

QUINLAN CROSSING CONDOMINIUMS

(Category: RESTRICTIONS)

Volume 1, Page 471, Condominium Records of Kerr County, Texas; Volume 622, Page 309, Real Property Records of Kerr County, Texas (as per Unit 102, Bldg. M, Unit 103, Bldg. M, Unit 109, Bldg. P, Unit 115, Bldg. P, Unit 119, Bldg. Q, Unit 120, Bldg. Q, Unit 122, Bldg. K, Unit 123, Bldg. K, Unit 128, Bldg. K, Unit 130, Bldg. K, Unit 131, Bldg. K, Unit 132, Bldg. K, Unit 133, Bldg. K, Unit 134, Bldg. K, Unit 137, Bldg. L, Unit 139, Bldg. L, Unit 140, Bldg. L, Unit 143, Bldg. L, Unit 144, Bldg. L, Unit 145, Bldg. L) , BUT OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

- a. Easement to Lone Star Gas Company, dated August 3, 1950, recorded in Volume 1, Page 393, Easement Records of Kerr County, Texas.
- b. An undivided royalty interest, reserved by Grantor as described in instrument from August W. Henke, Individually and as Independent Executor of the Estate of Emma P. Henke, Deceased, et al, to Chester W. Henke and Emmett W. Henke, dated August 6, 1951, recorded in Volume 91, Page 207, Deed Records of Kerr County, Texas, reference to which instrument is here made for all purposes, together with all rights, expressed or implied in and to the property covered by this Policy arising out of or connected with said interests and conveyance. Title to said interest not checked subsequent to date of the aforesaid instrument.
- c. Easement to L.C.R.A. dated January 16, 1956, recorded in Volume 2, Page 582, Easement Records of Kerr County, Texas.
- d. Right Of Way Easement to Lone Star Gas Company, dated October 9, 1958, recorded in Volume 3, Page 97, Easement Records of Kerr County, Texas.
- e. Easement to Lone Star Gas Company, dated May 3, 1965, recorded in Volume 4, Page 218, Easement Records of Kerr County, Texas.
- f. Sewer easement to City of Kerrville, dated January 4, 1972, recorded in Volume 7, Page 206, Easement Records of Kerr County, Texas.
- g. Easement deed to City of Kerrville, dated December 11, 1973, recorded in Volume 8, Page 33, Easement Records of Kerr County, Texas.
- h. Utility easement reserved in deed executed by Carl D. Meek, et al, to Clifford J. Woerner and Robert L. Woerner, dated November 4, 1983, recorded in Volume 285, Page 821, Deed Records of Kerr County, Texas.
- i. Easement to Kerrville Telephone Company, dated April 15, 1985, recorded in Volume 20, Page 774, Easement Records of Kerr County, Texas.
- j. Resident's easement to enjoy common area as provided in Declaration of Covenants, Conditions and Restrictions, dated November 20, 1986, recorded in Volume 1, Page 471, Condominium Records of Kerr County, Texas.
- k. Subject to party wall provisions, covenants, conditions, restrictions, and easements, as set forth in that certain Declaration made on November 20, 1986, by Dedicator, recorded in Volume 1, Page 471, Condominium Records of Kerr County, Texas.
- l. Annual assessments and/or current maintenance charges as set forth in instrument dated November 20, 1986, recorded in Volume 1, Page 471, Condominium Records of Kerr County, Texas.
- m. Any visible and/or apparent roadways or easements over or across the subject property.
- n. Rights of Parties in Possession. (AS PER OWNER POLICY ONLY)

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QUINLAN CROSSING CONDOMINIUMS

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EXHIBITS:

- Exhibit "A" - Description of Land
- Exhibit "B" - Condominium Map
- Exhibit "C" - Common Interest Schedule

**NOTICE: THIS AGREEMENT IS SUBJECT TO ARBITRATION
UNDER THE TEXAS GENERAL ARBITRATION ACT**

DECLARATION

OF

QUINLAN CROSSING CONDOMINIUMS

Kerrville, Kerr County, Texas

ARTICLE I

Dedication of Regime

1.1 Declaration. THIS DECLARATION ("Declaration"), made on the date hereinafter set forth, by Capitol City Savings Association of Austin, a Texas Savings and Loan Association which maintains its principal office and place of business in Austin, Travis County, Texas, ("Declarant"), is made with reference to the following facts:

1.1.1 Description of Property. Declarant is the owner of certain real property situated in Kerr County, Texas, more particularly described in Exhibit "A" attached hereto and hereby expressly incorporated herein by reference, and, together with any other real property which may be annexed hereto in the future, being hereinafter sometimes referred to as the "Property."

1.1.2 Project. The Property presently consists of the above described land, seven (7) residential buildings containing a total of forty-six (46) residential units or apartments, some of which may or may not have been completed, a clubhouse, an observation tower, a pool and a spa, together with other improvements now or hereafter erected thereon, facilities and appurtenances thereto, and all property, real, personal or mixed, intended for use or used in connection with the Property, being hereinafter sometimes referred to as the "Project" or the "Condominiums."

1.1.3 Intention of Declarant. Declarant desires to establish a Condominium Regime under the Texas Condominium Act. Declarant does hereby establish a plan for the individual ownership in fee simple of estates consisting of the Unit plus an undivided interest as a tenant-in-common in the Common Elements. Each Unit shall have appurtenant to it a membership in QUINLAN CROSSING CONDOMINIUMS HOMEOWNERS' ASSOCIATION, INC.

1.1.4 Submission. Declarant does hereby establish Quinlan Crossing Condominiums as a Condominium Regime under the Texas Condominium Act and hereby declares that the Condominiums shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Project and every part thereof. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and be perpetually binding upon Declarant and its

successors-in-interest and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Project.

ARTICLE II

Definitions

2.1 "Texas Condominium Act" or "Act" shall mean Chapter 81 of the Texas Property Code, which permits the creation of condominium regimes, as amended to the date on which this Declaration is filed for record. Subsequent amendments of the Act will not affect this Declaration or the rights and obligations created herein unless expressly incorporated herein by appropriate and lawful amendment to this Declaration.

2.2 "Declarant" shall mean and refer to the said Capitol City Savings Association of Austin and its successors-in-interest and assigns, provided such successors or assigns are designated in writing by Declarant as a successor or assignee of the rights of Declarant hereunder.

2.3 "Declaration" shall mean and refer to this enabling Declaration.

2.4 "Building" shall mean each of the structures presently and hereafter erected on the Property containing one or more Units.

2.5 "Condominium" or "Unit" shall mean one individual unit, together with an undivided interest in the Common Elements. The term "Condominium" or "Unit" shall have the same meaning as the term "apartment" as used in the Texas Condominium Act.

2.6 "Owner," "Owners" or "Unit Owner" shall mean and refer to the record owner or holders of fee simple title to a Unit in the Project, but shall exclude Persons having any interest in a Unit merely as security for the performance of any obligation.

2.7 "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

2.8 "Common Elements" shall mean and refer to both the General and Limited Common Elements described herein.

2.9 "General Common Elements" shall mean and include (to the extent not otherwise designated as Limited Common Elements):

2.9.1 The Property in the Condominium Regime more particularly described above, exclusive of the Units.

2.9.2 The foundations, common dividing walls between two or more Units or between Units and Common Elements, exterior walls, bearing walls and columns (including any windows, doors and chimneys therein), girders, beams, slabs, supports, roofs, attics, ceilings and floors, halls, lobbies or thoroughfares such as stairways, entrances, exits or communication ways and any other portion of any Building now or hereafter located on the Property.

2.9.3 The grounds, yards, gardens, driveways, roadways, parking spaces, storage areas, fences, walks, service easements, common recreational facilities, facilities otherwise utilized in common, and areas used for storage of maintenance and janitorial equipment and materials, if any, now

or hereafter located on the Property.

2.9.4 The installations consisting of the equipment and materials making up central services such as power, electricity, gas, water, sewer, television, hot water, machinery and equipment related thereto, and the like which are intended to serve more than one Unit.

2.9.5 All other structures, facilities, equipment and property located on the Project necessary or convenient to its existence, maintenance, operation and safety, or normally in common use.

2.9.6 All other items not described as a Unit or a Limited Common Element.

2.9.7 All repairs, replacements and additions to any of the foregoing.

2.10 "Limited Common Elements" shall mean those Common Elements reserved for the use of a specified Unit or Units to the exclusion of others, or serving exclusively one or more specified Units, the enjoyment, benefit or use of which is reserved to the lawful occupants of said Unit or Units either in this Declaration, or as designated on the Map attached hereto, as the same may be amended from time to time, including by way of example, but not limited to:

2.10.1 Any yard or ground, driveway, sidewalk, garden, parking space, garage, carport, patio, balcony, storage area, entryway, exit, stairway, hallway, window, door, or other area when so indicated on, if any is, the Map or when so specified in this Declaration. The depiction on the Map of any such space, area or way and the reference thereof to the number of a Unit shall be one of the methods of showing that such has been assigned as Limited Common Element to the Unit bearing such number.

2.10.2 The sewer, power, water, gas, electricity and other utility lines running through or under the walls, ceiling, floor or foundation of each Unit and used only to service such Unit, exclusive of all such approach lines.

2.10.3 Such portions of the foundation, perimeter walls, floors, ceilings, doors, windows and all associated fixtures and structures therein, as lie outside the Unit boundaries but that serve only such Unit.

2.11 "Map" or "Condominium Plan" shall mean and refer to the Map being filed herewith as Exhibit "B" and hereby incorporated herein by reference, as the same may be amended from time to time as herein provided. The Map sets forth, among other things, a survey of the Property showing the location of each Building and proposed Building designated by letter, a general description and plat of each Unit showing its square footage, Building location, floor and Unit number, and a general description of the Common Elements. The Map substantially depicts the location of each Building, the Units, the Unit numbers, the dimensions of the Units, the Building designation by letter, both with respect to any existing and to any proposed Building and Units. In interpreting the Map, the physical boundaries of each Unit and each Building, both those presently existing and those proposed to be constructed in the future, shall be conclusively presumed to be the boundaries thereof, unless the Map is amended to show a more accurate location of any such.

2.12 "Association" shall mean and refer to Quinlan Crossing Condominiums Homeowners' Association, Inc., its successors and assigns, a Non-Profit Corporation organized pursuant to the Texas Non-Profit Corporation Act, of which the Owners shall be Members. The term "Association" shall have the same meaning as the term "Council of Owners" in the Texas Condominium Act.

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

2.14 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

2.15 "By-Laws" shall mean and refer to the By-Laws of the Association, as amended from time to time.

2.16 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

2.17 "Project Documents" shall mean and include this Declaration and any exhibit attached hereto, the Articles and By-Laws of the Association and Rules and Regulations for the Members, as the same may be established or amended from time to time.

2.18 "Common Interest" means the undivided interest in the Common Elements which is appurtenant to each Unit as set forth in Exhibit "C" attached to this Declaration.

2.19 "Common Expenses" means and includes:

2.19.1 All sums lawfully assessed with respect to the Common Elements by the Board;

2.19.2 Expenses of administration and management, maintenance, repair or replacement of the Common Elements, as provided herein, including a reasonable reserve for such purposes;

2.19.3 Expenses agreed upon as Common Expenses by the Owners; and

2.19.4 All sums designated as Common Expenses by or pursuant to the Project Documents.

2.20 "Assessment" shall mean the assessment made and levied against each Owner and his Unit for that portion of the Common Expenses and other charges which is to be paid by each Unit Owner as determined by the Association in accordance with this Declaration and the By-Laws. "Assessment" shall also mean any "special assessment" and any other assessment levied pursuant to the provisions of any Article contained in this Declaration.

2.21 "Institutional Lender" shall mean the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), the Veteran's Administration ("VA"), the Federal Housing Administration ("FHA"), or any other similar governmental or quasi-governmental agency, any bank, savings and loan association, any credit union, any insurance company, any mortgage company, or other similar financial institutions holding a recorded Mortgage or Deed of Trust on any Unit.

2.22 "Mortgage" or "Deed of Trust" shall mean a lien interest against a Unit given to or held by an Institutional Lender as security for repayment of a loan or other extension of credit made to the Unit Owner, said interest to be evidenced by an

instrument duly and properly recorded in the Deed of Trust or Real Estate Records of the county in which the Project is situated.

2.23 "Mortgagee" shall mean an Institutional Lender which is the beneficiary or holder of, or which has any interest in, any first lien Deed of Trust or Mortgage; i.e., a Deed of Trust or Mortgage which is superior in priority to all other contractual liens.

ARTICLE III

Division of Project and Creation of Property Rights

3.1 Division of Project. The Project is hereby divided into the following freehold estates and areas: On the Map attached hereto the Buildings in the Project are lettered and the Units located therein are numbered as shown on the Map.

3.1.1 Units. In determining dimensions of, and area contained within, each Unit, the enclosed space within a Unit shall be measured from interior finished, unpainted surfaces of the perimeter walls, including the walls of any garage incorporated therein, floors and ceilings, and the Unit shall include the airspace so encompassed. Included in each Unit, without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the common exterior walls or interior walls, floors, ceilings or other interior surfaces (such as, but without limitation, paint, wallpaper, vinyl wall or floor covering, carpet, tile, lavatories, commodes, sinks, built-in ranges and ovens and cabinets). The boundaries of each Unit shall be the interior surface of the perimeter walls, floors, ceilings, windows and doors and the exterior surfaces of any appurtenant balconies and terraces. Interior trim around windows and doors shall be a part of each Unit and shall not be a part of the Common Elements. The Unit does not include "Common Elements" defined herein. It is expressly stipulated, and each and every purchaser of a Unit, his heirs, executors, administrators, successors and assigns, hereby agrees, that the square footage, size and dimensions of each Unit, as set out and shown in this Declaration or on the Condominium Plan are approximate and are shown for descriptive purposes only, and that the Declarant does not warrant, represent or guarantee that any Unit actually contains the area, square footage or dimensions shown by the Condominium Plan thereof. Each purchaser and Owner of a Unit, or interest therein, has had full opportunity and is under a duty to inspect and examine the Unit purchased by him prior to the purchase thereof, and agrees that the Unit is purchased as actually and physically existing. Each purchaser of a Unit hereby expressly waives any claim or demand which he may have against the Declarant or other seller of such Unit on account of any difference, shortage or discrepancy between the Unit as actually and physically existing and as it is shown on the Condominium Plan. Each Unit is subject to such encroachments and protrusions as are contained in each Building, whether the same now exist or may be later caused or created in any manner. In interpreting deeds and the Condominium Plan, the then existing physical boundaries of a Unit, whether in its original state or reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or Condominium Plan, regardless of settling, rising or lateral movement of

any Building and regardless of minor variance between boundaries shown on the Condominium Plan or deed, and those of any Building.

3.1.2 Common Elements. The remaining portion of the Property is comprised of Common Elements. Each Unit Owner shall have, as an appurtenance to his Unit, an undivided interest in the Common Elements as shown in Exhibit "C" attached hereto and hereby expressly incorporated herein by reference. The ownership of any interest in the Regime shall include a Unit and such undivided interest in the Common Elements. The Common Interest appurtenant to each Unit is declared to be permanent in character and cannot be altered once sold by Declarant without the consent of all the Owners of said Units and the Mortgagees of such Owners as expressed in an amended Declaration. Such Common Interest cannot be separated from the Unit to which it is appurtenant. Each Unit Owner shall have a non-exclusive right to use the General Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other Unit Owners.

3.1.3 Limited Common Elements. The Limited Common Elements shall be identified herein or on the Map, as amended from time to time, and designated as appurtenant to a particular Unit or Units. The rights of an individual Owner in the Limited Common Elements shall consist of an exclusive easement to use a space or spaces or an area or areas, if any, specifically assigned herein, or assigned or reassigned by Declarant or the Association, to the Owner as being appurtenant to his Unit, provided, however, that such easement shall be shared with any other Unit to which any such space or area is also appurtenant.

3.2 No Separate Conveyance of Undivided Interests. The Common Interests are to be conveyed only with the respective Units, and cannot be changed, except as herein set forth. Declarant and each Owner covenant and agree that the undivided interests in the Common Elements and the fee title to the respective Units conveyed therewith, shall not be separated or separately conveyed, and each such undivided interest shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

3.3 Partition Prohibited. The Common Elements shall remain undivided so long as suitable for a condominium regime. Except as provided by the Texas Condominium Act, no Owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the right of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Unit owned by two or more persons and division of the sale proceeds is not prohibited hereby (but partition of title to a single Unit is prohibited).

ARTICLE IV

Association, Administration, Membership and Voting Rights

4.1 Association to Manage Common Elements. The management of the Common Elements shall be vested in the Association in accordance with the terms of this Declaration and the By-Laws. The By-Laws have been duly adopted by the Board of Directors of

the Association; and all Owners of the Units and all holders of liens thereon shall be bound thereby. The Owners of all the Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and the By-Laws, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project or the Association, as such may be amended from time to time.

4.2 Membership. Any Person, upon becoming the Owner of a Unit, shall automatically be a Member of the Association, and shall remain a Member thereof in accordance with the Articles and the By-Laws until such time as his ownership of said Unit ceases for any reason, at which time his membership in the Association shall automatically cease.

4.3 Transferred Membership. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Unit to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon its books, which shall nevertheless be deemed to have occurred.

4.4 Voting Rights. The Owner or Owners of each Unit shall be entitled to one (1) vote, the value of which shall equal the Common Interest assigned to said Owner's or Owners' Unit as provided in this Declaration.

4.5 Board of Directors. The affairs of the Association shall be managed by a Board of Directors which has been established and which shall conduct regular meetings and special meetings according to the provisions of the By-Laws.

4.6 First Annual Meeting. Notwithstanding any other provision to the contrary contained in this Declaration, the Articles of Incorporation or the By-Laws, the First Annual Meeting of the Association shall be convened by the Declarant or the Board upon the earlier of the following events to occur: by not later than one hundred twenty (120) days after the conveyance by the Declarant of all Units, including any Units located on Property annexed to this Declaration, or by not later than five (5) years following the date of the conveyance by the Declarant of the first Unit in the Project. At such Meeting, the Unit Owners holding at least fifty-one percent (51.0%) of the undivided interests in the Common Elements shall have the right to elect the Board which shall, at such Meeting, immediately replace the then existing Board, including any Board appointed in whole or in part by Declarant.

4.7 Owners' Rights to Access to Records. Each Unit Owner, upon request, shall have the right to require the Association to make available to such Owner, for inspection during normal business hours or under other reasonable circumstances, any then current versions of this Declaration, the By-Laws and any Rules and Regulations concerning the Project and the books, records and financial statements of the Association.

ARTICLE V

Maintenance and Assessments

5.1 Personal Obligation of Assessments. Each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed, as a part of the purchase money consideration for such deed and conveyance, to covenant and agree to pay the Association: (1) Regular Assessments, (2) Special Assessments for utilities and like services, when appropriate, and (3) Special Assessments for capital improvements and unexpected expenses, such Assessments to be established and collected as provided herein, in the By-Laws or in the Rules and Regulations of the Association. No Owner of a Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

5.2 Purposes of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project for the improvements and maintenance of the Common Elements for the common good of the Project. The Board may use said Assessments for such purposes, including, without limitation, the enforcement of the provision of this Declaration, the By-Laws and the Rules and Regulations promulgated thereunder. The decision of the Board with respect thereto shall be final so long as made in good faith. Regular Assessments shall include an adequate reserve fund for maintenance, repairs and replacement of the Common Elements. The Limited Common Elements shall be maintained as General Common Elements, and Owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof except as otherwise provided in the By-Laws or herein.

5.3 Regular Assessments. The Declarant shall establish the budget for the initial year of the operations of the Project, which budget, although subject to amendment, shall remain in full force and effect for one full year following the date on which the first installment of the Regular Assessment becomes due and payable unless the Declarant elects to establish an initial budget for a shorter or longer period of time. The Board shall also adopt a budget for such initial year, including a shorter or longer period of time than one (1) full year following the date on which the first installment of the regular assessment becomes due and payable, and may do so by ratifying, confirming or adopting the budget established by Declarant. The Board shall adopt such a budget annually, the first such to be effective during such initial year of operations, whether shorter or longer than one (1) full year, and each subsequent annual budget to be effective upon the expiration of each immediately preceding annual budget. The period of time covered by an annual budget shall be called herein a "Budget Year." The budget established for such Budget Year shall include, at least, a good faith estimate of the Common Expenses to be paid during such Budget Year, including, without limitation, a good faith estimate of a reasonable amount as a reserve for the periodic maintenance, repair and replacement of the Common Elements. Each such budget may also include a good faith estimate of the costs of providing utility services to the Units, such as water and television, when furnished by or through the Association. An Assessment shall be levied for each Budget Year against each Unit and the Owner thereof, except each Unit owned by Declarant and except Declarant, for each Unit's proportionate share of the Common Expenses and other charges as shown in each annual budget. Such assessments, known herein as the "Regular Assessments," shall be apportioned among the Units in

proportion to the Common Interest appurtenant to the respective Units; but each Unit's Assessment shall be paid by the Owner thereof in equal monthly installments, unless the Regular Assessment is increased or decreased, in either of which events the increase or reduction shall be paid or absorbed by each Unit in equal monthly shares during the period of time affected by such increase or reduction. The Board may increase or decrease the Regular Assessments at any time; but an increase thereof exceeding twenty percent (20.0%) of the Regular Assessments scheduled to be paid by all Units during the balance of the Budget Year including all installments thereof scheduled to be paid during the month in which such increase is to be effective, shall require the consent or approval of the Owners of Units to which at least seventy-five percent (75.0%) of the Common Interests are appurtenant.

5.4 Special Assessments. In addition to the Regular Assessments authorized above, the Board may levy, in any Budget Year, one or more Special Assessments 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 any capital improvements upon the Common Elements, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense or other action or undertaking normally covered by Regular Assessments (and, where necessary, for taxes assessed against the Common Elements, the Association or the Project as a whole), or to defray the costs not covered by insurance proceeds of any reconstruction, repair or replacement of any part of the Project, or to defray the costs not covered by an award in condemnation of the reconstruction, repair or replacement of any part of the Project. Except as provided elsewhere in this Declaration to the contrary, such Special Assessments shall be levied against each Unit and the Owner thereof in proportion to the Common Interest appurtenant to such Unit; Special Assessments may also be levied against an individual Unit and its Owner to reimburse the Association for costs incurred in bringing that Owner and his Unit into compliance with the provisions of this Declaration or the By-Laws, including actual attorney's fees and costs. Said Special Assessments may be subject to such limitations as are provided herein or in the By-Laws. "Special Assessments," as those words are used herein, shall include Assessments levied pursuant to the provisions of this Section and Assessments levied pursuant to any other provisions below of this or any other Article contained in this Declaration.

5.5 Special Assessments for Utilities. If the Association provides or furnishes or arranges in any way for any utility service, such as, but not limited to, water and television signals, to be delivered to any Unit, then the costs of such service (including, without limitation, a reasonable amount to cover the expenses of the Association for making any such service available and for collecting the costs thereof) may be allocated in any reasonable manner among the Units benefitting from any such service, whether by way of metering, estimating, proportioning or otherwise. The amount thereof allocated to a Unit shall be a Special Assessment levied against such Unit and its Owner and may be collected monthly or at such other intervals as the Board may direct. In the event that a Special Assessment for utilities is not paid when due and is not paid thereafter within a period of time to be determined by the Board and applied consistently to all Units, then the Board, after giving prior written notice to the Owner of such Unit, providing an additional period of grace to be applied consistently to all Units also, may terminate such service or services to such Unit until any arrearages, interest thereon, attorney's fees, additional costs of collection, the expense of restoring such service or services, and all other

related costs have been paid to the Association.

5.6 Levy of Assessments. All Assessments, Regular and Special, may be levied against any Unit and the Owner thereof in any way consistent with the notion that the Owner will receive fair notice thereof. The Board may treat all Owners equally, however, and need not distinguish between the circumstances that differentiate one Owner from another; thus, notice of an Assessment given in a manner calculated to come to the attention of a reasonable Owner who is a resident of a Unit will be sufficient if followed for the purpose of giving like notices to all Owners. Furthermore, the Assessment for Common Expense shall be deemed to have been levied against Units and Owners retroactively when considered appropriate by the Board. Moreover, without limiting the generality of the foregoing, the Board is authorized to provide a written notice of the annual Regular Assessment to the Owner of a Unit, which will be a sufficient levy hereunder; and the notice of the amount of any Assessment contained in any writing (even if the Association is not a party thereto) is a sufficient levy thereof. Actual or constructive notice will be a sufficient levy; and each prospective investor of any Unit shall have a duty to inquire about all Assessments before acquiring any interest in a Unit and shall be deemed to have actual knowledge of all such whether or not a formal levy has been perfected. In any event, notice of any Assessment given by certified mail, return receipt requested, to any Owner addressed to such Owner's Unit shall be a sufficient levy when placed in a post office or official depository under the control and supervision of the United States Postal Service, its successors or assigns.

5.7 Assessment Lien. All sums levied but unpaid for Assessments chargeable to any Unit or to any Owner, including interest thereon at the rate of eighteen percent (18.0%) per annum from the date any such Assessment is due until paid, shall be secured by a lien on such Unit superior to all other liens and encumbrances, except as provided below. Without limiting the generality of the foregoing, the Declarant also hereby reserves and assigns to the Association, without recourse, a Vendor's Lien against each Unit to secure the payment of any Regular or Special Assessment which may be levied pursuant to the terms hereof, and the expenses incurred in connection with the enforcement thereof, including, without limitation, interest at the rate provided above, costs and reasonable attorney's fees.

5.8 Recordation of Assessment Lien. The Board of Directors or a managing agent appointed by the Board ("Managing Agent") may (but shall not be required to) prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Unit and a description of the Unit. Such notice shall be signed by one of the members of the Board of Directors or by one of the officers of the Association or by a representative of the Managing Agent and may be recorded in the Office of the County Clerk of the County in which the Project is located.

5.9 Enforcement of Assessment Lien. Such lien may be enforced by the foreclosure of the defaulting Owner's Unit by the Association in like manner as a mortgage on real property subsequent to the recording of a notice provided for above. In any such proceeding, the Owner agrees to pay the costs, expenses and attorney's fees incurred in connection with filing the lien, and in the event of any foreclosure proceeding, all additional costs, expenses and attorney's fees incurred in connection with any such foreclosure proceeding. The Owner of the Unit being foreclosed shall be required to pay to the Association the Regular Assessment for the Unit during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to

collect the same. The Association shall have the power to bid on the Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. Any Mortgagee holding a lien on a Unit may pay, but shall not be required to pay, any unpaid Assessments owing with respect to such Unit, but such payment shall not be deemed a waiver of the Owner's default by either the Association or such Mortgagee. Each Owner, by acceptance of a deed to a Unit, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association the private power of sale in connection with said liens. The Association may also temporarily suspend the Association membership rights of any Owner who is in default in payment of any Assessment in accordance with the By-Laws.

5.10 Priority of Lien. Each Assessment Lien shall be and is subordinate and inferior only to the following: (a) Texas and any political subdivision thereof for taxes past due and unpaid on such Unit; and (b) amounts due under any Mortgage or Deed of Trust held by any Mortgagee, or in which any Mortgagee may have an interest, duly recorded prior to the recordation of any lien assessment as provided above. A Mortgage or Deed of Trust evidencing the renewal or extension of an indebtedness already secured in its payment by a Mortgage or Deed of Trust against a Unit, even though the former is recorded after the written notice or statement reflecting a delinquent Assessment or Assessments prepared in accordance with the provisions above shall remain superior to the liens securing the payment of any such Assessment.

5.11 Payment Dates of Assessments. The first monthly installments of the Regular Assessments shall commence as to all Units on the first day of the month next following the conveyance by deed of the first Unit in the Project to a User, and each subsequent monthly installment of the Regular Assessment shall become due and payable on the first day of each successive calendar month thereafter. Each Special Assessment shall be due and payable on the date specified by the Association in the notice thereof given to each Owner; provided, however, that the due date of a Special Assessment (other than a Special Assessment for utilities) may not be sooner than thirty (30) days following the date of such notice.

5.12 Transfer of Unit by Sale or Foreclosure. Sale or transfer of any Unit shall not affect the Assessment lien. However the sale or transfer of any Unit pursuant to foreclosure by a Mortgagee, or by deed or other transfer in lieu thereof, shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer (except for Assessments reflected by a written Assessment lien prepared in accordance with the above provisions and duly recorded prior to the recordation of a Mortgage or Deed of Trust held by a Mortgagee or in which any Mortgagee may have an interest). No such sale or transfer shall relieve such Unit from liability for any Assessments thereafter becoming due or from the lien thereof. When any Mortgagee of a Mortgage obtains title to a Unit as a result of foreclosure of such Mortgage, or by deed or other conveyance in lieu thereof, such Mortgagee shall not be liable for the unpaid dues or charges of the Association chargeable to such Unit which accrued subsequent to the recordation of such Mortgage and prior to the acquisition of title to such Unit by such Mortgagee. Such unpaid dues

or charges shall be deemed to be Common Expenses collectible from all of the Units including the Unit acquired by such Mortgagee. In a voluntary conveyance of a Unit (other than a deed or conveyance to a Mortgagee in lieu of foreclosure), the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments levied by the Association against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee, upon payment to the Association of a reasonable fee not to exceed Twenty-Five and No/100 Dollars (\$25.00) and upon written request, shall be entitled to a statement from the Association, setting forth the amount of any unpaid Assessments then due and owing to the Association with respect to the Unit being purchased, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments levied by the Association against the grantor in excess of the amount set forth in the statement and applicable to a period of time prior to the date of such statement; provided, however, the grantee shall be liable for any such Assessments becoming due after the date of any such statement.

ARTICLE VI

Duties and Powers of the Association

6.1 Duties and Powers. In addition to the duties and powers enumerated in the By-Laws and the Articles, or elsewhere provided herein, and without limiting the generality thereof, the Association shall, to the extent that the Association is able so to do out of Assessments collected:

6.1.1 General Responsibilities. Maintain, repair, replace, restore, operate and manage all of the Common Elements and all facilities, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association in good condition. This obligation shall not extend to any portion or facility of the Common Elements required to be maintained by an Owner under this Declaration or the By-Laws, although the Association shall have the right to perform such duties on behalf of and at the expense of an Owner if the Association so chooses, in which event, if such Owner fails to pay such expense upon demand, the cost thereof, plus interest from the date(s) of payment(s) at the maximum legal rate, shall be added to the Assessments chargeable to such Unit and shall be payable to the Association by the Owner of such Unit upon demand.

6.1.2 Enforcement. Enforce the provisions of this Declaration by appropriate means, including, without limitation, the expenditures of funds of the Association, the employment of legal counsel and the commencement and prosecution of actions;

6.1.3 Insurance. Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of, and protecting the interests of, the Association and its Members;

6.1.4 Easements. Grant and reserve easements where necessary or desirable for ingress and egress, for drainage and encroachment, and for utilities and utility facilities over the Common Elements and Units to serve the Common Elements and the Units and amend the Map to show same;

6.1.5 Professional Management. Have the authority (and the obligation if required by a Mortgagee) to employ a manager or other persons and to contract with independent contractors or managing agents, for a term not exceeding three (3) years, to perform all or any part of the duties and responsibilities of the Association, subject to the By-Laws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over or interest in the Project, specifically including, but not limited to, any Mortgagee, it being agreed and understood that any agreement with any such agent or other person shall provide that the same may be terminated by any party thereto without cause and without payment of a termination fee if the terminating party gives all other parties written notice of such termination not more than ninety (90) days prior to the effective date thereof. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not terminate professional management of the Project and assume self-management thereof without the prior written consent of Unit Owners holding at least sixty-seven percent (67.0%) of the Common Interests and the Mortgagees holding liens against the Units to which at least fifty-one percent (51.0%) of the Common Interests are appurtenant;

6.1.6 Recordkeeping and Audit. Keep or cause to be kept records with detailed accounts of the income, receipts and expenditures affecting the Project and its administration, specifying the maintenance and repair expenses with regard to the Common Elements and any other expenses incurred by or on behalf of the Project or Association. The records so kept shall be available for inspection by all Owners and Mortgagees of Units during regular business hours of the Association that shall be kept in accordance with generally accepted accounting principles and shall be audited at least once a year by an independent auditor. Copies of the auditor's reports shall be made available to all Owners and Mortgagees upon written request and the payment of the reasonable reproduction costs of such report as established by the Board or Managing Agent within ninety (90) days following the end of any fiscal year of the Association;

6.1.7 Rules and Regulations. Adopt reasonable rules not inconsistent with this Declaration, the Articles, or the By-Laws relating to the use of the Common Elements and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Project and other Owners.

6.2 Maintenance of Project by Association. The Association shall, to the extent that it is able so to do out of Assessments collected, provide maintenance of the Project as provided herein or in the By-Laws. The responsibility of the Association for maintenance and repair shall not extend to the cost and expenses of repairs or replacement arising out of or caused by the willful or negligent act or neglect of any Owner, or his guests, tenants or invitees. The cost or expense of repair or replacement of a Unit exterior or of any portion of the Common Elements resulting from such excluded items shall be the responsibility of such Owner who (or whose guests, tenants or invitees) neglects or willfully damages such excluded items. The Association may cause such repairs and replacements to be made at such Owner's sole cost and expense, and if said Owner shall fail to pay for such repairs or replacements upon demand, the cost thereof, plus interest from the date(s) of payment(s) at the maximum legal rate, shall be added to the Assessments chargeable to such Unit and

shall be payable to the Association by the Owner of such Unit upon demand.

6.3 Association Easements and Access to Units. For the purpose of performing the maintenance, repair or replacement authorized by this Article or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have a non-exclusive easement over and onto all portions of the Common Elements, and shall also have the right, after reasonable notice to the Owner, and at reasonable hours, to enter any Unit for such purposes and to enter any Unit without notice at any time in the event of an emergency. Should any Owner change any lock on any entrance to his Unit, such Owner shall immediately provide to the Board a key to the new lock. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of the emergency repairs within another Unit at the instance of the Association shall be a Common Expense of all of the Owners; provided, however, that if such damage is the result of the neglect, misuse or negligence of an Owner or if such damage has affected or was caused by Limited Common Elements for the maintenance, repair and replacement of which an Owner is primarily obligated, then such Owner shall be responsible and liable for all such damage. All damaged improvements shall be restored to substantially the same condition of such improvements prior to damage. All maintenance, repairs and replacements as to the General Common Elements, whether located under or outside of Units (unless required to be maintained by an individual Owner under this Declaration or necessitated by the neglect, negligence or misuse by an Owner or his guests, tenants or invitees, in which case such expense shall be charged to such Owner) shall be the Common Expenses of all the Owners.

ARTICLE VII

Utilities

7.1 Owners' Rights and Duties. The rights and duties of the Owners of Units within the Project with respect to utilities shall be as follows:

7.1.1 Payment by Owners. Each Owner shall pay for his own utilities which are separately metered and billed to his Unit by the respective utility companies or submetered or estimated and billed to each Unit by the Association. Any such utility expenses billed to each Unit by the Association, if not included as a part of a Regular Assessment, shall be deemed to be a Special Assessment hereunder and shall be secured by the lien reserved for herein for the payment of Special Assessments.

7.1.2 Easements for Ingress and Egress. Whenever sanitary sewer, water, electric, gas, television receiving or telephone lines or connections, heating or air conditioning conduits, ducts or flues (such items being hereinafter collectively called the "connections") are located or installed within the Project, which connections, or any portion thereof, lie in or upon more than one Unit, Declarant reserves for the use and benefit of the Association the right and an easement to the full extent reasonably necessary therefor, to enter upon the Units or to have the utility companies enter upon the Units in or upon which said connections, or any portion thereof, lie, to repair, replace

and generally maintain said connections as and when reasonably necessary; provided, however, the exercise of such easement rights shall be in a manner reasonably calculated to cause minimal interference with the continued use and occupancy of the Units so affected by the Owners thereof, while still adequately serving the purposes for which they are granted.

7.1.3 Owners Entitled to Use. Whenever connections are located or installed within the Project, which connections serve more than one Unit, the Owner of each Unit served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Unit.

7.2 Easement for Utilities and Maintenance. Easements over and under the Property for the installation, repair and maintenance of sanitary sewer, water, electric, gas and telephone lines and facilities, heating and air conditioning facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping to serve the Property, are hereby reserved by Declarant for the use and benefit of the Association, together with the right to grant and transfer the same.

7.3 Association's Duties. The Association shall maintain all utility installations located in the Common Elements except for those installations maintained by utility companies, public, private or municipal. The Association shall pay all charges for utilities supplied to the Project except those metered or sub-metered and charged separately to the Units.

ARTICLE VIII

Use Restrictions

8.1 Restrictions. In addition to all of the covenants contained herein, the use of the Project and each Unit therein is subject to the following:

8.1.1 Use of Individual Units. No Unit shall be occupied and used except for single family residential purposes only by the Owners, their tenants and social guests, and no profession, trade, business or commercial activity of any kind shall be conducted therein.

8.1.2 Nuisances. No noxious, illegal or offensive activities shall be carried on in any Unit or in any part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to, or which may in any way interfere with, the quiet enjoyment of each of the Owners of his respective Unit, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or cause a refusal to renew the same, or which will impair the structural integrity of any Building.

8.1.3 Trailers, Boats and Motor Vehicles. No mobile home, trailer of any kind, truck, camper, motorized recreational vehicle, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be stored, maintained, constructed, reconstructed or repaired on any Unit or any part of the Common Elements. No noisy or smoky vehicles shall be operated on the Project. No off-road unlicensed motor vehicles shall be maintained or operated upon the Project, except as may be reasonably necessary to the

execution of the rights or duties of the Association under this Declaration. All motor vehicles and other modes of transportation (including, without limitation, motorcycles, bicycles and tricycles) of Owners and their tenants shall be parked in such area or areas designated for such purpose on the Map or by rule or regulation adopted by the Board from time to time. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed or repaired upon any part of the Project; provided, though, that the provisions of this Section shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Association. Moreover, no vehicle of any kind may be operated anywhere within the Project other than for the purpose of transporting a person or persons from one point to another point; and no vehicle may at any time be operated within the Project for a recreational purpose. No Owner or other occupant of a Unit may park or permit to be parked more than two (2) motor vehicles anywhere within the Project other than for occasional and temporary purposes.

8.1.4 Signs. Declarant may place signs and lock boxes in or around the Common Elements and use the Common Elements for sales purposes until the last Unit in the entire Project (including any subsequent Phase) is sold. Owners other than Declarant, however, are prohibited from placing "for sale," "for rent" or any other signs in or around the Common Elements or displaying signs to the public view on any Unit or portion of the Project, and from placing or using any lock box anywhere within the Project.

8.1.5 Animals. No animals of any kind shall be raised or kept in any Unit, or on any portion of the Project, except domestic cats and dogs which at all times are so caged, fenced, leashed or housed that they cannot stray from the confines of the Unit which is the property of the Owner of such pets or from the Limited Common Elements reserved for the exclusive use and benefit of such Unit. It is, though, understood that domestic cats cannot reasonably be restrained from roaming outside such boundaries. Furthermore, the care and control of all domestic cats and dogs will be further subject to such other limitations (including limitations more restrictive than those imposed by this Section) as may be adopted and incorporated into Rules and Regulations promulgated by the Board from time to time. No cats or dogs may be bred anywhere within the Project. No more than two such animals (two dogs or two cats or one dog and one cat) may at anytime be kept, caged, fenced, leashed or housed in, on about, anyone Unit in the Project.

8.1.6 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be regularly removed from the Project and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers in accordance with the By-Laws or the Rules and Regulations adopted by the Board and published from time to time. All equipment, garbage cans, woodpiles or storage piles shall be kept screened and concealed from view of other Units, streets and the General Common Elements.

8.1.7 Radio and Television Antennas. No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable,

shall be permitted, and no Owner shall be permitted to construct, use or operate his own external radio, television antenna or other electronic antenna without the prior written consent of the Board. No Citizens Band transmitter or other transmission device shall be permitted on the Project without the prior written consent of the Board.

8.1.8 Right to Lease. The respective Units shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days, nor shall less than an entire Unit be rented or leased. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Unit provided that the lease is in writing, is made subject to the covenants, conditions, easements, restrictions, limitations, liens for Assessments and uses contained in this Declaration and the By-Laws, and any Rules and Regulations adopted by the Board and published from time to time. Every Owner of every Unit hereby authorizes the Board to terminate, oust or otherwise evict any Tenant occupying any Unit by reason of any violation of the covenants, conditions, easements, restrictions or limitations herein contained or of the By-Laws or any Rules and Regulations adopted by the Board and published from time to time or by reason of any default on the part of such Tenant (or the Owner of the Unit) to pay any part of any Assessment when due and payable.

8.1.9 Mortgaging a Unit--Priority. Any Owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first Mortgage shall be one which has first and paramount priority under applicable law to all other contractual liens. An Owner may create and grant a subordinate lien mortgage or deed of trust against his Unit on the following conditions: (a) that any such subordinate lien mortgage or deed of trust shall always be inferior to all of the terms, conditions, covenants, restrictions, uses, limitations, easements, obligations and liens for Assessments created by this Declaration or by the By-Laws; and (b) that the mortgagee under any subordinate lien mortgage or deed of trust shall release by written recordable instrument, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises, which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished to the Association by the mortgagee under any subordinate lien mortgage or deed of trust promptly following written request therefor by the Association.

8.1.10 Power Equipment and Car Maintenance. No power equipment, work shops, or car maintenance of any nature whatsoever shall be permitted on the Project.

8.1.11 Liability of Owners for Damage to Common Elements. The Owner of each Unit shall be liable to the Association for all damages to the Common Elements or improvements thereon caused by the neglect, misuse or negligence of such Owner or any tenant or other occupant of his Unit, guest or invitee.

8.1.12 Temporary Structures. No trailer, incomplete building, tent, shack or garage and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Only temporary

buildings or structures used during the construction, repair or remodeling of a Unit will be permitted; and each of them shall be removed immediately after the completion of construction of the Unit to which their temporary use related.

8.1.13 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Unit or the Common elements, and no odors shall be permitted to arise therefrom so as to render any such property or portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any property in the vicinity thereof or to its occupants. Without limiting the generality of the any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property.

8.1.14 Clothes Drying Facilities. Outside clothesline or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any part of the Project.

8.1.15 Firewood and Other Accessories. No firewood, hoses, sprinklers, mowers, garden utensils, outdoor cooking equipment, outdoor furniture and all other items which may be stored in a yard or kept other than within the confines of a covered and enclosed structure may be kept or maintained on or about any Unit other than in a neat fashion and in locations which are not visible from other Units.

8.1.16 Windows and Doors. The doors, windows and other openings in a Unit visible from other Units shall not be covered in whole or in part (inside or outside) with any foil or other unsightly material, other than as authorized and approved by the Committee.

8.1.17 Right of Way. During reasonable hours, Declarant, or any member of the Board of Directors or any other representative of them, shall have the right to enter upon and inspect any Unit for the purpose of ascertaining whether or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

8.1.18 Mineral Exploration. No part of the Project shall be used in any manner to explore for or to remove any water, oil, gas or other hydrocarbon minerals of any kind, gravel, earth or any earth substance of any kind.

8.1.19 Diseases and Insects. No owner shall permit any thing or condition to exist on or about any Unit which shall induce, breed or harbor plant diseases or noxious insects.

8.1.20 Waste. no waste shall be committed on any part of the Project.

8.1.21 Lighting. No lighting or illumination shall be placed upon any Unit in such a manner as to cause unreasonable glare or illumination on any other Unit.

8.1.22 Sales Office. Nothing herein shall be

construed as prohibiting Declarant, its employees or agents, from inviting any person or the general public to enter any Unit owned by Declarant with a view toward the sale or lease thereof or from using any such Unit as a model for the purpose of making a sale or sales or from maintaining a sales force (whether one or more) in or about any Unit owned by Declarant which remains unsold, including a Unit to be constructed in a Phase of the Project annexed in the future.

8.1.23 Fences. Before erection, all fences must be approved by the Association as to materials, method of construction, aesthetics and location.

8.1.24 Patios. Each patio shall be enclosed by a fence acceptable in design and structure to the Association; and each such fence shall be kept in good condition and repair at all times. Unless the Association accepts the burden of maintaining, repairing and replacing all such fences, then the Owner of each Unit shall be responsible for such with respect to any patio appurtenant to such Owner's Unit.

8.1.25 Balconies. The Owner of each Unit containing one or more balconies shall keep each balcony neat and tidy at all times and shall not permit any object visible from any other Unit to be placed or stored thereon with the exception of attractive furniture of the sort which adds to the charm and utility of a balcony.

8.2 Delegation of Powers to Committee. The powers and rights reserved to the Board or Association in this Article VIII regarding appearances and aesthetics shall be exercised by the Architectural Control Committee ("Committee") for which provision is made in Article IX below, unless the Association or the Board of Directors expressly limits or controls the authority of the Committee by way of a writing filed for public record.

8.3 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Unit in the Project in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Unit, agrees to hold Declarant harmless therefrom.

8.4 Enforcement. Each Owner of any Unit and the Association, or either of such, shall have the right to enforce the provisions of this Article against any other Owner, person, firm or corporation violating, breaching or failing to perform any covenant herein contained, so long as this Project continues in force and effect. Furthermore, any responsibility, obligation or duty on the part of an Owner to be kept and performed by virtue of the provisions of this Article, if not accomplished within a reasonable period of time as determined by the Board may be undertaken, in whole or in part, by the Association, at the expense of the Owner, in which event the cost thereof shall be paid to the Association upon demand and, if not then paid, shall bear interest from the date(s) of advancement(s) at the maximum legal rate, shall be added to the Assessments chargeable to the Unit of such Owner and shall be paid by such Owner to the Association upon demand.

ARTICLE IX

Architectural Control

9.1 Prohibition of Alteration and Improvement. Subject to the exemption of Declarant as provided below, no building, fence, wall, obstruction, balcony, screen, patio, patio cover, awning, carport, yard, ground, landscaping, improvement or structure of any kind shall be installed, commenced, constructed, erected, planted, painted, repaired or replaced upon the Project, nor shall any alteration or improvement of any kind be made thereto (save and except for repainting and redecorating of the interior of a Unit by an Owner) until the same has been approved in writing by the Board or by an Architectural Control Committee (the "Committee") appointed by the Board and/or Declarant as provided in this Article.

9.2 Plans and Approval. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, repairs or replacements, shall be submitted to the Board or Committee for approval as to such matters as quality of workmanship and design and harmony of structural and external design with existing structures, topography and finish grade elevation. No permission or approval shall be required to rebuild in accordance with plans and specifications previously approved by the Board or Committee. No landscaping of patios or yards visible from any street, public or private, from other Units or from the General Common Elements shall be undertaken by any Owner until plans and specifications showing the nature, kind, shape, design and location of the proposed materials shall have first been submitted to and approved in writing by the Board or Committee. The Board or Committee shall respond in writing within sixty (60) days from the date it receives said requests for approval of plans and specifications required under this Section 9.2. If the Board or Committee does not respond in writing within said sixty (60) day period, the Board or Committee shall be deemed to have approved said request.

9.3 Initiation by Board or Committee. The Board or the Committee, whether a complaint is received from an Owner or not, may initiate a request to an Owner to commence and complete any obligation, responsibility or duty on the part of an Owner to be kept and performed hereunder; and if such Owner does not commence and complete such within a reasonable period of time as specified by the Board or Committee, then the Association may undertake such, in whole or in part, at the expense of the Owner, in which event the cost thereof shall be paid to the Association upon demand and, if not then paid, shall bear interest from the date(s) or advancement(s) at the maximum legal rate, and shall be added to the Assessments chargeable to the Unit of such Owner and shall be paid by such Owner to the Association upon demand.

9.4 Architectural Control Committee. The number, appointment and term of members of the Committee shall be as provided in the By-Laws, subject to the following limitations:

9.4.1 Number. If a Committee is appointed, there shall be not less than three (3) nor more than five (5) members of the Committee;

9.4.2 Composition. Declarant may appoint all of the original members of the Committee and all replacements until the last Unit in the entire Project is sold. Thereafter, the Board shall have the power to appoint all of the members of the Committee. Committee members appointed by the

Declarant need not be members of the Association. Committee members appointed by the Board shall, however, be from the membership of the Association.

9.5 Nonliability of Committee Members. Neither the Committee, nor any member thereof, nor the Board nor any member thereof, nor the Declarant, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Committee's or the Board's or the Declarant's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its member or the Board or its member or the Declarant, as the case may be.

9.6 Variances. The Committee may grant variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, set-backs, colors, materials or similar restrictions, when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental consideration may, in its sole and absolute discretion, warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all of the members of the Committee. If a variance is granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and in the particular instance covered by the variance.

9.7 Exemption of Declarant. Notwithstanding anything in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall, prior or subsequent to, the transfer of control to the Association in any way be subject to the control of or under the jurisdiction of the Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the property within this Project.

9.8 Governmental Approval. Nothing in this Declaration shall be construed to relieve any Owner from securing any permit, approval or certificate from any governmental entity exercising valid jurisdiction over the subject matter of the proposed improvements.

9.9 Initial Committee. The initial Committee shall consist of: William D. Taylor, James M. Cooper and Bobby Hitt. The address of the initial Committee, until notice of public record is given to the contrary, shall be P. O. Box 1525, Austin, Texas 78767.

9.10 Delegation of Authority to Managing Agent. At any time that the Project is subject to the control of a professional Managing Agent, then the Committee may authorize the Managing Agent, or any employee thereof, to perform some, but not all, of the duties imposed upon the Committee under the terms of this Declaration. Such delegation of authority shall be limited to the performance of perfunctory duties and shall not include the exercise of any discretion vested in the Committee. To the extent that the Committee empowers such Managing Agent, or an employee thereof, to carry out any of the Committee's duties, the

Committee shall specify in writing both the nature and the limits of such duties and shall do so in such a manner that the Managing Agent will not have to consult with any other party in order to make a decision; and the authority reposed by the Committee in the Managing Agent shall be revocable at any time by the Committee.

ARTICLE X

Insurance

10.1 Liability Insurance. The Association may obtain and continue in full force and effect a comprehensive public liability policy or policies insuring the Association, the Declarant and the agents and employees of each, and the Owners and the respective family members, guests and invitees of the Owners, against any liability incident to the ownership or use of the Common Elements, commercial spaces (if any) and public ways, and including, if desired by the Association, a cross-liability endorsement insuring each insured against liability to each other insured and, if desired by the Association, a "severability of interest endorsement." In the event that the "severability of interest" endorsement is unavailable, then each such policy shall nevertheless, if practicable, be endorsed, specifically, so as to preclude the insurer from denying coverage to one Owner because of the negligence of other Owners or the Association. The scope of each such policy may include all other coverages in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use. Coverage may be, if practicable, in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, for bodily injury and/or property damage.

10.2 Property Insurance. Additionally, the Association may obtain and continue in full force and effect the following described insurance policy or policies, to the extent applicable:

10.2.1 Master Hazard Insurance. The Association may obtain and continue in full force and effect a master or blanket policy of multi-peril insurance on the Project, providing fire and extended coverage and all other coverages in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use, on a replacement cost basis, of all improvements on the Project, including, without limitation, all personal property and supplies owned by the Association and all fixtures, equipment and other property within any of the Units (whether or not such constitutes any part of the Common Elements) covered by a Mortgage or Deed of Trust against any such Unit.

10.2.2 Boiler or Machinery Insurance. If there is a steam boiler in operation in connection with any Unit, there may be in force boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing minimum coverage in an amount, if desired by the Association, of the lesser of Two Million Dollars (\$2,000,000.00) per accident or an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of the building or buildings housing any such boiler or machinery.

10.2.3 Flood Insurance. If the Project is located in an area identified as a special flood hazard area (as defined by the Federal Emergency Management Agency) the

Association may obtain and continue in full force and effect a master or blanket policy of flood insurance in an amount, within the discretion of the Association, equal to the lesser of the current replacement costs of all buildings and other insurable property or the maximum coverage available for the property under the National Flood Insurance Program.

10.2.4 Other Policy Provisions The master or blanket policy of multi-peril insurance may contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause and a determinable cash adjustment clause, or a similar clause to require cash settlement unless the Association in writing approves the restoration of damage by the insurer in lieu of such cash settlement. All policies shall provide such coverages, contain such contents, be in such form and provide such limits as may be determined by the Board, in its sole and absolute discretion, subject to all other provisions of this Article X, shall name as insured the Association, as the trustee of the Owners and Declarant (so long as Declarant is an Owner of any Unit), and all Mortgagees as their respective interests may appear, or the duly appointed "authorized representative" of all of the following, if one is so selected, including any trustee ("Insurance Trustee") of any insurance trust agreement which the Association may create, and shall provide that any proceeds will be paid to the Association or other authorized representative (including any Insurance Trustee) for the use and benefit of the Owners and Mortgagees as their interests may appear. All such insurance policy contracts may provide that no contribution or assessment may be made against the Association, the Owner of any Unit, any Mortgagee, or the designee of any Mortgagee; and in no event may any contribution or assessment made against any other party become a lien on any Unit superior to the liens of a Mortgagee. All such policies of insurance must contain or have attached the standard Mortgagee Clause commonly accepted by private institutional mortgage investors in the county in which the Project is located.

10.3 Additional Insurance. The Association may purchase such other insurance as it may deem necessary, including, without limitation, plate glass insurance, worker's compensation insurance, directors' liability insurance, errors and omissions insurance, and fidelity insurance.

10.3.1 Fidelity Bonds. In the event that the Association obtains fidelity insurance coverage, then it shall obtain and maintain in full force and effect blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not any of the parties covered thereby receive compensation for their services. If the Association requires a management agent to provide fidelity insurance coverage, then such agent shall obtain and maintain in full force and effect blanket fidelity bonds for any of its employees and others who handle funds belonging to the Association. All such fidelity bonds shall name the Association as an obligee thereunder.

10.3.2 Scope of Fidelity Bonds. A fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while such bond is in force. In addition, fidelity bond coverage must

at least equal the sum of three months' Assessments on all Units in the Project, plus the reserve funds of the Association.

10.4 Insurance Premiums. Insurance premiums shall be a Common Expense to be included in the Regular Assessments levied by the Association. The acquisition of insurance by the Association shall be without prejudice to the right of any Owner to obtain additional individual insurance.

10.5 Additional Requirements Regarding Insurance Coverage. Insurance coverage obtained and maintained pursuant to the requirements of this Article may not be brought into contribution with insurance purchased by the Owners or by their Mortgagees. No such coverage may be prejudiced by any act or neglect of the Owners when such act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no control. Each policy of property insurance carried by the Association shall be primary (and shall be so endorsed if necessary) notwithstanding any other insurance covering the same loss. All coverages may contain Agreed Amount and Inflation Guard Endorsement, if available. All coverages may also contain demolition cost endorsements, contingent liability from operation of building laws endorsement, and increased cost of construction endorsement, if available. No such coverage may be cancelled or substantially modified (including cancellation for non-payment of premium) unless at least ten (10) days' prior written notice is given to any and all insureds thereunder, including any and all Owners and Mortgagees beneficially insured thereunder. All policies obtained pursuant to the provisions of this Article may contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Owner of any Unit and/or their respective agents, employees or tenants, and of any defenses based on co-insurance or on invalidity arising from the acts of the insured.

10.5.1 General Duty of Board in Obtaining and Maintaining Insurance Coverages. The provisions of this Article are not intended to limit the power and authority of the Board to obtain and maintain any insurance coverage which the Board decides to acquire for the benefit of the Project, the Association, the Owners and/or any other persons or property to or for which the Association or any of the Owners may be obligated or responsible. Except as expressed below to the contrary, neither are the provisions of this Article intended to deprive the Board of exercising good business judgment in determining whether and what insurance coverage to carry.

10.5.2 Duty of Board to Obtain and Maintain Insurance Coverages Required by Mortgagee. Notwithstanding any other provision contained in this Declaration or in any related document to the contrary, the Board shall, if it is able to do so out of Assessments collected from Owners, obtain and maintain all policies of insurance, in such form, in such amount or amounts and containing such provisions as may be required by any Mortgagee including, without limitation, FNMA, FHLMC, VA and FHA. Similarly, the Board shall obtain, if available and if practicable, any such policy from a carrier having a rating published by any authority generally recognized in the industry as being reputable and reliable, when required so to do by any such Mortgagee. It shall be the duty of the Board, and the obligation of the Owners to pay for, any insurance coverage containing such terms (including, without limitation, deductible amounts) as may be

specified by any such Mortgagee, whether of the same sort and scope described above or not and even if any such coverage might otherwise be considered a discretionary matter on the part of the Board hereunder. (For example, fidelity insurance coverages are often mandatory if Mortgagees agree to invest or have invested in loans secured by liens against any Units in the Project; and, if so, then such fidelity insurance coverage shall be obtained and maintained in full force and effect despite the fact that the Association would otherwise not be required to provide such coverage.)

10.6 Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of the Association as the attorney-in-fact of the Owners to deal with the Project, in whole or in part, upon its destruction or repair, with full power of substitution in the premises. Title to any Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All Owners irrevocably constitute and appoint the Association as their true and lawful attorney in their name, place and stead for the purpose of dealing with said Project upon its damage or destruction as is hereinafter provided. As attorney-in-fact, the Association, by and through its President or any Vice President and Secretary or any Assistant Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. Any repair, reconstruction or replacement made on the improvement(s) shall be to substantially the same condition existing prior to the damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration or replacement unless the Owners agree not to rebuild in accordance with the provisions hereinafter set forth. The Association shall have full authority, right and power, as attorney-in-fact, to cause any repair and restoration of the improvement(s) permitted or required hereunder. Without limiting the generality of the foregoing, the Association, as said attorney-in-fact, shall have the full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to settle and compromise any and all claims under said insurance policies, to collect proceeds and to distribute the same to the Association, the Owners and their respective Mortgagees (subject to the provisions hereof) as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Owners, the Association and the Project as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any Unit or for the liability of any Owner for occurrences therein not caused by or in connection with the Association's operation, maintenance or use of the Project.

10.7 Reconstruction or Repair of Project. In the event of fire, casualty or other disaster involving substantial damage to the Project, within ten (10) days of receipt of determination of the amount of insurance proceeds available to the Association, the Association shall cause notice to be given of a special meeting of Members to be held not less than twenty (20) nor more than

thirty (30) days from the giving of such notice. Such notice shall specify the amount of insurance proceeds available, the estimated cost of restoration and other data deemed pertinent to the determination called for by this Section.

10.7.1 Sufficient Proceeds. In case of fire, casualty or any other disaster, the insurance proceeds, if sufficient to reconstruct the Project, shall, subject to the provision below, be applied to such reconstruction. Reconstruction of the Project, as used in this Subsection means restoring the Project to substantially the same condition in which it existed immediately prior to the fire, casualty or other disaster, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. Such reconstruction shall be caused to be accomplished by the Association or its duly authorized agents.

10.7.2 Insufficient Proceeds. If the insurance proceeds are insufficient to reconstruct the Project, damage to or destruction thereof shall, subject to the provisions below, be promptly caused to be repaired and restored by the Association or its duly authorized agents, using proceeds of insurance, if any, on the Project for that purpose, and the Owners shall be liable for the Special Assessment or Assessments for any deficiency as hereinafter provided.

10.7.3 Less than Two-Thirds Destruction. If less than two-thirds ($2/3$) of the Project (as determined by the vote or written consent of Members owning at least sixty-seven percent (67.0%) of the Common Interests in the exercise of their sole discretion) is destroyed or substantially damaged by fire or any other disaster, then the Project shall be rebuilt or repaired, unless the members of the Association by unanimous vote or written consent and unless one hundred percent (100%) of the Mortgagees by prior written approval, elect not to repair such damage.

10.7.4 Two-Thirds or More Destruction. If two-thirds ($2/3$) or more of the Project (as determined by the vote or written consent of one hundred percent (100%) of the Mortgagees and Members owning at least sixty-seven percent (67.0%) of the Common Interest in the exercise of their sole discretion) is destroyed or substantially damaged by fire or any other disaster, and if Members, by unanimous vote or written consent, do not voluntarily, within one hundred eighty (180) days after determination of the amount of the Association's insurance proceeds resulting from such destruction or damage, make provision for reconstruction, the Condominium Regime shall be deemed to have been waived, and the Association, the Owners and all Mortgagees, (including all mortgagees holding subordinate and inferior liens), such action being binding upon all of them, shall take all steps required under the Act to regroup and merge the filial estates within the principal property, whereupon: (a) the Project shall be deemed to be owned in common by the Owners; (b) the undivided interest in the Project owned in common which shall appertain to each Owner shall be the undivided interest previously owned by such Owner in the Common Elements; (c) any liens on each Unit and that certain portion of the Common Elements appurtenant thereto shall be deemed to be transferred in accordance with their existing priorities to the undivided interest of the Owner of the affected Unit; and (d) notwithstanding the foregoing provisions hereof, in the event of destruction or substantial damage to two-thirds ($2/3$) or more of the Project, one hundred percent (100%) of the Mortgagees, by written approval, and the

Owners holding at least seventy-five percent (75.0%) of the undivided interests in the Common Elements, by affirmative vote or written approval, may elect to sell or otherwise dispose of the Project, such action to be binding upon all Owners and Mortgagees (including mortgagees holding subordinate and inferior liens), whereupon it shall thereupon become the duty of every Owner and Mortgagee to execute and deliver such instruments and to perform all acts as in any manner and form as may be necessary to effect the sale.

10.8 Repair of Interior of Unit. Each Owner shall be responsible for the reconstruction, repair or replacement of that portion of the interior of his Unit which the Owner has installed, furnished or provided, including, but not limited to, any floor coverings, wall coverings, window shades, draperies, furniture, furnishings, decorative light fixtures, or other improvements, betterments and additions to his Unit, and all appliances located therein irrespective of whether or not such appliances are "built-in" to the Unit. Each Owner shall also be responsible for the costs not otherwise covered by insurance carried by the Association of any reconstruction, repair or replacement of any portion the Project necessitated by his negligence or misuse or the negligence or misuse by his family, guests, agents, servants, employees or contractors. In the event damage to all or any part of the interior of an Owner's Unit is covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction or repair of such damage upon receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association to supervise, approve or disapprove such reconstruction or repair during the course thereof. In the event damage to all or any part of the interior of an Owner's Unit is not covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction or repair of his Unit within sixty (60) days after the date of such damage, subject to the right of the Association to supervise, approve or disapprove such reconstruction or repair during the course thereof.

10.9 Application of Insurance Proceeds. As soon as possible after the occurrence of casualty which causes damage to any part of the Project for which the Association has insurance coverage (hereinafter referred to as the "Casualty"), the Association shall obtain reliable and detailed cost estimates of the following:

10.9.1 Common Element Costs. The cost of restoring all damage caused by the Casualty to the Common Elements directly affecting all Owners (hereinafter referred to as the "Common Elements Costs"); and

10.9.2 Unit Costs. The cost of restoring that part of the damage caused by the Casualty to the Common Elements (and any other property covered by insurance carried by the Association) directly affecting less than all of the Owners (hereinafter referred to as the "Unit Costs");

10.9.3 Special Assessment for Deficiency. All insurance proceeds available to the Association with respect to the Casualty shall first be applied to the payment of the actual Common Element Costs and the balance thereof, if any, shall thereafter be applied to the payment of the Actual Unit Costs. However, if such insurance proceeds are not sufficient to cover such estimated costs, then a Special Assessment or Assessments shall be made against the Owners by the Association in the following manner: (a) all Owners shall be assessed, on the basis of their Common Interest in the Common Elements, for the payment of the estimated Common

Element Costs not otherwise paid for by insurance held by the Association; (b) each Owner of a damaged Unit shall be assessed by an amount equal to the difference between the actual portion of estimated Unit Costs attributable to his Unit less a sum calculated by multiplying the amount, if any, of the remaining insurance proceeds held by the Association with respect to the Casualty by a fraction, the numerator of which is the actual portion of the estimated Unit Costs attributable to his Unit and the denominator of which is the total of all of the estimated Unit Costs.

10.10 Personal Liability Insurance. In addition to the master policies which the Association may carry, the Board shall have the power to require each Owner, at his sole cost and expense, to carry personal liability insurance covering damage to property or injury to the person of others within the Project resulting from negligence of an Owner or his agents, tenants, guests or invitees, in an amount up to, and including, One Hundred Thousand Dollars (\$100,000.00) for each occurrence.

ARTICLE XI

Condemnation

11.1 General Duties of Association. If all or any part of the Project is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain, the Association, each Owner and each Mortgagee shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give written notice of any such threat or proceeding to all Owners and to all Mortgagees. The expense of participating in any negotiations or proceedings by the Association shall be paid out of the Common Expenses. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid it in matters relating to such negotiations or proceedings. All damages or awards for any such taking shall be deposited with the Association and shall be applied as provided herein. In the event that an action in eminent domain is threatened or brought to condemn a portion of the Common Elements (together with or apart from any Unit), the Association, in addition to the general powers expressed herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto or to convey such property to the condemning authority in lieu of such condemnation proceedings. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for a taking are determined, the damages or awards shall be paid to the Association for the account of each Owner and each Mortgagee as their interests may appear. The Association, if it deems advisable, may call a meeting of the Owners and Mortgagees, at which meeting the Owners, by the affirmative votes of Owners holding sixty-seven percent (67.0%) or more of the undivided interests in the Common Elements, and the Mortgagees by affirmative vote of one hundred percent (100%) thereof, shall decide whether to replace or restore the Common Elements so taken or damaged. In the event it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the Condominium Plan shall be duly amended by instrument executed by the Association as the irrevocable attorney-in-fact of the Owners.

11.2 Taking of Less than the Whole. In the event that such eminent domain proceedings result in the taking of or damage to one or more, but less than all, of the Units, then the damages and awards for such taking shall be determined for each Condominium Unit in accordance with the following provisions:

11.2.1 Units Which May be Made Habitable. The Association shall determine which of the Units damaged by such taking may be made habitable for the purposes set forth in this Declaration, taking into account the nature of the Project and the reduced size of each Unit so damaged.

11.2.2 Association to Determine if Regime to Continue. The Association shall determine whether it is reasonably practicable to operate the remaining Units of the Project, including those damaged Units which may be made habitable, as a Condominium Regime in the manner provided in this Declaration.

11.2.3 Voluntary Termination of Regime. In the event that the Association determines that it is not reasonably practicable to operate the undamaged Units and the damaged Units which can be made habitable, then the Association shall call a meeting of the Owners and the Mortgagees; and the Owners holding seventy-five percent (75.0%) of the Common Interests and one hundred percent (100%) of the Mortgagees, by affirmative vote or written approval, may elect to waive the Condominium Regime in which event the Association, the Owners and the Mortgagees (including mortgagees holding subordinate and inferior liens), such action being binding upon all of them, shall take all steps required under the Act to regroup and merge the filial estates into a single property, whereupon: (a) the Project shall be deemed to be owned in common by the Owners; (b) the undivided interest in the Project owned in common which shall appertain to each Owner shall be the undivided interest previously owned by such Owner in the Common Elements; and (c) any liens on each Unit and that certain portion of the Common Elements appurtenant thereto shall be deemed to be transferred in accordance with their existing priorities to the undivided interest of the Owner of the affected Unit.

11.2.4 Continuation of Regime. In the event that the Association determines it will be reasonably practicable to operate the undamaged Units and the damaged Units which can be made habitable as a Condominium Regime, then the damages and awards made with respect to each Unit which has been determined to be capable of being made habitable shall be applied to repair and reconstruct each Unit so that it is made habitable. If the cost of the work exceeds the amount of the damages or awards, the additional funds required shall be assessed against the Owners in the same manner that funds are assessed against Owners in the event that insurance proceeds are insufficient to make necessary repairs following a fire or other casualty. With respect to those Units which may not be made habitable, the award made shall be paid to the joint account of each Owner of such Unit and the Mortgagee thereof; and the remaining portion of such Units, if any, shall become a part of the Common Elements. Upon the payment of such award for the account of such Owner as provided herein, such Unit shall no longer be a part of the Condominium Project, and the interest in the Common Elements appurtenant to each remaining Unit which shall continue as part of the Project shall be equitably adjusted to distribute the ownership of the undivided interests in the Common Elements among the reduced number of Owners; and

the Declaration shall be amended by the Association accordingly as the irrevocable attorney-in-fact for the Owners.

11.3 Taking of the Whole. If the entire Condominium Project is taken, all damages and awards shall be paid to the Association for the accounts of the Owners of the Units and the Mortgagee of each such, in proportion to the ownership interest in the Common Elements appurtenant to each such Unit; and this Condominium Regime shall terminate upon such payment.

11.4 Priority of Liens. Notwithstanding any other provision expressed herein to the contrary, no condemnation or sale in lieu thereof shall affect the priority of the lien of any Mortgagee against any Unit in the Project or against the proceeds of condemnation attributable to that Unit.

11.5 Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of the Association, as attorney-in-fact for all Owners to deal with the Project, in whole or in part, upon its partial or total taking, with full power of substitution in the premises. Title to any Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the Association as attorney-in-fact of all Owners as herein provided. All Owners irrevocably constitute and appoint the Association as their true and lawful attorney in their name, place and stead for the purpose of dealing with said Project upon its condemnation in whole or in part as is hereinafter provided. As attorney-in-fact, the Association, by and through its President or any Vice President and Secretary or Assistant Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. Any repair, reconstruction or replacement made of the improvement(s) shall be to substantially the same condition existing prior to the damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. The damages and awards received by reason of proceedings in eminent domain or by virtue of the threat thereof shall be available to the Association for the purposes of repair, restoration or replacement unless the Owners agree not to rebuild in accordance with the provisions hereinabove set forth. The Association shall have full authority, right and power, as attorney-in-fact, to cause any repair and restoration of the improvement(s) permitted or required hereunder. Without limitation on the generality of the foregoing, the Association, as said attorney-in-fact, shall have the full power and authority to collect and remit all damages and awards arising out of any proceedings in eminent domain or out of any threat in lieu thereof, to settle and compromise any and all claims arising by reason of such proceedings or threats thereof, to collect damages and awards and to distribute the same to the Association, the Owners and their respective Mortgagees (subject to the provisions hereof) as their interest may appear, to execute releases or liability and to execute all documents and to do all things on behalf of such Owners, the Association and the Project as shall be necessary or convenient to the accomplishment of the foregoing; and any condemning authority may deal exclusively with the Association in regard to such matters. The Association, however, shall not be responsible for any damages or awards respecting the taking of any contents or the interior of any Unit which are not a part of the Common Elements of the Project.

ARTICLE XII

General Provisions

12.1 Association or Declarant as Attorney-in-Fact and Proxy. Whenever the Association or the Declarant is appointed hereunder as the attorney-in-fact or proxy for any Owner, the power thereby vested in the Association or the Declarant shall be deemed, conclusively, to be coupled with an interest and survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of the Owner and shall furthermore survive the transfer, assignment and conveyance of a Unit or any part thereof by an Owner and shall be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such Owner. Each Owner shall immediately, upon request, execute and deliver from time to time, a power of attorney, in writing and in due and recordable form, so designating the Declarant or the Association to be such attorney-in-fact of each Owner.

12.2 Separate Taxation. Each Unit, together with its Common Interest, shall be deemed to be a separate and distinct entity for the purposes of the assessment and collection of taxes, assessments and other charges of this state, and the assessments and other charges of any political subdivision, special improvement district or other taxing or assessing authority. The liens for taxes assessed to any Unit shall be confined to that Unit. No forfeiture or sale of any Unit shall divest or in any way affect title to any other Unit. In the event that such taxes or assessments for any year are not separately assessed to each Unit but rather are assessed on the Project as a whole, then each Owner shall pay a share thereof proportionate to the Common Interest appurtenant to each such Owner's Unit; and in such event, such taxes or assessments shall be a Common Expense. If considered appropriate by the Association, a Special Assessment or Assessments may be levied against any Unit in an amount equal to the taxes and other assessments attributable to any such Unit.

12.3 Enforcement of Obligations of Owners. The Association, any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Project shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorney's fees as are ordered by the Court; provided, however, that an individual Owner shall have no right to enforce the collection of any Assessment levied by the Association against any other. Failure by any such Person to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

12.4 General Easement. The Declarant, the Association and the Owners, and their respective heirs, successors and assigns, shall have the permanent right, which shall be an easement appurtenant to each Unit, to use any Private Road in the Project for ingress to and egress from any Unit, to such extent that each Unit will always have access to a public roadway and to each other; and, to the extent necessary, such general easement shall also permit the perpetual use of any Unit or Common Element for the same purposes.

12.5 Encroachment and Protrusion Easements. Each Unit within the Project is hereby declared to have an easement over all adjoining Units and the Common Elements (and the Association, as trustee for all Unit Owners, is hereby declared to have an

easement over all of the Units in the Project) for the purpose of accommodating any encroachment and/or protrusion due to engineering errors, errors in original construction, settlement or shifting of any Building, or any other cause. There shall be valid easements for the maintenance of said encroachments and/or protrusions as long as they shall exist, and the rights and obligations of Owners and the Association shall not be altered in any way by said encroachment, protrusion, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment or protrusion be created in favor of an Owner or Owners if said encroachment or protrusion occurred due to the willful misconduct of said Owner or Owners. In the event a structure (including a structure which constitutes any part of the Common Elements) is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments and/or protrusions over adjoining Units or Common Elements shall be permitted and that there shall be a valid easement for the maintenance of said encroachments and/or protrusions so long as they shall exist. Such encroachments or protrusions shall not be considered to be encumbrances either on the Common Elements or on a Unit for purposes of marketability of title or otherwise.

12.6 Termination of Mechanic's Lien Rights and Indemnification. No labor performed or materials furnished and incorporated in a Unit with the consent or at the request of an Owner or his agent, contractor or subcontractor shall be the basis for the filing of a lien against either the Common Elements or the Unit of any other Owner not expressly consenting to or requesting the same, except that express consent shall be deemed to be given by the Owner of any Unit to the Board or Managing Agent in the case of emergency repairs. Each Owner shall indemnify and hold harmless each of the other Owners from and against any and all liability arising from any such claims or liens against the Units or any other Owners or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the indemnifying Owner's Unit at such indemnifying Owner's request. Labor performed or materials furnished for the General Common Elements, if duly authorized by the Managing Agent or the Board in accordance with the Declaration or By-Laws, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for the filing of a lien pursuant to law against each Unit in the Project.

12.7 Owner's Right and Obligation to Maintain and Repair. Except for those portions of the Project which the Association is required to maintain and repair as provided herein and in the By-Laws, each Owner shall, at his sole cost and expense, maintain and repair his Unit and, if applicable, any Limited Common Elements appurtenant to his Unit, keeping the same in good condition. Additionally, each Owner shall, at his sole cost and expense, maintain, repair and replace as necessary any separate air conditioning and heating units which service only his Unit. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Unit. In the event an Owner fails to maintain his Unit as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Project, the Board may notify the Owner of the work required and request that it be done within sixty (60) days from the giving of such notice. In the event such Owner fails to complete such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner and, if necessary, create a lien against his Unit for the amount thereof.

12.8 Mortgagee Protection Clauses.

12.8.1 Rights of Mortgagees. No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of any Mortgage on any Unit made in good faith and for value; but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, unless otherwise provided herein.

12.8.2 Mortgage Priority. Notwithstanding any language contained in this Declaration or the other Project Documents to the contrary, no Owner or other party shall have priority over any rights of the Mortgagee of any Unit pursuant to its Mortgage in the case of a distribution to the Owner of such Unit of insurance proceeds or condemnation awards for losses to or taking of all or a portion of such Unit and/or Common Elements. Mortgagees shall have the right to examine the books and records of the Association at all reasonable times during regular business hours of the Association.

12.8.3 Notice to and Access to Records by Mortgagees. All Mortgagees, including any Institutional Guarantor and any Institutional Insurer of the payment of any part of a loan or other extension of credit secured by a mortgage, that have filed with the Association an appropriate written request shall be entitled to receive the following notices in writing from the Association and/or to have access to certain records of the Association in accordance with the following:

(a) Notice of any proposed change in the Project Documents, which notice shall be given thirty (30) days prior to the effective date of such change;

(b) Notice of default hereunder (including, without limitation, any delinquency in the payment of an Assessment) on the part of the Owner of the Unit subject to a mortgage in which such Mortgagee, Institutional Guarantor or Institutional Insurer has an interest, which default is not cured within sixty (60) days;

(c) Notice of any material loss to or taking of any portion of any individual Unit subject to a Mortgage in which any such Mortgagee, Institutional Guarantor or Institutional Insurer has any interest, which notice shall be given immediately by the Board after the Board obtains knowledge of such loss or taking;

(d) Notice of any material loss to or taking of any portion of the Common Elements or facilities or improvements thereon, which notice shall be given immediately by the Board after the Board obtains knowledge of any such loss or taking;

(e) Notice of any proposed action that would require the consent of a specified percentage or number of Mortgagees;

(f) Any notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, such notice to be given as promptly as possible; and

(g) Make available, for inspection during normal business hours or under other reasonable circumstances, any then current versions of this Declaration, the By-Laws and any Rules and Regulations concerning the Project and the books, records and financial statements of the Association.

12.8.4 Mortgagee's Consent to Termination or Amendment. The Condominium Regime hereby created cannot be terminated or waived without the consent or approval of one hundred percent (100%) of the Mortgagees (including mortgagees holding subordinate and inferior liens).

12.8.5 Priority of Liens of Mortgagees. The sale or transfer of any Unit pursuant to foreclosure by a Mortgagee, or by deed or other transfer in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer (except for assessments reflected by a written assessment lien prepared in accordance with the above provisions and duly recorded prior to the recordation of a mortgage or deed of trust held by a Mortgagee or in which any Mortgagee may have an interest). However, a mortgage recorded prior to the recordation of a written assessment lien shall remain superior to such assessment lien, even though such mortgage is renewed and extended following the recordation of such assessment lien.

12.8.6 Lease Restrictions not Binding upon Mortgagee in Possession. The provisions of the Project Documents restricting the power of a Unit Owner to enter into leases shall not be binding upon any Mortgagee in possession of any Unit resulting from a default in the payment or performance of the mortgage so held. However, such restrictions shall be binding upon any person who purchases such Unit from such Mortgagee or such Mortgagee's designee.

12.9 Termination of Regime and Amendments to Project Documents.

12.9.1 Termination. Unless otherwise required by the Act, the Condominium Regime created hereby can be terminated with the consent of one hundred percent (100%) of the Mortgagees and the Owners representing an aggregate ownership interest of at least seventy-five percent (75.0%) of the undivided interests in the Common Elements (but not less than the Owners, other than Declarant, of at least two-thirds (2/3) of the Units in the Project); and when such consent or approval is given, then all of the Owners and all of the Mortgagees (including all mortgagees holding subordinate and inferior liens) shall take all steps required under the Act to regroup and merge the filial estates with the principal property, whereupon: (a) the Project shall be deemed to be owned in common by the Owners; (b) the undivided interest in the Project owned in common which shall appertain to each Owner shall be the undivided interest previously owned by such Owner in the Common Elements; and (c) any liens on each Unit and that certain portion of the Common Elements appurtenant thereto shall be deemed to be transferred in accordance with their existing priorities to the undivided interest of the Owner of the Affected Unit.

12.9.2 Technical Amendments.

(a) Compliance with Regulations and Requirements of Mortgagees and with Applicable Law. The Declarant, each Mortgagee, each other mortgagee and each Owner

intend that the Project shall comply with all requirements of all Mortgagees wishing to make, purchase or guarantee loans or other extensions of credit secured by Mortgagees against any of the Units in the Project and, also, intend that the Project shall comply with all applicable statutes, ordinances and rules and regulations of governmental or quasi-governmental bodies having jurisdiction. The Declarant, each Mortgagee, each other mortgagee and each Owner furthermore intend that this Declaration and all other Project Documents shall contain no typographical or grammatical errors. Declarant, each Mortgagee, each other mortgagee and all Owners therefore agree that, notwithstanding anything to the contrary contained herein, in the event that the Project or any of the Project Documents do not comply with the requirements or regulations of any Institutional Lender who is or desires to become a Mortgagee (including, without limitation, the requirements and regulations of FHLMC and FNMA pertaining to the purchase of home loans or the requirements and regulations of FHA or VA pertaining to the guaranty of any home loans) or with any applicable statute, ordinance or rule or regulation, the Declarant, so long as the Declarant owns any Unit in the Project, or the Board, if the Declarant should then have no interest remaining in the Project, shall have the power (on behalf of the Association, each Mortgagee, each other mortgagee and each and every Owner) to amend the terms of this Declaration all other Project Documents and/or to enter into any agreement with any Institutional Lender (or its designees) reasonably required by any of such Institutional Lenders to allow the Project to comply with such requirements or regulations or, simply in order to comply with such requirements or regulations or, simply in order to comply with any applicable statute, ordinance or rule or regulation. Similarly, the Declarant or the Board shall have the power (on behalf of the Association, each Mortgagee, each other mortgagee and each Owner) to amend the terms of this Declaration or any of the other Project Documents for the purpose of correcting any typographical or grammatical error. Such power shall not include the authority to amend this Declaration or any of the other Project Documents or to enter into any agreement that would have the effect of violating the requirements or regulations of any Institutional Lender which is then a Mortgagee.

(b) Minor Amendments of Map. So long as the Declarant owns any Unit in the Project, the Declarant, and after the Declarant no longer owns any Unit in the Project, the Board, shall have the right at any time and from time to time to assign and to reassign parking spaces and storage areas, if any, so that each such may be used exclusively by the Owners of specific Units, such assignments and such reassignments to constitute nothing more than a scheme or plan for reserved parking and reserved storage, unless any such assignment or reassignment is intended to create a Limited Common Element appurtenant to the Unit to which such assignment or reassignment is applicable in which event the Map shall be amended accordingly. Moreover, so long as the Declarant owns any Unit in the Project, the Declarant, and after the Declarant no longer owns a Unit in the Project, the Board, may (on behalf of the Association, each Mortgagee, each other mortgagee and each and

every Owner) amend the Map to conform such to the actual location of any of the improvements, to establish, vacate and relocate easements, access road easements, parking spaces, to establish certain General Common Elements not theretofore established, to establish certain General Common Elements as Limited Common Elements, and to show such other changes as Declarant or the Board may make in accordance with the terms of this Declaration.

(c) Special Rights of Declarant. Notwithstanding any provision in this Declaration to the contrary, until all of the Units in the Project are conveyed by Declarant to a third party, Declarant, with respect to any Unit or Units remaining in the ownership of Declarant, shall have the right to: (a) physically combine the space within one Unit with the space within one or more adjoining Units, to redetermine the Common Interest of the Units so combined and to amend the Declaration and Map to include said changes; (b) physically combine part of or a combination of parts of the space within one Unit with parts or parts of space within one or more adjoining Units, to redetermine the Common Interest of the Units so combined and to amend the Declaration and Map to include said changes; (c) partition or subdivide any Unit into two or more Units, Common Elements, or a combination of Units and Common Elements, to redetermine the Common Interest of those Units so partitioned or subdivided, and, if applicable, of all other Units, and to amend the Declaration and Map to include said changes; and (d) modify or remodel one or more Units into larger or smaller Units or any combination thereof, to construct, alter, relocate or remove any walls or do any other work which may be necessary to complete such modification or remodeling, to redetermine the Common Interest of the Units altered, if any, and to amend the Declaration to include said changes; but (e) a redetermination of the Common Interest of those Units so partitioned or subdivided by the Declarant shall not include the power to redetermine the Common Interest which each then Owner of a Unit will have in the Common Elements, such power of redetermination to be limited to those Units so partitioned or subdivided by the Declarant. Each amendment of this Declaration and each amendment of the Map undertaken by the Declarant pursuant to the provisions of this Section 12.9.2(c) shall be deemed to have been done with the consent of the Association, each Mortgagee, each other mortgagee and each Owner.

12.9.3 Minor Amendments. So long as the Declarant owns any Unit in the Project, the Declarant, and after the Declarant ceases to own any Unit in the Project, the Board, with the consent of any Mortgagee affected and the consent of any Owner affected can amend, modify or change any provision of any of the Project Documents which does not otherwise materially adversely affect any other Mortgagee or Owner.

12.9.4 Material Amendments. No material provision of any of the Project Documents may be amended, modified or changed unless the Mortgagees holding at least sixty-seven percent (67.0%) of all Mortgages against Units in the Project and unless the Owners representing an aggregate ownership interest of at least sixty-seven percent (67.0%) of the undivided interests in the Common Elements (but not

less than the Owners, other than Declarant, of at least two-thirds (2/3) of the Units in the Project) consent and agree to any such amendment, modification or change by instrument or instruments duly recorded. (The termination or waiver of the Condominium Regime created hereby shall be governed by the provisions set forth above and not by the provisions of this Subsection.) An amendment, modification or change of any provision in the Project Documents affecting any of the following will be considered material: (a) voting rights of Owners and Mortgagees; (b) Assessments, Assessment liens or subordination of Assessment liens; (c) reserves for maintenance, repair and replacement of Common Elements; (d) the responsibility of the Association and the Owners, respectively, for maintenance and repairs; (e) the reallocation of interests in the General or Limited Common Elements, or the rights to the use thereof; (f) boundaries of any Unit; (g) convertibility of Units into Common Elements or vice versa; (h) the expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project; (i) insurance or fidelity bond; (j) leasing of Units; (k) the imposition of any restriction on a Unit Owner's right to sell or transfer his or her Unit; (l) a decision by the Association to establish self-management when professional management had been required previously by a Mortgagee; (m) the restoration or repair of the Project (after a casualty damage or partial condemnation) in any manner other than that specified in the Project Documents; (n) any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; (o) any provision that expressly benefit Mortgagees, Institutional Insurers or Institutional Guarantors; or (p) the use of hazard insurance proceeds for losses to any property on the Project (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction hereof, except as provided by applicable statute in case of substantial loss or damage to the Units and/or the Common Elements.

12.9.5 Presumption of Consent of Mortgagees. In the event that a Mortgagee is requested to approve an amendment, modification or change to any of the Project Documents and fails to deliver a negative response to the requesting party within thirty (30) days after receipt thereof, then it shall be conclusively presumed that such Mortgagee has approved any such request.

12.9.6 Declarant or Association as Attorney-in-Fact and Proxy for the Purpose of Amending the Project Documents. This Declaration does hereby make mandatory the irrevocable appointment of Declarant, so long as the Declarant owns any Unit in the Project, and the Association, after the Declarant no longer owns any Unit in the Project, as the attorney-in-fact and proxy of the Owners, with full power of substitution in the premises, for the purpose of amending any of the Project Documents as permitted by the provisions of Sections 12.9.2 and 12.9.3 above and Section 12.16.1 and 12.16.2 below; but neither the Declarant nor the Association may, unless so authorized independently of the provisions of this Declaration, represent Owners in such capacities for the purpose of amending any of the Project Documents as permitted by Section 12.9.4 above. Title to any Unit is declared and expressly made subject to the terms and conditions hereof; and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner as Grantor shall constitute and appoint the Declarant, so long as the Declarant owns a Unit in the Project, and the individuals comprising the Board of the

Association from time to time, after the Declarant no longer owns any Unit in the Project, the irrevocable attorney-in-fact of the Owners and the irrevocable proxy (for as long a period of time as is permitted by law) of the Owners, with full power of substitution in the premises, to take any action, sign any writing, cast any vote at any meeting of the Members of the Association and do and perform any other act or deed of any kind whatsoever, whether or not of the sort expressed above, necessary, or reasonably thought to be necessary, in the judgment and discretion of the Declarant or the Association, to effect and perfect any amendment to any of the Project Documents for any reason or objective expressed in or allowed by Sections 12.9.2 and 12.9.3 above and Sections 12.16.1 and 12.16.2 below. The power hereby reposed in the Declarant and the Association includes, without limitation, the authority to execute an original irrevocable proxy as the act and deed of any Owner and to execute, upon the termination of any proxy, a successive irrevocable proxy as the act and deed of any Owner, authorizing the Declarant or the Association, or any substitute appointed thereby, to cast a vote for such Owner at any meeting of the Members for the purpose of approving or consenting to such amendment; but the power hereby reposed in the Declarant and the Association does not include the authority, unless given independently of this Declaration, to act for any Owner for the purpose of amending any of the Project Documents for any reason or purpose permitted by the provisions of Section 12.9.4 above. Furthermore, each Owner, upon request by the Declarant or the Association, will execute and deliver an irrevocable written proxy, including a successive proxy when a earlier proxy terminates, authorizing the Declarant or the Association, or any substitute appointed thereby, to cast a vote for such Owner at any meeting of the Members for the purpose of approving or consenting to any such amendment, other than an amendment permitted by the provisions of Section 12.9.4 above.

12.9.7 Statements Required by Statute. The following statements are included herein in order to comply with the provisions of Section 81.102(a)(7) and (8) of the Texas Property Code: (a) this Declaration may only be amended at a meeting of the Members of the Association at which the amendment is approved by the holders of at least sixty-seven percent (67.0%) of the ownership interests in the Project; (b) an amendment of this Declaration may not alter or destroy a Unit or a Limited Common Element without the consent of the Owners and Mortgagees affected. Notwithstanding any provision in this Subsection to the contrary, if the approval of a greater number of Owners are required by any other Section or Subsection for adopting any such amendment, then the consent of such greater number shall be obtained before any such amendment will be effective.

12.10 Termination of any Responsibility of Declarant. Declarant may at any time, or from time to time, sell, assign or transfer all or any part of its rights hereunder and/or its rights, title and interest in the Project to any Person or Persons who shall thereafter have such rights and powers of Declarant as are contained in the Project Documents and so transferred or assigned. In the event Declarant shall convey all of its right, title and interest in and to the Project to any Person or Persons, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such Person or Persons shall be obligated to perform all such duties and obligations of the Declarant.

12.11 Owner's Compliance. Each Owner, tenant or occupant of a Unit and their guests and invitees shall comply with the provisions of the Project Documents and all lawful decisions and resolutions of the Association or its duly authorized representative, and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action by the Association to recover sums due for damages (including costs and reasonable attorney's fees) and/or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the By-Laws, shall be deemed to be binding on all Owners, their successors and assigns.

12.12 Legal Intent. It is the intent of Declarant, the Association and the Owners that the Project Documents be in strict compliance with applicable usury laws. In furtherance thereof, said parties stipulate and agree that none of the terms and provisions contained in the Project Documents shall ever be construed to create a contract to pay for the use, forbearance or detention of money, interest at a rate in excess of the maximum interest rate permitted to be charged by applicable laws of the State of Texas or the United States of America. The Owners or other parties now or hereafter becoming liable for payment of sums owing under the terms of the Project Documents shall never be liable for unearned interest on any of said sums and shall never be required to pay interest at a rate in excess of the maximum interest that may lawfully be charged under applicable laws of the State of Texas or the United States of America, and the provisions of this Section shall control over all other provisions of the Project Documents in conflict herewith. In the event that the Declarant, the Association or any of its designated agents shall collect monies which are deemed to constitute interest at a rate in excess of that permitted to be charged by applicable laws of the State of Texas or the United States of America, all such sums deemed to constitute interest in excess of the legal rate shall be immediately returned to the Owner or other party so paying said monies upon such determination.

12.13 Conflict of Project Documents. If there is any conflict among or between the Project Documents, priority shall be given to Project Documents in the following order: this Declaration; Map; Articles; By-Laws; and Rules and Regulations of the Association.

12.14 Term of Declaration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and the Project, and shall inure to the benefit of and shall be enforceable by the Association, its respective legal representatives, successors-in-interest and permitted assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall automatically be extended for successive periods of ten (10) years, unless an instrument, signed by all of the then Owners and all of the Mortgagees, has been recorded, agreeing to change said covenants, conditions and restrictions in whole or in part.

12.15 Value of Votes of Owners. Whenever this Declaration requires the consent or votes or approval of Owners holding a percentage of the undivided interests in the Common Elements, the value of the vote (whether at a meeting of the Association or by way of an act of consent or by way of an act of approval) shall equal the Common Interest assigned to each of such Owner's Unit as provided in this Declaration.

12.16 Special Rights of Declarant. So long as Declarant owns any Unit in the Project, Declarant, in addition to all other rights given to Declarant herein, shall have the following rights:

12.16.1 Correction of Minor and Technical Errors and Compliance with Requirements of Institutional Lenders. The Declarant may, as more specifically provided above, amend, modify or change any of the Project Documents for the purpose of correcting minor and technical errors and for the purpose of complying with the requirements of Institutional Lenders.

12.16.2 Amending the Map. So long as the Declarant owns any Unit in the Project, the Declarant may, as provided more specifically above, amend the Map (including any amendment to the Map) to show the assignment or reassignment of any parking space or storage area, to show the location of any easement, to reflect any change in the General or Limited Common Elements, and to depict the actual location of any structure comprising any part of the Project. The Declarant may also partition or subdivide an unsold Unit or Units and amend the Map and other provisions of the Project Documents accordingly, all as more specifically provided above.

12.16.3 Right to Use Easements. So long as the Declarant owns at least one of the Units in the Project, Declarant may use, for Declarant's benefit (including the power to authorize others to use such for Declarant's benefit), any easements over and under the Property for the installation, repair and maintenance of sanitary sewer, water, electric, gas and telephone lines and facilities, heating and air conditioning facilities, cable or meter television antenna lines, drainage facilities, walkways and landscaping, together with the right of ingress to and egress from such easements, in order to make any connections, repairs, maintenance and replacement as Declarant in its discretion deems advisable.

12.16.4 Model Unit. So long as the Declarant owns at least one Unit in the Project, the Declarant may use any Unit or Units in the project owned by Declarant for a model home site or sites and display and sales office.

12.16.5 Leases. So long as Declarant owns at least one Unit in the Project, then the right of the Declarant to rent or lease any and all such Units until their initial transfer or to any third party or parties is hereby specifically reserved, including the right of Declarant to lease any such Unit for a term of less than thirty (30) days.

12.16.6 Use of Common Elements. Declarant is, or may after the effective date hereof be, performing certain work in connection with the construction of improvements on the Property, including the construction of Buildings and Units shown on the Map which have not been completed, if any. The completion of that work and the sale, rental and other disposition of said Units is essential to the establishment and welfare of the Project as a residential community. In order that such work may be completed and such Project be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to: (a) prevent Declarant, its contractors, or any subcontractors from doing on or to the Project or any Unit, whatever is reasonably necessary or advisable in

connection with the completion of the work; (b) prevent Declarant or its representative from erecting, constructing and maintaining on any part or parts of the Project such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Project as a residential community and disposing of the same in parcels by sale, lease or otherwise; (c) prevent Declarant from conducting on any part of the Project its business of completing the work and of establishing a plan of Unit ownership and of disposing of said Project and Units by sale, lease or otherwise; or (d) prevent Declarant from maintaining such sign or signs on any part of the Project as may be necessary for the sale, lease and disposition thereof.

12.16.7 Rights Cumulative. The rights reserved by or granted to Declarant in this Section 12.16 are not exclusive. The rights granted to or reserved by Declarant pursuant to any other provisions of this Declaration shall be cumulative of all rights reserved or granted to Declarant in this Section 12.16.

12.16.8 Rights Continue Until Project Completed. All of the rights reserved under the terms of this Declaration by and in favor of the Declarant, including, without limitation, the rights expressly retained by Declarant in this Section 12.16, shall not be limited to the first Phase of the Project but shall continue until each subsequent Phase of the Project has been annexed thereto and, unless expressed to the contrary herein, until the Declarant no longer owns any Unit within any part of the Project or until the expiration of a period of twenty-one (21) years from and after the effective date of this Declaration, whichever occurs first.

12.17 Limitations upon Declarant.

12.17.1 Limitations upon Declarant's Contractual Powers. The Declarant shall not have the right to engage in any of the following leases or contracts, directly or indirectly (including the use of the authority of a Board of Directors appointed or otherwise controlled by Declarant), unless such lease or contract provides that the Association, after transfer or loss of control thereof by Declarant, may terminate the Declarant's rights thereunder, with or without cause, exercisable without penalty at any time upon not more than ninety (90) days' written notice to the Declarant: (a) the leasing of any common facilities to the Association; (b) accepting leases from the Association for the use of which the Association may then charge Unit Owners or any parties who are not Unit Owners; (c) accepting franchises or licenses from the Association for the provision of central TV antenna or similar services; and (d) retaining the right to enter into management agreements or other contracts which are not terminable by the Board of Directors elected at the First Annual Meeting of the Association immediately after the election thereof.

12.17.2 Limited Obligations of Declarant. Notwithstanding any provision to the contrary expressed in any of the Project Documents, no Assessment of any kind may be levied against the Declarant or any Unit owned by the Declarant, nor shall any Assessment lien attach to any Unit owned by the Declarant until the earlier of the following dates: the first day of the calendar month next following the First Annual Meeting of the Association or the first day

of the calendar month next following the expiration of five (5) years after the effective date of this Declaration, and only then with respect to Assessments becoming due and payable on and after such earlier date. Any and all sums paid to or on behalf of the Association by the Declarant shall be voluntary and not mandatory, although no such advancement may be made by Declarant unless such is undertaken in furtherance of the best interests of the business goals of the Declarant.

12.17.3 Working Capital Fund. In addition to the Regular Assessments for which more specific provision is made in Article V above, a Working Capital Fund equal to at least two (2) monthly Regular Assessments for each Unit may be established to meet unforeseen expenditures or to purchase additional equipment or services. The share of the Working Capital Fund attributable to each Unit may be collected and transferred to the Association at the closing of the sale of such Unit by Declarant and maintained in a segregated account for the use and benefit of the Association. The contribution to the Working Capital Fund for each existing unsold Unit may be paid to the Association within sixty (60) days after the conveyance of the first Unit by Declarant, subject to Declarant's right to receive reimbursement for such payments upon the sale of such Units. The contribution to the Working Capital Fund for each existing unsold Unit may be paid to the Association, if the Declarant elects to do so, within sixty (60) days after the conveyance of the first Unit by Declarant, subject to Declarant's right to receive reimbursement for such payments upon the sale of such Units.

12.17.4 Termination of Declarant's Rights. All rights reserved by or granted to Declarant in this Declaration shall terminate upon the earlier of the following to occur: when Declarant is no longer an Owner; or upon the expiration of twenty-one (21) years after this Declaration is filed for record.

12.18 Value of Common Interest. The Common Interest appurtenant to each Unit is expressed herein as a percentage, and all of the Common Interests will at all times total precisely one hundred percent (100%). The percentage interest allocated to each Unit was computed on the basis of the approximate square footage of the floor of the enclosed heated space of each Unit as compared with the approximate square footage of the enclosed heated space of all Units.

12.19 No Dedication. Nothing contained in this Declaration shall be deemed or interpreted to intend a dedication of any portion of the Property to the general public or for any public purpose whatsoever, such intent being hereby expressly disavowed.

12.20 Right-of-Way for Public Maintenance of Private Roads. If at any time the Owners desire to request that maintenance of any Private Road within the Project be accepted by the County in which the Project is situated, or by any municipality having annexed the Property, the Owners agree to join in the dedication of at least fifty (50) feet of right-of-way for each such street. No such dedication shall ever be effective until after the maintenance of such streets has been officially accepted by the governmental entity having jurisdiction thereof. Any amendment changing the effect of this Section must be approved by the governing body of such public entity having jurisdiction of the Property.

12.21 Arbitration. It is agreed that all questions as to rights and obligations arising under the terms of this Declaration are subject to arbitration, and such arbitration shall be governed by the provisions of the Texas General Arbitration Act, Articles 224 through 238-6 of the Revised Civil Statutes of Texas. Any party aggrieved ("Petitioner") may require any other party ("Respondent") to submit any dispute arising hereunder to arbitration as hereinafter provided. The remedy of arbitration shall be available to the Declarant, any Builder, any other Owner, and to the Association.

12.21.1 If a dispute should arise under this Declaration, any Petitioner or Petitioners may, within fifteen days thereafter, make a demand for arbitration by filing a demand in writing with the other Respondent or Respondents hereto.

12.21.2 The Petitioners and Respondents may agree upon one arbitrator, but in the event that they cannot so agree, there shall be as many arbitrators as there are Petitioners and Respondents, one to be named in writing by each of the Petitioners and Respondents within thirty days after demand for arbitration is made and, if the number of arbitrators so appointed is an even number, still another arbitrator to be chosen by at least a majority of the arbitrators so originally designated. Should any Petitioner or Respondent refuse or neglect to join in the appointment of arbitrators, then an arbitrator to represent each such Petitioner or Respondent shall be appointed in accordance with the provisions of Article 226 of the Revised Civil Statutes of Texas.

12.21.3 All arbitration hearings conducted hereon, and all judicial proceedings to enforce any of the provisions hereof, shall take place in Travis County, Texas. The hearing before the arbitrators of the matter to be arbitrated shall be at the time and place within said county as is selected by the arbitrators. Notice shall be given and the hearing conducted in accordance with the provisions of Articles 228, 229 and 230 of the Revised Civil Statutes of Texas. At the hearing any relevant evidence may be presented by any Petitioner or Respondent, and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence may be admitted or excluded in the sole discretion of the arbitrators. The arbitrators shall hear and determine the matter and shall execute and acknowledge their award in writing and deliver a copy thereof to each of the Petitioner or Respondents by registered or certified mail.

12.21.4 If there is only one arbitrator, his decision shall be binding and conclusive on the Petitioner or Respondents. If there are three or more arbitrators, the decision of a majority thereof shall be binding and conclusive. The submission of a dispute to the arbitrators and the rendering of their decision shall be a condition precedent to any right of legal action on the dispute. A judgment confirming the award of the arbitrators may be rendered by any court having jurisdiction; or such court may vacate, modify or correct the award in accordance with the provisions of the Texas General Arbitration Act.

12.21.5 If the arbitrators selected pursuant to Section 12.21.2 fail to reach an agreement within ninety days after the appointment thereof, they shall be discharged; and new arbitrators shall be appointed and shall proceed in the same manner, the process to be repeated until a decision is finally reached by a majority of the arbitrators so

VOL 1 PAGE 519

selected.

12.21.6 The costs and expenses of arbitration, including the fees of the arbitrators, shall be borne by the losing parties or in such proportions as the arbitrators shall determine.

12.21.7 The remedies provided in this Section 12.21 shall be cumulative of all other rights and remedies to which such parties may be entitled.

12.22 Headings. The headings used in this Declaration are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Declaration.

12.23 Gender and Number. As used in this Declaration, whenever the context so indicates, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others.

12.24 Severability. If any provision of this Declaration or any other Project Document is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Declaration, the legality, validity and enforceability of the remaining provisions of this Declaration or other Project Documents shall not be affected thereby; and in lieu of such illegal, invalid or unenforceable provisions there shall be added automatically as a part of this Declaration or other Project Document a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

The undersigned, being the Declarant herein, has executed this Declaration on the 20th day of NOVEMBER, 1986.

CAPITOL CITY SAVINGS ASSOCIATION
OF AUSTIN, Declarant

By: William C. Horabin
Its President
CHAIRMAN

-44-

Post-it Fax Note 7671		Date <u>1/25/95</u>	# of pages <u>1</u>
To <u>Joyce</u>	From <u>Nadene</u>		
Co./Dept. <u>Fidelity</u>	Co. <u>Co. Clerk</u>		
Phone #	Phone # <u>2996-2844</u>		
Fax # <u>257-2960</u>	Fax #		

STATE OF TEXAS *
 *
COUNTY OF TRAVIS *

BEFORE ME, the undersigned authority, on this day personally appeared William C. McFarlin, the ~~President~~^{Secretary} of Capitol City Savings Association of Austin, a Texas Savings and Loan Association, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said Association.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20th day of NOVEMBER, 1986.





Notary Public
In and for the State of Texas
Donald N. Goldstein
(Type/Print Name of Notary)

EXHIBIT "A"

Being all of a certain tract or parcel of land comprising, approximately, 3.46 acres out of B. F. Cage Survey No. 116, Abstract No. 106, and 3.25 acres out of Patrick Fleming Survey No. 666, Abstract No. 145, in the City of Kerrville, Kerr County, Texas; part of 83.2 acres of land described in a Deed of Trust from C. Darrell Hopkins to Carl D. Meek and Meek & Associates Ranch Sales, Inc. executed the 27th day of January, 1976, and recorded in Volume 140 at Page 111, of the Deed of Trust Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

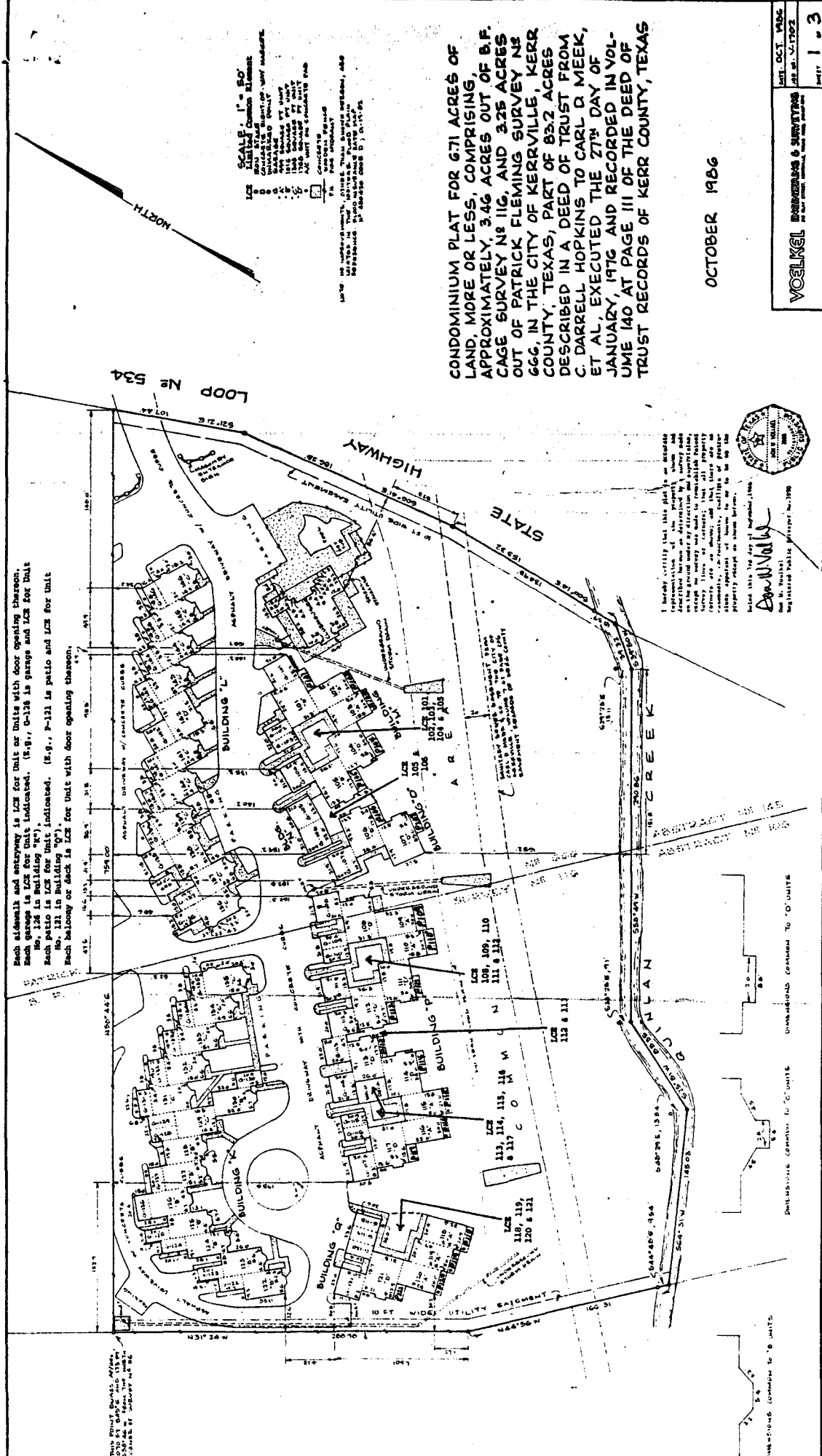
BEGINNING at a 1/2" iron stake for the west corner of the herein described tract in the westerly southwest line of said 83.2 acres, the south south corner of a certain 8.87 acre tract out of 11.5 acres described in a Warranty Deed from J. T. Forman, et al, to Gene Whitehead executed the 31st day of October, 1973, and recorded in Volume 168 at Page 118 of the Deed Records of Kerr County, in the northeast line of a certain 24.22 acre tract of land conveyed to Pueblo Hills, Inc. from John P. Wells, et al, by a deed recorded in Volume 155 at Page 809 of the Deed Records of Kerr County, which point bears, approximately, 1070 ft. S.45°E. and 173 ft. S.58° 46'W. from the north corner of said Survey No. 116;

THENCE, along the southeast line of said 8.87 acre tract, N.58° 44'E. 759.00 ft. to a 1/2" iron stake for the north corner of the herein described tract in the southwest right-of-way line of State Highway Loop No. 534;

THENCE, along the southwest right-of-way line of State Highway Loop No. 534, each point marked with a concrete highway right-of-way marker, S.21° 21'E 107.44 ft., S.06° 41'E., at 73.35 ft. crossing a 10" sanitary sewer main in a twenty (20) ft. wide easement upon, over and across said 83.2 acres of land granted to the City of Kerrville from Carl Meek & Co., Inc., et al, on the 4th day of January, 1972, and recorded in Volume 7 at Page 206, of the Easement Records of Kerr County, Texas, then continuing for a total distance of 186.28 ft. this call, an S.00° 14'E., at 134.93 ft. passing a 5/8" iron reference stake on the north bank of Quinlan Creek, then continuing for a total distance of 153.32 feet to an unmarked point for the east corner of the herein described tract in the approximate center of Quinlan Creek;

THENCE, along the approximate center of said Quinlan Creek, S.39° 50'W. 39.32 ft. to an unmarked point 13.11 ft. S.29° 23'E. from a 5/8" iron reference stake on the north bank of said creek, S.58° 49'W 290.86 ft. to an unmarked point 9.1 ft. S.38° 28'E. from a 5/8" iron reference stake on the north bank of said creek, S.25° 51'W. 85.35 ft. to an unmarked point 13.84 ft. S.48° 29'E. from a 5/8" iron reference stake on the north bank of said creek, and S.64° 31'W. 145.03 ft. to an unmarked point for the south corner of the herein described tract in the common line between said 83.2 acre tract and said 24.22 acre Pueblo Hills tract, 9.53 ft. S.44° 48'E. from a 5/8" iron reference stake on the north bank of said creek;

THENCE, along the common line between said 83.2 acres and said 24.22 acre Pueblo Hills tract: N.44° 56'W. at 9.54 ft. passing latter said 5/8" iron reference stake, at 70.21 ft. crossing said 10" sanitary sewer main, and twenty (20) ft. easement, then continuing for a total distance of 166.31 ft. to a 5/8" iron stake set for an anglepoint, then N.31° 24'W 288.98 ft. to the PLACE OF BEGINNING, containing 6.71 acres of land, more or less, within these metes and bounds, of which 2.30 acres are within the 100 year flood plain of said Quinlan Creek, a tributary of the Guadalupe River.



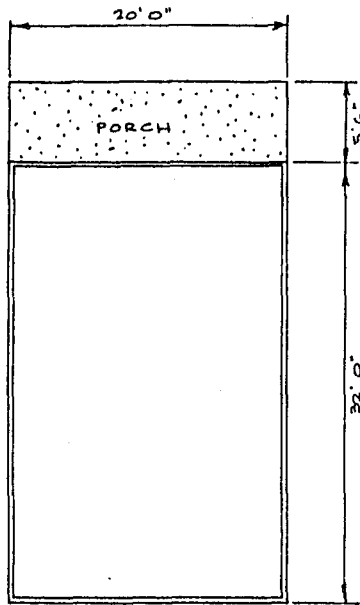
CONDOMINIUM PLAT FOR 671 ACRES OF LAND, MORE OR LESS, COMPRISING, APPROXIMATELY 346 ACRES OUT OF B.F. CAGE SURVEY N^o 116, AND 325 ACRES OUT OF PATRICK FLEMING SURVEY N^o 666, IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, PART OF 83.2 ACRES DESCRIBED IN A DEED OF TRUST FROM C. DARRELL HOPKINS TO CARL D. MEEK, ET AL, EXECUTED THE 27th DAY OF JANUARY, 1976 AND RECORDED IN VOL- UME 140 AT PAGE 111 OF THE DEED OF TRUST RECORDS OF KERR COUNTY, TEXAS

OCTOBER 1986

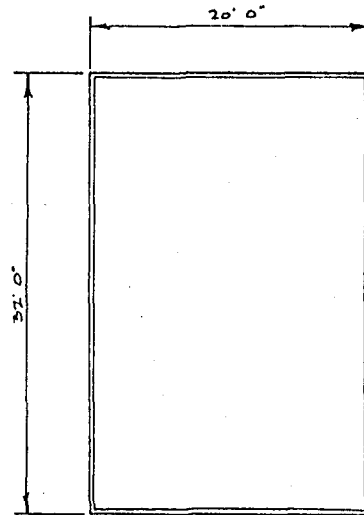


Don Walker
Don Walker
Registered Professional Surveyor No. 3909

EXHIBIT "B"
(Page 1 of 3)



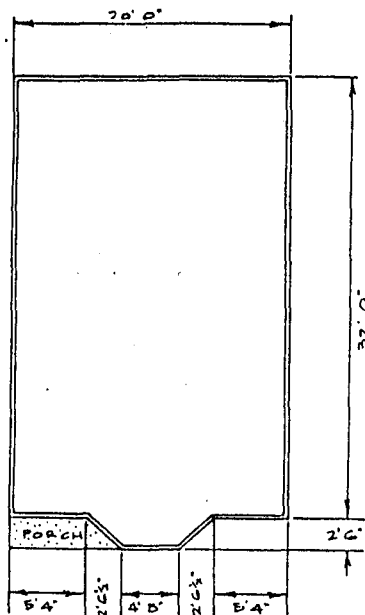
FIRST LEVEL



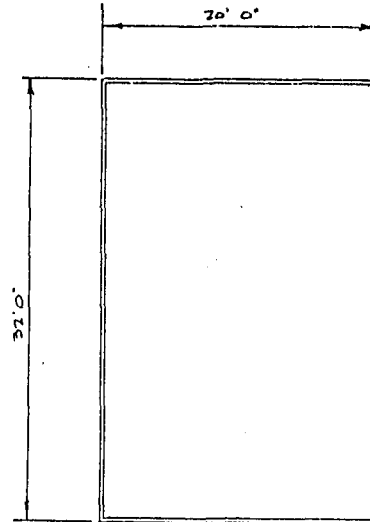
SECOND LEVEL

"A" UNITS

The dimensions of an "A" Unit are the same for each of the following Units: Nos. 102, 103, 109, 110, 115, 116, 118, 119 and 120.



FIRST LEVEL



SECOND LEVEL

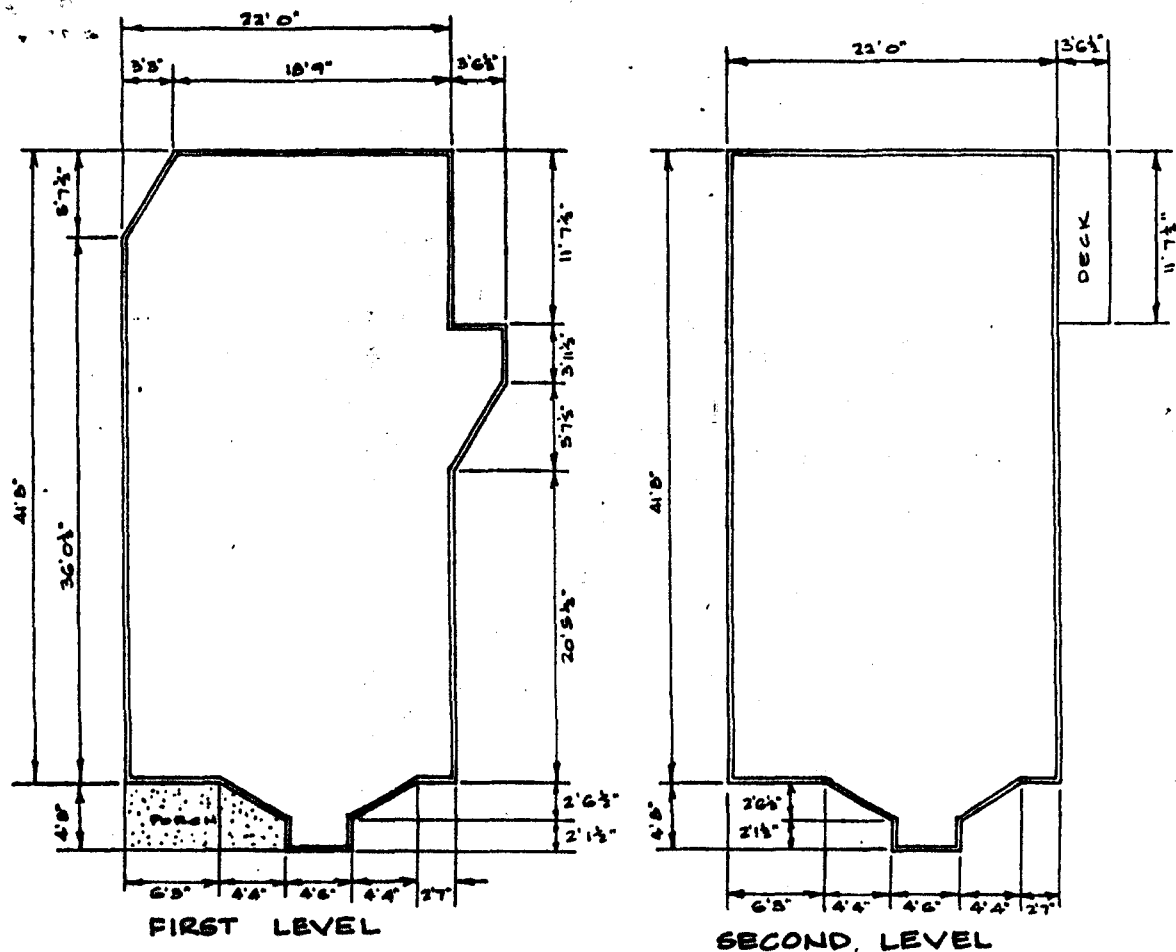
"B" UNITS

The dimensions of a "B" Unit are the same for each of the following Units: Nos. 122, 123, 124, 125, 126, 127, 128 and 130.
DIMENSIONS ARE SHOWN FOR
EXTERIOR STUD WALLS, AND DO
NOT REFLECT ROCK LEDGES.

SCALE: 1" = 10'

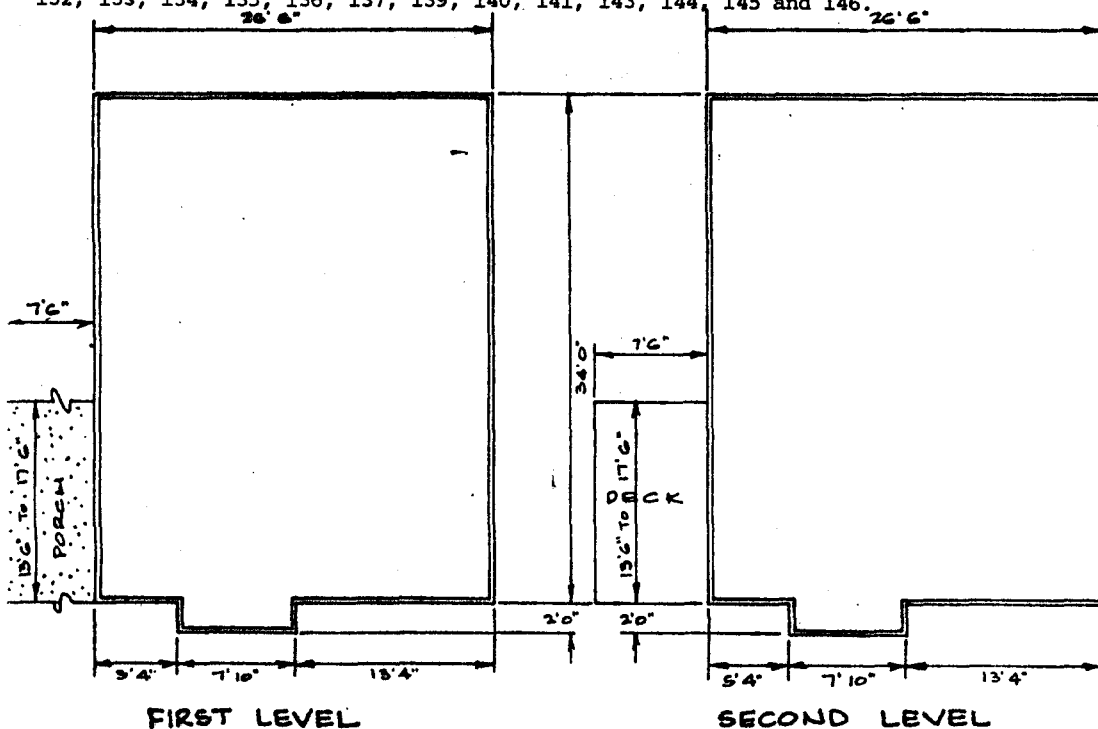
EXHIBIT "B"

SHEET 2 OF 3



"C" UNITS

The dimensions of a "C" Unit are the same for each of the following Units: Nos. 129, 131, 132, 133, 134, 135, 136, 137, 139, 140, 141, 143, 144, 145 and 146.



"D" UNITS

The dimensions for a "D" Unit are the same for each of the following Units: Nos. 101, 104, 105, 106, 107, 108, 111, 112, 113, 114, 117, 121, 138 and 142.

SCALE: 1" = 10'

DIMENSIONS ARE SHOWN FOR EXTERIOR STUD WALLS, AND DO NOT REFLECT ROCK LEDGES.

EXHIBIT "B"

CONTINUED ON PAGE 3-A

SHEET 3 OF 3

Continuation of Exhibit "B"

Each porch described on Pages 2 and 3 of this Exhibit is the same as the patio and is also an LCE for each Unit equipped with a door opening onto such. Each deck depicted on Pages 2 and 3 of this Exhibit is the same as a balcony and is also an LCE for each Unit equipped with a door opening onto such; however, the length of such decks or balconies appurtenant to "D" Units vary from 13 feet 6 inches to 17 feet 6 inches.

EXHIBIT "B"

COMMON INTEREST SCHEDULE

<u>Unit No.</u>	<u>Unit Type</u>	<u>Sq. Footage</u>	<u>Building Location</u>	<u>Percentage of Common Elements</u>
101	"D"	1,768	M	2.87522
102	"A"	999	M	1.62463
103	"A"	999	M	1.62463
104	"D"	1,768	M	2.87522
105	"D"	1,768	M	2.87522
106	"D"	1,768	O	2.87522
107	"D"	1,768	O	2.87522
108	"D"	1,768	P	2.87522
109	"A"	999	P	1.62463
110	"A"	999	P	1.62463
111	"D"	1,768	P	2.87522
112	"D"	1,768	P	2.87522
113	"D"	1,768	P	2.87522
114	"D"	1,768	P	2.87522
115	"A"	999	P	1.62463
116	"A"	999	P	1.62463
117	"D"	1,768	P	2.87522
118	"A"	999	Q	1.62463
119	"A"	999	Q	1.62463
120	"A"	999	Q	1.62463
121	"D"	1,768	Q	2.87522
122	"B"	1,016	K	1.65227
123	"B"	1,016	K	1.65227
124	"B"	1,016	K	1.65227
125	"B"	1,016	K	1.65227
126	"B"	1,016	K	1.65227
127	"B"	1,016	K	1.65227
128	"B"	1,016	K	1.65227
129	"C"	1,308	K	2.12713
130	"B"	1,016	K	1.65227
131	"C"	1,308	K	2.12714
132	"C"	1,308	K	2.12714
133	"C"	1,308	K	2.12714
134	"C"	1,308	K	2.12714
135	"C"	1,308	K	2.12714
136	"C"	1,308	L	2.12714
137	"C"	1,308	L	2.12714
138	"D"	1,768	L	2.87522
139	"C"	1,308	L	2.12714
140	"C"	1,308	L	2.12714
141	"C"	1,308	L	2.12714
142	"D"	1,768	L	2.87522
143	"C"	1,308	L	2.12714
144	"C"	1,308	L	2.12714
145	"C"	1,308	L	2.12714
146	"C"	1,308	L	2.12714
		<u>61,491</u>		<u>100.00000%</u>

EXHIBIT "C"

FILED FOR RECORD

at 10:41 o'clock A.M.

NOV 25 1986

PATRICIA DYE

Clerk County Court, Kerr County, Texas

By Dominic G. Williams Deputy

Returns to:

Fidelity Abstract

333 East Garces

Keeville, Texas 78028

Filed for record November 25, 1986 at 10:41 o'clock A.M.

Recorded December 3, 1986

PATRICIA DYE, Clerk By Winnifred J. Warmuth Deputy

O M I T

Revised
November 28, 1990

OL 622 PAGE 309

274

LAND USE RESTRICTION AGREEMENT

BY AND BETWEEN

RESOLUTION TRUST CORPORATION

AND

DIVERSIFIED RESIDENTIAL, INC.

(Sales of Single Family Properties to
Public Agencies and Non Profit Organizations)

NOTE: THIS DOCUMENT MUST BE RECORDED AND TIME STAMPED IMMEDIATELY
PRIOR TO THE DEED

Filed By
Kerrville Title Company

FILED FOR RECORD

at _____ o'clock _____ M.

JAN 14 1992

PATRICIA DYE

Clerk County Court, Kerr County, Texas
By _____

RETURN TO
KERRVILLE TITLE COMPANY
1000 S. 10TH ST.
KERRVILLE, TEXAS 78028

Revised
November 28, 1990

OL 622 PAGE 309

274
LAND USE RESTRICTION AGREEMENT

BY AND BETWEEN
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Filed By
Kerrville Title Company

FILED FOR RECORD

at _____ o'clock _____ M.

JAN 14 1992

PATRICIA DYE

Clerk County Court, Kerr County, Texas
By _____

RETURN TO
KERRVILLE TITLE COMPANY
c/o SHERMAN & KENNERLY
P.O. BOX 79028

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672 PM 312

**LAND USE RESTRICTION AGREEMENT
SALES OF SINGLE FAMILY PROPERTIES TO
PUBLIC AGENCIES AND NONPROFIT ORGANIZATIONS)**

THIS LAND USE RESTRICTION AGREEMENT (this "Agreement") is made and entered into this day of , 1991, by and between Resolution Trust Corporation, established pursuant to Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("RTC"), acting in its capacity as receiver for CAPITOL CITY FEDERAL SAVINGS ASSOCIATION, and DIVERSIFIED RESIDENTIAL, INC., a Texas non-profit corporation ("Owner").

Recitals

Owner is a public agency or a nonprofit organization which has purchased from RTC one or more eligible single family properties located on the parcels of land described on Exhibit A attached hereto and incorporated herein by reference, together with the improvements located thereon (said land and improvements are hereinafter collectively referred to as the "Property"), each of which constitutes an "eligible residential property" as defined in Section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. § 1441a(c)(9)(E)), as amended.

Pursuant to Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. § 1441a(c)), as amended, Owner must agree to comply with certain occupancy, rental and resale restrictions with respect to the Property, and the parties hereto have entered into this Agreement to evidence Owner's agreement to comply with such restrictions.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows.

ARTICLE I

Definitions

Section 1.1. General. Capitalized terms used in this Agreement shall have, unless the context clearly requires otherwise, the meanings specified in this Article I. Certain additional terms may be defined elsewhere in this Agreement.

(a) "Act" means Section 21A of the Federal Home Loan Bank Act (12 U.S.C. § 1441a), as amended, or any corresponding

600 310

provision or provisions of succeeding law as it or they may be amended from time to time.

(b) "Agency" means the State Housing Finance Agency or any agency, corporation or authority of the United States government that normally engages in activities related to the preservation of affordable housing and which is a successor to or assignee of RTC with respect to its powers and responsibilities hereunder.

(c) "Annual Income" means "income" as defined in Section 3(b)(4) of the United States Housing Act of 1937 and as determined in accordance with the regulations thereunder promulgated by the Secretary.

(d) "Agreement" means this Land Use Restriction Agreement, as it may from time to time be amended.

(e) "Lower-Income Families" means families and individuals whose Annual Incomes do not exceed the applicable income limit for lower-income families in the area in which the Property is located, as established by the Secretary under Section 3(b)(2) of the United States Housing Act of 1937.

(f) "Owner" means Diversified Residential,* as set forth at the beginning of this Agreement, or any successor in title to any portion of the Property, except households which are Lower-Income purchasers of individual Single Family Properties.

*Inc., a Texas non-profit corporation,

(g) "Qualified Single Family Tenant" means a family or individual tenant of a Single Family Property that satisfies the requirements of Section 2.1 of this Agreement with respect to such Single Family Property.

(h) "Regulations" means the regulations promulgated pursuant to the Act by RTC or any successor agency, as amended from time to time.

(i) "Related Entity" means, with respect to Owner: (i) any spouse, parent, child, grandchild, brother or sister of Owner; or (ii) any person or entity (A) that directly or indirectly controls or is controlled by or is under common control with Owner, (B) that is an officer of, partner in or trustee of, or serves in a similar capacity with respect to, Owner or of which Owner is an officer, partner or trustee, or with respect to which Owner serves in a similar capacity, or (C) that is the beneficial owner, directly or indirectly, of 10% or more of any class of equity securities of Owner or of which Owner is directly or indirectly the owner of 10% or more of any class of equity securities.

(j) "RTC" means the Resolution Trust Corporation, as set forth at the beginning of this Agreement.

(k) "Secretary" means the Secretary of Housing and Urban Development.

(l) "Single Family Property" means that portion of the Property, if any, that constitutes "eligible single family property" under Section 21A(c)(9)(F) of the Act (12 U.S.C. § 1441a(c)(9)(F)).

(m) "State" means the state(s) in which the Property is located; provided, however, that if the Property is located in more than one state, "State" shall mean the state of location of that portion of the Property which is the subject of inquiry or dispute.

(n) "State Housing Finance Agency" means the public agency, authority, corporation, or other instrumentality of the State that has the authority to provide residential mortgage loan financing throughout the State.

(o) "Term" means, with respect to each Single Family Property governed by this Agreement, the period commencing on the date hereof and continuing until the earliest to occur of the following:

(1) the date upon which there is an involuntary loss of the particular Single Family Property by Owner caused by seizure, condemnation, foreclosure, deed in lieu of foreclosure or a change in federal law which prevents RTC or the Agency from enforcing this Agreement; provided, however, that in the event of loss of the property caused by foreclosure or deed in lieu of foreclosure, and if at any time thereafter, Owner or a Related Entity of Owner acquires an ownership interest in such property, then the covenants and restrictions set forth in this Agreement shall be revived and shall remain in force until the further occurrence of an event described in this subsection;

(2) the date upon which there is a total involuntary loss of the use of the particular Single Family Property for residential housing purposes by Owner caused by fire or other casualty;

(3) the date upon which RTC or the Agency determines, in accordance with the Regulations, (i) that all or a portion of the particular Single Family Property is obsolete as to physical condition, location or other factors, making it unusable for housing purposes, and (ii) that no reasonable program of modifications is financially feasible to return the such property or a portion of such property to useful life;

(4) the date which is the later of (i) forty (40) years from the date of this Agreement or (ii) fifty (50) years from the

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date the particular Single Family Property was initially occupied; or

(5) the date on which title to a Single Family Property is conveyed to a Lower-Income Family.

(p) "Very Low-Income Families" means families and individuals whose Annual Incomes do not exceed the applicable income limit for very low-income families in the area in which the particular Single Family Property is located, as established by the Secretary under Section 3(b)(2) of the United States Housing Act of 1937.

Notwithstanding the foregoing, the termination of the Term with respect to any individual Single Family Property shall in no way affect the Term for the remainder of the Property.

Section 1.2. Generic Terms. Unless the context clearly indicates otherwise, where appropriate the singular shall include the plural and the masculine shall include the feminine or neuter, and vice versa, to the extent necessary to give the terms defined in this Article I and/or the terms otherwise used in this Agreement their proper meanings.

ARTICLE II

Rental, Occupancy and Sale of Single Family Property

Section 2.1. Rental, Occupancy and Sale of Single Family Property.

(a) During the Term, Owner will either

(i) sell each Single Family Property to a Lower-Income Family; or

(ii) maintain each Single Family Property as single family rental housing and hold such housing available for rental to Lower-Income Families on a continuous basis until it shall --

(I) sell such Single Family Property to a public agency or nonprofit organization that agrees to abide by the restrictions set forth in this Agreement; or

(II) sell such Single Family Property to a Lower-Income Family without further restrictions.

(b) The determination of whether the tenant of a Single Family Property is a Lower-Income Family or a VeryLow-Income Family shall be made prior to admission of such family or

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individual to occupancy in such Single Family Property, except that with respect to families or individuals occupying Single Family Properties on the date hereof, such determination shall not be required. Thereafter such determinations shall be made at least annually on the basis of an examination or reexamination of the current income of the family or individual. If the Annual Income of a tenant exceeds the applicable income limit for Lower-Income Families by more than 125% of the applicable income limit for Lower-Income Families, the Owner shall not be required to terminate the tenancy of such tenant, but when such Single Family Property becomes vacant, it must be once again held available for rental to Lower-Income Families.

Section 2.2 Rent Limitations for Qualified Single Family Tenants.

(a) The rent charged by Owner for a Single Family Property occupied by Very-Low Income Families shall not exceed the maximum rent permitted to be charged Very Low-Income Families for dwellings of the applicable size in the area, as established by RTC or the Agency or the Secretary and provided to the Owner, upon request, by RTC or the Agency. Such maximum rent shall be not greater than 30% of the adjusted income of a family whose income equals 50% of area median income, with adjustment for the size of family which is assumed to occupy a dwelling of particular type.

(b) The rent charged by Owner for a Single Family Property occupied by Lower-Income Families other than Very Low-Income Families shall not exceed the maximum rent permitted to be charged Lower-Income Families other than Very Low-Income Families for dwellings of the applicable size in the area, as established by RTC or the Agency or the Secretary and provided to the Owner, upon request, by RTC or the Agency. Such maximum rent shall be not greater than 30% of the adjusted income of a family whose income equals 65% of area median income, with adjustment for the size of family which is assumed to occupy a dwelling of particular type.

ARTICLE III

Administration

Section 3.1. Lease Provisions. All tenant leases entered into with Qualified Single Family Tenants during the Term shall contain provisions wherein each individual lessee (i) certifies the accuracy of the information provided in connection with the examination or reexamination of Annual Income of the household of such lessee, and (ii) agrees that the Annual Income and other eligibility requirements shall be deemed substantial and material obligations of his or her tenancy, that he or she will comply

promptly with all requests for information with respect thereto from Owner or RTC or the Agency, and that his or her failure to provide accurate information regarding such requirements (regardless of whether such inaccuracy is intentional or unintentional) or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her tenancy and constitute cause for immediate termination thereof.

Section 3.2. Examination and Reexamination of Incomes.

(a) Owner shall be responsible for determination of the Annual Income and family composition of Qualified Single Family Tenants, and for reexamination of Annual Income and family composition of such tenants at least annually, in accordance with procedures prescribed by RTC or the Agency.

(b) As a condition of admission to occupancy of a Single Family Property, Owner shall require the household head and other such household members as it designates to execute an RTC or Agency approved release and consent authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to Owner and to RTC or the Agency such information as Owner or RTC or the Agency determines to be necessary. Owner shall also require the household to submit directly documentation determined to be necessary. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a household's eligibility as a Qualified Single Family Tenant, or for verifying related information. The use or disclosure of information obtained from a household or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this Agreement.

(c) Owner shall not be deemed to be in violation of Article II of this Agreement if, in determining Annual Income and family composition of a Qualified Single Family Tenant, (i) Owner has relied in good faith upon information which is supplied to Owner by the tenant, (ii) Owner has no reason to believe such information is false, and (iii) Owner shall have complied with all requirements of RTC or the Agency with respect to verification of household income and family composition.

Section 3.3. Certification by Owner. On each annual anniversary during the Term, Owner shall submit to RTC or the Agency a certification, in a form prescribed by RTC or the Agency, as to Owner's compliance with all of the terms and provisions of this Agreement.

Section 3.4. Maintenance of Documents. All tenant lists, applications, leases, waiting lists, income examinations and reexaminations relating to the Property shall at all times be kept separate and identifiable from any other business of Owner

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which is unrelated to the Property, and shall be maintained, as required by RTC or the Agency, in a reasonable condition for proper audit and subject to examination and photocopying during business hours by representatives of RTC or the Agency.

Section 3.5. Compliance Review. RTC or the Agency periodically will monitor Owner's compliance with the requirements of this Agreement. In conducting its compliance review, RTC or the Agency will rely primarily on information obtained from Owner's records and reports, findings from on-site monitoring, and audit reports. RTC or the Agency may also consider relevant information gained from other sources, including litigation and citizen complaints.

Section 3.6. Administrative Fee. In order to compensate RTC or the Agency for the review performed pursuant to Section 3.5, Owner shall pay to RTC (in its corporate capacity and not as receiver for the savings institution identified on the first page of this Agreement) or the Agency, as applicable, an annual administrative fee in an amount prescribed from time to time by RTC or the Agency, which amount, for the first twelve month period of this Agreement, shall not exceed \$150 per Single Family Property, and for each twelve month period thereafter, shall not exceed \$150 for each such Single Family Property multiplied by the increase in the Consumer Price Index for All Urban Consumers (CPI-U) published by the Bureau of Labor Statistics of the United States Department of Labor (or any generally recognized successor to such Index) between the date hereof and the latest publication of such Index immediately preceding the applicable anniversary date of this Agreement.

Section 3.7. Releases. RTC or the Agency shall execute such document as may be required to evidence release all or any portion of the Property from the covenants and restrictions set forth in this Agreement based upon the expiration of the Term as provided in Section 1.1(o) hereof (subject, in the event of foreclosure or deed in lieu of foreclosure, to revival as set forth in Section 1.1(o)(1)), upon receipt from Owner of a certification as to the occurrence of the event giving rise to such expiration and such other evidence as RTC or the Agency may reasonably require. Upon the request of the Owner, RTC or the Agency will execute a release with respect to any Single Family Property that is no longer governed by this Agreement.

ARTICLE IV

Representations and Warranties of Owner

Section 4.1. Representations and Warranties. Owner represents and warrants to RTC that:

(a) Valid Execution. Owner has validly executed this Agreement and the same constitutes the binding obligation of the

Owner. Owner has full power, authority and capacity (i) to enter into this Agreement, (ii) to carry out Owner's obligations as described in this Agreement and (iii) to assume responsibility for compliance with all applicable federal rules and regulations, including, without limitation, the Regulations.

(b) No Conflict or Contractual Violation. To the best of Owner's knowledge, the making of this Agreement and Owner's obligations hereunder:

(i) will not violate any contractual covenants or restrictions (A) between Owner or any third party or (B) affecting the Property;

(ii) will not conflict with any of the instruments that create or establish Owner's authority;

(iii) will not conflict with any applicable public or private restrictions;

(iv) do not require any consent or approval of any public or private authority which has not already been obtained; and

(v) are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against (A) Owner, without regard to capacity, (B) any person with whom Owner may be jointly or severally liable, or (C) the Property or any part thereof.

(c) No Litigation. No litigation or proceedings are pending or, to the best of Owner's knowledge, threatened against Owner which if adversely determined could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation of this Agreement.

(d) No Bankruptcy. There is not pending or to best knowledge threatened against Owner any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any assignment for the benefit of creditors, or any petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for Owner under any present or future federal, state or other statute, law, regulation relating to bankruptcy, insolvency or relief for debtors.

Section 4.2. Indemnification. Owner agrees to indemnify and hold harmless RTC or the Agency from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys'

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1. es) incurred by RTC or the Agency as a result of any inaccuracy in any of the representations and warranties contained in Section 4.1.

ARTICLE V

Enforcement and Remedies

Section 5.1. Remedies of RTC or the Agency. (a) If Owner defaults in the performance of obligations under this Agreement or breaches any covenant, agreement or restriction set forth herein, and if such default remains uncured for a period of sixty (60) days after notice thereof shall have been given by RTC or the Agency (or for an extended period approved in writing by RTC or the Agency if such default stated in such notice can be corrected, but not within such 60-day period, unless Owner does not commence such correction or commences such correction within such 60-day period but thereafter does not diligently pursue the same to completion within such extended period), RTC or the Agency shall be entitled to apply to any court having jurisdiction of the subject matter for specific performance of this Agreement, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, or for such other relief as may be appropriate, it being acknowledged that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of Owner's default. RTC or the Agency shall be entitled to reasonable attorneys' fee in any such judicial action in which RTC or the Agency shall prevail.

(b) Each right, power and remedy of RTC or the Agency provided for in this Agreement now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by RTC or the Agency of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by RTC or the Agency of any or all such other rights, powers or remedies.

Section 5.2. Remedies of Other Parties. The occupancy requirements set forth in Sections 2.1 and 2.2 of this Agreement also shall inure to, and may be judicially enforced against Owner by, affected Lower-Income Families and Very Low-Income Families. As used herein, the term "affected Lower-Income Families and Very Low-Income Families" shall include families or individuals who are renting a Single Family Property or who are eligible to rent

a Single Family Property. Any of the persons or entities described above shall be entitled to judicially enforce Sections 2.1 or 2.2 of this Agreement in the same manner that RTC or the Agency may seek judicial enforcement in accordance with Section 5.1, and any such party that prevails in any such judicial action shall be entitled to reasonable attorneys' fees.

Section 5.3. Avoidance of Sale. Any purported sale of a Single Family Property which is not carried out fully in compliance with the requirements of Section 2.1 hereof shall be void and without effect, and RTC or the Agency shall be empowered to seek a judicial declaration to such effect. Upon a determination by RTC or the Agency that any such purported sale is void, if the prior Owner of such Single Family Property shall fail to occupy or operate such property, RTC or the Agency may rent or dispose of such Single Family Property for the benefit of the Owner thereof, in accordance with the terms of this Agreement.

Section 5.4. Reliance Upon Information. In carrying out its obligations hereunder, Owner shall be entitled to rely upon information provided by RTC or the Agency with respect to (i) income limits applicable to Lower-Income Families and Very Low-Income Families, (ii) the method for calculating the incomes of such families and (iii) the maximum rents which may be charged to such families pursuant to Section 2.2 hereof.

ARTICLE VI

Miscellaneous

Section 6.1. Amendments. This Agreement may not be amended or modified except by written instrument signed by each party hereto.

Section 6.2. Notices. All notices required or permitted to be given under this Agreement must be in writing and will be deemed to have been duly given if delivered personally or mailed, postage prepaid, by registered or certified United States mail, return receipt requested, addressed to the parties at the following addresses:

If to RTC: Resolution Trust Corporation.
10100 Reunion Place
San Antonio, TX 78216

If to the Owner: Diversified Residential, Inc.
856 Bonita
Hitchcock, TX 77561

[If to the Agency:]

Either party may change its address for notice purposes by giving notice to the other party in accordance with this Section 6.2.

Section 6.3. Entire Agreement. This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof.

Section 6.4. Governing Law. This Agreement, as it may affect the rights, remedies and obligations of RTC or the Agency, shall be governed by and construed in accordance with federal law. Insofar as federal law does not apply, the provisions of this Agreement shall be governed by and construed in accordance with the laws of the State.

Section 6.5. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

Section 6.6. Binding Effect; Covenants Running with the Land. During the Term, this Agreement and the covenants, reservations and restrictions contained herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's heirs, assigns and successors in title to the Property, or if the Property shall not include title to land, but shall include a leasehold interest in land, this Agreement and the covenants, reservations and restrictions contained herein shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns and successors to such interests; provided, however, that upon expiration of the Term in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Property are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Property. Owner, at its cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or refiled in such places, and shall pay or

cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law, in the opinion of qualified counsel, in order to establish, preserve and protect the ability of RTC or the Agency to enforce this Agreement. Any conveyance of all or any portion of the Property in contravention of the terms of this Agreement shall be null and void and of no force or effect.

Section 6.7. Counterparts. This Agreement and any amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

Section 6.8. Section Titles. Section titles and the table of contents are for descriptive purposes only and shall not control or limit the meaning of this Agreement as set forth in the text.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures and seals as of the date first above written.

RESOLUTION TRUST CORPORATION in
its capacity as Receiver of CAPITOL CITY
for FEDERAL SAVINGS ASSOCIATION

By: ALFRED L. BOND
Title: Supervisory Financial Institution Specialist
Resolution Trust Corporation

OWNER: DIVERSIFIED RESIDENTIAL, INC., a Texas
non-profit corporation

By: John C. Neal
Title: PRESIDENT

Print Name: JOHN C NEAL

[AGENCY:

By: John C. Neal
Title: PRESIDENT

20710595.WP5

ACKNOWLEDGEMENTS

STATE OF TEXAS }

COUNTY OF }

This instrument was acknowledged before me on this day
of December, 1991, by , acting in
his/her capacity as of, and on behalf of,
RESOLUTION TRUST CORPORATION in its capacity as Receiver for
CAPITOL CITY FEDERAL SAVINGS ASSOCIATION.

Notary Public, State of Texas

STATE OF TEXAS }

COUNTY OF HARRIS }

This instrument was acknowledged before me on this 13th day of
December, 1991, by John C. Neal, acting in his/her capacity as
President of DIVERSIFIED RESIDENTIAL, INC., a Texas non-profit
corporation, on behalf of said corporation.



Carla Walker
Carla Walker, Notary Public,
State of Texas
My Commission Expires 4/1/92

{ Agency Acknowledgement }

STATE OF TEXAS }

COUNTY OF HARRIS }

This instrument was acknowledged before me on the 13th day of
December, 1991, by John C. Neal, President of (Agency)
a Texas non profit corporation, on
behalf of said corporation.



Carla Walker
Carla Walker, Notary Public,
State of Texas
My Commission expires 4/1/92

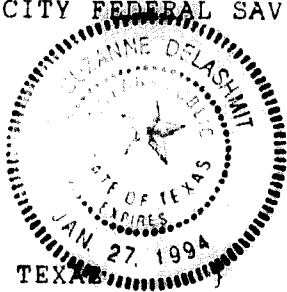
ACKNOWLEDGEMENTS

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STATE OF TEXAS)

COUNTY OF *Bexar*)

This instrument was acknowledged before me on this *2nd* day of ~~December~~, 1991, by *Alfred J. Bond*, acting in his/her capacity as *P.O.A.* of, and on behalf of, RESOLUTION TRUST CORPORATION in its capacity as Receiver for CAPITOL CITY FEDERAL SAVINGS ASSOCIATION.



Suzanne Delashmit
Notary Public, State of Texas

STATE OF TEXAS)

COUNTY OF HARRIS)

This instrument was acknowledged before me on this 13th day of December, 1991, by John C. Neal, acting in his/her capacity as President of DIVERSIFIED RESIDENTIAL, INC., a Texas non-profit corporation, on behalf of said corporation.

John C. Neal
Notary Public, State of Texas

[Agency Acknowledgement]

STATE OF TEXAS)

COUNTY OF)

This instrument was acknowledged before me on the _____ day of _____, 1991, by _____ of _____, on behalf of said _____ a _____

Notary Public, State of Texas

EXHIBIT A

1. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 102, Building M, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

2. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 103, Building M, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

3. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 109, Building P, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

4. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 115, Building P, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

5. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 119, Building Q, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

6. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 120, Building Q, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

7. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 122, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

8. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 123, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

9. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 128, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

10. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 130, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

11. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 131, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

12. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 132, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

13. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 133, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

14. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 134, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

15. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 137, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

16. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 139, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

17. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 140, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

18. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 143, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

19. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 144, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

20. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 145, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

RECORDED IN Real Property
 FILE DATE: Jan 14 1992
 FILE TIME: 4:11 O'CLOCK PM
 VOL 622 PAGE 309
 RECORDING DATE

The provisions herein which restricts the sale, rental or use of the described real property because of color of race is invalid and unenforceable under Federal Law (42 U.S.C. 1982).

I hereby certify that this instrument was filed in this Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Public Records of Kerr County, Texas on

JAN 14 1992



PATRICIA DYE
 COUNTY CLERK, KERR COUNTY
 BY Julian Russ
 Deputy



Patricia Dye
 COUNTY CLERK, KERR COUNTY, TEXAS