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BROOKS CREEK DEVELOPMENT - WINDSOR SENIOR CENTER

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Covenants or Restrictions based on race, color, religion, sex, handicap, family status, or national origin, if any contained herein, are hereby omitted from this document.

BROOKS CREEK
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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BROOKS CREEK DEVELOPMENT - WINDSOR SENIOR CENTER
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, MADE ON THE DATE HEREINAFTER SET FORTH, BY BROOKSCREEK ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP, HEREINAFTER REFERRED TO AS "BROOKSCREEK PARTNERSHIP," AND BY THE TOWN OF WINDSOR AND THE WINDSOR WATER DISTRICT, HEREINAFTER REFERRED TO COLLECTIVELY AS "WINDSOR", IS MADE WITH REFERENCE TO THE FOLLOWING FACTS:

A. BROOKSCREEK PARTNERSHIP IS THE OWNER OF CERTAIN REAL PROPERTY LOCATED IN THE TOWN OF WINDSOR, COUNTY OF SONOMA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS:

LOTS 1 THRU 67, INCLUSIVE, AS SHOWN UPON THE MAP ENTITLED "BROOKS CREEK SUBDIVISION PHASE I", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, ON OCTOBER 26, 1994, IN BOOK 532 OF MAPS, AT PAGES 4-9.

(HEREINAFTER REFERRED TO AS "BROOKS CREEK PROPERTY")

B. WINDSOR IS THE OWNER OF REAL PROPERTY LOCATED IN THE TOWN OF WINDSOR, COUNTY OF SONOMA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS:

PARCEL ONE:

LOTS 29, 30, 31, 32, AND 65 OF ALDEN WOODS UNIT NO. 1., TRACT NO. 848, IN THE COUNTY OF SONOMA, CALIFORNIA, AS

RECORDED IN BOOK 447 OF MAPS AT PAGE 28-34, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF SONOMA.

PARCEL TWO:

BEING A PORTION OF THE REMAINDER LANDS OF THE ALDEN VII ASSOCIATES AS SHOWN ON THE FINAL MAP ENTITLED "ALDEN WOODS UNIT NO. 1, TRACT NO. 848" FILED FOR RECORD IN BOOK 447 OF MAPS AT PAGES 28-34 SONOMA COUNTY RECORDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 30 AS SHOWN ON SAID MAP OF TRACT NO. 848:

THENCE NORTH O° 00' 00" EAST ALONG THE BOUNDARY OF SAID TRACT NO. 848 A DISTANCE OF 10.00 FEET;

THENCE LEAVING SAID BOUNDARY NORTH 90° 00' 00" WEST 63.00 FEET;

THENCE SOUTH 75° 51' 17" WEST 35.00 FEET;

THENCE SOUTH 08° 04' 59" EAST 46.33 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF SAID TRACT NO. 848, SAID POINT ALSO BEING IN THE NORTHERLY LINE OF LOT 32 OF SAID TRACT NO. 848;

THENCE NORTH 75° 07' 00" EAST ALONG SAID NORTHERLY LINE OF LOT 32 A DISTANCE OF 17.67 FEET TO THE NORTHWEST CORNER OF SAID LOT 30:

THENCE NORTH 61° 28' 02" EAST 83.49 FEET TO THE POINT OF BEGINNING.

(HEREINAFTER REFERRED TO AS "WINDSOR PROPERTY")

C. THE BROOKS CREEK PROPERTY IS ADJACENT TO THE WINDSOR PROPERTY AND IS THE FIRST PHASE OF A 200 UNIT, SINGLE FAMILY DWELLING, SENIOR CITIZENS HOUSING DEVELOPMENT BEING CONSTRUCTED BY BROOKSCREEK PARTNERSHIP. THE FIRST PHASE CONTAINS THE INITIAL 67 LOTS OF THAT DEVELOPMENT.

D. THE PARTIES HAVE PREVIOUSLY ENTERED INTO AN UNRECORDED AGREEMENT ENTITLED, "WINDSOR SENIOR CENTER AGREEMENT", DATED JUNE 27, 1994, (HEREINAFTER REFERRED TO AS THE "SENIOR CENTER AGREEMENT") BY THE TERMS OF WHICH BROOKSCREEK PARTNERSHIP, AS PART OF THE SUBDIVISION AND DEVELOPMENT OF THE BROOKS CREEK PROPERTY, CONSTRUCTED ON THE WINDSOR PROPERTY AND DEDICATED TO WINDSOR AN APPROXIMATELY 4000 SQUARE FOOT SENIOR CENTER FACILITY (HEREINAFTER REFERRED TO AS THE "SENIOR CENTER").

E. WINDSOR HAS AN INTEREST IN ASSURING THAT THE PROJECT BE MAINTAINED AS A SENIOR CITIZEN HOUSING DEVELOPMENT IN ORDER TO PROVIDE A MUCH-NEEDED BALANCE OF HOUSING WITHIN THE TOWN OF WINDSOR.

F. BROOKSCREEK PARTNERSHIP AND WINDSOR INTEND BY THIS DOCUMENT TO IMPOSE UPON THEIR RESPECTIVE PROPERTIES MUTUALLY BENEFICIAL RESTRICTIONS UNDER A GENERAL PLAN OF IMPROVEMENT.

NOW THEREFORE, BROOKSCREEK PARTNERSHIP AND WINDSOR HEREBY DECLARE THAT ALL OF THE REAL PROPERTY DESCRIBED ABOVE SHALL BE HELD, SOLD, LEASED, MORTGAGED, ENCUMBERED, RENTED, USED, OCCUPIED, IMPROVED AND CONVEYED SUBJECT TO THE FOLLOWING DECLARATIONS, LIMITATIONS, EASEMENTS, RESTRICTIONS, COVENANTS, AND CONDITIONS, WHICH ARE IMPOSED AS EQUITABLE SERVITUDES PURSUANT TO A GENERAL PLAN FOR THE DEVELOPMENT OF THE REAL PROPERTY FOR THE PURPOSE OF ENHANCING AND PROTECTING THE VALUE AND DESIRABILITY OF THE PROPERTY AND EVERY PART THEREOF, AND WHICH SHALL RUN WITH THE REAL PROPERTY AND BE BINDING ON ALL THE OWNERS THEREOF AND THEIR SUCCESSORS AND ASSIGNS AND ON ALL PARTIES HAVING OR ACQUIRING ANY RIGHT, TITLE OR INTEREST IN OR TO THE DESCRIBED PROPERTY OR ANY PART THEREOF, THE HEIRS, SUCCESSORS AND ASSIGNS, AND SHALL INURE TO THE BENEFIT OF EACH OWNER THEREOF.

ARTICLE I

DEFINITIONS

1.1 "ASSESSMENT" SHALL MEAN THAT PORTION OF THE COST OF MAINTAINING, IMPROVING, REPAIRING, OPERATING AND MANAGING THE SENIOR CENTER PROPERTY WHICH IS TO BE PAID BY EACH LOT OWNER OF THE BROOKS CREEK PROPERTY.

1.2 "CENTER EXPENSES" MEANS AND INCLUDES THE ACTUAL AND ESTIMATED EXPENSES OF OPERATING THE SENIOR CENTER.

1.3 "BROOKSCREEK PARTNERSHIP" SHALL MEAN AND REFER TO BROOKSCREEK ASSOCIATES, A CALIFORNIA LIMITED PARTNERSHIP, AND ANY SUCCESSOR OR ASSIGN THAT EXPRESSLY ASSUMES THE RIGHTS AND DUTIES OF THE BROOKSCREEK HEREUNDER.

1.4 "DEVELOPER" SHALL MEAN AND REFER TO BROOKSCREEK PARTNERSHIP, A CALIFORNIA LIMITED PARTNERSHIP, GALLAHER CONSTRUCTION, INC., A CALIFORNIA CORPORATION, ITS GENERAL PARTNER.

1.5. "DEVELOPMENT" SHALL MEAN AND REFER TO THE PROJECT, AS HEREAFTER DEFINED, AND ALL THE RELATED PHASES OF THE MULTI-PHASE SUBDIVISION APPROVED BY THE TOWN OF WINDSOR, CONSISTING OF TWO HUNDRED (200) SINGLE FAMILY DWELLINGS, WHICH SUBDIVISION IS COMMONLY KNOWN AS "BROOKSCREEK."

1.6 "DECLARATION" SHALL MEAN AND REFER TO THIS DECLARATION, AS AMENDED OR SUPPLEMENTED FROM TIME TO TIME.

1.7 "LOT" SHALL MEAN AND REFER TO EACH LOT OR PARCEL SHOWN ON THE MAP.

1.8 "MAP" SHALL MEAN AND REFER TO THAT MAP ENTITLED "BROOKS CREEK SUBDIVISION PHASE I," FILED FOR RECORD THE 26TH DAY OF OCTOBER, 1994, IN BOOK 532 OF MAPS AT PAGES 4 THROUGH 7, IN THE RECORDS OF SONOMA COUNTY.

1.9 "OWNER" SHALL MEAN AND REFER TO THE RECORD OWNER, WHETHER ONE (1) OR MORE PERSONS OR ENTITIES, OR A FEE SIMPLE TITLE TO ANY LOT WHICH IS A PART OF THE PROJECT BUT EXCLUDING THOSE PERSONS OR ENTITIES HAVING AN

INTEREST MERELY AS SECURITY FOR THE PERFORMANCE OF AN OBLIGATION. IF A LOT IS SOLD UNDER A CONTRACT FOR SALE, AND THE CONTRACT IS RECORDED, THE PURCHASER, RATHER THAN THE FEE OWNER, WILL BE CONSIDERED THE "OWNER" .

1.10 "PERSON" MEANS A NATURAL PERSON, A CORPORATION, A PARTNERSHIP, A TRUSTEE, OR OTHER LEGAL ENTITY.

1.11 "PROJECT" SHALL MEAN AND REFER TO THE REAL PROPERTY ABOVE DESCRIBED INCLUDING ALL IMPROVEMENTS AND STRUCTURES ERECTED OR TO BE ERECTED THEREON.

1.12 "PROJECT DOCUMENTS" SHALL MEAN AND REFER TO THIS DECLARATION, TOGETHER WITH THE OTHER BASIC DOCUMENTS USED TO CREATE AND GOVERN THE PROJECT.

1.13 "PROPERTY" SHALL MEAN AND REFER TO THE REAL PROPERTY DESCRIBED ON THE MAP AND ALL IMPROVEMENTS THEREON.

1.14 "SENIOR CITIZEN ADVISORY COUNCIL" "OR" "COUNCIL" SHALL REFER TO THE COMMITTEE OF TOWN OF WINDSOR RESIDENTS, APPOINTED BY THE TOWN COUNCIL OF THE TOWN OF WINDSOR, TO MAKE RECOMMENDATIONS CONCERNING USE AND GOVERNANCE OF THE SENIOR CENTER.

1.15 "SENIOR CENTER" SHALL MEAN AND REFER TO THE APPROXIMATELY 4000 SQUARE FOOT SENIOR CITIZENS BUILDING, POOL, SPA AND RECREATION AND MEETING FACILITY DIRECTLY ADJACENT TO THE PROPERTY, WHICH IS LOCATED UPON THE WINDSOR PROPERTY.

1.16 "SENIOR CENTER AGREEMENT" REFERS TO THE UNRECORDED AGREEMENT BETWEEN PARTIES DATED JUNE 27, 1994, A COPY OF WHICH IS ON FILE WITH THE TOWN OF WINDSOR.

1.17 "SENIOR CITIZEN" REFERS TO A NATURAL PERSON WHO IS AGE 55 OR OLDER, HIS OR HER GUEST, SPOUSE, CO-HABITANT, OR ANY PERSON AGE 45 OR OLDER WHO ARE PROVIDING PRIMARY PHYSICAL OR ECONOMIC SUPPORT FOR SUCH PERSONS.

1.18 "SINGULAR AND PLURAL": THE SINGULAR AND PLURAL NUMBER, AND THE MASCULINE, FEMININE AND NEUTER GENDER SHALL EACH INCLUDE THE OTHER WHERE THE CONTEXT REQUIRES.

1.19 "TOWN" SHALL REFER TO THE TOWN OF WINDSOR, SONOMA COUNTY, CALIFORNIA.

ARTICLE II

THE SENIOR CENTER

2.1. USE RESTRICTIONS.

THE OWNERS AND RESIDENTS OF THE PROJECT HAVE BEEN PROVIDED THROUGH THE SENIOR CENTER AGREEMENT, AND ARE HEREBY PROVIDED THROUGH THIS DECLARATION, THE FOLLOWING MUTUAL RIGHTS, BENEFITS AND RESTRICTIONS CONCERNING THE USE OF THE SENIOR CENTER:

A. RIGHTS OF GENERAL USE. WINDSOR AGREES THAT ANY AND ALL RESIDENTS OF BROOKS CREEK SUBDIVISION WHO MEET THE REQUIREMENTS OF ARTICLE 2.1, D OF THIS DECLARATION, AND THE GUESTS OF SUCH RESIDENTS, SHALL BE ENTITLED TO USE THE SENIOR CENTER, ITS EQUIPMENT AND FACILITIES, WITHOUT ANY FURTHER FEES OR COSTS OTHER THAN THE ASSESSMENT HEREAFTER DESCRIBED IN ARTICLE III; PROVIDED, HOWEVER, NOTHING HEREIN SHALL BE CONSTRUED AS EXCUSING SUCH PERSONS FROM THE PAYMENT OF SPECIAL USE FEES RELATING TO A SPECIFIC ACTIVITY OR EVENT OR MEMBERSHIP DUES IN PRIVATE CLUBS, ASSOCIATIONS OR GROUPS OF SENIOR CITIZENS WHO ARE USING THE FACILITY. EXCEPT AS PROVIDED IN THIS SUBPARAGRAPH 2.1.A., NOTHING HEREIN SHALL PRECLUDE WINDSOR FROM CHARGING ANNUAL FEES FOR USE OF THE SENIOR CENTER TO TOWN RESIDENTS.

THE SCOPE OF THE SERVICES TO BE PROVIDED BY WINDSOR AT THE SENIOR CENTER IS DESCRIBED IN ARTICLE II, SUBPARAGRAPH 2.2 OF THIS DECLARATION.

B. PEDESTRIAN ACCESS. THE RESIDENTS OF THE PROJECT AND THEIR GUESTS ARE ALSO PROVIDED ADDITIONAL ACCESS TO AND FROM THE PROJECT TO THE SENIOR CENTER, BY WAY OF A PEDESTRIAN ACCESS ACROSS A BRIDGE CONSTRUCTED BY BROOKSCREEK PARTNERS AND DEDICATED TO WINDSOR. THIS PEDESTRIAN ACCESS IS LOCATED OVER THE STREAM SEPARATING THE PROJECT FROM THE WINDSOR PROPERTY, WHICH STREAM IS COMMONLY KNOWN AS "BROOKS CREEK."

C. REPRESENTATION ON SENIOR CITIZEN ADVISORY COUNCIL. THE RESIDENTS OF THE PROJECT ARE PROVIDED WITH REPRESENTATION ON THE SENIOR CITIZEN ADVISORY COUNCIL, AS MORE FULLY DESCRIBED IN ARTICLE II, SUBPARAGRAPH 2.3 OF THIS DECLARATION.

D. AGE RESTRICTIONS. THE SENIOR CENTER SHALL BE USED AS A FACILITY FOR THE RESIDENTS OF THE PROJECT, PERSONS AGE 55 OR OLDER, AND THEIR GUESTS, THEIR SPOUSES, THEIR CO-HABITANTS, OR PERSONS AGE 45 OR OLDER WHO ARE PROVIDING PRIMARY PHYSICAL OR ECONOMIC SUPPORT FOR SUCH PERSONS. THE TOWN COUNCIL OF THE TOWN OF WINDSOR MAY, FROM TIME TO TIME, ALTER THE DEFINITION OF THOSE WHO MAY USE THE SENIOR CENTER SO LONG AS THE ALTERATION OR MODIFICATION IS NOT ANY MORE RESTRICTIVE THAN ALLOWED UNDER STATE OR FEDERAL LAW FOR THE PROJECT TO MAINTAIN ITS STATUS AS A "SENIOR CITIZEN HOUSING DEVELOPMENT" UNDER CALIFORNIA CIVIL CODE SECTION 51.3 (C)(3).

E. DEDICATION. WINDSOR AGREES THAT THE SENIOR CENTER WILL BE AVAILABLE TO OWNERS AND RESIDENTS OF THE DEVELOPMENT ON THE TERMS AND IN THE MANNER SET FORTH IN THE SENIOR CENTER AGREEMENT, PROVIDED THAT NOTHING IN THE SENIOR CENTER AGREEMENT SHALL RESTRICT THE TOWN COUNCIL'S ABILITY TO MAKE SUCH LEGISLATIVE DETERMINATIONS AS IT DEEMS APPROPRIATE REGARDING THE USE OF THE WINDSOR PROPERTY.

2.2 SCOPE OF SERVICES.

IN CONSIDERATION FOR THE ASSESSMENT PROVIDED UNDER THIS DECLARATION, WINDSOR AGREES THAT IT SHALL OWN, OPERATE AND MAINTAIN THE SENIOR CENTER AT WINDSOR'S EXPENSE (WITH CONTRIBUTION BY THE OWNERS OF THE ASSESSMENTS DESCRIBED IN ARTICLE III OF THIS DECLARATION), INCLUDING THE PEDESTRIAN BRIDGE LINKING THE SENIOR CENTER AND THE PROJECT, AND TO PROVIDE TO THE SENIOR CITIZENS USING THE SENIOR CENTER (INCLUDING THE QUALIFIED RESIDENTS OF THE DEVELOPMENT) THE FOLLOWING BASIC SERVICES:

A. OPERATION AND MAINTENANCE OF A SWIMMING POOL, MEETING AND ACTIVITY ROOMS;

B. OPERATION AND SUPERVISION OF PROGRAMS DESIGNED TO MEET THE SPECIAL PHYSICAL AND SOCIAL NEEDS OF SENIOR CITIZENS.

2.3 SENIOR CITIZEN ADVISORY COUNCIL. THERE SHALL BE CREATED AND APPOINTED BY THE TOWN COUNCIL OF THE TOWN OF WINDSOR A COMMITTEE OF PERSONS KNOWN AS THE "SENIOR CITIZEN ADVISORY COUNCIL." SUCH PERSONS SHALL SERVE FOR TERMS AND UNDER CONDITIONS PRESCRIBED BY THE TOWN COUNCIL. THE TOWN COUNCIL OF WINDSOR SHALL APPOINT ALL THE MEMBERS OF THE SENIOR CITIZEN ADVISORY COUNCIL.

A. COMPOSITION-PERMANENT. AFTER ALL PHASES OF THE PROJECT HAVE BEEN COMPLETED, THE SENIOR CITIZEN ADVISORY COUNCIL SHALL BE COMPOSED OF ELEVEN (11) SENIOR CITIZENS, CONSISTING OF THREE (3) SUBDIVISION OWNERS WITHIN THE PROJECT, TWO (2) RESIDENTS OF THE AREAS ADJACENT TO THE SENIOR CENTER (ALDEN WOODS AND CALIFORNIA CREEKSIDE) WHICH ARE NOW SERVED BY THE LANDMARK NEIGHBORHOOD ASSOCIATION, AND SIX (6) RESIDENTS FROM THE TOWN OF WINDSOR, AT LARGE. ALL APPOINTEES FOLLOWING COMPLETION OF THE PROJECT SHALL BE SENIOR CITIZENS. BY "COMPLETION" OR "COMPLETED" IS MEANT THE SALE AND CLOSE OF ESCROW ON TWO THIRDS (2/3) OF THE LOTS IN THE FINAL PHASE OF THE DEVELOPMENT.

B. COMPOSITION-TEMPORARY.

UNTIL COMPLETION OF ALL PHASES OF THE DEVELOPMENT, THE TOWN COUNCIL OF WINDSOR SHALL APPOINT FOUR (4) OF THE ELEVEN (11) COMMITTEE MEMBERS AS PROJECT REPRESENTATIVES. OF THOSE FOUR (4) APPOINTEES, THREE (3) SHALL BE NOMINATED BY BROOKSCREEK PARTNERSHIP, AND ONE SELECTED BY WINDSOR FROM THE TOWN OF WINDSOR, AT LARGE. THE THREE (3) REPRESENTATIVES SHALL BE AT LARGE AND WITHOUT RESPECT TO TOWN OF WINDSOR RESIDENCY. WHEN 2/3 OF ANY PHASE OF THE DEVELOPMENT IS COMPLETED, ONE BROOKSCREEK PARTNERSHIP-APPOINTED REPRESENTATIVE SHALL RESIGN AND A REPRESENTATIVE FROM BROOKS CREEK SUBDIVISION SHALL BE SELECTED FROM THE DEVELOPMENT BY THE TOWN COUNCIL OF WINDSOR FOR REPLACEMENT, UNTIL ALL THREE (3) BROOKSCREEK PARTNERSHIP-APPOINTED REPRESENTATIVES ARE SENIOR CITIZEN RESIDENTS OF LOTS WITHIN THE DEVELOPMENT.

C. REDUCTION IN PROJECT REPRESENTATION. PROJECT REPRESENTATION MAY BE REDUCED OR ELIMINATED IF THE SUM TOTAL OF THE ASSESSMENTS IMPOSED ON THE PROJECT UNDER ARTICLE III OF THIS DECLARATION AND RECEIVED BY WINDSOR GO BELOW THE FOLLOWING PERCENTAGES OF THE TOTAL COST TO OPERATE THE SENIOR CENTER:

PERCENTAGE OF COST	BROOKS CREEK REPRESENTATION
30%	2
20%	1
10%	0

D. APPOINTMENT OF ADDITIONAL BROOKSCREEK REPRESENTATIVES. NOTHING IN ARTICLE II, SUBPARAGRAPH 2.3 OF THIS DECLARATION IS INTENDED TO LIMIT THE RIGHT OF THE TOWN COUNCIL OF WINDSOR TO SELECT MORE SENIOR CITIZEN ADVISORY COUNCIL REPRESENTATIVES FROM THE DEVELOPMENT THAN REQUIRED ABOVE.

E. RECOMMENDATIONS. THE SENIOR CITIZEN ADVISORY COUNCIL WILL MAKE RECOMMENDATIONS FOR THE USES OF THE SENIOR CENTER; PROVIDED, HOWEVER, SUCH RECOMMENDATIONS SHALL BE CONSISTENT WITH ARTICLE II, SUBPARAGRAPH 2.1, A OF THIS DECLARATION, AND BE GIVEN TO STAFF AND THE TOWN COUNCIL, AS APPROPRIATE. TERMS OF OFFICE AND OTHER RIGHTS AND RESPONSIBILITIES OF THE SENIOR CITIZEN ADVISORY COUNCIL SHALL BE AS SET BY THE TOWN COUNCIL OF WINDSOR.

2.4. ASSESSMENTS.

BECAUSE OF THE LOCATION OF THE SENIOR CENTER DIRECTLY ADJACENT TO THE PROJECT; BECAUSE OF THE SPECIAL ACCESS PROVIDED TO PROJECT RESIDENTS; AND BECAUSE THE SPECIAL NEEDS OF THE SENIOR CITIZEN RESIDENTS OF THE PROJECT FOR USE OF A SWIMMING POOL, RECREATIONAL AND OTHER SENIOR CITIZEN-ORIENTED ASPECTS OF THE SENIOR CENTER, IT IS RECOGNIZED THAT THE RESIDENTS WITHIN THE PROJECT WILL PLACE A GREATER BURDEN ON THE USE OF THE SENIOR CENTER THAN MEMBERS OF THE PUBLIC AT LARGE. THEREFORE, IT IS AGREED THAT THE PROJECT AND THE PROPERTY UNDERLYING IT WILL BE BURDENED WITH THE ASSESSMENTS PROVIDED IN ARTICLE III, BELOW.

ARTICLE III

ASSESSMENTS

3.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: THE BROOKSCREEK PARTNERSHIP, FOR EACH LOT OWNED WITHIN THE PROJECT, HEREBY COVENANTS, AND EACH OWNER OF ANY LOT BY ACCEPTANCE OF A DEED THEREFOR, WHETHER OR NOT IT SHALL BE SO EXPRESSED IN THE SUCH DEED, COVENANTS AND AGREES: (1) TO PAY TO THE TOWN OF WINDSOR, OR ITS DULY AUTHORIZED COLLECTION AGENT, ANNUAL ASSESSMENTS OR CHARGES FOR THE PURPOSE OF DEFRAYING THE OPERATIONS AND MAINTENANCE EXPENSES ASSOCIATED WITH THE SENIOR CENTER, INCLUDING STAFFING AND RECREATION-RELATED EXPENSES, SUCH ASSESSMENTS TO BE ESTABLISHED AND COLLECTED AS HEREIN PROVIDED, AND (2) TO ALLOW THE TOWN OF WINDSOR TO ENFORCE ANY ASSESSMENT LIEN ESTABLISHED HEREUNDER BY NONJUDICIAL PROCEEDINGS UNDER A POWER OF SALE OR BY ANY OTHER MEANS AUTHORIZED BY LAW. THE ANNUAL ASSESSMENTS, TOGETHER WITH INTEREST, LATE PAYMENT PENALTIES, COLLECTION COSTS, AND REASONABLE ATTORNEYS' FEES, SHALL BE A CHARGE ON THE LAND AND SHALL BE A CONTINUING LIEN UPON THE PROPERTY AGAINST WHICH SUCH ASSESSMENT IS MADE, THE LIEN TO BECOME EFFECTIVE UPON RECORDATION OF A NOTICE OF DELINQUENT ASSESSMENT. EACH SUCH ASSESSMENT, TOGETHER WITH INTEREST, LATE PAYMENT PENALTIES, COLLECTION COSTS, AND REASONABLE ATTORNEYS' FEES, SHALL ALSO BE THE PERSONAL, JOINT AND SEVERAL, OBLIGATION OF EACH PERSON WHO WAS THE OWNER OF SUCH PROPERTY AT THE TIME WHEN THE ASSESSMENT FELL DUE. NO OWNER OF A LOT MAY EXEMPT HIMSELF OR HERSELF FROM LIABILITY FOR HIS OR HER CONTRIBUTION TOWARDS THE EXPENSES OF THE SENIOR CENTER BY WAIVER OF THE USE OR ENJOYMENT OF THE SENIOR CENTER OR BY THE ABANDONMENT OF HIS OR HER LOT.

3.2 PURPOSE OF ASSESSMENTS: THE ASSESSMENTS LEVIED BY THE TOWN OF WINDSOR SHALL BE USED TO DEFRAY THE OPERATIONS AND MAINTENANCE EXPENSES ASSOCIATED WITH THE SENIOR CENTER, INCLUDING STAFFING AND RECREATION-RELATED EXPENSES.

3.3 ASSESSMENT: THERE IS HEREBY IMPOSED AN ANNUAL ASSESSMENT IN THE AMOUNT OF TWO HUNDRED DOLLARS ($200.00) PER EACH LOT IN THE PROJECT, TO RAISE THE FUNDS NEEDED TO ASSIST THE TOWN OF WINDSOR PERFORM THE DUTIES OF MAINTAINING AND OPERATING THE SENIOR CENTER DURING EACH FISCAL YEAR.

3.4 COST OF LIVING ADJUSTMENT: THE ANNUAL ASSESSMENT IMPOSED BY THIS DECLARATION SHALL BE INCREASED (BUT NOT DECREASED) BY THE INCREASE IN THE ANNUAL COST OF LIVING, AS MEASURED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR THE SAN FRANCISCO OAKLAND BAY AREA (THE "INDEX"). THE ANNUAL DATE FOR MEASURING THE INCREASE IN THE INDEX SHALL BE FIXED BY THE TOWN OF WINDSOR DURING THE FIRST FULL FISCAL YEAR FOLLOWING THE RECORDATION OF THE MAP (HEREINAFTER REFERRED TO AS "BASE INDEX") AND THEREAFTER THE INDEX IN EFFECT ON THE ANNUAL DATE SHALL BE COMPARED TO THE BASE INDEX TO ARRIVE AT THE INCREASE IN THE ASSESSMENTS. THE ANNUAL ASSESSMENT SHALL AUTOMATICALLY BE INCREASED BY THE PERCENTAGE INCREASE BETWEEN THE BASE INDEX AND THE INDEX IN EFFECT ON THE ANNUAL DATE FOR MEASURING THE INCREASE. THE TOWN OF WINDSOR SHALL NOTIFY THE OWNERS OF THE INCREASE ANNUALLY, PROVIDED THAT FAILURE TO SO NOTIFY OWNERS SHALL NOT BE DEEMED A WAIVER BY THE TOWN OF WINDSOR OF THE COST OF LIVING ADJUSTMENT. IF THE INDEX BE CHANGED, THE INDEX SHALL BE CONVERTED IN ACCORDANCE WITH THE CONVERSION FACTOR PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS. IF THE INDEX IS DISCONTINUED OR REVISED, SUCH OTHER GOVERNMENT INDEX OR COMPUTATION WITH WHICH IT IS REPLACED SHALL BE USED IN ORDER TO OBTAIN SUBSTANTIALLY THE SAME RESULT AS WOULD BE OBTAINED IF THE INDEX HAD NOT BEEN DISCONTINUED OR REVISED. AS EACH SUCCESSIVE PHASE OF THE DEVELOPMENT IS ANNEXED, THE ANNUAL READJUSTMENT DATE SHALL REMAIN THE SAME FOR ALL PHASES.

3.5 LANDSCAPE AND LIGHTING ASSESSMENT REDUCTION: IN THE EVENT THAT AN ASSESSMENT IS IMPOSED BY THE TOWN OF WINDSOR PURSUANT TO THE LANDSCAPE AND LIGHTING ACT OF 1972 (STREETS & HIGHWAYS CODE § 22500 ET.SEQ.) FOR MAINTENANCE OF THE SENIOR CENTER, THE TWO HUNDRED DOLLARS ($200) PER LOT ANNUAL ASSESSMENT REFERRED TO IN PARAGRAPH 3.3 ABOVE (AS ADJUSTED FOR COST OF LIVING UNDER PARAGRAPH 3.4, ABOVE) WILL BE REDUCED FOR THAT YEAR BY THE AMOUNT OF SUCH LANDSCAPE AND LIGHTING ACT ASSESSMENT AGAINST EACH LOT; PROVIDED, HOWEVER, THERE MAY BE ADDITIONAL ASSESSMENTS IMPOSED AGAINST THE PROPERTY BY LAWFUL ASSESSMENTS UNDER THE LANDSCAPE AND LIGHTING ACT OF 1972 (STREETS & HIGHWAYS CODE § 22500 ET.SEQ.) FOR SERVICES AND FACILITIES OTHER THAN THE SENIOR CENTER, AND NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED AS LIMITING SUCH ADDITIONAL ASSESSMENTS, NOR SHALL THE TWO HUNDRED DOLLAR ($200) PER LOT ANNUAL ASSESSMENT REFERRED TO IN PARAGRAPH 3.3 ABOVE BE REDUCED BY THE AMOUNT OF SUCH ADDITIONAL ASSESSMENTS.

3.6 DIVISION OF ASSESSMENTS: ALL ASSESSMENTS SHALL BE LEVIED EQUALLY AMONG THE LOTS. ANNUAL ASSESSMENTS SHALL BE DUE AND COLLECTED TWICE A YEAR, THROUGH THE OWNER'S AD VALOREM REAL PROPERTY TAX BILL OR OTHER BILLING DEVICE EMPLOYED BY THE TOWN OF WINDSOR, OR ITS DULY AUTHORIZED AGENTS.

3.7 DATE OF COMMENCEMENT OF ASSESSMENTS; DUE DATES: THE ASSESSMENTS PROVIDED FOR HEREIN SHALL COMMENCE AS TO ALL LOTS COVERED BY THIS DECLARATION DURING THE FIRST SONOMA COUNTY AD VALOREM PROPERTY TAX YEAR (JULY 1 THROUGH JUNE 30) THAT THE SENIOR CENTER IS PLACED IN OPERATION, PRORATED FOR ANY SUCH PARTIAL YEAR FROM THE DATE THE TOWN OF WINDSOR ACCEPTS THE DEDICATION OF THE IMPROVEMENTS FROM THE BROOKSCREEK PARTNERSHIP AND TAKES OVER THE MAINTENANCE AND OPERATION OF THE SENIOR CENTER. THE TOWN OF WINDSOR SHALL, UPON DEMAND, AND FOR A REASONABLE CHARGE, FURNISH A CERTIFICATE SIGNED BY AN OFFICER OF THE TOWN OF WINDSOR SETTING FORTH WHETHER THE ASSESSMENTS ON A SPECIFIED LOT HAVE BEEN PAID. SUCH A CERTIFICATE SHALL BE CONCLUSIVE EVIDENCE OF SUCH PAYMENT.

3.8 EFFECT OF NON-PAYMENT OF ASSESSMENTS: ANY ASSESSMENT NOT PAID WITHIN FIFTEEN (15) DAYS AFTER THE DUE DATE SHALL BE DELINQUENT, SHALL BEAR INTEREST AT THE RATE OF TWELVE (12%) PERCENT PER ANNUM FROM THIRTY (30) DAYS AFTER THE DUE DATE UNTIL THE BILL IS PAID, AND SHALL INCUR A LATE PAYMENT PENALTY IN AN AMOUNT TO BE SET BY THE TOWN COUNCIL OF WINDSOR FROM TIME TO TIME, NOT TO EXCEED THE MAXIMUM OF 10% OF THE AMOUNT OF THE ASSESSMENT.

3.9 TRANSFER OF LOT BY SALE OR FORECLOSURE: SALE OR TRANSFER OF ANY LOT SHALL NOT AFFECT THE ANNUAL ASSESSMENT OR ANY ASSESSMENT LIEN. HOWEVER, THE SALE OF ANY LOT PURSUANT TO MORTGAGE FORECLOSURE OF A FIRST MORTGAGE SHALL EXTINGUISH ANY DELINQUENT ASSESSMENTS (INCLUDING INTEREST, LATE PAYMENT PENALTIES, COLLECTION COSTS AND REASONABLE ATTORNEY'S FEES LEVIED IN CONNECTION THEREWITH) WHICH BECAME DUE PRIOR TO SUCH SALE OR TRANSFER (EXCEPT FOR ASSESSMENT LIENS RECORDED PRIOR TO THE DATE OF SALE OR TRANSFER). NO SALE OR TRANSFER SHALL RELIEVE SUCH LOT FROM LIABILITY FOR ANY ASSESSMENTS THEREAFTER BECOMING DUE OR FROM THE LIEN THEREOF. WHERE THE MORTGAGEE OF THE FIRST MORTGAGE OF RECORD OR OTHER PURCHASER OF A LOT OBTAINS TITLE TO THE SAME AS A RESULT OF FORECLOSURE OF ANY SUCH [FIRST] MORTGAGE, SUCH ACQUIRER OF TITLE, HIS OR HER SUCCESSORS AND ASSIGNS, SHALL NOT BE LIABLE FOR THE ASSESSMENT BY THE TOWN OF WINDSOR CHARGEABLE TO SUCH LOT WHICH BECAME DUE PRIOR TO THE ACQUISITION OF TITLE TO SUCH LOT BY SUCH

ACQUIRER (EXCEPT FOR ASSESSMENT LIENS RECORDED PRIOR TO THE DATE OF ACQUISITION). IF A LOT IS TRANSFERRED, THE GRANTOR SHALL REMAIN PERSONALLY LIABLE TO THE TOWN OF WINDSOR FOR ALL UNPAID ASSESSMENTS AGAINST THE LOT THROUGH AND INCLUDING THE DATE OF THE TRANSFER. THE GRANTEE SHALL BE ENTITLED TO A STATEMENT FROM THE TOWN OF WINDSOR, DATED AS OF THE DATE OF TRANSFER, SETTING FORTH THE AMOUNT OF UNPAID ASSESSMENTS AGAINST THE LOT TO BE TRANSFERRED AND THE LOT SHALL NOT BE SUBJECT TO A LIEN FOR UNPAID ASSESSMENTS IN EXCESS OF THE AMOUNT SET FORTH IN THE STATEMENT, PROVIDED, HOWEVER THE GRANTEE SHALL BE LIABLE FOR ANY ASSESSMENTS THAT BECOME DUE AFTER THE DATE OF THE TRANSFER.

3.10 PRIORITIES; ENFORCEMENT; REMEDIES: IF AN ASSESSMENT IS DELINQUENT, THE TOWN OF WINDSOR OR ITS DULY AUTHORIZED AGENT MAY RECORD A NOTICE OF DELINQUENT ASSESSMENT AND ESTABLISH A LIEN AGAINST THE LOT OF THE DELINQUENT OWNER PRIOR AND SUPERIOR TO ALL OTHER LIENS EXCEPT (1) ALL TAXES, BONDS, ASSESSMENTS AND OTHER LEVIES WHICH, BY LAW, WOULD BE SUPERIOR THERETO, AND (2) THE LIEN OR CHARGE OF ANY FIRST MORTGAGE OF RECORD (MEANING ANY RECORDED MORTGAGE OR DEEDS OF TRUST WITH FIRST PRIORITY OVER OTHER MORTGAGES OR DEEDS OF TRUST) MADE IN GOOD FAITH AND FOR VALUE. THE NOTICE OF DELINQUENT ASSESSMENT SHALL STATE THE AMOUNT OF THE ASSESSMENT, COLLECTION COSTS, ATTORNEYS' FEES, LATE PAYMENT PENALTY AND INTEREST, A DESCRIPTION OF THE LOT AGAINST WHICH THE ASSESSMENT AND OTHER SUMS ARE LEVIED, THE NAME OF THE RECORD OWNER, AND THE NAME AND ADDRESS OF THE TRUSTEE AUTHORIZED BY THE TOWN OF WINDSOR TO ENFORCE THE LIEN BY SALE. THE NOTICE SHALL BE SIGNED BY ANY OFFICER OF THE TOWN OF WINDSOR OR ANY DULY AUTHORIZED AGENT OF THE TOWN OF WINDSOR.

AN ASSESSMENT 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 §2934A. ANY SALE BY THE TRUSTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF §§2924, 2924B, 2924C, 2924F, 2924G, AND 2924H OF THE CALIFORNIA CIVIL CODE, INCLUDING ANY SUCCESSOR STATUTES THERETO, APPLICABLE TO THE EXERCISE OF POWERS OF SALE IN MORTGAGES AND DEEDS OF TRUST, OR IN ANY OTHER MATTER PERMITTED BY LAW. NOTHING HEREIN SHALL PRECLUDE THE TOWN OF WINDSOR FROM BRINGING AN ACTION DIRECTLY AGAINST AN OWNER FOR BREACH OF THE PERSONAL OBLIGATION TO PAY ASSESSMENTS.

3.11 EXPIRATION OF LIEN. IF FOR ANY REASON THE SENIOR CENTER IS NO LONGER USED TO PROVIDE THE SERVICES DESCRIBED IN SECTION 2.2 OF ARTICLE II OF THIS DECLARATION, THE LIEN AND ASSESSMENT PROVISIONS IN ARTICLE III OF THIS DECLARATION SHALL BE TERMINATED, EFFECTIVE AS OF THE DATE OF THE TERMINATION OF SUCH USE. UPON SUCH TERMINATION WINDSOR SHALL EXECUTE SUCH LIEN RELEASE AS IS NECESSARY TO REMOVE THE LIEN RESTRICTIONS CONTAINED IN ARTICLE III OF THIS DECLARATION AND, UPON THE RECORDATION OF SUCH LIEN RELEASE, THE PROVISIONS CONTAINED IN ARTICLES II AND III OF THIS DECLARATION SHALL BE OF NO FORCE OR EFFECT THEREAFTER.

ARTICLE IV

AGE RESTRICTIONS

THE PROJECT IS A SENIOR CITIZEN HOUSING DEVELOPMENT. AT LEAST ONE (1) RESIDENT IN EACH DWELLING MUST BE FIFTY-FIVE (55) YEARS OR OLDER (THE "SENIOR CITIZEN") AND EVERY OTHER RESIDENT ("A QUALIFIED PERMANENT RESIDENT") MUST BE AT LEAST FORTY-FIVE (45) YEARS OR OLDER EXCEPT FOR THE SPOUSE OR COHABITANT OF THE SENIOR CITIZEN OR A PERSON WHO RESIDES WITH AND PROVIDES PRIMARY PHYSICAL OR ECONOMIC SUPPORT FOR THE SENIOR CITIZEN. A PERSON IS A "COHABITANT" OF THE SENIOR CITIZEN IF THE PERSON AND THE SENIOR CITIZEN LIVE TOGETHER AS HUSBAND AND WIFE. IF THE SENIOR CITIZEN DIES, IS HOSPITALIZED OR IS ABSENT FROM THE PROJECT FOR A PROLONGED PERIOD, OR IF THE MARRIAGE BETWEEN THE SENIOR CITIZEN AND HIS OR HER SPOUSE IS DISSOLVED, ANY QUALIFIED PERMANENT RESIDENT MAY CONTINUE TO RESIDE IN THE LOT PREVIOUSLY OCCUPIED BY THE SENIOR CITIZEN WITHOUT REGARD TO THE AGE RESTRICTIONS THAT APPLY TO THAT PERSON, PROVIDED THAT PERSON OTHERWISE HAS A LEGAL RIGHT TO CONTINUE TO RESIDE ON THE LOT. NOTHING HEREIN SHALL PROHIBIT TEMPORARY RESIDENCY BY ANY PERSON LESS THAN 45 YEARS OF AGE FOR SPECIFIED PERIODS NOT TO EXCEED SIXTY (60) DAYS IN ANY ONE (1) CALENDAR YEAR.

ARTICLE V

ANNEXATION

THE DEVELOPMENT SHALL BE COMPLETED IN FOUR (4) PHASES, TOTALLING TWO HUNDRED (200) SINGLE FAMILY RESIDENCES. CONSEQUENTLY, UPON THE RECORDING BY THE DEVELOPER, ITS SUCCESSORS OR ASSIGNS, OF A SUBSEQUENT DECLARATION OF

PROTECTIVE RESTRICTIONS AGAINST REAL PROPERTY ADJACENT TO THE PROPERTY, WHICH DECLARATION MAKES REFERENCE TO THIS DECLARATION AND CONTAINS ESSENTIALLY THE SAME PROVISIONS AS THIS DECLARATION, ALL PHASES OF THE DEVELOPMENT SHALL BE DEEMED ANNEXED TO EACH OTHER, AND GOVERNED BY THIS DECLARATION. NOTHING IN THE FOREGOING SHALL BE CONSTRUED AS EXEMPTING THE DEVELOPER, ITS SUCCESSORS OR ASSIGNS, FROM THE REQUIRED LEGAL STEPS TO CREATE THE SUCCEEDING PHASES OF THE DEVELOPMENT IN ACCORDANCE WITH LAW.

ARTICLE VI

GENERAL PROVISIONS

6.1 ENFORCEMENT: ANY OWNER, SHALL HAVE THE RIGHT TO ENFORCE, BY ANY PROCEEDING AT LAW OR IN EQUITY, ALL RESTRICTIONS, CONDITIONS, COVENANTS, RESERVATIONS, LIENS, AND CHARGES NOW OR HEREAFTER IMPOSED BY THE PROVISIONS OF THIS DECLARATION AND IN SUCH ACTION SHALL BE ENTITLED TO RECOVER REASONABLE ATTORNEYS' FEES AS ARE ORDERED BY THE COURT. FAILURE BY ANY OWNER TO ENFORCE ANY COVENANT OR RESTRICTION HEREIN CONTAINED SHALL IN NO EVENT BE DEEMED A WAIVER OF THE RIGHT TO DO SO THEREAFTER.

6.2 RIGHT OF TOWN TO ENFORCE: IN CONSIDERATION OF THE TOWN'S APPROVAL OF THE DEVELOPMENT TO WHICH THIS DECLARATION RELATES, DECLARANT HEREBY COVENANTS AND AGREES AND EACH OWNER OF ANY LOT COVERED BY THIS DECLARATION OF PROTECTIVE RESTRICTIONS BY THE ACCEPTANCE OF ANY DEED THERETO, WHETHER OR NOT THIS AGREEMENT SHALL BE SO EXPRESSED IN SAID DEED, AND ALL HEIRS, EXECUTORS, ADMINISTRATORS, ASSIGNS AND SUCCESSORS IN INTEREST OF EACH SUCH LOT OWNER IS DEEMED A COVENANT AND AGREE AS FOLLOWS:

(A) THE TOWN SHALL HAVE THE RIGHT, BUT NOT THE DUTY, TO ENFORCE THE AGE RESTRICTION SET FORTH IN ARTICLE IV IN THE MANNER HEREINAFTER PROVIDED.

(B) AFTER DUE NOTICE AND A PUBLIC HEARING, THE TOWN CITY COUNCIL SHALL AUTHORIZE AND DIRECT THE GIVING OF SIXTY (60) DAYS WRITTEN NOTICE TO THE OWNER OR OWNERS WHO ARE IN VIOLATION OF THESE RESTRICTIONS TO CORRECT SUCH VIOLATIONS. IF THE OWNER(S) SHALL FAIL TO TAKE STEPS SATISFACTORY TO THE TOWN TO CORRECT SUCH FAILURE WITHIN THE

SIXTY (60) DAY PERIOD, THE TOWN SHALL HAVE THE RIGHT TO TAKE SUCH LEGAL STEPS AS MAY BE NECESSARY TO COMPEL PERFORMANCE BY SUCH OWNER(S) .

(C) FAILURE OF THE TOWN TO ENFORCE THE AGE RESTRICTION HEREIN CONTAINED SHALL IN NO EVENT BE DEEMED A WAIVER OF THE RIGHT TO DO SO THEREAFTER.

6.3 TRUST FUND: BROOKSCREEK PARTNERSHIP HAS, AT ITS OWN COST, CREATED AND FUNDED A TRUST ACCOUNT AT SONOMA NATIONAL BANK, MAIN BRANCH, 801 4TH STREET, SANTA ROSA, SONOMA COUNTY, CALIFORNIA, WITH TEN THOUSAND DOLLARS ($10,000.00), TO BE USED TO HELP DEFRAY THE LEGAL FEES AND COSTS INCURRED BY ANY INTERESTED PARTY, INCLUDING THE TOWN, IN ENFORCING THE PROVISIONS OF ARTICLE IV OF THIS DECLARATION AND/OR TO DEFRAY THE LEGAL EXPENSES OF THE TOWN IN ENFORCING THE AGE RESTRICTION THROUGH ZONING ENFORCEMENT, INCLUDING ADMINISTRATIVE AND LEGAL ACTIONS.

THE TOWN OR ANY OTHER INTERESTED PARTY UNDER THIS DECLARATION WHICH SEEKS TO ENFORCE THE PROVISIONS OF ARTICLE IV OF THIS DECLARATION, OR THE TOWN IN SEEKING TO MAINTAIN A ZONING ENFORCEMENT ACTION TO ENFORCE THE AGE RESTRICTIONS, MAY APPLY TO THE SONOMA COUNTY SUPERIOR COURT FOR REASONABLE ADVANCES FOR REIMBURSEMENT OUT OF THE TRUST ACCOUNT FOR ATTORNEYS FEES AND COSTS TO PROSECUTE SUCH LEGAL PROCEEDING AS NECESSARY TO ENFORCE ARTICLE IV OR THE ZONING ORDINANCE.

6.4 ATTORNEYS FEES: THE PREVAILING PARTY IN ANY ACTION TO ENFORCE THE AGE RESTRICTIONS IMPOSED BY THIS DECLARATION WHETHER SUCH ACTION IS BROUGHT PURSUANT TO THIS DECLARATION OR AS A ZONING ENFORCEMENT ACTION SHALL BE ENTITLED TO A REASONABLE ATTORNEYS FEE AS DETERMINED BY THE COURT IN SUCH ACTION. TO THE EXTENT THAT SUCH FEE AWARD BY THE COURT INCLUDES AMOUNTS ADVANCED OUT OF THE TRUST FUND DESCRIBED IN ARTICLE VI, SUBPARAGRAPH 6.3 OF THIS DECLARATION, SUCH AMOUNTS SHALL BE REPAID TO THAT TRUST ACCOUNT.

6.5 INVALIDITY OF ANY PROVISION: SHOULD ANY PROVISION OR PORTION HEREOF BE DECLARED INVALID OR IN CONFLICT WITH ANY LAW OF THE JURISDICTION WHERE THIS PROJECT IS SITUATED, THE VALIDITY OF ALL OTHER PROVISIONS AND PORTIONS HEREIN SHALL REMAIN UNAFFECTED AND IN FULL FORCE AND EFFECT.

6.6 TERM: UNLESS EARLIER TERMINATED PURSUANT TO SECTION 3.11, THE COVENANTS AND RESTRICTIONS OF THIS DECLARATION SHALL RUN WITH AND BIND THE BROOKS CREEK PROPERTY AND THE WINDSOR PROPERTY, AND SHALL INURE TO THE BENEFIT OF AND SHALL BE ENFORCEABLE BY THE TOWN AND BY ANY OWNER OF ANY PROPERTY SUBJECT TO THIS DECLARATION, THEIR RESPECTIVE LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS, FOR A TERM OF THIRTY (30) YEARS FROM THE DATE THIS DECLARATION IS RECORDED, AFTER WHICH TIME THEY SHALL BE AUTOMATICALLY EXTENDED FOR SUCCESSIVE PERIODS OF TEN (10) YEARS, UNLESS AN INSTRUMENT IN WRITING, SIGNED BY A MAJORITY OF THE THEN OWNERS OF THE LOTS, AND SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE TOWN OF WINDSOR HAS BEEN RECORDED WITHIN THE YEAR PRECEDING THE BEGINNING OF EACH SUCCESSIVE PERIOD OF TEN (10) YEARS, AGREEING TO CHANGE SAID COVENANTS AND RESTRICTIONS IN WHOLE OR IN PART, OR TO TERMINATE THE SAME.

6.7 AMENDMENTS: THIS DECLARATION MAY BE AMENDED ONLY BY THE AFFIRMATIVE VOTE (IN PERSON OR BY PROXY) OR WRITTEN CONSENT OF MEMBERS REPRESENTING A MAJORITY OF THE OWNERS; PROVIDED, HOWEVER ANY AMENDMENT MUST BE ALSO APPROVED BY THE TOWN COUNCIL OF THE TOWN. ANY AMENDMENT MUST BE DULY SIGNED AND ACKNOWLEDGED BY THE REQUISITE NUMBER OF OWNERS IN WRITING AND BY A DULY AUTHORIZED REPRESENTATIVE OF THE TOWN OF WINDSOR. ANY AMENDMENT MUST BE RECORDED IN THE RECORDER'S OFFICE OF THE COUNTY OF SONOMA. NO AMENDMENT SHALL ADVERSELY AFFECT THE RIGHTS OF THE HOLDER OF ANY MORTGAGE OF RECORD PRIOR TO THE RECORDATION OF SUCH AMENDMENT.

6.8 RIGHTS OF FIRST LENDERS: NO BREACH OF ANY OF THE COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED HEREIN, NOR THE ENFORCEMENT OF ANY LIEN PROVISIONS HEREIN, SHALL RENDER INVALID THE LIEN OF ANY FIRST MORTGAGE (MEANING A MORTGAGE WITH FIRST PRIORITY OVER ANY OTHER MORTGAGE) ON ANY LOT MADE IN GOOD FAITH AND FOR VALUE, BUT ALL OF SAID COVENANTS, CONDITIONS AND RESTRICTIONS SHALL BE BINDING UPON AND EFFECTIVE AGAINST ANY OWNER WHOSE TITLE IS DERIVED THROUGH FORECLOSURE OR TRUSTEE'S SALE, OR OTHERWISE.

IN WITNESS THEREOF, THE UNDERSIGNED, HAVES EXECUTED THIS DECLARATION THIS 13 DAY OF January, 1995.

BROOKSCREEK ASSOCIATES,
A CALIFORNIA LIMITED PARTNERSHIP
BY: GALLAHER CONSTRUCTION, INC.,
ITS GENERAL PARTNER

BY: _____
WILLIAM GALLAHER
ITS: PRESIDENT

TOWN OF WINDSOR

BY: _____
BERTON WILLS, TOWN MANAGER

TOWN OF WINDSOR WATER DISTRICT

BY: _____
BERTON WILLS, GENERAL MANAGER

RECOMMENDED FOR APPROVAL:

_____
COMMUNITY SERVICES DIRECTOR

_____
TOWN ATTORNEY

Z:\CC&RS.TMP\BROOKSCR\CC&RTOWN.914

9-14-94

STATE OF CALIFORNIA)
) SS.
COUNTY OF SONOMA)

On Jan 13, 1995, before me, Donna G. Younger, the undersigned, a Notary Public in and for said County and State, personally appeared WILLIAM GALLAHER, personally known to me (or 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 hisher/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

DONNA G. YOUNGER
COMM. # 1037312
NOTARY PUBLIC - CALIFORNIA
SONOMA COUNTY
My Comm. Expires Oct 14, 1996

Donna G. Younger
Notary Public

STATE OF CALIFORNIA)
) SS.
COUNTY OF SONOMA)

On _____, 1995, before me, _____, the undersigned, a Notary Public in and for said County and State, personally appeared BERTON WILLS, personally known to me (or 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 hisher/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public

ALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

te of California
unty of Sonoma

this 13th day of January, 1995 before me,
Teresita Collins, Deputy Town Clerk
Name, Title of Officer

sonally appeared Berton Wills, Diane Lewis
Name(s) of Signer(s)

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

WITNESS my hand and official seal.

TOWN OF WINDSOR
INCORPORATED
JULY 01, 1992
SONOMA COUNTY, CALIFORNIA

Teresita Collins
SIGNATURE OF NOTARY

••• OPTIONAL SECTION •••
CAPACITY CLAIMED BY SIGNER

Through statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICERS(S)
- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

Town of Windsor / Water District

•••••••••••••••••••••••••• OPTIONAL SECTION ••••••••••••••••••••••••••••••••

HIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

TLE OR TYPE OF DOCUMENT _____
UMBER OF PAGES _____ DATE OF DOCUMENT _____
IGNER(S) OTHER THAN NAMED ABOVE _____

ough the data requested here is not required by law, it could prevent fraudulent reattachment of this form.