

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made as of November 30, 1977, of THOMAS CUTKOMP COMPANY, a California corporation (hereinafter referred to as "Declarant"). Declarant is the owner of certain property in the City of Escondido, County of San Diego, State of California, which is more particularly described as:

Lots 1 through 51 and Lot 88 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California according to Map thereof No. 8786 filed in the office of the County Recorder of San Diego County on Jan. 27, 1978 as File/Page No. 78-035873.

Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

As used in this Declaration, the following terms shall have the meaning indicated unless the context otherwise requires:

Section 1.01. "Association" shall mean and refer to View Terrace Association, a California nonprofit corporation, its successors and assigns.

Section 1.02. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including Cal-Vet contract purchasers, and excluding those having record ownership interests merely as security for the performance of obligations, other than non-Cal-Vet contract sellers.

Section 1.03. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association as provided in Article VI hereof.

Section 1.04. "Common Area" shall mean all real property owned by the Association (including the improvements thereto) for the common use and enjoyment of the Owners. The Common Area to be owned by the Association prior to the conveyance of the first Lot is described as follows:

Lot 88 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California according to Map thereof No. 8786, filed in the office of the County Recorder of San Diego County on Jan. 27, 1978 as File/Page No. 78-035873, said Lot 88 including within its boundaries the private streets and areas not within the contiguous numbered Lots 1 through 51.

Section 1.05. "Lot" shall mean and refer to any plot of land as shown on the recorded subdivision map of the Properties with the exception of the Common Area.

Section 1.06. "Declarant" shall mean and refer to Thomas Cutkomp Company, a California corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from Declarant for the purpose of development.

## ARTICLE II

### PROPERTY RIGHTS

Section 2.01. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress and egress and of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and user fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations after reasonable written notice and an opportunity for a hearing before the Board of Directors of the Association; and

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association; provided, however, that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members of the Association has been recorded.

Section 2.02. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment of the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on his Lot.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 3.01. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 3.02. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the first to occur of the following:

(a) when the total votes held by Class A members equal the total votes held by Class B members, or

(b) two years from the date of issuance by the California Department of Real Estate of the most recent Public Report for a phase of the overall development described in Section 6.01(a) and (b) hereof, or

(c) on August 31, 1981.

Section 3.03. Approvals. Any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote or written assent of members holding fifty-one percent (51%) of each class of membership during the time that there are two classes of membership. When Class B membership ceases, any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote or written assent of fifty-one percent (51%) of Class A membership.

Section 3.04. Declarant Vote. Where the vote or written assent of each class of membership is made a prerequisite to the initiation of action by the Association, any requirement elsewhere in this Declaration that the vote of Declarant shall be excluded in any such determination shall not be applicable.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.01. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 4.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and shall include, as a part of the annual assessments collectible in installments, adequate reserves for maintenance, repairs and replacements of those elements of Association property that must be rebuilt or replaced on a periodic basis.

Section 4.03. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Dollars (\$300.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership of the Association.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of fifty-one percent (51%) of the votes of each class of members of the Association at a meeting duly called for such purpose.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

Section 4.04. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of fifty-one percent (51%) of the votes of each class of members of the Association.

Section 4.05. Notice and Quorum for Assessment Votes.

Any action authorized under Section 4.03 or 4.04 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members of the Association not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. A quorum for such meeting shall be persons holding fifty-one percent (51%) of the votes of each class of membership of the Association. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum for the preceding meeting. If the proposed action is favored by a majority of the votes cast by each class at such meeting, but such vote is less than the requisite fifty-one percent (51%), members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Association not later than thirty (30) days following the date of such meeting. The Bylaws of the Association shall provide for the registration of addresses of members and may require that multiple Owners of any Lot designate a single address among them for receipt of meeting notices and other communications.

Section 4.06. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 4.07. Date of Commencement of Annual Assessments:  
Due Dates. Prior to the first annual meeting of members of the Association, all Owners shall pay the Association monthly installments of the assessment so established and approved as shown in Section 4.03 hereof. The annual assessments provided for herein shall commence as to all Lots of each phase of development on the first day of the month following the conveyance of the Common Area to the Association for such phase. The first annual assess-

ment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

Section 4.08. Effect of Nonpayment of Assessments:

Remedies of the Association. Any assessment made in accordance with this Declaration shall be a debt of the Owner of a Lot at the time the assessment is made. Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive, or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area, or abandonment of his Lot. The amount of any delinquent assessment, plus any other charges thereon, as provided for in this Declaration, shall be and become a lien upon the Lot when the Association causes to be recorded with the County Recorder of San Diego County, a Notice of Delinquent Assessment, which shall state the amount of such delinquent assessment and such other charges thereon as may be authorized by this Declaration, a description of the Lot against which the same has been

assessed and the name of the record Owner thereof. Such notice shall be signed by the President or Vice President, and the Secretary or Assistant Secretary of the Association. Upon payment of such delinquent assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. Such lien shall be prior to all other liens recorded subsequent to the recordation of such Notice of Delinquent Assessment, except that the lien of the assessments, provided for herein, shall be subordinate to the lien of any first deed of trust or first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, sale or transfer of any Lot pursuant to foreclosure or deed in lieu of foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due, or from the lien thereof.

Unless sooner satisfied and released, or the enforcement thereof initiated as hereinafter provided, such lien shall expire and be of no further force and effect one (1) year from the date of recordation of the Notice of Delinquent Assessment. The one-year period may be extended by the Association for not to exceed one (1) additional year by recording a written extension thereof.

Such lien may be enforced by sale by the Association, its attorney or other person authorized to make the sale, after failure of the Owner to pay such assessment in accordance with its terms, such sale to be conducted in accordance with the provisions of Sections 2924, 2924b and 2924c of the California Civil Code (or successor provisions) applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any

other man permitted by law. The Association shall have power to purchase the Lot at a foreclosure sale and to hold, lease, mortgage and convey the same.

## ARTICLE V

### ARCHITECTURAL CONTROL

Section 5.01. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereon be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Section will be deemed to have been fully complied with.

## ARTICLE VI

### ANNEXATION

Section 6.01. Adjoining property may be annexed to and become subject to this Declaration as set forth hereinbelow in this Section, as follows:

(a) Annexation Pursuant to General Plan.

All or any part of adjoining property described on Exhibit A attached hereto may be annexed, from time to time, to the Properties and added to the scheme of this Declaration and become subject to the jurisdiction of the Association without the assent of the Owners, the Association or its

member provided and on condition at the proposed annexation is effected prior to the third anniversary of the original issuance of the most recently issued Public Report for a phase of the development and provided further that such annexation is made prior to August 31, 1980 and the Veterans Administration and Federal Housing Administration or successor agencies determine that the annexation is in accord with the general plan heretofore approved by them. The property described on Exhibit A attached hereto is owned by Declarant and includes the Properties and other parcels subject to annexation.

(b) General Plan. Following the first phase of the development contemplated in the recitals of this Declaration, additional phases of development may add any grouping of lots located in any segment of said real property of Declarant which shall be contiguous with one another and shall include contiguous open spaces for common area development, such additional groupings to consist of not less than thirty (30) such lots in each phase. The development of the above-mentioned properties will be in accordance with the general plan of development and shall be substantially similar to the development of the Properties.

(c) Annexation of Property Not in Accordance with General Plan. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

(d) Supplementary Declarations. The additions authorized under this Section shall be made by

file of record a Supplementary Declaration of Covenants, Conditions and Restrictions, or similar instrument, with respect to the additional properties which shall extend the scheme of this Declaration to such properties. Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties, provided they are not inconsistent with the scheme of this Declaration. In no event, however, shall any such Supplementary Declaration, merger or consolidation, revoke, modify or add to the covenants established by this Declaration with the Properties, except as hereinabove otherwise provided.

## ARTICLE VII

### MAINTENANCE

Section 7.01. Common Area. The Association shall provide adequate and reasonable maintenance of the entire Common Area. Such maintenance will include the maintenance of street lighting in the private streets, the planting of the Common Area with trees and ground cover pursuant to the final landscape plan on file with the City of Escondido Planning Department; the maintenance in good operating condition of the irrigation system in the Common Area, the irrigation and gardening of planted areas of the major slope banks and other areas of the Common Area; and the maintenance of reasonable growth and appearance of the Common Area.

Section 7.02. Lot Maintenance. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association after approval by

two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. There shall be no entry into a dwelling unit without the express consent of the Owner.

Section 7.03. Party Walls. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

## ARTICLE VIII

### MORTGAGES

Section 8.01. Lien Impairment. A breach of the covenants contained in this Declaration shall not affect or impair the lien or charge of any bona fide first mortgage or first deed of trust made in good faith for value on any Lot; provided, however, that any subsequent Owner of such Lot shall be bound by this Declaration, whether such Owner's title was acquired at a foreclosure or trustee's sale, and shall not be required to cure any breach of the covenants contained in this Declaration which occurred prior to the acquisition of title, although such new Owner will be required to cure any breach occurring thereafter. The Owner or holder of any first mortgage or first deed of trust made in good faith and for value and any corporation insuring the lien or charge of any first mortgage or first deed of trust, may conclusively presume that no breach exists under this Declaration, provided such first mortgage or first deed of trust was recorded prior to the commencement of any action to establish or cure any such breach.

Section 8.02. Notice of Default on Assessments. Each holder of a mortgage or deed of trust shall be entitled to receive notice of any default in the payment by the Owner of the Lot subject to such mortgage or deed of trust of any assessment or in the performance of any other obligation under this Declaration, the Articles of Incorporation or the Bylaws of the Association which is not cured within sixty (60) days, provided the holder makes a written request to the Association, which request specifically identifies the information requested, and pays to the Association a reasonable charge established by the Board of Directors of the Association.

Section 8.03. Association Defaults. Any first mortgagee of first trust deed beneficiary of a Lot may, alone or with other

such secured parties, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area improvements or other Association property and any such secured party making such payments shall be owed immediate reimbursement therefor from the Association.

#### ARTICLE IX

##### PARKING AND STORAGE

Section 9.01. The Properties have been so designed by Declarant that each Lot shall have an attached covered garage to be used for parking motor vehicles. No Owner shall be entitled to convert such a garage from such use. The Board of Director of the Association may assign the use of extra parking spaces in the Common Area to Owners on a nondiscriminatory basis as may be selected by the Board, for which an extra fee may be charged, or such spaces shall be reserved for guests in accordance with rules adopted by the Association and implemented by the Board.

#### ARTICLE X

##### USE RESTRICTIONS

Section 10.01. All Lots shall be used for residential purposes only, and no building shall be erected, constructed, altered or maintained on any of the Lots other than a dwelling for a single family (including guests and household servants) with customary and suitable outbuildings.

Section 10.02. No building of any kind shall be moved from any other place onto any of the Lots, or from one Lot onto another Lot.

Section 10.03. No secondhand material shall be used in the construction of any building or other structure or fence, and all buildings which are of frame construction shall be painted or stained upon their completion.

Section 10.04. The work of constructing and erecting any building or any structure shall be prosecuted diligently from the commencement thereof and the same shall be completed within a reasonable time in accordance with the requirements contained herein.

Section 10.05. No tent, shack, trailer, basement, garage, or outbuildings shall at any time be used on any Lot as a residence, whether temporarily or permanently, nor shall any residence of a temporary character be constructed, placed or erected on any Lot.

Section 10.06. No well for the production of water, oil or gas shall be operated on any Lot; nor shall any machinery, appliance or structure be placed, operated or maintained thereon for use in connection with any trading, manufacturing or repairing business.

Section 10.07. No turkeys, chickens, geese, ducks, pigeons or fowl of any kind, or goats, rabbits, hares, horses or animals shall be kept or allowed to be kept on any Lot or in any residence or outbuildings on any Lot, except domestic pets. The term "pets" shall include dogs, cats and hamsters and fish and birds of types normally kept in households.

Section 10.08. No dog-raising or cat-raising (i.e., breeding for compensation) or any kind of commercial business shall be conducted on any Lot; and no part of any Lot shall be used for the purpose of vending liquor or beverages of any kind; and nothing shall be done upon any Lot which may become an annoyance or nuisance to the neighborhood.

Section 10.09. No re-subdivision of any Lot in the Properties shall be made or permitted.

Section 10.10. In the event of destruction of any building, it shall be rebuilt in compliance with Section 5.01 hereof, shall be of a size which will be equal to the original building and shall be in conformity with the original plans.

Section 10.11. No additions shall be made to the existing structures which shall be closer to side Lot lines or front Lot lines than existing buildings (i.e., existing at the time of finish of construction by Declarant).

Section 10.12. No yard storage or parking throughout the Properties of any type of materials, boats, trailers, campers, motorhomes or other recreational or utility vehicles, shall be permitted.

Section 10.13. No outside antennas of any kind shall be permitted.

Section 10.14. There will be no resident parking of any vehicles at any time in any area where only guest parking is permitted in accordance with the rules of the Board of Directors of the Association.

Section 10.15. Each Owner of a Lot agrees, and binds his heirs, assigns and successors in interest, to permit free access by Owners of adjacent or adjoining Lots to slopes or drainageways located on his Lot which affect such adjacent or adjoining Lots, when such access is essential for the maintenance of permanent stabilization on such slopes, or maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slope or drainageway is located. No building or other structure shall be erected or maintained in whole or in part within any slope area.

Section 10.16. Each Owner of a Lot agrees, and binds his heirs, assigns and successors in interest to not in any way interfere with the established drainage pattern over his Lot from adjoining or other Lots, and to make adequate provisions for proper drainage over his Lot. For the purposes hereof, "established drainage" is defined as the drainage which occurred at the time that the overall grading of the Properties, including the landscaping of each Lot, was completed by Declarant.

Section 10.17. No Owner shall permit the posting on his Lot of any sign without the written consent of the Association.

Section 10.18. Declarant's Special Uses. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have the absolute right to use one or more of the Lots prior to the sale thereof as a sales office and model residence for display to prospective purchasers until such time as all of the Lots owned by Declarant have been sold. Additionally, Declarant shall have the absolute right to post such signs, make such displays and to conduct such sales activities normally carried on by developers of similar residential projects until such time as all Lots owned by Declarant have been sold. Declarant shall additionally have the absolute right until the project is completed to carry on any and all necessary or desirable construction activities on property owned by Declarant, including without limitation, the construction of buildings and improvements, the operation of machinery, equipment and earth-moving equipment, the erection of temporary and permanent utility facilities, the maintenance of construction-site job shacks and any other similar activities which are normally carried on by developers of similar residential housing projects; provided that the Declarant may not use the Common Area in a manner which would unreasonably interfere with its use by Owners. The above-mentioned rights will be in effect until August 31, 1981.

#### ARTICLE XI

#### ENCROACHMENT EASEMENT

Section 11.01. If any part of any building or improvement on any Lot or in the Common Area shall, due to minor construction errors or minor settling or shifting, encroach upon any Lot or Common Area, an easement for such encroachment and the maintenance thereof, so long as it continues, shall and does exist.

## GENERAL PROVISIONS

Section 12.01. Enforcement. The Association, or 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. Failure by the Association or 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.

Section 12.02. Severability. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 12.03. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the members of each class. Any amendment must be recorded.

Section 12.04. FHA/VA Approval. As long as there is a Class B membership in the Association, the following actions will require the prior approval of the Federal Housing Administration and the Veterans Administration: Annexation of additional properties, mergers and consolidations, dedication or mortgaging of the Common Area, special assessments and amendment of this Declaration.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed and sealed this 8 day of Feb . 1978.

THOMAS CUTKOMP COMPANY

by Thomas L. Cutkomp  
Thomas L. Cutkomp, President

by Patricia M. Cutkomp  
Patricia M. Cutkomp, Secretary

UNITED CALIFORNIA BANK, Beneficiary under that certain Deed of Trust filed for record on January 27 , 1978 , as File/ Page 78-035873 of Official Records of San Diego County, hereby agrees that the lien and charge of said Deed of Trust is and shall be subject and subordinate to the foregoing Declaration of Covenants, Conditions and Restrictions.

Dated: February 21 , 1978.

UNITED CALIFORNIA BANK

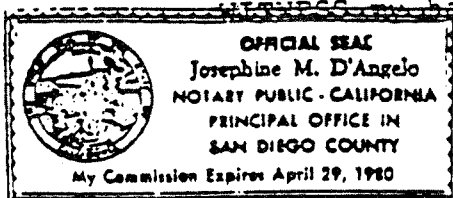
by E. M. Hines, Vice President

by David E. Palumbo, Real Estate Loan Officer

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF SAN DIEGO )

On February 21 , 1978 , before me, the undersigned, a Notary Public in and for said State, personally appeared E. M. Hines , known to me to be the Vice President, and David E. Palumbo , known to me to be the of United California Bank, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



(S E A L)

Josephine M. D'Angelo  
Notary Public in and for said  
County and State

Josephine M. D'Angelo

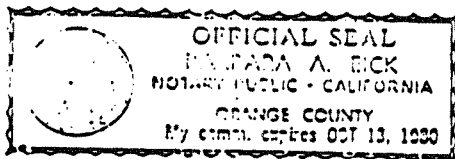
STATE OF CALIFORNIA       )  
                  ORANGE       ) SS.  
COUNTY OF ~~SAN DIEGO~~    )

On February 8, 1978, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas L. Cutkomp, known to me to be the President, and Patricia M. Cutkomp, known to me to be the Secretary of the corporation that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

Barbara A. Eick  
Notary Public in and for said  
County and State

(S E A L)



RETURN TO:  
First American Title Ins. Co.  
411 Ivy  
San Diego, Ca.

FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS & RESTRICTIONS

AMENDMENT dated November 10, 1978 to DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS dated November 30,  
1977 of THOMAS CUTKOMP COMPANY, a California Corporation, as  
Declarant, recorded on February 24, 1978 as File/Page No.  
78-075121.

Declarant remains the sole owner of the Properties des-  
cribed in said Declaration and hereby amends said Declaration  
to revise the first paragraph of Section 4.03 thereof to read  
as follows:

"Until January 1 of the year immediately  
following the conveyance of the first Lot to an  
Owner, the maximum annual assessment shall be Four  
Hundred Eighty Dollars (\$480.00) per Lot."

IN WITNESS WHEREOF, the Declarant has caused this  
Declaration to be executed and sealed this 27 day of  
November, 1978.

THOMAS CUTKOMP COMPANY

THE ORIGINAL OF THIS DOCUMENT WAS RECORDED  
ON JAN 12 1979 FILE/PAGE NO. 79-019148  
VERA L. LYLE, COUNTY RECORDER

by Thomas L. Cutkomp  
Thomas L. Cutkomp, President

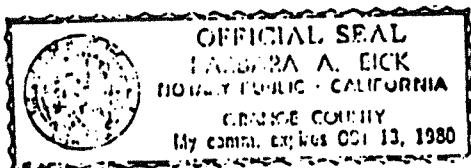
by Patricia M. Cutkomp  
Patricia M. Cutkomp, Secretary

[S E A L]

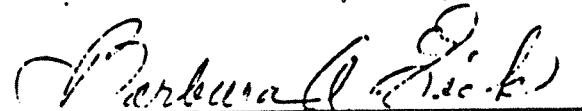
STATE OF CALIFORNIA     )  
                                  ) SS.  
COUNTY OF ORANGE     )

On December 20, , 1978, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas L. Cutkomp, known to me to be the President, and Patricia M. Cutkomp, known to me to be the Secretary, of the corporation that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



[S E A L]

  
\_\_\_\_\_  
Notary Public in and for said  
County and State

UNITED CALIFORNIA BANK, Beneficiary under that certain Deed of Trust filed for record on January 27, 1978, as File/ Page 78-035873 of Official Records of San Diego County, hereby agrees that the lien and charge of said Deed of Trust is and shall be subject and subordinate to the foregoing Amendment to Declaration of Covenants, Conditions and Restrictions.

Dated: November 17, 1978.

UNITED CALIFORNIA BANK

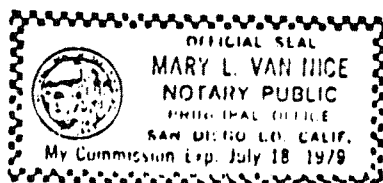
by *Emory M. Hines*  
Emory M. Hines, Vice President &  
Manager Region 6 Real Estate

by *David E. Palumbo*  
Real Estate Loan Officer

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) SS.

On November 17, 1978, before me, the undersigned, a Notary Public in and for said State, personally appeared Emory M. Hines, known to me to be the Vice President, and David E. Palumbo, known to me to be a Real Estate Loan Officer of United California Bank, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



*Mary L. Van Nise*  
Notary Public in and for said  
County and State

[S E A L]

MAR 6 1980 FILE/PAGE NO. 077953  
DECLARATION OF ANNEXATION VERA L. LYLE, COUNTY RECORDER

THIS DECLARATION OF ANNEXATION is made  
this 4 day of March, 1980, by THOMAS  
CUTKOMP COMPANY, a California corporation  
(hereinafter referred to as the "Declarant"),  
and W. B. CUTKOMP, INC., a California corpor-  
ation (hereinafter referred to as the "Second  
Declarant"), with reference to the following  
facts:

A. Declarant executed a planned development declaration  
entitled Declaration of Covenants, Conditions and Restrictions,  
dated November 30, 1977 (hereinafter referred to as the "Declaration"),  
which was recorded on February 24, 1978, as File/Page No. 78-075121 of  
Official Records of the County of San Diego, State of California, as  
amended by an Amendment dated November 10, 1978 which was recorded  
on January 12, 1979 as File/Page 79-019148. The Declaration now  
affects all that real property located in the City of Escondido,  
County of San Diego, State of California, described as follows:

Lots 1 through 51 of Tract No. 224-A in the  
City of Escondido, County of San Diego, State  
of California according to Map thereof No. 8786  
filed in the office of the County Recorder of  
San Diego County on January 27, 1978 as File/Page  
No. 78-035873,

hereinafter referred to as the "Prior Subject Property".

B. The Declaration provides in Article VI, Section 6.01,  
that Declarant may annex additional property described in Exhibit A  
to the Declaration and thereby make such additional property subject  
to the Declaration and subject to the scheme of the Declaration.

C. Declarant and Second Declarant have formed a joint venture doing business under the name "Mountain View Terrace", and as such are the owners of the real property located in the City of Escondido, County of San Diego, State of California, described as follows:

Lots 52 through 87 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California according to Map thereof No. 8786 filed in the office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

hereinafter referred to as the "Annexed Property", or as "Lots 52 through 87", or by individual lot numbers, which property is a part of the property described in Exhibit A to the Declaration. Declarant and Second Declarant now desire to annex the Annexed Property to the Prior Property and thereby make the Annexed Property subject to the terms, conditions and restrictions of the Declaration.

NOW, THEREFORE Declarant and Second Declarant declare as follows:

1. Pursuant to the terms of the Declaration, Declarant declares that the Annexed Property is hereby annexed to the Prior Subject Property and made a part of the properties subject to the terms of the Declaration. All the Annexed Property shall be held, sold, leased, transferred, occupied, and conveyed subject to the terms, provisions, covenants, conditions, restrictions and easements of the Declaration, as amended or as hereafter amended.

2. The Annexed Property shall include Lots 52 through 87 as "Lots". ( as that term is defined in the Declaration).

IN WITNESS WHEREOF, the Declarant and Second Declarant have caused this Declaration of Annexation to be executed and sealed this 4 day of March, 1980.

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On March 4, 1980, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared THOMAS L. CUTKOMP, known to me to be the President and KAREN S. CUTKOMP, known to me to be the Vice President of the THOMAS CUTKOMP COMPANY that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



(SEAL)

Deborah M. Fleming  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On March 4, 1980, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared WARREN B. CUTKOMP, known to me to be the President, and DASHA CUTKOMP, known to me to be the Secretary of W. B. CUTKOMP, INC. that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



(SEAL)

Deborah M. Fleming  
Notary Public in and for said  
County and State

THOMAS CUTKOMP COMPANY,

By Thomas L. Cutkomp  
THOMAS L. CUTKOMP, PRESIDENT

and

By Karen S. Cutkomp  
KAREN S. CUTKOMP, VICE PRESIDENT

(Corporate Seal)

W. B. CUTKOMP, INC.

By Warren B. Cutkomp  
WARREN B. CUTKOMP, PRESIDENT

and

By Dasha A. Cutkomp  
DASHA A. CUTKOMP, SECRETARY

(Corporate Seal)

Recording Requested By:

When Recorded Return To:

C.C.I.  
Attn: View Terrace  
410 W. Elm Street  
San Diego, California 92101  
(619) 231-1606

This instrument is certified to be a true and  
exact copy of that certain instrument recorded  
on 2-17-88 as File No. 88-073836 in the  
office of the County Recorder of San Diego County.

FIRST AMERICAN TITLE INSURANCE

*[Signature]*  
By Authorized Signature

Space Above for Recorder's Use

**SUPPLEMENTAL DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
VIEW TERRACE  
Phase 3  
(a Planned Unit Development)**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 18th day of January, 1988, by FIRST CITY - DE DEVELOPMENT, a California partnership, hereinafter called "Declarant," with reference to the following:

#### RECITALS

A. THOMAS CUTKOMP COMPANY, a California corporation ("CUTKOMP"), executed that certain Declaration of Covenants, Conditions and Restrictions ("Declaration") dated November 30, 1977 and recorded on February 24, 1978 in the Office of the County Recorder of San Diego County, California, as File/Page No. 78-075121, covering the real property located in the City of Escondido, County of San Diego, California, described as:

Lots 1 through 51 and Lot 88 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 8786, filed in the Office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

which real property is hereinafter referred to as the "Subject Property."

The Declaration was amended by a First Amendment thereto, recorded January 12, 1979, as File/Page No. 79-019148, in the Office of the County Recorder of San Diego County, California.

References herein to the "Declaration" shall mean the Declaration as so amended.

B. Declarant has purchased more than one (1) undeveloped Lot from Cutkomp, and has therefore become a "Declarant" under the Declaration pursuant to Section 1.06 of Article I thereof.

C. The Declaration provides in Section 6.01 of Article VI that additional residential property and Common Area may be annexed to the Subject Property and thereby make such additional property subject to the Declaration and subject to the jurisdiction of VIEW TERRACE ASSOCIATION, a California nonprofit corporation (the "Association"). The Declaration further provides in Section 6.01 of Article VI that such annexation is to be accomplished upon the occurrence of certain conditions among which is the consent of two-thirds (2/3) of the members of the Association, and the recording of a "Supplemental Declaration" or similar instrument, which may contain such complementary additions and modifications of the Declaration as may be necessary to reflect the different character, if any, of the added properties, provided they are not inconsistent with the scheme of the Declaration.

D. There has been annexed to the Declaration and to the jurisdiction of the Association that certain real property described as:

Lots 52 through 87 of Tract No. 224-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 8786, filed in the Office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

by Declaration of Annexation recorded in the Office of the San Diego County Recorder, State of California on March 6, 1980 as File/Page No. 80-077953.

E. Declarant is the owner of the real property located in the City of Escondido, County of San Diego, California, described as:

Lots 1 through 19, inclusive, Lots 43 and 44, and Lots 65 through 78, inclusive, and Common Area Lot 79A of Tract No. 586R-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 11797, filed in the Office of the County Recorder of San Diego County on April 24, 1987,

which real property is part of the real property described in Article VI of the Declaration which may be annexed to the Subject Property and to the jurisdiction of the Association.

F. Declarant desires to annex the real property described in RECITAL E above to the Subject Property and to the jurisdiction of the Association and thereby make the real property described in RECITAL E above subject to the terms, conditions and restrictions of the Declaration.

G. The Association, pursuant to a two-thirds (2/3) approval of its members, has consented to the annexation of the real property described in RECITAL E above to the Subject Property and to the jurisdiction of the Association and thereby make the real property described in RECITAL E above subject to the terms, conditions and restrictions of the Declaration.

NOW, THEREFORE, Declarant declares as follows:

1. Pursuant to the terms of the Declaration, Declarant, as the owner of:

Lots 1 through 19, inclusive, Lots 43 and 44, and Lots 65 through 78, inclusive, and Common Area Lot 79A of Tract No. 586R-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 11797, filed in the Office of the County Recorder of San Diego County on April 24, 1987,

hereinafter called the "Annexed Property," declares that upon the recording of a deed conveying (i) Common Area Lot 79A to the Association, and (ii) the first Lot in the Annexed Property to a purchaser, the Annexed Property shall be annexed to the Subject Property and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the limitation, restrictions, covenants, conditions of the Declaration, as amended or as hereafter amended, and of this Supplemental Declaration.

2. The owner of a Lot in the Annexed Property will receive title to his Lot plus a membership in the VIEW TERRACE ASSOCIATION, a nonprofit corporation, which membership shall be appurtenant to his Lot.

3. Declarant shall convey the Common Area Lot 79A to the Association prior to the close of escrow on the sale of the first Lot in the Annexed Property, which Common Area Lot shall be held for the benefit of all members of the Association.

#### 4. CLASSES OF MEMBERSHIP.

CLASS A. Each Member of the Association, other than the Declarant, shall be a Class A member. Class A membership entitles the holder to one (1) vote for each Lot owned. If a Lot is owned by more than one person, each such person shall be a Member of the Association, but there shall be no more than one (1) vote for each Lot.

CLASS B. The Declarant is a Class B member. Class B membership entitles the holder to not more than three (3) votes for each Lot of which Declarant is record owner.

The Class B membership shall be irreversibly converted to Class A membership on the first to occur of the following:

(a) two (2) years following the date of issuance by the California Department of Real Estate of its Final Subdivision Public Report covering the most recent Phase of the Project; or

(b) the fourth (4th) anniversary of the issuance by the California Department of Real Estate of its original Final Subdivision Public Report for the first Phase of the third increment of the Project.

As to membership arising out of ownership of a Lot within any Annexed Property, no rights or obligations arising therefrom shall attach until the recordation of sale of the first Lot in said Annexed Property.

5. The following new definitions, which are not inconsistent with the scheme of the Declaration, are hereby added to ARTICLE I DEFINITIONS of the Declaration, to reflect the different character of the Annexed Property:

Section 1.07 "ANNEXED PROPERTY" shall mean any real property which is, from time to time, annexed under the Declaration pursuant to its Article VI.

Section 1.08 "DWELLING OR RESIDENCE" shall mean a residential structure or structures, including balconies, patios and garages located on a Lot.

Section 1.09 "YARD" shall mean and refer to that portion of a Lot which is not improved with a Dwelling, and shall include any side yard use easements shown on the Subdivision Map of an Annexed Property.

6. A new Section 4.09 in full is hereby added to Article IV of the Declaration:

Section 4.09 RESERVE FUND CONTRIBUTIONS. As required by Escondido Municipal Code Section 1086, Declarant deposited with the City two hundred dollars (\$200.00) for each residential Lot prior to the recordation of the final subdivision map for each Annexed Property. The sum deposited shall hereinafter be referred to as the "Contingency Fund." The Contingency Fund shall be held by the City in trust for the Corporation to be used solely and exclusively for emergencies, which may arise related to the Common Areas and such other restoration or repairs as may be the obligation of the Corporation. The Contingency Fund, less any amounts spent for the purposes herein described plus all interest or earnings thereon, shall be transferred to the Corporation at the time that the Class B Membership shall cease and be converted to a Class A Membership. The Contingency Fund shall be held by the Corporation only for the purposes described in Escondido Municipal Code Section 1086. Each Buyer of a residential Lot shall deposit into the purchase escrow the sum of two hundred dollars (\$200.00) for each Lot purchased, which sum shall be remitted to the Declarant upon the close of escrow as reimbursement for Declarant's prepaid Contingency Fund contribution.

7. A new ARTICLE XIII is hereby added to the Declaration to reflect the different character of the Annexed Property:

## ARTICLE XIII

### SIDE YARD USE EASEMENTS

Section 13.01 IN GENERAL. Declarant has granted and shown on the Subdivision Map for each Annexed Property, certain side yard use easements over one Lot, as the servient tenement, for the exclusive use of an adjacent Lot, as the dominant tenement, for access, use, enjoyment, ingress, egress, landscaping, drainage maintenance and erosion control, which use easement shall be appurtenant to and become a part of the Yard of the Dominant Tenement Lot and which shall pass to such dominant tenement Lot owners' successors in title. Said Side Yard Use Easement areas shall be kept open and free of all permanent structures or buildings. In all cases where a structural wall of a Dwelling of the servient tenement is located on or in proximity to the side yard use easement line shown on the Annexed Property's Map, the servient tenement shall have a nonexclusive easement over the dominant tenement Yard for access to and maintenance of the structural wall and for the reconstruction of the structural wall or Dwelling in the event of the partial or total destruction of the same, and for drainage associated with the wall or Dwelling, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the servient tenement Dwelling. The Owner of the servient tenement shall not attach anything to the outside of his structural wall or Dwelling which shall protrude into the side yard use easement area, and the Owner of the dominant tenement Lot shall not attach anything to the outside of the servient tenement Lot's structural wall or Dwelling without (in each case) the consent and permission of the Owner of the servient tenement Lot.

Section 13.02 RESPONSIBILITY OF MAINTENANCE. The dominant tenement shall be responsible, at his sole cost and expense, for the irrigation and maintenance of all portions of the property and landscaping within the Side Yard Use Easement Area, including any slopes, fences and non-structural walls located thereon; provided, however, the cost of maintenance and repair of any fence or non-structural wall which separates Yards shall be in accordance with the provisions of Section 7.03 of Article VII of the Declaration entitled "Party Walls." No rubbish or debris of and kind shall be placed or permitted by an Owner to accumulate within the side yard use easement area so as to render such property or portion thereof unsanitary, unsightly, offensive or detrimental to other residents.

**Section 13.03 DAMAGE BY FIRE OR CASUALTY.** If all or any portion of the easement area is damaged by fire or other casualty, it shall be the duty of the dominant tenement Lot owner to restore or cause to be restored said easement area substantially to its appearance and condition immediately prior to the casualty within three (3) months after the damage occurs (unless prevented by causes beyond his reasonable control) or as otherwise may be required by the Association in accordance with the Declaration. In the event that the dominant tenement Lot owner fails to perform his duties described herein, the Association's agents may enter upon his Lot and easement area and perform the necessary maintenance or restoration; the cost of such maintenance or restoration, to the extent not paid to the Association by any insurance proceeds, shall immediately be paid to the Association by the dominant tenement Lot owner as provided for in Article VII of the Declaration.

**Section 13.04 DAMAGE BY SERVIENT TENEMENT.** In the event that all or any portion of the easement area is damaged by the servient tenement Lot owner or his guests, agents or invitees, it shall be the duty of the servient tenement Lot owner to restore or cause to be restored said easement area substantially to its appearance and condition immediately prior to the casualty within three (3) months after the damage occurs (unless prevented by causes beyond his reasonable control) or as otherwise may be required by the Association in accordance with the Declaration. If the servient tenement Lot owner fails to perform his duties as described herein, then either the dominant tenement Lot owner or the Association's agents may perform the necessary restoration; the cost of such restoration, to the extent not paid by any insurance proceeds, shall immediately be paid to the party who paid or incurred the costs for such restoration. Notwithstanding the foregoing, the servient tenement Lot owner shall be legally liable to the dominant tenement Lot owner for all damages to the landscaping within the easement area caused by such servient tenement Lot owner, his licensee, or occupant, as such liability may be determined under California law.

This provision shall affect, to varying degrees, the following Lots described in Paragraph 1 hereinabove: Lots 2 through 11 inclusive, and Lots 65, 68 and 70.

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration on the day and year first hereinabove written.

FIRST CITY - DE DEVELOPMENT,  
a California partnership

Re: DE DEVELOPMENT.

CAT. NO. NN00636  
TO 1984 CA (9-84)

(Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO } ss.

On JANUARY 13, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID G. NAIRNE personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the SR. VICE PRES President, and DAVID G. NAIRNE

personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the SR. VICE PRESIDENT Secretary of

FIRST CITY CALIFORNIA II  
the corporation that executed the within instrument on behalf of FIRST CITY - DE DEVELOPMENT

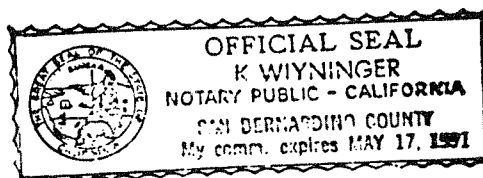
the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature

K. Wynniger

 **TICOR TITLE INSURANCE**



(This area for official notarial seal)

CAT. NO. NN00636  
TO 1984 CA (9-84)

(Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO } ss.

On JANUARY 13, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID G. EVANS personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the PRES. President, and DAVID G. EVANS

personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the PRESIDENT Secretary of

DE DEVELOPMENT  
the corporation that executed the within instrument on behalf of FIRST CITY - DE DEVELOPMENT

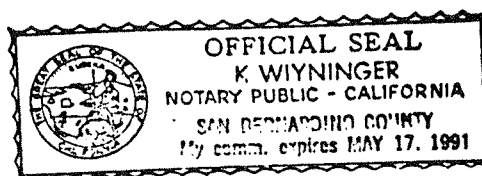
the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature

K. Wynniger

 **TICOR TITLE INSURANCE**



(This area for official notarial seal)

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration on the day and year first hereinabove written.

FIRST CITY - DE DEVELOPMENT,  
a California partnership

By: DE DEVELOPMENT,  
a California corporation

By:   
David G. Evans  
Title President

By: FIRST CITY CALIFORNIA-II,  
a California corporation

By:   
David G. Nairne  
Title Senior Vice President

(Attach Proper Notary Certificate(s) of Acknowledgment)

SUBORDINATION AGREEMENT

LINCOLN SAVINGS AND LOAN ASSOCIATION, a California State chartered Savings and Loan Association, being a beneficiary under that certain Deed of Trust, dated May 19, 1987 and recorded June 5, 1987 as File/Page No. 87-314795 of Official Records in the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of said Deed of Trust is and shall be subordinate to the Supplemental Declaration to which this Subordination Agreement is attached.

DATED: January 18, 1988

LINCOLN SAVINGS AND LOAN ASSOCIATION,  
a California State chartered Savings and Loan Association

By: Cynthia S. Frostberg, Vice President

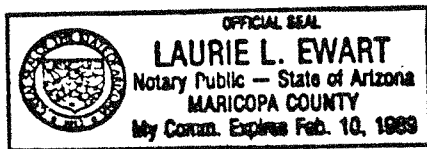
By: Cauleen Profield, Assistant Secretary

(Attach Proper Notary Certificate(s) of Acknowledgment)

STATE OF ARIZONA           )  
                                      ) ss.  
COUNTY OF MARICOPA       )

On this 18<sup>th</sup> day of JANUARY, 1988, before me,  
LAURIE L. EWART, a Notary Public in and for said state, personally  
appeared CYNTHIA S. FRESHLEY, personally known to me ( or  
proved to me on the basis of satisfactory evidence) to be the Vice  
President, and Cowleen Scfield, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the ASSISTANT  
SECRETARY of the association that executed the within in-  
strument, known to me to be the persons who executed the within instrument  
on behalf of the association therein named, and acknowledged to me that  
such association executed the within instrument pursuant to its bylaws  
or a resolution of its board of directors.

WITNESS my hand and official seal.



Laurie L. Ewart  
Notary Public

Recording Requested By:

When Recorded Return To:

C.C.I.  
Attn: View Terrace  
410 W. Elm Street  
San Diego, California 92101  
(619) 231-1606

This instrument is certified to be a true and  
exact copy of that certain instrument recorded  
on 2-17-88 as File No. 88-073836 in the  
office of the County Recorder of San Diego County.

FIRST AMERICAN TITLE INSURANCE

[Signature]  
By Authorized Signature

Space Above for Recorder's Use

**SUPPLEMENTAL DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
VIEW TERRACE  
Phase 3  
(a Planned Unit Development)**

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 18th day of January, 1988, by FIRST CITY - DE DEVELOPMENT, a California partnership, hereinafter called "Declarant," with reference to the following:

#### RECITALS

A. THOMAS CUTKOMP COMPANY, a California corporation ("CUTKOMP"), executed that certain Declaration of Covenants, Conditions and Restrictions ("Declaration") dated November 30, 1977 and recorded on February 24, 1978 in the Office of the County Recorder of San Diego County, California, as File/Page No. 78-075121, covering the real property located in the City of Escondido, County of San Diego, California, described as:

Lots 1 through 51 and Lot 88 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 8786, filed in the Office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

which real property is hereinafter referred to as the "Subject Property."

The Declaration was amended by a First Amendment thereto, recorded January 12, 1979, as File/Page No. 79-019148, in the Office of the County Recorder of San Diego County, California.

References herein to the "Declaration" shall mean the Declaration as so amended.

B. Declarant has purchased more than one (1) undeveloped Lot from Cutkomp, and has therefore become a "Declarant" under the Declaration pursuant to Section 1.06 of Article I thereof.

C. The Declaration provides in Section 6.01 of Article VI that additional residential property and Common Area may be annexed to the Subject Property and thereby make such additional property subject to the Declaration and subject to the jurisdiction of VIEW TERRACE ASSOCIATION, a California nonprofit corporation (the "Association"). The Declaration further provides in Section 6.01 of Article VI that such annexation is to be accomplished upon the occurrence of certain conditions among which is the consent of two-thirds (2/3) of the members of the Association, and the recording of a "Supplemental Declaration" or similar instrument, which may contain such complementary additions and modifications of the Declaration as may be necessary to reflect the different character, if any, of the added properties, provided they are not inconsistent with the scheme of the Declaration.

D. There has been annexed to the Declaration and to the jurisdiction of the Association that certain real property described as:

Lots 52 through 87 of Tract No. 224-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 8786, filed in the Office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

by Declaration of Annexation recorded in the Office of the San Diego County Recorder, State of California on March 6, 1980 as File/Page No. 80-077953.

E. Declarant is the owner of the real property located in the City of Escondido, County of San Diego, California, described as:

Lots 1 through 19, inclusive, Lots 43 and 44, and Lots 65 through 78, inclusive, and Common Area Lot 79A of Tract No. 586R-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 11797, filed in the Office of the County Recorder of San Diego County on April 24, 1987,

which real property is part of the real property described in Article VI of the Declaration which may be annexed to the Subject Property and to the jurisdiction of the Association.

F. Declarant desires to annex the real property described in RECITAL E above to the Subject Property and to the jurisdiction of the Association and thereby make the real property described in RECITAL E above subject to the terms, conditions and restrictions of the Declaration.

G. The Association, pursuant to a two-thirds (2/3) approval of its members, has consented to the annexation of the real property described in RECITAL E above to the Subject Property and to the jurisdiction of the Association and thereby make the real property described in RECITAL E above subject to the terms, conditions and restrictions of the Declaration.

NOW, THEREFORE, Declarant declares as follows:

1. Pursuant to the terms of the Declaration, Declarant, as the owner of:

Lots 1 through 19, inclusive, Lots 43 and 44, and Lots 65 through 78, inclusive, and Common Area Lot 79A of Tract No. 586R-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 11797, filed in the Office of the County Recorder of San Diego County on April 24, 1987,

hereinafter called the "Annexed Property," declares that upon the recording of a deed conveying (i) Common Area Lot 79A to the Association, and (ii) the first Lot in the Annexed Property to a purchaser, the Annexed Property shall be annexed to the Subject Property and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the limitation, restrictions, covenants, conditions of the Declaration, as amended or as hereafter amended, and of this Supplemental Declaration.

2. The owner of a Lot in the Annexed Property will receive title to his Lot plus a membership in the VIEW TERRACE ASSOCIATION, a nonprofit corporation, which membership shall be appurtenant to his Lot.

3. Declarant shall convey the Common Area Lot 79A to the Association prior to the close of escrow on the sale of the first Lot in the Annexed Property, which Common Area Lot shall be held for the benefit of all members of the Association.

#### 4. CLASSES OF MEMBERSHIP.

CLASS A. Each Member of the Association, other than the Declarant, shall be a Class A member. Class A membership entitles the holder to one (1) vote for each Lot owned. If a Lot is owned by more than one person, each such person shall be a Member of the Association, but there shall be no more than one (1) vote for each Lot.

CLASS B. The Declarant is a Class B member. Class B membership entitles the holder to not more than three (3) votes for each Lot of which Declarant is record owner.

The Class B membership shall be irreversibly converted to Class A membership on the first to occur of the following:

(a) two (2) years following the date of issuance by the California Department of Real Estate of its Final Subdivision Public Report covering the most recent Phase of the Project; or

(b) the fourth (4th) anniversary of the issuance by the California Department of Real Estate of its original Final Subdivision Public Report for the first Phase of the third increment of the Project.

As to membership arising out of ownership of a Lot within any Annexed Property, no rights or obligations arising therefrom shall attach until the recordation of sale of the first Lot in said Annexed Property.

5. The following new definitions, which are not inconsistent with the scheme of the Declaration, are hereby added to ARTICLE I DEFINITIONS of the Declaration, to reflect the different character of the Annexed Property:

Section 1.07 "ANNEXED PROPERTY" shall mean any real property which is, from time to time, annexed under the Declaration pursuant to its Article VI.

Section 1.08 "DWELLING OR RESIDENCE" shall mean a residential structure or structures, including balconies, patios and garages located on a Lot.

Section 1.09 "YARD" shall mean and refer to that portion of a Lot which is not improved with a Dwelling, and shall include any side yard use easements shown on the Subdivision Map of an Annexed Property.

6. A new Section 4.09 in full is hereby added to Article IV of the Declaration:

Section 4.09 RESERVE FUND CONTRIBUTIONS. As required by Escondido Municipal Code Section 1086, Declarant deposited with the City two hundred dollars (\$200.00) for each residential Lot prior to the recordation of the final subdivision map for each Annexed Property. The sum deposited shall hereinafter be referred to as the "Contingency Fund." The Contingency Fund shall be held by the City in trust for the Corporation to be used solely and exclusively for emergencies, which may arise related to the Common Areas and such other restoration or repairs as may be the obligation of the Corporation. The Contingency Fund, less any amounts spent for the purposes herein described plus all interest or earnings thereon, shall be transferred to the Corporation at the time that the Class B Membership shall cease and be converted to a Class A Membership. The Contingency Fund shall be held by the Corporation only for the purposes described in Escondido Municipal Code Section 1086. Each Buyer of a residential Lot shall deposit into the purchase escrow the sum of two hundred dollars (\$200.00) for each Lot purchased, which sum shall be remitted to the Declarant upon the close of escrow as reimbursement for Declarant's prepaid Contingency Fund contribution.

7. A new ARTICLE XIII is hereby added to the Declaration to reflect the different character of the Annexed Property:

### ARTICLE XIII

#### SIDE YARD USE EASEMENTS

Section 13.01 IN GENERAL. Declarant has granted and shown on the Subdivision Map for each Annexed Property, certain side yard use easements over one Lot, as the servient tenement, for the exclusive use of an adjacent Lot, as the dominant tenement, for access, use, enjoyment, ingress, egress, landscaping, drainage maintenance and erosion control, which use easement shall be appurtenant to and become a part of the Yard of the Dominant Tenement Lot and which shall pass to such dominant tenement Lot owners' successors in title. Said Side Yard Use Easement areas shall be kept open and free of all permanent structures or buildings. In all cases where a structural wall of a Dwelling of the servient tenement is located on or in proximity to the side yard use easement line shown on the Annexed Property's Map, the servient tenement shall have a nonexclusive easement over the dominant tenement Yard for access to and maintenance of the structural wall and for the reconstruction of the structural wall or Dwelling in the event of the partial or total destruction of the same, and for drainage associated with the wall or Dwelling, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the servient tenement Dwelling. The Owner of the servient tenement shall not attach anything to the outside of his structural wall or Dwelling which shall protrude into the side yard use easement area, and the Owner of the dominant tenement Lot shall not attach anything to the outside of the servient tenement Lot's structural wall or Dwelling without (in each case) the consent and permission of the Owner of the servient tenement Lot.

Section 13.02 RESPONSIBILITY OF MAINTENANCE. The dominant tenement shall be responsible, at his sole cost and expense, for the irrigation and maintenance of all portions of the property and landscaping within the Side Yard Use Easement Area, including any slopes, fences and non-structural walls located thereon; provided, however, the cost of maintenance and repair of any fence or non-structural wall which separates Yards shall be in accordance with the provisions of Section 7.03 of Article VII of the Declaration entitled "Party Walls." No rubbish or debris of and kind shall be placed or permitted by an Owner to accumulate within the side yard use easement area so as to render such property or portion thereof unsanitary, unsightly, offensive or detrimental to other residents.

**Section 13.03 DAMAGE BY FIRE OR CASUALTY.** If all or any portion of the easement area is damaged by fire or other casualty, it shall be the duty of the dominant tenement Lot owner to restore or cause to be restored said easement area substantially to its appearance and condition immediately prior to the casualty within three (3) months after the damage occurs (unless prevented by causes beyond his reasonable control) or as otherwise may be required by the Association in accordance with the Declaration. In the event that the dominant tenement Lot owner fails to perform his duties described herein, the Association's agents may enter the upon his Lot and easement area and perform the necessary maintenance or restoration; the cost of such maintenance or restoration, to the extent not paid to the Association by any insurance proceeds, shall immediately be paid to the Association by the dominant tenement Lot owner as provided for in Article VII of the Declaration.

**Section 13.04 DAMAGE BY SERVIENT TENEMENT.** In the event that all or any portion of the easement area is damaged by the servient tenement Lot owner or his guests, agents or invitees, it shall be the duty of the servient tenement Lot owner to restore or cause to be restored said easement area substantially to its appearance and condition immediately prior to the casualty within three (3) months after the damage occurs (unless prevented by causes beyond his reasonable control) or as otherwise may be required by the Association in accordance with the Declaration. If the servient tenement Lot owner fails to perform his duties as described herein, then either the dominant tenement Lot owner or the Association's agents may perform the necessary restoration; the cost of such restoration, to the extent not paid by any insurance proceeds, shall immediately be paid to the party who paid or incurred the costs for such restoration. Notwithstanding the foregoing, the servient tenement Lot owner shall be legally liable to the dominant tenement Lot owner for all damages to the landscaping within the easement area caused by such servient tenement Lot owner, his licensee, or occupant, as such liability may be determined under California law.

This provision shall affect, to varying degrees, the following Lots described in Paragraph 1 hereinabove: Lots 2 through 11 inclusive, and Lots 65, 68 and 70.

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration on the day and year first hereinabove written.

FIRST CITY - DE DEVELOPMENT,  
a California partnership

Rev. DE DEVELOPMENT.

CAT. NO. NN00636  
TO 1984 CA (9-84)

Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

 **TICOR TITLE INSURANCE**

} SS.

On JANUARY 13, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID G. NAIRNE personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the SR. VICE PRES President, and DAVID G. NAIRNE

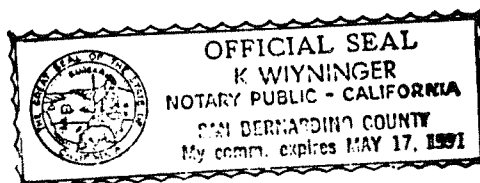
personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the SR. VICE PRESIDENT Secretary of

FIRST CITY CALIFORNIA II  
the corporation that executed the within instrument on behalf of FIRST CITY - DE DEVELOPMENT

the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.  
WITNESS my hand and official seal.

Signature





(This area for official notarial seal)

CAT. NO. NN00636  
TO 1984 CA (9-84)

(Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

 **TICOR TITLE INSURANCE**

} SS.

On JANUARY 13, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID G. EVANS personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the PRES. President, and DAVID G. EVANS

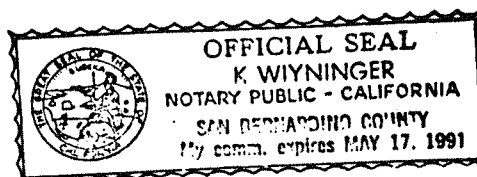
personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the PRESIDENT Secretary of

DE DEVELOPMENT  
the corporation that executed the within instrument on behalf of FIRST CITY - DE DEVELOPMENT

the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.  
WITNESS my hand and official seal.

Signature





(This area for official notarial seal)

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration on the day and year first hereinabove written.

FIRST CITY - DE DEVELOPMENT,  
a California partnership

By: DE DEVELOPMENT,  
a California corporation

By: David G. Evans  
David G. Evans  
Title President

By: FIRST CITY CALIFORNIA-II,  
a California corporation

By: David G. Nairne  
David G. Nairne  
Title Senior Vice President

(Attach Proper Notary Certificate(s) of Acknowledgment)

**SUBORDINATION AGREEMENT**

LINCOLN SAVINGS AND LOAN ASSOCIATION, a California State chartered Savings and Loan Association, being a beneficiary under that certain Deed of Trust, dated May 19, 1987 and recorded June 5, 1987 as File/Page No. 87-314795 of Official Records in the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of said Deed of Trust is and shall be subordinate to the Supplemental Declaration to which this Subordination Agreement is attached.

DATED: January 18, 1988

LINCOLN SAVINGS AND LOAN ASSOCIATION,  
a California State chartered Savings and Loan Association

By: Cynthia S. Trusley, Vice President

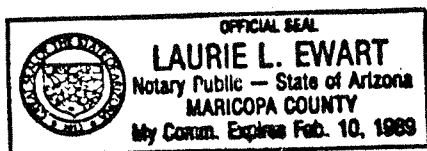
By: Caulen Profeld, Assistant Secretary

(Attach Proper Notary Certificate(s) of Acknowledgment)

STATE OF ARIZONA                     )  
                                              ) ss.  
COUNTY OF MARICOPA                )

On this 18<sup>th</sup> day of JANUARY, 1988, before me,  
LAURIE L. EWART, a Notary Public in and for said state, personally  
appeared CYNTHIA S. FRESHLEY, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the Vice  
President, and Cowleen Scfield, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the ASSISTANT  
SECRETARY of the association that executed the within in-  
strument, known to me to be the persons who executed the within instrument  
on behalf of the association therein named, and acknowledged to me that  
such association executed the within instrument pursuant to its bylaws  
or a resolution of its board of directors.

WITNESS my hand and official seal.



Laurie L. Ewart  
Notary Public

RETURN TO:  
First American Title Ins. Co.  
411 Ivy  
San Diego, Ca.

FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS & RESTRICTIONS

AMENDMENT dated November 10, 1978 to DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS dated November 30,  
1977 of THOMAS CUTKOMP COMPANY, a California Corporation, as  
Declarant, recorded on February 24, 1978 as File/Page No.  
78-075121.

Declarant remains the sole owner of the Properties des-  
cribed in said Declaration and hereby amends said Declaration  
to revise the first paragraph of Section 4.03 thereof to read  
as follows:

"Until January 1 of the year immediately  
following the conveyance of the first Lot to an  
Owner, the maximum annual assessment shall be Four  
Hundred Eighty Dollars (\$480.00) per Lot."

IN WITNESS WHEREOF, the Declarant has caused this  
Declaration to be executed and sealed this 27 day of  
November, 1978.

THOMAS CUTKOMP COMPANY

THE ORIGINAL OF THIS DOCUMENT WAS RECORDED  
ON JAN 12 1979 FILE/PAGE NO. 79-019148  
VERA L. LYLE, COUNTY RECORDER

by Thomas L. Cutkomp  
Thomas L. Cutkomp, President

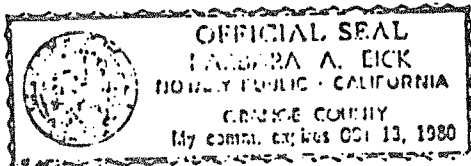
by Patricia M. Cutkomp  
Patricia M. Cutkomp, Secretary

[S E A L]

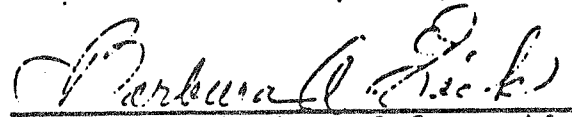
STATE OF CALIFORNIA     )  
                                  ) SS.  
COUNTY OF ORANGE     )

On December 20, , 1978, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas L. Cutkomp, known to me to be the President, and Patricia M. Cutkomp, known to me to be the Secretary, of the corporation that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



[S E A L]

  
\_\_\_\_\_  
Notary Public in and for said  
County and State

UNITED CALIFORNIA BANK, Beneficiary under that certain Deed of Trust filed for record on January 27, 1978, as File/ Page 78-035873 of Official Records of San Diego County, hereby agrees that the lien and charge of said Deed of Trust is and shall be subject and subordinate to the foregoing Amendment to Declaration of Covenants, Conditions and Restrictions.

Dated: November 17, 1978.

UNITED CALIFORNIA BANK

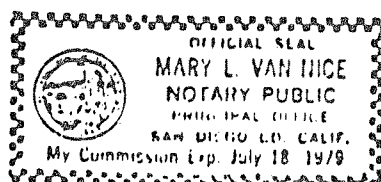
by *Emory M. Hines*  
Emory M. Hines, Vice President &  
Manager Region 6 Real Estate

by *David E. Palumbo*  
Real Estate Loan Officer

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) SS.

On November 17, 1978, before me, the undersigned, a Notary Public in and for said State, personally appeared Emory M. Hines, known to me to be the Vice President, and David E. Palumbo, known to me to be a Real Estate Loan Officer of United California Bank, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



*Mary L. Van Nise*  
Notary Public in and for said  
County and State

[S E A L]

THIS DECLARATION OF ANNEXATION is made  
this 4 day of March, 1980, by THOMAS  
CUTKOMP COMPANY, a California corporation  
(hereinafter referred to as the "Declarant"),  
and W. B. CUTKOMP, INC., a California corpora-  
tion (hereinafter referred to as the "Second  
Declarant"), with reference to the following  
facts:

A. Declarant executed a planned development declaration  
entitled Declaration of Covenants, Conditions and Restrictions,  
dated November 30, 1977 (hereinafter referred to as the "Declaration"),  
which was recorded on February 24, 1978, as File/Page No. 78-075121 of  
Official Records of the County of San Diego, State of California, as  
amended by an Amendment dated November 10, 1978 which was recorded  
on January 12, 1979 as File/Page 79-019148. The Declaration now  
affects all that real property located in the City of Escondido,  
County of San Diego, State of California, described as follows:

Lots 1 through 51 of Tract No. 224-A in the  
City of Escondido, County of San Diego, State  
of California according to Map thereof No. 8786  
filed in the office of the County Recorder of  
San Diego County on January 27, 1978 as File/Page  
No. 78-035873,

hereinafter referred to as the "Prior Subject Property".

B. The Declaration provides in Article VI, Section 6.01,  
that Declarant may annex additional property described in Exhibit A  
to the Declaration and thereby make such additional property subject  
to the Declaration and subject to the scheme of the Declaration.

C. Declarant and Second Declarant have formed a joint venture doing business under the name "Mountain View Terrace", and as such are the owners of the real property located in the City of Escondido, County of San Diego, State of California, described as follows:

Lots 52 through 87 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California according to Map thereof No. 8786 filed in the office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

hereinafter referred to as the "Annexed Property", or as "Lots 52 through 87", or by individual lot numbers, which property is a part of the property described in Exhibit A to the Declaration. Declarant and Second Declarant now desire to annex the Annexed Property to the Prior Property and thereby make the Annexed Property subject to the terms, conditions and restrictions of the Declaration.

NOW, THEREFORE Declarant and Second Declarant declare as follows:

1. Pursuant to the terms of the Declaration, Declarant declares that the Annexed Property is hereby annexed to the Prior Subject Property and made a part of the properties subject to the terms of the Declaration. All the Annexed Property shall be held, sold, leased, transferred, occupied, and conveyed subject to the terms, provisions, covenants, conditions, restrictions and easements of the Declaration, as amended or as hereafter amended.

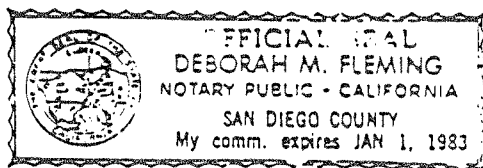
2. The Annexed Property shall include Lots 52 through 87 as "Lots". ( as that term is defined in the Declaration).

IN WITNESS WHEREOF, the Declarant and Second Declarant have caused this Declaration of Annexation to be executed and sealed this 4 day of March, 1980.

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On March 4, 1980, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared THOMAS L. CUTKOMP, known to me to be the President and KAREN S. CUTKOMP, known to me to be the Vice President of the THOMAS CUTKOMP COMPANY that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



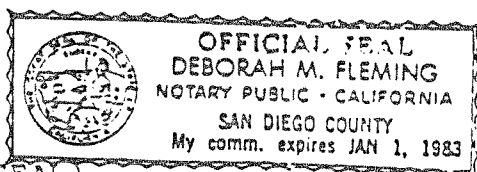
(SEAL)

Deborah M. Fleming  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On March 4, 1980, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared WARREN B. CUTKOMP, known to me to be the President, and DASHA CUTKOMP, known to me to be the Secretary of W. B. CUTKOMP, INC. that executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



(SEAL)

Deborah M. Fleming  
Notary Public in and for said  
County and State

THOMAS CUTKOMP COMPANY,

By Thomas L. Cutkomp  
THOMAS L. CUTKOMP, PRESIDENT

and

By Karen S. Cutkomp  
KAREN S. CUTKOMP, VICE PRESIDENT

(Corporate Seal)

W. B. CUTKOMP, INC.

By Warren B. Cutkomp  
WARREN B. CUTKOMP, PRESIDENT

and

By Dasha A. Cutkomp  
DASHA A. CUTKOMP, SECRETARY

(Corporate Seal)

Recording Requested By:

When Recorded Return To:

C.C.I.  
Attn: View Terrace  
410 W. Elm Street  
San Diego, California 92101  
(619) 231-1606

This instrument is certified to be a true and  
exact copy of that certain instrument recorded  
on 2-17-88 as File No. 88-073836 in the  
office of the County Recorder of San Diego County.

FIRST AMERICAN TITLE INSURANCE

[Signature]  
By Authorized Signature

Space Above for Recorder's Use

SUPPLEMENTAL DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
VIEW TERRACE  
Phase 3  
(a Planned Unit Development)

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 18th day of January, 1988, by FIRST CITY - DE DEVELOPMENT, a California partnership, hereinafter called "Declarant," with reference to the following:

#### RECITALS

A. THOMAS CUTKOMP COMPANY, a California corporation ("CUTKOMP"), executed that certain Declaration of Covenants, Conditions and Restrictions ("Declaration") dated November 30, 1977 and recorded on February 24, 1978 in the Office of the County Recorder of San Diego County, California, as File/Page No. 78-075121, covering the real property located in the City of Escondido, County of San Diego, California, described as:

Lots 1 through 51 and Lot 88 of Tract No. 224-A in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 8786, filed in the Office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

which real property is hereinafter referred to as the "Subject Property."

The Declaration was amended by a First Amendment thereto, recorded January 12, 1979, as File/Page No. 79-019148, in the Office of the County Recorder of San Diego County, California.

References herein to the "Declaration" shall mean the Declaration as so amended.

B. Declarant has purchased more than one (1) undeveloped Lot from Cutkomp, and has therefore become a "Declarant" under the Declaration pursuant to Section 1.06 of Article I thereof.

C. The Declaration provides in Section 6.01 of Article VI that additional residential property and Common Area may be annexed to the Subject Property and thereby make such additional property subject to the Declaration and subject to the jurisdiction of VIEW TERRACE ASSOCIATION, a California nonprofit corporation (the "Association"). The Declaration further provides in Section 6.01 of Article VI that such annexation is to be accomplished upon the occurrence of certain conditions among which is the consent of two-thirds (2/3) of the members of the Association, and the recording of a "Supplemental Declaration" or similar instrument, which may contain such complementary additions and modifications of the Declaration as may be necessary to reflect the different character, if any, of the added properties, provided they are not inconsistent with the scheme of the Declaration.

D. There has been annexed to the Declaration and to the jurisdiction of the Association that certain real property described as:

Lots 52 through 87 of Tract No. 224-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 8786, filed in the Office of the County Recorder of San Diego County on January 27, 1978 as File/Page No. 78-035873,

by Declaration of Annexation recorded in the Office of the San Diego County Recorder, State of California on March 6, 1980 as File/Page No. 80-077953.

E. Declarant is the owner of the real property located in the City of Escondido, County of San Diego, California, described as:

Lots 1 through 19, inclusive, Lots 43 and 44, and Lots 65 through 78, inclusive, and Common Area Lot 79A of Tract No. 586R-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 11797, filed in the Office of the County Recorder of San Diego County on April 24, 1987,

which real property is part of the real property described in Article VI of the Declaration which may be annexed to the Subject Property and to the jurisdiction of the Association.

F. Declarant desires to annex the real property described in RECITAL E above to the Subject Property and to the jurisdiction of the Association and thereby make the real property described in RECITAL E above subject to the terms, conditions and restrictions of the Declaration.

G. The Association, pursuant to a two-thirds (2/3) approval of its members, has consented to the annexation of the real property described in RECITAL E above to the Subject Property and to the jurisdiction of the Association and thereby make the real property described in RECITAL E above subject to the terms, conditions and restrictions of the Declaration.

NOW, THEREFORE, Declarant declares as follows:

1. Pursuant to the terms of the Declaration, Declarant, as the owner of:

Lots 1 through 19, inclusive, Lots 43 and 44, and Lots 65 through 78, inclusive, and Common Area Lot 79A of Tract No. 586R-A, in the City of Escondido, County of San Diego, State of California, according to Map thereof No. 11797, filed in the Office of the County Recorder of San Diego County on April 24, 1987,

hereinafter called the "Annexed Property," declares that upon the recording of a deed conveying (i) Common Area Lot 79A to the Association, and (ii) the first Lot in the Annexed Property to a purchaser, the Annexed Property shall be annexed to the Subject Property and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the limitation, restrictions, covenants, conditions of the Declaration, as amended or as hereafter amended, and of this Supplemental Declaration.

2. The owner of a Lot in the Annexed Property will receive title to his Lot plus a membership in the VIEW TERRACE ASSOCIATION, a nonprofit corporation, which membership shall be appurtenant to his Lot.

3. Declarant shall convey the Common Area Lot 79A to the Association prior to the close of escrow on the sale of the first Lot in the Annexed Property, which Common Area Lot shall be held for the benefit of all members of the Association.

#### 4. CLASSES OF MEMBERSHIP.

CLASS A. Each Member of the Association, other than the Declarant, shall be a Class A member. Class A membership entitles the holder to one (1) vote for each Lot owned. If a Lot is owned by more than one person, each such person shall be a Member of the Association, but there shall be no more than one (1) vote for each Lot.

CLASS B. The Declarant is a Class B member. Class B membership entitles the holder to not more than three (3) votes for each Lot of which Declarant is record owner.

The Class B membership shall be irreversibly converted to Class A membership on the first to occur of the following:

(a) two (2) years following the date of issuance by the California Department of Real Estate of its Final Subdivision Public Report covering the most recent Phase of the Project; or

(b) the fourth (4th) anniversary of the issuance by the California Department of Real Estate of its original Final Subdivision Public Report for the first Phase of the third increment of the Project.

As to membership arising out of ownership of a Lot within any Annexed Property, no rights or obligations arising therefrom shall attach until the recordation of sale of the first Lot in said Annexed Property.

5. The following new definitions, which are not inconsistent with the scheme of the Declaration, are hereby added to ARTICLE I DEFINITIONS of the Declaration, to reflect the different character of the Annexed Property:

Section 1.07 "ANNEXED PROPERTY" shall mean any real property which is, from time to time, annexed under the Declaration pursuant to its Article VI.

Section 1.08 "DWELLING OR RESIDENCE" shall mean a residential structure or structures, including balconies, patios and garages located on a Lot.

Section 1.09 "YARD" shall mean and refer to that portion of a Lot which is not improved with a Dwelling, and shall include any side yard use easements shown on the Subdivision Map of an Annexed Property.

6. A new Section 4.09 in full is hereby added to Article IV of the Declaration:

Section 4.09 RESERVE FUND CONTRIBUTIONS. As required by Escondido Municipal Code Section 1086, Declarant deposited with the City two hundred dollars (\$200.00) for each residential Lot prior to the recordation of the final subdivision map for each Annexed Property. The sum deposited shall hereinafter be referred to as the "Contingency Fund." The Contingency Fund shall be held by the City in trust for the Corporation to be used solely and exclusively for emergencies, which may arise related to the Common Areas and such other restoration or repairs as may be the obligation of the Corporation. The Contingency Fund, less any amounts spent for the purposes herein described plus all interest or earnings thereon, shall be transferred to the Corporation at the time that the Class B Membership shall cease and be converted to a Class A Membership. The Contingency Fund shall be held by the Corporation only for the purposes described in Escondido Municipal Code Section 1086. Each Buyer of a residential Lot shall deposit into the purchase escrow the sum of two hundred dollars (\$200.00) for each Lot purchased, which sum shall be remitted to the Declarant upon the close of escrow as reimbursement for Declarant's prepaid Contingency Fund contribution.

7. A new ARTICLE XIII is hereby added to the Declaration to reflect the different character of the Annexed Property:

## ARTICLE XIII

### SIDE YARD USE EASEMENTS

Section 13.01 IN GENERAL. Declarant has granted and shown on the Subdivision Map for each Annexed Property, certain side yard use easements over one Lot, as the servient tenement, for the exclusive use of an adjacent Lot, as the dominant tenement, for access, use, enjoyment, ingress, egress, landscaping, drainage maintenance and erosion control, which use easement shall be appurtenant to and become a part of the Yard of the Dominant Tenement Lot and which shall pass to such dominant tenement Lot owners' successors in title. Said Side Yard Use Easement areas shall be kept open and free of all permanent structures or buildings. In all cases where a structural wall of a Dwelling of the servient tenement is located on or in proximity to the side yard use easement line shown on the Annexed Property's Map, the servient tenement shall have a nonexclusive easement over the dominant tenement Yard for access to and maintenance of the structural wall and for the reconstruction of the structural wall or Dwelling in the event of the partial or total destruction of the same, and for drainage associated with the wall or Dwelling, and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the servient tenement Dwelling. The Owner of the servient tenement shall not attach anything to the outside of his structural wall or Dwelling which shall protrude into the side yard use easement area, and the Owner of the dominant tenement Lot shall not attach anything to the outside of the servient tenement Lot's structural wall or Dwelling without (in each case) the consent and permission of the Owner of the servient tenement Lot.

Section 13.02 RESPONSIBILITY OF MAINTENANCE. The dominant tenement shall be responsible, at his sole cost and expense, for the irrigation and maintenance of all portions of the property and landscaping within the Side Yard Use Easement Area, including any slopes, fences and non-structural walls located thereon; provided, however, the cost of maintenance and repair of any fence or non-structural wall which separates Yards shall be in accordance with the provisions of Section 7.03 of Article VII of the Declaration entitled "Party Walls." No rubbish or debris of and kind shall be placed or permitted by an Owner to accumulate within the side yard use easement area so as to render such property or portion thereof unsanitary, unsightly, offensive or detrimental to other residents.

Section 13.03 . DAMAGE BY FIRE OR CASUALTY. If all or any portion of the easement area is damaged by fire or other casualty, it shall be the duty of the dominant tenement Lot owner to restore or cause to be restored said easement area substantially to its appearance and condition immediately prior to the casualty within three (3) months after the damage occurs (unless prevented by causes beyond his reasonable control) or as otherwise may be required by the Association in accordance with the Declaration. In the event that the dominant tenement Lot owner fails to perform his duties described herein, the Association's agents may enter the upon his Lot and easement area and perform the necessary maintenance or restoration; the cost of such maintenance or restoration, to the extent not paid to the Association by any insurance proceeds, shall immediately be paid to the Association by the dominant tenement Lot owner as provided for in Article VII of the Declaration.

Section 13.04 DAMAGE BY SERVIENT TENEMENT. In the event that all or any portion of the easement area is damaged by the servient tenement Lot owner or his guests, agents or invitees, it shall be the duty of the servient tenement Lot owner to restore or cause to be restored said easement area substantially to its appearance and condition immediately prior to the casualty within three (3) months after the damage occurs (unless prevented by causes beyond his reasonable control) or as otherwise may be required by the Association in accordance with the Declaration. If the servient tenement Lot owner fails to perform his duties as described herein, then either the dominant tenement Lot owner or the Association's agents may perform the necessary restoration; the cost of such restoration, to the extent not paid by any insurance proceeds, shall immediately be paid to the party who paid or incurred the costs for such restoration. Notwithstanding the foregoing, the servient tenement Lot owner shall be legally liable to the dominant tenement Lot owner for all damages to the landscaping within the easement area caused by such servient tenement Lot owner, his licensee, or occupant, as such liability may be determined under California law.

This provision shall affect, to varying degrees, the following Lots described in Paragraph 1 hereinabove: Lots 2 through 11 inclusive, and Lots 65, 68 and 70.

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration on the day and year first hereinabove written.

FIRST CITY - DE DEVELOPMENT,  
a California partnership

RE: DE DEVELOPMENT.

CAT. NO. NN00835  
TO 1984 CA (9-84)

(Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO } ss.

On JANUARY 13, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID G. NAIRNE personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the SR. VICE PRES President, and DAVID G. NAIRNE

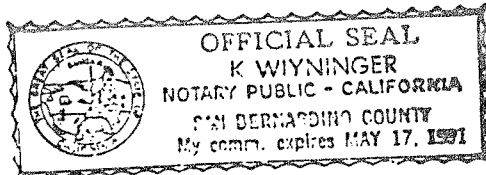
personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the SR. VICE PRESIDENT Secretary of

FIRST CITY CALIFORNIA II  
the corporation that executed the within instrument on behalf of FIRST CITY - DE DEVELOPMENT

the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.  
WITNESS my hand and official seal.

Signature K. Wynninger

 **TICOR TITLE INSURANCE**



(This area for official notarial seal)

CAT. NO. NN00835  
TO 1984 CA (9-84)

(Corporation as a Partner of a Partnership)

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO } ss.

On JANUARY 13, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID G. EVANS personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the PRES. President, and DAVID G. EVANS

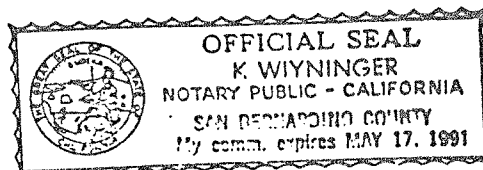
personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the PRESIDENT Secretary of

DE DEVELOPMENT  
the corporation that executed the within instrument on behalf of FIRST CITY - DE DEVELOPMENT

the partnership that executed the within instrument, and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.  
WITNESS my hand and official seal.

Signature K. Wynninger

 **TICOR TITLE INSURANCE**



(This area for official notarial seal)

SUBORDINATION AGREEMENT

LINCOLN SAVINGS AND LOAN ASSOCIATION, a California State chartered Savings and Loan Association, being a beneficiary under that certain Deed of Trust, dated May 19, 1987 and recorded June 5, 1987 as File/Page No. 87-314795 of Official Records in the Office of the County Recorder of San Diego County, California, hereby declares that the lien and charge of said Deed of Trust is and shall be subordinate to the Supplemental Declaration to which this Subordination Agreement is attached.

DATED: January 18, 1988

LINCOLN SAVINGS AND LOAN ASSOCIATION,  
a California State chartered Savings and Loan Association

By: Cynthia S. Trusley, Vice President

By: Caulien Scofield, Assistant Secretary

(Attach Proper Notary Certificate(s) of Acknowledgment)

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration on the day and year first hereinabove written.

FIRST CITY - DE DEVELOPMENT,  
a California partnership

By: DE DEVELOPMENT,  
a California corporation

By: David G. Evans  
David G. Evans  
Title President

By: FIRST CITY CALIFORNIA-II,  
a California corporation

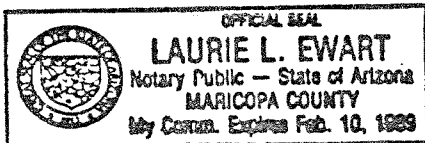
By: David G. Nairne  
David G. Nairne  
Title Senior Vice President

(Attach Proper Notary Certificate(s) of Acknowledgment)

STATE OF ARIZONA           )  
                                  ) ss.  
COUNTY OF MARICOPA       )

On this 18<sup>th</sup> day of JANUARY, 1988, before me,  
LAURIE L. EWART, a Notary Public in and for said state, personally  
appeared CYNTHIA S. FRESHLEY, personally known to me ( or  
proved to me on the basis of satisfactory evidence) to be the Vice  
President, and Cauleen Scrifield, personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the ASSISTANT  
SECRETARY of the association that executed the within in-  
strument, known to me to be the persons who executed the within instrument  
on behalf of the association therein named, and acknowledged to me that  
such association executed the within instrument pursuant to its bylaws  
or a resolution of its board of directors.

WITNESS my hand and official seal.



Laurie L. Ewart  
Notary Public

VIEW TERRACE ASSOCIATION  
June 2, 1993**DRAFT**

To: All Homeowners

Property  
Common

As you may be aware, the Declaration of Covenants, Conditions and Restrictions recorded on your property contain restrictions on your use of your home and ~~common~~ areas in View Terrace. These restrictions apply to all owners and residents, and help preserve the value of our community.

Section 10.12, on page 17 of the Declaration of Covenants, Conditions and Restrictions, prohibits the storage or parking of any of the following:

boats, trailers, campers, motorhomes,  
recreational and utility vehicles.

It has become apparent that some residents in View Terrace are violating this rule and taking unfair advantage of those residents who observe this rule. These violations hurt everybody, and must be stopped. Based on the above facts, your Board of Directors will continue to actively pursue enforcement of this restriction.

Just as a reminder, the Board interprets the above categories as including the following vehicles, which are not permitted to remain in View Terrace unless they are within a garage, or are temporarily parked (for example, for loading and unloading things):

- Trucks Any vehicle designed, used or maintained primarily for the transportation of property
- Commercial Vehicles Any vehicle designed, used or maintained for the transportation of persons for hire, for profit or for business purposes
- Campers Any vehicle on which there has been mounted a structure which provides facilities for human habitation, or camping or recreation purposes
- Mobilehomes Any vehicle designed, used or maintained for human habitation
- Trailers Any vehicle designed for carrying persons or property and which is not self-powered
- Recreational Vehicles Any vehicle which is sold or advertised as a recreational vehicle or RV by its manufacturer, or which is designed, used or maintained for purposes of human habitation, camping, amusement, social activities, entertainment, pleasure or sport

**DRAFT**

according to the  
Assoc. Rules & Regs When ~~one of the above vehicles~~ a resident is determined to be in violation of the restrictions, it may be towed by the Association without notice to its owner, and at that owners' cost. Additionally, the Board can take further legal action against the vehicle's owner. Further

We thank all the residents of View Terrace for their consideration of their neighbors. Remember, only when everyone works together can we really all help ourselves and preserve the values of our neighborhood.

Sincerely,

Board of Directors

**DRAFT**

2nd ① Inform owners of C.C. & R's that states <sup>Section</sup> ~~vehicles~~ vehicles are to be parked in the garage and not used for storage

② No Extra rooms or storage is allowed in the garage

③ NO PARKING: on Red Zone