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Doc No: 1996-029058

Rec No: 00103206

RECORDING REQUESTED BY:

Official Records  
San Luis Obispo Co.

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FIRST AMERICAN TITLE INS.CO.

Julie L. Rodewald  
Recorder

AND WHEN RECORDED MAIL TO:

Jun 12, 1996

Time:  
08:53

: 55.00

TUSTIN CONSTRUCTION CO.  
C/O FIRST AMERICAN TITLE INS. CO.  
899 PACIFIC STREET  
SAN LUIS OBISPO, CA 93401

[17]

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TOTAL

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THIS SPACE FOR RECORDER'S USE ONLY

TITLE:

DECLARATION OF OBLIGATION FOR MAINTENANCE  
OF  
DRAINAGE FACILITIES, ROADS AND BRIDLE PATHS  
FOR  
RANCHO LA LOMA LINDA

ORIGINAL

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

**DECLARATION OF OBLIGATION FOR MAINTENANCE  
OF  
DRAINAGE FACILITIES, ROADS AND BRIDLE PATHS  
FOR  
RANCHO LA LOMA LINDA**

WHEREAS, Tustin Construction Co., Inc., a CA corporation, ("Declarant") is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein.

WHEREAS, it is the desire and intention of Declarant to subdivide and develop the Project and to sell and convey Lots therein subject to the rights, duties and obligations set forth in this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Project shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, repaired, maintained and improved subject to the following rights, duties and obligations, all of which are in furtherance of the plan for the subdivision and improvement of the Project and sale of Lots therein, and which are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project. All of the rights, duties and obligations herein set forth shall run with the Project and shall be binding on all parties having or acquiring any right, and shall be for the benefit of each owner of any portion of the Project or any interest therein and shall inure to the benefit of and be upon each successor in interest of such owners.

**ARTICLE I  
-DEFINITIONS-**

The following terms shall have the following meanings whenever used in this Declaration, unless expressly provided otherwise.

1.1 County: The County of San Luis Obispo, a political subdivision of the State of California.

1.2 Committee: The Architectural Control Committee established pursuant to Paragraph 4.2 of the Declaration of Covenants, Conditions and Restrictions for Rancho La Loma Linda recorded June 12 , 1996 as Instrument No. 96- 029057 in the official records of the County. In addition to the powers and duties of the Committee set forth therein, the Committee shall have the powers and duties set forth herein.

1.3 Declarant: Tustin Construction Co., Inc. and its successors and assigns.

1.4 Declaration: This Declaration, as from time to time amended, modified or supplemented.

1.5 Lot: Any of the Lots referred to In Exhibit "A" together with any improvements not or hereafter thereon.

1.6 Owner: The record owner or owners, if more than one, including Declarant, of Lots in the Project. "Owner" shall also include a contract purchaser who is in possession of an interest in a Lot merely as security for the performance of an obligation.

1.7 Project: The real property, as described in Exhibit "A", subject to this Declaration, divided or to be divided into lots, together with the structures, improvements, fixtures, installations, and plantings now or hereafter constructed or installed on said real property and any property subsequently annexed to such real property pursuant to Section 5.15 of the Declaration of Covenants, Conditions and Restrictions for Rancho La Loma Linda recorded June 12, 1996 as Instrument No. 96- 029057 in the official records of the County.

## **ARTICLE II**

### **-DRAINAGE FACILITIES, ROADS AND BRIDLE PATHS- -OWNERS MAINTENANCE OBLIGATIONS-**

2.1 Drainage Facilities - Duties of Owners: the Owners, collectively and in equal shares, by and through the Committee, shall have the obligation, at their own expense and in accordance with the procedure set forth hereinafter, to maintain and repair the drainage facilities designated on the Project in a manner as to remain in clean and operable condition. Such maintenance obligation shall include compliance with reasonable directives of the County relative to such maintenance, and shall be in compliance with the design specifications established by the County. No permanent structures shall be erected or placed over the drainage facilities, nor shall any Owner obstruct the storage or flow of drainage waters in such facilities.

2.2 Roads and Bridle Paths - Duties of Owners: The Owners, collectively and in equal shares, by and through the Committee, shall have the obligation, at their own expense and in accordance with the procedure set forth herein, to maintain, construct, replace, repair, and install the Roads and Bridle Paths delineated on Exhibit "B" attached hereto and incorporated herein.

a. The road(s) shall be maintained with an "all weather surface" (or such paved surface as may be installed in the future if desired by a majority of all Owners), or other comparable surface, that provides all weather access and shall be maintained so that the road is accessible in all weather and relatively free of potholes, large cracks, washouts or drainage cuts.

b. The Bridle Paths shall be maintained so that they are relatively free of debris, potholes, large cracks, washouts or drainage cuts.

2.3 Schedules for Maintenance and Repair: Not less than thirty (30) days prior to the beginning of each calendar year, the Committee shall obtain at least three estimates and schedules from qualified contractors or other appropriate companies of the anticipated expenses for repairing and maintaining the drainage facilities, roads and bridle paths for the ensuing calendar year. Thereafter, before the first of the year, the Committee, by majority vote shall approve an estimate of expenses and schedule for such repairs and maintenance for the ensuing calendar year (the "Estimate").

2.4. Mailing Estimates: Within two weeks of approval of the Estimate for the ensuing calendar year, the Committee shall mail to each Owner, at his address as it appears in the Ledger, a copy of the Estimate and each Lot's pro rata share thereof ("Share").

2.5. Payment of Yearly Estimates: Each Owner's Share shall be due and payable within thirty (30) days of its mailing by the Committee.

2.6 Emergency Estimates: If the Committee determines that the amount to be collected from the yearly Estimates will be inadequate to defray expenses because of unexpected cost increases or emergency repairs or replacements, it shall obtain at least two special Estimates for the additional amount needed. Thereafter, the Committee, by majority vote shall approve an Estimate of the emergency expenses and forthwith mail to each Owner, at his address as it appears in the Ledger, a copy of the Emergency Estimate, a statement of the necessity for the Emergency Estimate and each Lot's pro rata share thereof.

2.7 Definition of Emergency: An Emergency is a situation requiring an extraordinary expenditure because of:

(a) Court Order;

(b) Necessary to repair or maintain any drainage facility, bridle trail or road within the project when an immediate threat to personal safety is discovered or substantial additional damage to the drainage facility, bridle trail or road or substantial damage to other real or personal property is threatened; or

(c) Necessary to maintain or repair any drainage facility, bridle trail or road within the project that could not have been reasonably foreseen by the Committee in preparing the immediately preceding yearly Estimate.

2.8. Payment of Emergency Estimates: Each Owner's share of an Emergency Estimate shall be immediately due and payable.

2.9. Use of Yearly and Emergency Estimate Fees: The payments made on account of the yearly Estimates or an Emergency Estimate shall be used solely for the purposes set forth in the Estimates. The Committee shall full and accurate records of all expenditures, to whom made and the purpose therefor.

2.10 Records: The name and addresses of each Owner and the address of each Lot, the Share charged to each Lot in the Project and all payments received from an Owner shall be set forth and recorded in a ledger maintained by the Committee for this purpose. Such records, as well as all records of repairs done and maintenance performed, together with a record of the payments therefor, shall be open for inspection by any Owner or his authorized representative at reasonable times. An Owner may change his mailing address at any time by giving written notice of the change to the Committee.

2.11. Failure to Pay Estimates: Should any Owner fail to pay his share of a yearly or Emergency Estimate or any Late Charge imposed under paragraph 2.12, below, the Committee shall be entitled to take such action at law or in equity as it deems reasonable and necessary to collect the delinquent Estimates and Late Charges, if any.

2.12. Late Charges: Late charges composed of the following items may be collected by the Committee against an Owner for delinquent payment of a yearly or Emergency Estimate. A yearly Estimate is delinquent thirty days (30) days after the date of the mailing of the Estimate. An Emergency Estimate is delinquent five (5) days after mailing of the Estimate. The following are the Late Charges that the Committee may recover from the delinquent Owner:

(a) Reasonable costs, including attorney fees, incurred in the collection process;

- (b) A late charge equal to ten percent (10%) of the delinquent Estimate; and
- (c) Interest on the foregoing sums from the date the Estimate became due.

2.13 Statements: The Committee shall provide any Owner, upon written request, with a statement specifying (1) the current yearly Estimate and any Emergency Estimates and (2) the amounts of any delinquencies and any related Late Charges.

2.14 Access Easements: The Committee, its, employees, agents and contractors shall have the right to enter upon individual Lots at reasonable times and in a reasonable manner for the purpose of fulfilling the Committee's duties hereunder. The committee shall repair any damage caused by such entry and the cost of any such repair shall be deemed a cost of repair and maintenance hereunder.

### **ARTICLE III -MISCELLANEOUS-**

#### 3.1 Amendment:

(a) Prior to Close of First Escrow: Before the close of the first sale of a Lot in the Project to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the Execution by Declarant and any Mortgagee of record of an instrument amending or revoking the Declaration and the recording of such instrument.

(b) Amendment of Owners: Until the sale of the last Lot owned by Declarant, this Declaration may be amended by the vote or written consent of the Declarant and not less than seventy five percent (75%) of all other Owners. Thereafter, this Declaration may be amended by the vote or written consent of the Declarant and not less than seventy five percent (75%) of all Owners.

(c) Effective Date: Any such amendment shall become effective upon recording, in the office of the San Luis Obispo County recorder, of a written instrument setting forth such amendments and signed and acknowledged by Declarant, if still an Owner, and a majority of Owners who shall certify in said written instrument that at least seventy five percent (75%) of all Owners on that date and, if applicable, the Declarant, have given their written approval of such amendment. Provided, however, that no amendment which materially affects the Ownership, possession or use of any Owner shall be valid unless the prior written consent of the California Real Estate Commissioner is obtained, to the extent that such consent is required by law.

3.2 Binding Effect, Term: The rights, duties and obligations of this Declaration shall run with the land and shall inure to the benefit of and be enforceable by any Owner, their respective legal representatives, heirs, successors, and assigns for a term of forty (40) years from the date this Declaration is recorded, after such time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, executed by not less than seventy five percent (75%) of Owners, shall be recorded within ninety (90) days prior to the expiration of the original term hereof or any ten (10) year extension, canceling and terminating this Declaration.

3.3 Enforcement of Restrictions: After the date on which this instrument has been recorded, the rights, duties and obligations contained herein may be enforced by any and all of the available legal remedies, including, but limited to, injunction, declaratory relief and action to abate a nuisance by the Committee or any Owner. Failure to enforce any provisions hereof shall not constitute a waiver of the right to subsequently enforce any provisions or any other provision hereof.

3.4 Nuisance: Every act or omission whereby any provision of this Declaration is violated in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated, whether the relief sought is negative or affirmative action, by Declarant (so long as he is the Owner of a Lot), the Committee or any Owner.

3.5 Liability: Neither Declarant nor any of its agents or employees shall be liable for any failure to provide any service or perform any duty, function or responsibility stated or provided for in this Declaration or for any injury to or death of any person or loss or damage to the property of any person on the properties or by any other cause, unless the same is attributable to its or his own willful misconduct or gross negligence.

3.6 Waiver: No waiver of any breach of any of the rights, duties and obligations of this Declaration shall constitute a waiver of any succeeding or preceding breach of the same or any other rights, duties or obligations herein.

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

3.8 Partial Invalidity: The provisions of this Declaration shall be deemed independent and severable and the invalidity or partial invalidity of any provision of this Declaration shall not effect the validity or enforceability of any other provision.

3.9 Binding Effect: This Declaration, as well as any amendment thereto, and any valid action or directive made pursuant to it, shall be binding on the Declarant and all Owners, their heirs, successors, and assigns, grantees, lessees, sublessee, contract purchasers, and guests of the Owners.

3.10 Attorney's Fees: In any action, arbitration or proceeding whatsoever arising from rights, duties or obligations established hereunder, a breach or threatened breach of this Declaration or actions for specific performance hereof, the prevailing party shall be entitled to recover such reasonable sums as and for its attorney's fees as shall be fixed by the Court or Arbitrator, either in the subject action or in a separate action.

3.11 Number; Gender: The Singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine or neuter, as the context requires.

3.12 Easements Reserved and Granted: Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any Lot.

3.13 Mediation: If a dispute arises out of this Declaration or the breach thereof, on the written request of a party to the dispute to the other parties to the dispute, the parties will make good faith efforts immediately to agree on a mediator and to mediate that dispute. If unable to agree on a mediator, they will contact, for the purpose of mediation The American Arbitration Association and use its services for the mediation process. Mediation fees, if any, shall be divided equally among the parties involved. Before the mediation begins, the parties agree to sign a documents limiting the admissibility in arbitration or any civil action of anything said, any admission made, and any documents prepared, in the course of the mediation, consistent with California Evidence Code § 1152.5. IF ANY PARTY COMMENCES AN ARBITRATION OR COURT ACTION BASED ON A DISPUTE OR CLAIM TO WHICH THIS PARAGRAPH APPLIES WITHOUT FIRST ATTEMPTING TO RESOLVE THE MATTER THROUGH MEDIATION, THEN IN THE DISCRETION OF THE ARBITRATOR(S) OF JUDGE, THAT PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES EVEN IF THEY WOULD OTHERWISE BE AVAILABLE TO THAT PARTY IN ANY SUCH ARBITRATION OR COURT ACTION.

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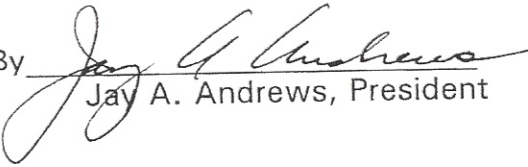
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3.14 Arbitration: Any controversy or claim arising out of this Declaration or any breach thereof, except controversies involving less than \$5,000 not resolved by mediation shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association before a single arbitrator, and judgment upon the award rendered by the Arbitrator may be entered in any Court having jurisdiction. Venue for the arbitration hearing shall be the office of the AAA closest to San Luis Obispo County, California.

IN WITNESS WHEREOF, Declarant has executed this instrument on this 3<sup>rd</sup> day of June, 1996

TUSTIN CONSTRUCTION CO., INC.

By   
Jay A. Andrews, President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Orange

On June 3, 1996

before me, Janice Lynne Harte, Notary Public  
NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

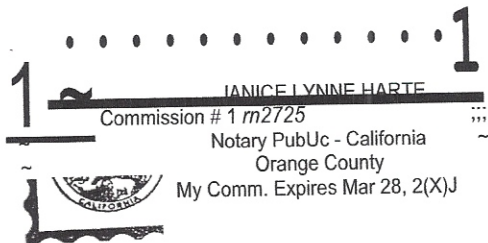
DATE:  
personally appeared

Jay Andrews

NAME(S) OF SIGNER(S)

Sonally known to me - **OR** -  proved to me on the basis of satisfactory evidence to be the same (s) whose name (s) are subscribed to the within instrument and acknowledged to me that she (s) executed the same in her (their) authorized capacities), and that by her (their) signature(s) on the instrument that she (s) acted, executed the instrument.

WITNESS my hand and official seal.



Janice Lynne Harte

----- OPTIONAL -----

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

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICER
- PARTNER(S)
  - LIMITED
  - GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER \_\_\_\_\_

DESCRIPTION OF ATTACHED DOCUMENT

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TITLE OR TYPE OF DOCUMENT

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

SIGNER(S) OTHER THAN NAMED ABOVE

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## EXHIBIT "A"

### PARCEL 1:

Lot 12; Lots 38, 39, 40, 41; Lots 43, 50, 52, 53, 54, 56, 57 and 62 of the Rancho La Lorna Linda, being a subdivision of Lots 48, 50 and 51 of Huer Huero Rancho, in the County of San Luis Obispo, State of California, according to map recorded July 28, 1923 in Book 3, Page 31 of Maps, in the office of the County Recorder of said County.

### PARCEL 2:

Lots 1, 2, 3, 4 and 5 of the resubdivision of Lot 63 of the Rancho La Lorna Linda, in the County of San Luis Obispo, State of California, according to map recorded November 7, 1923 in Book 3, Page 35 of Maps, in the office of the County Recorder of said County.

### PARCEL 3:

That portion of Lot 49 of the Rancho La Lorna Linda, in the County of San Luis Obispo, State of California, according to the map thereof recorded on July 28, 1923 in Book 3, Page 31 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at a point on the North line of said Lot, 488.34 feet East of the Northwest corner of said Lot; thence running South 572.7 feet to a point in the centerline of road; thence running along the center line of said road, South 77' 14' East, 225.75 feet; thence North 21' 38' East, 244.50 feet; thence North 48' 25' East, 234.04 feet to a point on the East line of said Lot; thence North on the East line of said Lot, 240 feet to the Northeast corner of said Lot; thence West on the North line of said lot, 485.37 feet to the point of beginning.

EXCEPT therefrom that portion of said land granted to the State of California in the Deed recorded January 25, 1962 in Book 1167, Page 4 of Official Records.

### PARCEL 4:

That portion of Lot 49 of the Rancho La Lorna Linda, in the County of San Luis Obispo, State of California, as shown on map recorded in Book 3, Page 31 of Maps, in the office of the County Recorder of said County, lying Westerly of the following described line:

Beginning at a point on the Northerly line of said Lot, that is distant East 488.34 feet from the Northwesterly corner of said Lot; thence South 572.7 feet to the center line of the 40 foot road along the Southerly boundary of said Lot.

EXCEPTING therefrom all oil, gas, other hydrocarbons and other minerals whether fixed, fugacious, solid, or otherwise, in or under said land as reserved in the deed from William De F. Crowell and Monica Dionysius Crowell, husband and wife and Mary J. Dionysius. Said Monica Dionysius Crowell having acquired title as Monica Dionysius recorded August 14, 1963, which recites as follows:

Reserving all oil, gas and other hydrocarbons and other minerals whether fixed, fugacious, solid or otherwise, in, on and under said land, unto William DeF. Crowell and Monica Dionysius Crowell, husband and wife and Mary J. Dionysius during their joint lives and for and during the lifetime of the survivor of them. During the joint lives of said William DeF. Crowell and Monica Dionysius Crowell, such interest reserved unto them shall be a joint undivided 50% interest, and such interest reserved unto said Mary J. Dionysius shall be an undivided 50 % interest. Upon the death of either said William DeF. Crowell or Monica Dionysius Crowell, such undivided 50% interest shall vest in the survivor of them, and upon the death of such survivor the same shall vest in said Mary J. Dionysius if she is then living. At the death of said Mary J. Dionysius, her said undivided 50% interest shall vest jointly in said William DeF. Crowell and Monica Dionysius Crowell, if they are both then living, and in the survivor of them if either of them shall then be deceased after which said right shall revert to the owner of the land.

PARCEL 5:

Lots 42, 58, 59, 60 and 61, Rancho La Lorna Linda, in the County of San Luis Obispo, State of California, according to the map thereof recorded July 28, 1923 in Book 3, Page 31 of Maps, in the office of the County Recorder of said County.

PARCEL 6:

An easement for ingress, egress, public utilities and incidental purposes over and across the Westerly 40 feet of Lots 1, 3, 4, 5, 6, 7, 8, 9 and 10 of the Resubdivision of Lots 51 and 55 of the Rancho La Lorna Linda in the County of San Luis Obispo, State of California, according to map recorded November 7, 1923 in Book 3, Page 35 of Maps, in the office of the County Recorder of said County.

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# EMK&Associates, Inc.

Engineers • Surveyors • Planners

EXHIBIT 11B"  
(LEGAL DESCRIPTION)

95-352

## EASEMENT DESCRIPTION RANCHO LOMA LINDA DRIVE & EQUESTRIAN TRAIL

An easement for road and utility purposes over and across Lots 12, 38, 39, 40, 41, 42, 43, 49, 50, 52, 53, 54, 56, 57, 58, 59, 62, and Parcel of resubdivision of Lot 63, all in Rancho La Lorna Linda, San Luis Obispo County California. A map of said Rancho La Lorna Linda is recorded in Volume 3 of Maps Page 31, Records of San Luis Obispo County California, said easement being described as follows:

Parcel 1 Beginning at a point on the northeasterly right of way line of California State Highway 41 said point being along said right of way line N47042'00"E 96.97 feet from the southerly line of above mentioned Lot 49; thence leaving said right of way line N54001'30"W 19.52 feet; thence N54°01'30"W 82.02; thence N26032'01"E 25.00 feet, to Point A, the center line of said easement; thence N26°32'01"E 25.00 feet; thence S63027'59"E 123.96 feet to said right of way line of State Highway 41; thence along said right of way line S47042'00"W 83.88 feet to the Point of Beginning.

Parcel 2 Beginning at above described Point A on the center line of 50' wide easement for road and utility purposes; thence along said center line the following:

Northeasterly along the arc of a curve concave to the south east, having a radius of 800.00 feet through a central angle of 59°17'24", an arc distance of 827.85 feet, N04010'35"W 553.48 feet, northwesterly along the arc of a curve concave to the west, having a radius of 350.00 feet, through a central angle of 31°23'03" an arc distance of 192.63 feet, N35042'38"W 225.79 feet, northeasterly along the arc of a curve concave to the east, having a radius of 350 feet, thru a central angel of 10°52 '25" an arc distance of 66.42 feet, N24050'13"W 304.21 feet, thence northerly along the arc of a curve concave to the east having a radius of 350.00 feet, through a central angle of 27°57' 48", an arc distance of 170.82 feet, N03007'35"E 836.10 feet, northerly along the arc of a curve concave to the west, having a radius of 350.00 feet, through a central angle of 11°24'39", an arc distance of 69.70 feet, N08017' 04"W 768.93 feet, southeasterly along the arc of a curve concave to the east, having a radius of 350.00 feet, through a central angle of 31°00' 04", an arc distance of 189.37 feet, N22043 '00"E 709.64 feet, northeasterly along the arc of a curve concave to the north, having a radius of 350 feet, through a central angle of 13°53'44", an arc distance of 84.88 feet, N08049'16"E 80.20 feet to the northeast corner of above mentioned Lot 12.

EXHIBIT "8" CONTINUED

The easterly and westerly 14' (ft.) of above described Rancho Loma Linda Drive shall be reserved as an Equestrian Trail for the use and benefit of above named Lots, and Lots 1, 2, 3, 4 and 5 of resubdivision of Lots 63, and Lots 61 and 60.

Also the following described 20 feet wide Equestrian Trail will be reserved for use and benefit of above listed lots in said Rancho Loma Linda. The westerly, southerly, northeasterly and easterly 20 feet of Lot 49, the southerly 20 feet of Lots 43, the westerly 20 feet of Lots 43, 42, 41, 40, 39, 38, and 12; the northerly 20 feet of Lot 12, Lots 1, 2, 3, 4, and 5 of Resubdivision of Lot 63, and Lot 61; the easterly 20 feet of lots 61 and 70; the southerly 20 feet of Lot 60; the easterly 20 feet of Lots 57, 56, 54, 53, 52, and 50. All as shown on map of Rancho La Loma Linda, per map recorded in Volume 3 of Maps Page 31, Records of San Luis Obispo County California.

# EMK & Associates, Inc.

ENGINEERING • PLANNING • SURVEYING

1005 RAILROAD ST. PASO ROBLES, CA (805)238-5427

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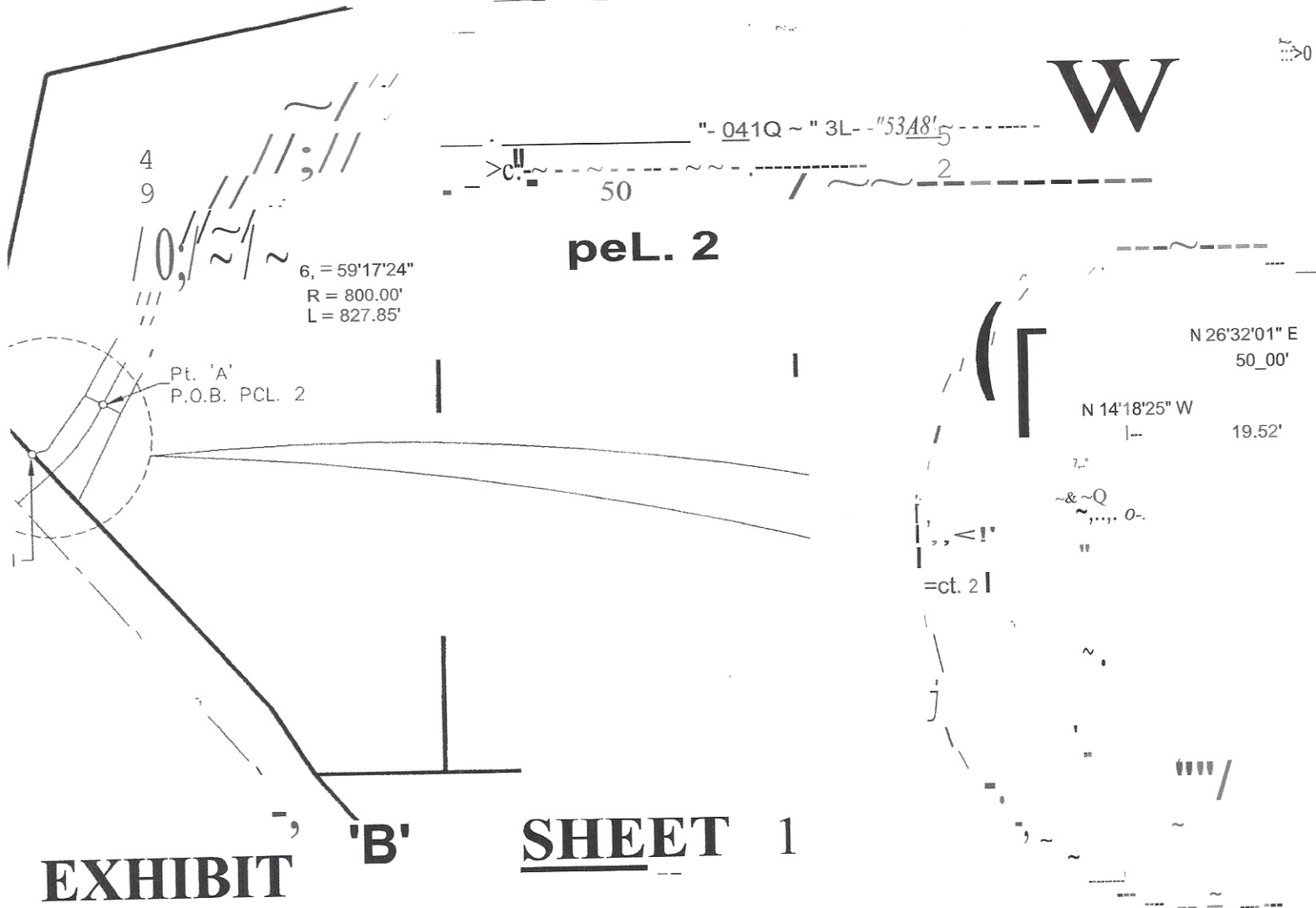
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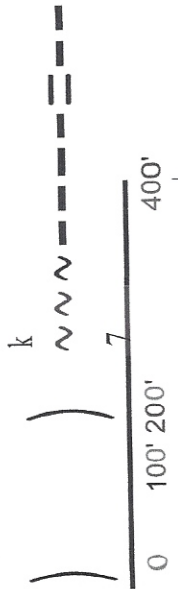
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# EXHIBIT 'B' SHEET 2

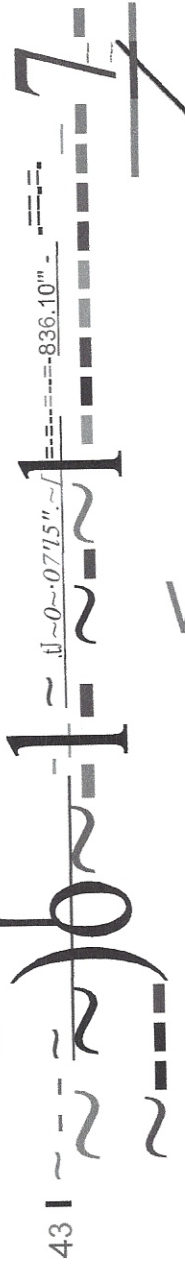


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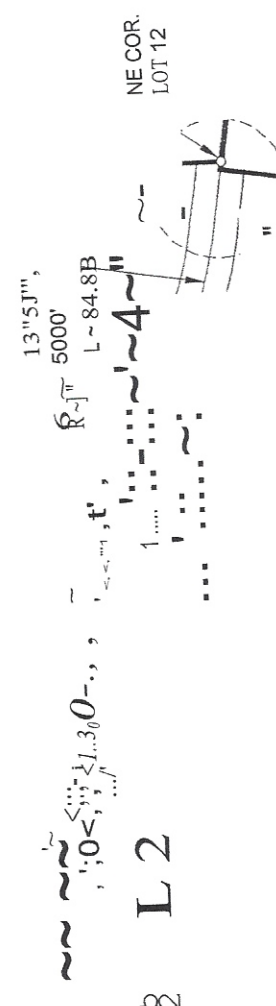


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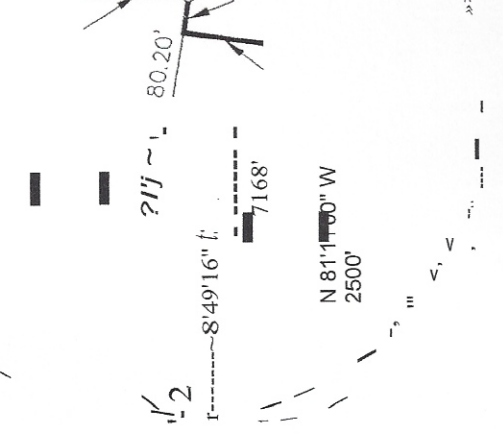
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