

13.7.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Community Association; and

13.7.4 Any proposed action which would require the consent of a specified percentage of Mortgage holders.

13.§ Documents to be Available. The Community Association shall make available to Owners and Mortgagees, and holders, insurers or guarantors of any First Mortgage, current copies of the Declaration, the Community Bylaws, other rules concerning the project and the books, records and financial statements of the Community Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. The holders of First Mortgages encumbering fifty-one percent (51%) or more of the Lots subject to a Mortgage shall, upon written request, be entitled to have an audited statement for the immediately preceding fiscal year prepared at their expense if one is not otherwise available. Any financial statement so requested shall be furnished within a reasonable time following the request.

13.9 Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of the Declaration, the provisions of this Article shall control,

ARTICLE 14

AMENDMENTS

This Declaration establishes the covenants, conditions and restrictions for the La Costa Oaks Community. It may be possible, in the future, that the Community Declaration will need to be amended. This Article sets forth the procedures that must be followed, and the consents that must be obtained in order to amend this Declaration.

14.1 Amendment. Except as may otherwise be stated in the Declaration, during the period of time prior to conversion of the Class B membership in the Community Association to Class A membership, this Declaration may be amended at any time and from time to time by the vote or written consent of sixty-seven percent (67%) of the voting power of each class of Members of the Community Association. Any amendment shall become effective upon recording with the Office of the County Recorder of the County. After conversion of the Class B membership in the Community Association to Class A membership, the Declaration may be amended at any time and from time to time by the vote or written consent of (a) sixty-seven percent (67%) of the total Voting Power of the Community Association, and (b) at least sixty-seven percent (67%) of the Voting Power of Members of the Community Association other than Declarant. Anything herein stated to the contrary notwithstanding, no material amendment may be made to this Declaration without the prior written consent of Eligible Holders encumbering fifty-one percent (51%) or more of the Lots within the Covered Property which are subject to a Mortgage. "Material amendment" shall mean, for purposes of this Section, any amendments to provisions of this Declaration governing any of the following subjects:

- (a) The fundamental purpose for which the La Costa Oaks Community was created (such as a change from residential use to **a different use**);
- (b) Assessments, assessment liens or the priority of assessment liens;
- (c) Reserves for maintenance, repair and replacement of the Community Association Property or Common Maintenance Area;
- (d) Responsibilities for maintenance and repairs;
- (e) Insurance or fidelity bonds;
- (f) Restoration or repair of the after a hazard damage or partial condemnation;
- (g) Rights to use the Community Association Property or Common Maintenance Area;
- (h) Expansion or contraction of the Covered Property or the addition, annexation or withdrawal of property to or from the Covered Property;
- (i) Voting rights;
- (j) Convertibility of Residential Lots into Community Association Property or of Community Association Property into Residential Lots;
- (k) Redefinition of boundaries of any Community Association Property;
- (l) The interests in the Community Association Property or Common Maintenance Area;
- (m) Leasing of Residential Lots;
- (n) Imposition of any restrictions on the right of an Owner to sell or transfer his or her Lot;
- (o) Any action to terminate the legal status of the Community Association after substantial destruction or condemnation;
- (p) The requirement of retention of professional management of the Community Association;
- (q) Any provision which is expressly for the benefit of Eligible Holders or insurers or guarantors of Eligible Holders.

An addition or amendment to this Declaration shall not be considered material if it is for the purposes of correcting technical errors or for clarification only. Any Eligible Holder of a

First Mortgage who received a written request to approve additions or amendments by certified or registered mail, return receipt requested, who does not respond within thirty (30) days, shall be deemed to have approved such addition or amendment. Notwithstanding the foregoing, the percentage of a quorum or the voting power of the Community Association or of Members other than the Declarant necessary to amend a special clause or provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under this clause or provision. An amendment or modification shall be effective when executed by the President or Vice President and Secretary or Assistant Secretary of the Community Association who shall certify that the amendment or modification has been approved as hereinabove provided, and shall record the amendment in the Official Records of San Diego County, California. For the purpose of recording such instrument, each Owner, with the exception of the Secretary, X.I.S. Department of Veteran Affairs, an officer of the United States of America, hereby grants to the President or Vice President and Secretary or Assistant Secretary of the Community Association an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying, executing and recording said instrument. Notwithstanding anything to the contrary contained herein, in no event may any of Declarant's rights or privileges under the Community Governing Documents be terminated, altered or amended without Declarant's prior written consent.

14.2 Other Approvals Required for Amendments. Notwithstanding anything to the contrary contained in this Declaration, Sections 1.15, 1.53, 3.2.4, 3.3.3, 4.1.9, 4.2.10, 4.2.11, 8.5, 9.2, 15.4, 16.3, and 16.4 of this Declaration shall not be amended without the vote or approval by written ballot of at least (a) ninety percent (90%) of the Voting Power of the Members of the Community Association other than Declarant, and (b) at least ninety percent (90%) of the Eligible Holders. Such vote shall be an Owner Participation Issue under the Community Bylaws.

14.3 Conflict with Article 13 or Other Provisions of this Declaration. To the extent any provisions of this Article conflict with the provisions of Article 14 or any other provision of this Declaration, except those contained in Section 14.2, the provisions of Article 14 or the other provisions shall control.

14.4 Approval by City. Notwithstanding anything to the contrary set forth in this Declaration, including without limitation, the amendment provisions set forth in this Article 14, the consent of the City shall be required for any amendment to Sections 1.10, 2.3.6, 2.3.7, 2.3.8, 2.6.7, 7.8, 7.22, 7.24, 7.24.1, 7.25, 7.28, 7.29, 7.30, 8.2, 8.3, 8.4, 8.8.2, 8.10, 14.4, 15.5, 15.5.1, 15.5.2, 15.5.3, 15.6, 15.6.1, 15.6.2, 15.6.3, 15.6.4, 15.7, of this Declaration or any other provision of this Declaration which gives to the City any approval rights or enforcement rights under this Declaration. Any approval by the City hereunder shall be submitted to the Planning Director and/or City Engineer whose decision shall be binding on the City. The City shall approve or disapprove any proposed amendment within thirty (30) days of submittal of the amendment to the City Manager. Any amendment shall be delivered to the City in the same manner as provided in Section 13.7 of this Declaration for Mortgagees, to the City's then current office.

14.5 Business and Professions Code Section 11018.7. All amendments or revocations of this Declaration shall comply with the provisions of California Business and Professions Code, Section 11018.7 or any successor statutes or laws, to the extent said Section is applicable.

14.6 Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

ARTICLE 15

TERM AND ENFORCEMENT

*This Article describes the procedures that apply in enforcing this Declaration and specifies the types of **dispute** resolution procedures that will be followed to resolve such **disputes**.*

15.1 Duration. The provisions of this Declaration, including the covenants, conditions and restrictions contained herein shall run with and bind the Covered Property and shall continue to be effective for a period of ninety-nine (99) years from the date of recordation. Thereafter, the Declaration shall be automatically extended for successive periods of ten (10) years unless the Owners of two-thirds (2/3) of the Residential Lots subject to the Declaration have executed and recorded at any time within six (6) months *prior* to the end of the ten (10) year period, in the manner required for a conveyance of real property, a written instrument in which it is agreed that the restrictions shall terminate at the end of the ten (10) year period.

15.2 Enforcement and Nonwaiver.

15.2.1 Rights of Enforcement of Community Governing Documents. The Community Association or any Owner shall have a right of action against any Owner, and any Owner shall have a right of action against the Community Association, to enforce by proceedings at law or in equity, all restrictions, conditions, covenants and reservations, now or hereafter imposed by the provisions of the Community Governing Documents or any amendment thereto, including the right to prevent the violation of such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation except that Owners shall not have any right of enforcement concerning liens for Community Assessments or Project Assessments, as the case may be. The Community Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the Community Handbook, unless the Community Association refuses or is unable to effectuate such enforcement, in which case any Owner who otherwise has standing shall have the right to undertake such enforcement. Failure of the Community Association, Declarant or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The City shall have the same right to enforce the provisions of this Declaration as an Owner in the Covered Property.

15.2.2 Procedure for Enforcement. Notwithstanding anything to the contrary set forth in Section 15.2.1, in enforcing any action under the Community Governing Documents, unless the applicable time limitation for commencing an action would run within one hundred twenty (120) days prior to the filing of a civil action by either the Community Association or an Member solely for declaratory relief or injunction relief in connection with a claim for monetary