 14), THE DEED RECORDED SEPTEMBER 25, 2017 AS SERIES No. 2017-210501, OFFICIAL RECORDS, AND THE MONUMENTS AND SPLIT OF IMPROVEMENTS ESTABLISHING THE RIGHT OF WAY(S) OF OAKES BOULEVARD, EAST 14TH STREET, AND DUTTON AVENUE.

**MAP REFERENCES:**

R1 TRACT 608 (20 M 14)  
R2 PARCEL MAP 1090 (80 M 37)

**PARCEL MAP**  
**10850**

**A ONE LOT SUBDIVISION FOR CONDOMINIUM CONVERSION PURPOSES WITH AUTHORIZATION FOR THREE (3) RESIDENTIAL UNITS**

BEING A SUBDIVISION OF THE LANDS DESCRIBED IN DEED RECORDED SEPTEMBER 25, 2017 AS INSTRUMENT No. 2017-210501, OFFICIAL RECORDS SAN LEANDRO, ALAMEDA COUNTY, CALIFORNIA DECEMBER, 2018 SCALE 1" = 20'

**BAY AREA LAND SURVEYING INC.**

3065 RICHMOND PARKWAY, SUITE 101  
RICHMOND, CA 94806  
(510) 223-5167

**CITY OF SAN LEANDRO  
MEMORANDUM**

**DATE:** January 16, 2019

**TO:** Vibha Deshmukh, Associate Engineer

**FROM:** Anjana Mevani, Senior Planner

**SUBJECT:** City Planner's Report on Parcel Map 10850, a One Lot Subdivision for Condominium Purposes - Three Units; a property known as 84 Oakes Boulevard.; Alameda County Assessor's Parcel Number 76-420-3; RongKang Wang (property owner).

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**INTRODUCTION**

Pursuant to Title VII, of Chapter 1 of the San Leandro Municipal Code, please accept this as the City Planner's Report on Parcel Map 10850 and Condominium Plans for 84 Oakes Boulevard.

**BACKGROUND**

The subject property, 84 Oakes Boulevard, received Conditional Use Permit and Site Plan Review (PLN17-0002) approval on November 2, 2017 for a multi-family residential project where two new residential units with covered parking are proposed behind an existing single family residence. The site is 9,600 square feet and zoned RM-1800 Residential Multi-Family District.

The applicant is proposing a multi-family residential project at 84 Oakes Boulevard. Two new residential units will be added behind an existing single-family residence. The units would be for individual ownership (condominiums). The proposal is two stories in height with units above parking. A total of seven covered parking spaces will also be added to the site. Four of the parking spaces will be within garages and the remaining three will be within carports.

The existing single family house on the site will be slightly modified to allow for driveway access to the rear of the property. For the new units, the middle unit is to be located above the proposed garage and the carports and will be approximately 1,337 square feet with two bedrooms and two bathrooms. The rear unit will be approximately 1,317 square feet and will have three bedrooms and two bathrooms.

The proposed garage for the single family residence will be approximately 433 square feet. The carport parking for the middle unit and guest parking will be approximately 305 square feet. The rear unit garage will be approximately 435 square feet. Next to the garages and carport spaces, within enclosed spaces, will be storage spaces for the units and trash/recycling container areas.

The proposed multi-family residential project complies with all the RM-1800 District requirements for minimum front yard, side yard, and rear yard setbacks. The proposed height of approximately 24.5 feet will also comply with the height requirement which is less than 50 foot maximum allowed. The resulting total lot coverage will be approximately 45% where 70% is the maximum allowed in the RM-1800 District. Seven off-street parking satisfies the off-street parking requirement of 6.75 parking spaces and driveway access will be provided on the property.

Pursuant to City of San Leandro Zoning Code Section 2-510.A.5, Multi-Family Residential is a permitted use in the RM-1800 District. A total of three units will be located at the site, which is lower than the 5 units the base density allows for the RM-1800 District. The proposed multi-family residential use as proposed is in accordance with the objectives of the Zoning Code, which are to preserve the character and quality of residential neighborhoods and to foster convenient, harmonious, and workable relationships among land uses.

## **DETAILS OF PROPOSAL**

Parcel Map 10850 is a single lot subdivision. As shown on the accompanying Condominium Plan the single lot will contain three units, which may be owned and/or sold individually. The Plan shows the footprint and airspace the building would occupy on top of the single lot. The Plan also shows the common areas and covered parking spaces for the condominium development.

## **STAFF ANALYSIS**

The Parcel Map and the Condominium Plan conforms to Conditional Use Permit and Site Plan Review (PLN17-0002). Covenants, conditions and restrictions (CC&Rs) were drafted and referenced on the map. The CC&Rs provide for the maintenance of the lot.

## **SUMMARY AND RECOMMENDATION**

1. Parcel Map 10850 is in conformance with the approved Conditional Use Permit and Site Plan Review approval for multi-family residential project for the purpose of condominium for sale and ownership as three individual units on the single lot (PLN17-0002).
2. Parcel Map 10850 is in compliance with Title VII, Chapter 1 of the San Leandro Municipal Code (Subdivision Ordinance).
3. Parcel Map 10850 is in compliance with the Subdivision Map Act (California Government Code).
4. Parcel Map 10850 is consistent with the objectives, policies, land use and programs in the City of San Leandro's General Plan.

Subject to the comments above, it is recommended that Parcel Map 10850 for 84 Oakes Boulevard be approved.



# City of San Leandro

Civic Center, 835 E. 14th Street  
San Leandro, California 94577  
www.sanleandro.org



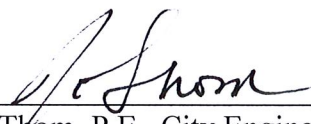
## EXHIBIT A

### CITY ENGINEER'S REPORT FOR PARCEL MAP 10850 84 Oakes Boulevard

#### FINDINGS:

Pursuant to the provisions of Section 7-1-520 of the San Leandro Municipal Code, I have examined Parcel Map 10493 and find that it will be in compliance with Title VII, Chapter 1 of the San Leandro Municipal Code and the State Subdivision Map Act. There are no special conditions for the parcel map and development shall meet all of the requirements in the agreed upon Conditions of Approval for Planning Permit PLN17-0002, recorded at the Official Records of Alameda County on December 19, 2017.

Date: January 18, 2019

  
\_\_\_\_\_  
Nick Thom, P.E., City Engineer

Pauline Russo Cutter, Mayor

City Council:

Victor Aguilar, Jr.

Pete Ballew

Deborah Cox

Ed Hernandez

Benny Lee

Corina N. López

