

LOS ENCINOS RESTRICTIONS

Volume 309, Page 166, Deed Records of Kerr County, Texas; Volume 408, Page 591 and Volume 979, Page 574, Real Property Records of Kerr County, Texas, 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.

OTHER EXCEPTIONS

- Right Of Way and Easement dated October 15, 1971 to Kerrville Telephone Company, recorded in Volume 6, Page 624, Easement Records of Kerr County, Texas.
- Right Of Way and Easement dated October 20, 1971 to Kerrville Telephone Company, recorded in Volume 6, Page 636, Easement Records of Kerr County, Texas.
- Right Of Way and Easement dated November 22, 1978 to Kerrville Telephone Company, recorded in Volume 10, Page 253, Easement Records of Kerr County, Texas.
- Easement dated April 3, 1979 to Kerrville Telephone Company, recorded in Volume 10, Page 805, Easement Records of Kerr County, Texas.
- An undivided non-participating royalty interest, reserved by Grantor as described in instrument from Aime Frank Real, to Gary A. Thorne, dated December 19, 1984, recorded in Volume 308, Page 472, 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.
- Easements and Building Set Back Lines as per the Restrictions recorded in Volume 309, Page 166, Deed Records of Kerr County, Texas, and as modified per the Agreement recorded in Volume 408, Page 591, Real Property Records of Kerr County, Texas, and Volume 979, Page 574, Real Property Records of Kerr County, Texas.
- Easements as per the Plat recorded in Volume 5, Page 99, Plat Records of Kerr County, Texas.
- Dedication of Roadway dated December 21, 1984, recorded in Volume 353, Page 271, Real Property Records of Kerr County, Texas. (AS PER LOTS 1 AND 11 ONLY)
- Annual assessments and/or current maintenance charges as set forth in instrument dated October 19, 1998, recorded in Volume 979, Page 574, Real Property Records of Kerr County, Texas.
- Mineral reservation by Grantor, as described in instrument from Hill Country Los Encinos I, Ltd., a Texas limited partnership to {PR,"insert Grantee's name in appropriate deed",ST1,1}, dated {PR,"insert appropriate date of deed",DT2,2}, recorded in Volume {PR,"insert volume number of appropriate deed",IN1,3}, Page {PR,"insert page number of appropriate deed",IN1,4}, Real Property 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 aforesaid instrument.
- Any visible and/or apparent roadways or easements over or across the subject property.
- Rights of Parties in Possession. (AS PER OWNER POLICY ONLY)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

00208

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") made this 21st day of December, 1984, by the undersigned ("Declarant");

W I T N E S S E T H:

Declarant is the owner of the real property referred to in Article II of this Declaration, and desires to create on said property a residential community and to provide for the preservation of the values and amenities in said community by subjecting the real property referred to in Article II to the covenants, conditions, restrictions and easements, hereinafter set forth.

NOW, THEREFORE, Declarant declares that the real property referred to in Article II, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements (sometimes referred to as "Covenants, Conditions and Restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Properties" shall mean and refer to all of the property subject to this Declaration pursuant to the provisions of Article II hereof.

(b) "Common Properties" shall mean and refer to those areas of land designated as roads and Common Properties or Areas on the plat of the Properties, together with any and all improvements that are now or may hereafter be constructed thereon.

(c) "Lot" shall mean and refer to each of the lots, tracts or plots of land lying within the Existing Property, as designated on the recorded plat thereof, each of which shall contain not less than seventeen (17) acres; there being no more than two (2) Lots along the County road.

(d) "Owner" shall mean and refer to every person or entity who is a record owner of a fee or undivided fee interest in any Lot, including contract sellers, or who becomes a record owner of a fee or undivided fee interest by the acquisition of such title to any such Lot from such a record owner. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or any persons or entities who lease any Lot.

(e) "Declarant" shall mean and refer to the undersigned and the undersigned's successors and assigns, if (i) such successors and assigns should acquire more than one undeveloped Lot from the undersigned for the purpose of development, and (ii) any such assignee shall receive by assignment from said Declarant all or a portion of its rights hereunder as such Declarant, by an instrument expressly assigning such rights as Declarant to such assignee.

(f) "Existing Property" shall mean and refer to the real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration pursuant to Article II.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration (hereinafter defined as the "Existing Property") is located in Kerr County, State of Texas, and is more particularly described in EXHIBIT "A," attached hereto and made a part hereof for all purposes, which is the subject of a plat showing the Lots therein with one entrance thereto to be located in the approximate middle of the Existing Property.

Declarant may, without the consent of any Owner, at any time and from time to time, add to the Existing Property, and to the concept of this Declaration any property which it now or hereafter owns within Kerr County, Texas, by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions, and such Supplemental Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as Declarant may determine to be necessary.

ARTICLE III
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Owner's Easements of Enjoyment. Subject to the provisions of Section 3 of this Article, every Owner and every tenant of every Owner who resides on a Lot, and each individual who resides with either of them or who is a guest of either of them, respectively, on such Lot shall have a right and easement of use and enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot; PROVIDED, HOWEVER, such easement shall not give such person the right to make alterations, additions or improvements to the Common Properties.

Section 2. Title to the Common Properties. The Declarant shall dedicate and convey the fee simple title to the Common Properties to or for the benefit of the Owners or the public.

Section 3. Extent of Owners' Easements. Declarant may as Declarant may determine, dedicate or transfer all or any part of the Common Properties and any easement and rights herein created to any public agency, authority or utility for such purposes and upon such conditions as Declarant may determine.

ARTICLE IV
USE OF LOTS AND COMMON PROPERTIES - PROTECTIVE COVENANTS

The Properties (and each Lot situated therein) and the Common Properties shall be occupied and used as follows:

Section 1. Residential Purposes Only. Each Lot shall be used exclusively for single family residential purposes, and carports and parking spaces shall be used exclusively for the parking of passenger automobiles, other than automobiles designed and used for competitive racing. All planes, trailers, boats, campers, abandoned cars or trucks shall be parked or housed in garages, or by such other means or in such other location in order to conceal the same from view from the street. There shall not be constructed or maintained on any Lot more than one (1) single family residence with a covered parking facility. The term "residential purposes", as used herein, excludes hospitals,

clinics, apartment houses, boarding houses, hotels and commercial and professional uses, whether from homes, residences or otherwise, and all such uses of the Lots are expressly prohibited. None of the Lots may be re-subdivided in any fashion, except that any person owning two or more adjoining Lots may consolidate such Lots into one building site, with the privilege of constructing improvements in conformity with the provisions hereof and the building setback provisions shall be applied to such resultant building site as if it were one original, platted Lot. Modular or ready-built homes or buildings are prohibited.

Section 2. Obstructions, Etc. There shall be no obstruction of the Common Properties, nor shall anything be kept or stored in the Common Properties, nor shall anything be altered or constructed or planted in or removed from the Common Properties without the written consent of the Committee; as hereinafter defined.

Section 3. Signs. No sign of any kind shall be displayed to the public view on or from any part of the Properties, without the prior consent of the Committee, except signs temporarily used by Declarant in the development, sale or leasing of Lots, and "for sale" signs (of a size and composition approved by the Committee) temporarily used in the sale of Lots.

Section 4. Nuisances. Nothing shall (i) be done in any part of the Properties, nor shall (ii) any noxious or offensive activity be carried on, nor shall (iii) any outside lighting or loudspeakers or other sound-producing devices be used, which may be or become an unreasonable annoyance or nuisance to the other Owners. No motorcycle, motorized bicycle, go-cart, dirt bike or all-terrain vehicle shall be operated on any road within the Properties as shown on the plat of same or on any Lot unless such motorcycle, motorized vehicle, go-cart, dirt bike or all-terrain vehicle is properly muffled. The determination of what constitutes "properly muffled" shall be solely within the discretion of the Committee. The primary purposes of this restriction is to prohibit noise pollution that is contrary to the common scheme of development of the Properties and that creates a nuisance to the Owners of the Properties.

Section 5. Attachments. No permanent attachments of any kind or character whatsoever (including, but not limited to, television and radio antennas and satellite equipment) shall be made to the roof or walls of any home nor installed or maintained on any Lot, unless the same shall have first been submitted to and approved by the Committee hereinafter provided.

Section 6. Damage to the Common Properties. Each Owner shall be liable for any damage to the Common Properties caused by the negligence or willful misconduct of the Owner or his family, guests or invitees.

Section 7. Rules. All Owners and occupants shall abide by any rules and regulations adopted by the Committee. The Committee shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Committee for all damages and costs, including attorneys' fees.

Section 8. Animals. No swine, animals, livestock or poultry shall be raised, bred or kept on any portion of the Properties; except that dogs, cats or other household pets and horses (not to exceed one horse for each five acres owned) may be kept, and cattle, sheep, goats and other livestock (or their progeny) raised solely for and in conjunction with a 4H, FFA or

similar program, approved by the Committee, may be kept, so long as proper pens approved by the Committee are installed; but none of the foregoing may be for any commercial purposes, and shall not create a nuisance.

Section 9. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, junkyard, trash or garbage. Trash, garbage, debris, refuse and waste of any nature shall not be kept on any part of the Properties except in sanitary conditions. No outside toilets will be permitted, and no installation of any kind for disposal of sewage shall be allowed which would result in raw, treated or untreated sewage or septic tank drainage on or into the surface, alleys, ditches or water bodies. No septic tank or sewage disposal system may be installed without prior approval of the Committee and the proper governmental authorities. All state, county and municipal (if any) health and sanitation statutes, rules, ordinances and regulations must be complied with at all times. No building materials of any kind or character shall be placed or stored upon a Lot until the Owner is ready to commence improvements, and then such material shall be placed within the property lines of the Lot. No noxious or undesirable thing or use whatsoever shall be permitted on any Lot.

Section 10. Boats and Campers. Neither a motorboat, houseboat or other similar water-borne vehicle nor any trailer, camper or recreational vehicle may be maintained, stored or kept on any parcel of property covered by these covenants except in an enclosed garage thereon, or by such other means or in such other location as conceals the same from view from the street.

Section 11. Drainage and Maintenance. Each Owner shall not alter or change the drainage or seepage on, over and across, nor the grade of, his Lot by channeling, filling, grading, excavating or any other means or acts and shall not do, permit or cause to be done any act that results or might reasonably be expected to result in any adverse change or affect on such drainage or seepage.

Section 12. Side Line and Front Line Set Back Restrictions. No building shall be located on any Lot nearer than 100 feet to the rear line or the front line or a Lot or nearer than 100 feet to the side line of a Lot; except that the side line for Lots 1 and 2 for the boundary along the county road shall be two hundred (200) feet. No projection of any building shall be permitted to extend into or encroach upon the space between said building or set-back line and the Lot line. The Committee as hereinafter defined may grant variances or said set back restrictions except as to the side line for the boundary of Lot 1 and Lot 2 along the county road.

Section 13. Fences and Walls. No fence, wall or similar structure shall be placed or permitted to remain on any Lot unless the committee approves the same, and any fence along the county road shall be uniform for the length of the Properties along the county road and shall be of a grade or quality equal to or greater than a net wire fence.

Section 14. No Prefabricated Construction. All residences and other structures constructed or erected upon any Lot shall be new construction, and in no event shall any prefabricated, mobile home, modular home, or existing residences or garages be moved onto any Lot or permitted or maintained on any Lot.

Section 15. Communication Equipment. No communication receiving or transmitting device or equipment shall be used on any Lot which interferes with the television reception on any other Lot without the prior written consent of the Committee, which consent may be withheld or, once given, revoked for any reason.

Section 16. Hunting. Hunting is prohibited on or within the Properties.

Section 17. Maximum Building Coverage. The total habitable floor area of the residence on each Lot shall have a minimum of 1,500 square feet, exclusive of porches and garages:

Section 18. Temporary Structures. No temporary structure of any kind shall be erected or placed on any Lot and in no instance shall more than one dwelling or residence be erected or placed on any one Lot as the same is shown on the Plat of the Properties. Any garage and/or servants quarters erected more than one hundred twenty (120) days prior to the completion of the main dwelling or residence shall be considered temporary structures. In no event shall any residential dwelling upon any Lot be occupied until it has been fully completed in accordance with the plans approved by the Committee. No trailer, basement, tent, shack or garage erected or placed on any Lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Notwithstanding the foregoing, construction and sales offices may be constructed and maintained by Declarant or with Declarant's approval until December 31, 1994.

Section 19. Repair. Each Owner shall, at his sole cost and expense, maintain and repair his Lot and the dwelling and other improvements situated thereon, keeping the same in good condition and repair. In the event that any Owner shall fail to maintain and repair his Lot and such dwelling and improvements as required hereunder, the Committee, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative remedies, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the improvements situated thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to Declarant the cost thereof immediately upon demand.

Section 20. Oil and Gas. No oil exploration, drilling, development or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels or mineral excavations or shafts shall be permitted upon or under any Lot; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 21. Construction of Buildings and Other Structures. All buildings and structures on each Lot shall be of new construction and architecturally in harmony with the primary residential buildings. Not more than one residence shall be constructed on any one Lot and any structure on any Lot shall have not less than fifty percent (50%) masonry construction, unless otherwise approved by the Committee.

ARTICLE V ARCHITECTURAL CONTROL

Anything contained in this Declaration to the contrary notwithstanding, no erection of buildings or exterior additions or alterations to any building situated upon the Properties nor erection of or changes or additions in fences, hedges, walls and other structures, nor construction of any improvements nor any changes in the exterior color of any building, structure, fence, wall or other improvement, shall be commenced, erected or maintained until (1) a preliminary sketch showing the basic plan

and general specifications of same shall have been submitted to and approved by an Architectural Control Committee consisting of two or more members, but not more than five (hereinafter called the "Committee") appointed by Declarant for such period as Declarant shall determine, and (2) the final plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design, appearance and location in relation to surrounding structures and topography by the Committee. A copy of the approved plans and drawings shall be furnished by the Owner to the Committee and retained by the Committee. If approval is granted, construction shall be commenced within six (6) months thereafter, and if not, such approval shall be automatically withdrawn. The building of any approved structure must be completed within six (6) months of commencement of construction. In the event the Committee fails to approve or disapprove such design, location or variance request within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with. The Committee may approve variances and deviations in the Covenants, Conditions and Restrictions herein set forth, as it shall determine. The members of the Committee shall not be entitled to compensation for, or liable for damages, claims or causes of action arising out of, services performed pursuant to this Article. The members of the Committee shall be appointed by Declarant until all Lots are sold by Declarant and thereafter the Owners of a majority of the Lots shall appoint the Committee.

ARTICLE VI EASEMENTS

Section 1. Utility Easements. Easements for installation, maintenance, repair and removal of utilities (including, but not limited to, sewer, water, telephone, power, gas and street lighting) and drainage facilities and floodway easements over, under and across the Properties are reserved by the Committee for itself, its successors and assigns. The Committee shall have the right to grant easements for such purposes over, under and across the Properties. Full rights of ingress and egress shall be had by the Committee and its successors and assigns at all times over the Properties for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement or with the use, maintenance, operation or installation of such utility. Notwithstanding the foregoing, however, Declarant covenants that at any such time as the utilities referred to in this Section shall have been installed or otherwise located on the Properties, Declarant will by written instrument recorded in the Deed Records of Kerr County, Texas, define the exact location of each such easement and will release the remainder of the Properties from the provisions of this Section. Any such instrument when executed and filed of record by Declarant shall be effective to limit the location of the easement provided for therein in accordance with its terms and conditions, notwithstanding that the utility company affected may not have executed such instrument.

Section 2. Ingress and Egress by the Committee. Full rights of ingress and egress shall be had by the Committee at all times over and upon each Lot for the maintenance and repair of each Lot in accordance with the provisions hereof, and for the carrying out by the Committee of its functions, duties and obligations hereunder; provided, that any such entry by the

Committee upon any Lot shall be made with as minimum inconvenience to the Owner as practical.

Section 3. Ingress and Egress by Police, Etc. The sheriff's department, police, fire department, emergency units, ambulance company, utility companies and any governmental agency or department having jurisdiction, shall have the right of ingress and egress at all times over and upon the Common Properties, including without limitation streets for the performance of their respective duties and responsibilities with respect to the Properties and in order to service the Properties.

Section 4. Surface Drainage Easements. Surface drainage easements as shown in the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the Committee or the proper public authority having jurisdiction over storm drainage shall have the right to repair and maintain such easements, or to require such repair and maintenance, as shall be reasonably necessary to keep the conductors unobstructed.

ARTICLE VII GENERAL PROVISIONS

Section 1. Duration. The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by Declarant, the Owner of any land subject to this Declaration and the owner of any tract or property contiguous to or adjacent to the Properties, their respective legal representatives, heirs, successors and assigns for a term of thirty-five (35) years from the date that this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by two-thirds (2/3rds) of the Owners has been recorded in Kerr County, Texas, agreeing to abolish said Covenants, Conditions and Restrictions in whole or in part; provided, however, that no such agreements to abolish shall be effective unless made and recorded ninety (90) days in advance of the effective date of such change.

Section 2. Amendments. Except as provided in this Declaration, the Covenants, Conditions and Restrictions of this Declaration may be amended or changed in whole or in part, upon the affirmative approval of two-thirds (2/3rds) of the Owners and all of the owners of the property adjacent to the Properties, and in each case such amendment shall be evidenced by a document in writing signed by the owners approving the same, certifying to the approval required by the provisions of this Section and signed by the owners of said adjacent properties. All amendments, if any, shall be recorded in the office of the County Clerk of Kerr County, Texas.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages or to enforce any obligation created by these covenants, and failure by Declarant, the Committee, any Owner or any other party named herein to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in nowise affect any other provision which shall remain in full force and effect.

Section 5. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 6. Notices. Any notices required to be given to any Owner or otherwise under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States Mails, postage prepaid, addressed to the last known address or the person to whom it is addressed.

Section 7. Resubdivision. No Lot may be resubdivided or replatted into a Lot containing less than seventeen (17) acres.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed in his name and on his behalf on this 20th day of December, 1984

DECLARANT:

Gary A. Thorne
GARY A. THORNE

THE STATE OF TEXAS S

THE COUNTY OF KERR S

This instrument was acknowledged before me on the 4th day of December, 1984, by GARY A. THORNE.



Sharon Cartwright
Notary Public, State of Texas
(Notary's Printed Name)
My Commission Expires: 1/7/85

Being all that certain tract or parcel of land lying and being situated in the County of Kerr, State of Texas, comprising a total of 227.54 acres of land, being approximately 219.24 acres out of Kendall County League No. 1, Abstract No. 216, and 8.30 acres, more or less, out of Kendall County School League No. 2, Abstract No. 217, and the entire subject tract being further described by metes and bounds as follows, to-wit:

BEGINNING at a $\frac{1}{4}$ inch iron stake set in fence for the South corner of subject tract, and from said iron stake the North corner of the L. A. Real "Home Pasture" bears, S $09^{\circ} 29'$ E, 286.60 feet and the N. W. corner of aforesaid Kendall County School League No. 2 and S. W. corner of Kendall County School League No. 1, bears WEST, 5787.7 feet and NORTH, 541.9 feet;

THENCE with fence from $\frac{1}{4}$ " iron stake to $\frac{1}{4}$ " iron stake by fence angle posts, as follows:

N $09^{\circ} 29'$ W, 282.14 feet;
 N $23^{\circ} 16'$ W, 972.98 feet;
 N $57^{\circ} 56'$ E, 1015.09 feet;
 N $10^{\circ} 30'$ E, 479.32 feet; and
 N $02^{\circ} 08'$ W, 1047.36 feet;

THENCE with fence N $44^{\circ} 30'$ E, 1970.85 feet to a $\frac{1}{4}$ " iron stake in concrete support of cattle guard, said cattle guard being at the entrance of the Hugo Real Ranch;

THENCE with the approximate center line of existing paved road from $\frac{1}{4}$ " iron stake to $\frac{1}{4}$ " iron stake, as follows:

S $83^{\circ} 03'$ E, 220.83 feet;
 S $67^{\circ} 26'$ E, 191.56 feet;
 S $60^{\circ} 38'$ E, 360.83 feet;
 S $56^{\circ} 35'$ E, 358.33 feet;
 S $44^{\circ} 06'$ E, 165.87 feet;
 S $33^{\circ} 34'$ E, 331.50 feet;
 S $37^{\circ} 31'$ E, 717.90 feet;
 S $40^{\circ} 01'$ E, 464.93 feet;
 S $51^{\circ} 41'$ E, 119.21 feet;
 S $65^{\circ} 58'$ E, 131.37 feet; and
 S $89^{\circ} 01'$ E, 214.88 feet;

THENCE S $55^{\circ} 11'$ W, at 16.42 feet pass $\frac{1}{4}$ " iron stake set by field corner post a distance in all of 393.18 feet to a $\frac{1}{4}$ " iron stake set by another field corner post;

THENCE S $58^{\circ} 13'$ W, 4716.18 feet to the place of **BEGINNING**, containing 227.54 acres of land.

00208

Declaration of Guaranty,
Conditions & Restrictions

Ray A. Moore
to

The Public

FILED FOR RECORD

at 10:13 AM JAN 9 1985

JAN 9 1985

PATRICIA DYE

Deputy Clerk, Jury Clerk, Texas

County of Dallas, Texas

FILED BY + RETURN TO:
MOLLOCO, JACKSON & ADAMS
829 JEFFERSON ST.
KE RMUUE TX 75028

This agreement is being entered into by AIME FRANK REAL ("Real"), GARY A. THORNE ("Thorne") and the MELVIN BURETT McREYNOLDS FAMILY TRUST ("McREYNOLDS") on this the 21st day of December, 1986.

W I T N E S S E T H :

Thorne has heretofore executed and delivered that certain Declaration of Covenants, Conditions and Restrictions ("Declaration") dated December 21, 1984, which Declaration is recorded in Volume 309, Page 166, Deed Records, Kerr County, Texas. As Declarant in said Declaration, Thorne has retained the power to change said Declaration as Thorne may determine necessary. Further, Thorne is the owner in fee simple of all tracts of land covered by said Declaration.

Thorne has agreed to sell and convey to McReynolds Lots 1 and 11 (the "Property") of Los Encinos, a subdivision in Kerr County, Texas according to the plat thereof recorded in Volume 5, Page 99, Plat Records, Kerr County, Texas (the "Development"). The Declaration is applicable to the Development and is the only document concerning covenants, conditions and restrictions which has been filed as to the Development.

In consideration of the sale and conveyance of the Property to McReynolds, as aforesaid, the parties hereto have agreed to amend, modify, supplement and vary the covenants and restrictions set forth in the Declaration as the same may pertain to the Property.

NOW, THEREFORE, for and in consideration of the premises and the sale and conveyance of the Property, together with TEN AND NO/100THS DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged and confessed, the parties hereto do hereby agree as follows:

1. Notwithstanding the provisions of Section 3, Article IV, no signs shall be permitted on the Property or the easements or common areas which are part of the Property, unless agreed to by owner.

2. The provisions of Section 7, Article IV shall not apply to the Property, other than the right to enforce the Declaration as amended hereby, until such time as the use of the Property shall become residential.

3. Notwithstanding the provisions of Section 8, Article IV of the Declaration, the Property may be used to raise and keep such cattle, sheep and horses as the owner of the Property may from time to time determine and as shall be in such quantities and in such manner as is consistent with and in compliance with good agricultural practices and standards.

4. Notwithstanding the provisions of Section 12, Article IV, the setback lines on the Property from the County Road easement shall be ONE HUNDRED (100') FEET.

5. Notwithstanding the provisions of Section 13, Article IV of the Declaration, the owner of the Property may construct and install on the Property standard net wire fences of four feet (4') or greater height, or better quality fencing and same may be constructed on the property lines, save any road easement or common area.

6. So long as the Property is not used for any residential purposes and no improvements (other than improvements associated

with the agricultural use of the Property), are constructed thereon, the owner of the property shall not be obligated to share in any cost or expense of repairing or maintaining any drainage facilities on or within the Development nor any cost or expense of maintaining the road within the Development.

7. Notwithstanding any provision of Section 1, Article VI of the Declaration, the easement specified in the Declaration, in Section 1, Article VI, shall be limited to twenty feet (20') along and within each boundry line of the Property.

8. The parties acknowledge and agree that the Declaration may be amended throughout its term as provided in Section 2, Article VII, notwithstanding any provision of said Article VII to the contrary. The terms and provisions of this Agreement shall not modify or effect any provision of the Declaration with respect to any other property. The terms and provisions of the Declaration with respect to any other property only, within or covered by the Declaration and the Plat of the Development may be modified and amended without the joinder of the owner of the Property as to all other property in the Development, and no provision hereof or of the Declaration as it pertains to the Property may be amended without the joinder and consent of the owner of the Property, except that in the event the size of the lots within the Development is reduced as to other properties in the Development covered by the Declaration, such size modification may at the option of the owner of the Property, be extended to the Property so that the owner of the Property may divide the Property into such smaller portions as may be permitted by such modification of the Declaration with respect to such other property in the Development.

9. In the event the setback lines concerning the other property covered by the Declaration are modified, owner shall have the right to make the same modifications to the Property

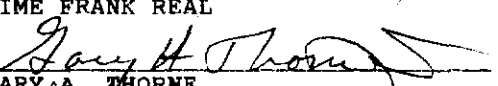
10. The use of the term "owner" herein refers to McREYNOLDS and his heirs, grantees, successors and assigns.

11. This agreement is for the benefit of, and shall be binding upon, the heirs, grantees, successors and assigns of the parties hereto.

12. In the event any portion of this agreement shall become invalid or unenforceable, same shall not effect the other provisions hereof.

IN WITNESS WHEREOF, the undersigned parties hereto have executed this instrument on this the 31st day of December, 1986.


AIME FRANK REAL


GARY A. THORNE


MELVIN BURETT McREYNOLDS, TRUSTEE

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE,
RENTAL OR USE OF THE DESCRIBED REAL PROPERTY
BECAUSE OF COLOR OR RACE IS INVALID AND
UNENFORCEABLE UNDER FEDERAL LAW.

This instrument was acknowledged before me on the 21st day of December, 1986, by AIME FRANK REAL.

[Signature]
Notary Public, State of Texas
My Commission Expires: 1/1/89
[Signature]
Notary Print or Type Name

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on the 21st day of December, 1986, by GARY A. THORNE.

[Signature]
Notary Public, State of Texas
My Commission Expires: 1/1/89
[Signature]
Notary Print or Type Name

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on the 31st day of December, 1986, by MELVIN B. McREYNOLDS.

[Signature]
Notary Public, State of Texas
My Commission Expires: 9/30/89
GA. E. KERSEY
Notary Print or Type Name

FILED FOR RECORD

at 4:25 o'clock P M

DEC 31 1986

PATRICIA DYE

Clerk County Court, Kern County, Texas

By Patricia Dye

2311705

Filed by and RETURN to

KERN COUNTY ABSTRACT CO., INC.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR LOS ENCINOS RANCH OWNERS ASSOCIATION**

THIS DECLARATION, made this 19 day of Oct, 1998, by Los Encinos, LTD. ("Declarant");

WITNESSETH:

A. Declarant is the owner of the property described in Exhibit "A", attached hereto and made a part hereof for all purposes, and referred to in Section 1 of this Declaration ("Property"), and desires to create thereon a ranch development for residential and agricultural purposes.

B. Declarant further desires to provide for the preservation of the values and amenities of said ranch and property and for the maintenance thereof; and, for such purposes, Declarant desires to subject the Property together with such additions as may hereafter be made thereto (as provided in Section 1), to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the said property and each owner thereof.

C. Declarant will cause the Los Encinos Ranch Owners Association to be incorporated as a non-profit corporation under the laws of the State of Texas, to which corporation will be delegated and assigned the powers of maintaining and administering the properties and facilities, administering and enforcing the covenants, conditions and restrictions, and collection and disbursing the assessments and charges as hereinafter provided. Declarant has the right to make modifications herein, from time to time, as may be deemed necessary for the benefit of the owners.

D. Declarant is the successor to Gary A. Thorne, Declarant, under that certain Declaration dated December 21, 1984, and recorded in Volume , Page , Real Property Records, Kerr County, Texas. Declarant (as the owner of the property made subject thereto and the adjoining land and being more than 2/3rds of the owners entitled to amend said prior 1984 Declaration) hereby amends said prior 1984 Declaration in its entirety by this Declaration.

NOW, THEREFORE, Declarant declares that the real property referred to in Section 1, and such additions thereto as may hereafter be made pursuant to Section 1 hereof, are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens (sometimes referred to as "covenants, conditions and restrictions") hereinafter set forth:

1. **Definitions:** The following words when used in the Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- a. "Association" shall mean and refer to the Los Encinos Ranch Owners Association, Inc. The Association shall be formed for the purpose of preserving and maintaining the uniform standards and quality of land and wildlife as well as the natural beauty and aesthetic value of the property described herein which shall hereafter be designated by Declarant.
- b. "Board" shall mean and refer to the Board of Directors of the Association.
- c. "Properties" shall mean and refer to the Tracts and lots in the Los Encinos subdivision in Kerr County according to the plat recorded in Volume 5, Page 99, Plat Records of Kerr County, Texas, and as described in Exhibit "A", attached hereto, and additions thereto as are subject to this Declaration or any supplemental declaration prepared and filed of record pursuant to the following provisions. If Declarant is the owner of any property which it desires to add to the concept of this Declaration, it may do so by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions, which shall extend the concept of the covenants, conditions and restrictions of this Declaration to such property; PROVIDED, HOWEVER, that any additions made pursuant hereto, when made, shall automatically extend the jurisdiction, functions, duties and memberships of the Association to the properties added.

19

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ABSTRACT & TITLE CO.

17411

- d. "Member" shall mean and refer to Declarant and each owner of a fee simple interest in any property within the Properties. Each Member shall be entitled to one vote for each acre owned with acreage to be rounded to the nearest whole acre.
- e. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities of a fee simple title to any property within the Properties. The foregoing does not include any persons or entities who hold an interest in any property within the Properties merely as security for the performance of an obligation.
- f. "Architectural Design Review Committee" shall mean and refer to that Committee as defined in Section 8 hereof.
- g. "Wildlife Committee" shall mean and refer to a standing Committee of the Association as defined in Section 9 hereof.
- h. "Access Easement" shall mean and refer to that certain 50 feet wide road easement reserved in a deed dated _____ from _____ recorded in Volume _____, Page _____ of the Real Property Records of Kerr County, Texas.
- i. "Roads" shall mean and refer to the roads dedicated, shown and created in and by the plat of the Property, which roads are common properties for the Owner and for their use and enjoyment. Roads shall include the Access Easement.

2. Affirmative and Protective Covenants: The Properties shall be used and occupied subject to the following restrictions:

- a. Each portion for the Properties shall be used for residential, recreational, ranching and agricultural purposes only, and shall not be used for mercantile or commercial purposes. Agricultural purposes for the purpose of this instrument shall mean and include raising and grazing livestock or exotic animals, hunting, trapping and taking of all wild animals and wild birds.
- b. No mobile homes or other type of portable structure shall be used on any portion of the Properties as a residence.
- c. No permanent structure (home, barn, etc.) other than fencing, shall be placed on the Properties less than 150 feet from the main roadway easement, 50 feet from any side property line or 50 feet from the back property line, and must be well screened behind hills or trees to substantially eliminate visibility from the main roadway.
- d. No abandoned automobiles or other abandoned vehicles shall be left on the Properties.
- e. Open fires are permissible only when there is not a county burn ban in effect. Fires must be attended at all times, and Owners must use extreme caution.
- f. No offensive, noxious, profane or unlawful use shall be made of the Properties. In this regard, the Association may from time to time adopt rules ("Rules") concerning same, and it shall be entitled to enforce such Rules for the benefit of the quality of life for all Owners.
- g. No sign or signs of any kind shall be displayed on the Properties to the public view, except one sign of not more than ten (10) square feet for ranch identification. A sign indicating direction and ownership of the Properties or portion thereof may be installed near the main entrance of an individual Owner's property, provided such a sign shall be neat in

appearance and shall not exceed five (5) feet in length and two (2) feet in height and shall be approved by the Architectural Design Review Committee.

- h. The Properties may not be further subdivided other than as set forth in the plat of the Properties of record.
- i. The Properties shall not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which are not visible from any road. All equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition.
- j. All residences and other structures constructed or erected shall be of new construction, and in no event shall any prefabricated or existing residences or garages be moved on any of the Properties. No residence or other structure shall be constructed on any of the Properties without first submitting the plans, drawings and specifications therefore, to the Architectural Design Review Committee for approval, which approval the Architectural Design Review Committee shall indicate by signing and dating the specified plans and keeping a copy of the same in the records of the Association. Additionally, no bright colored, or shiny roofs are permitted on any residence or other structure situated on any of the Properties.
- k. Any construction commenced on any of the Properties must be completed within one (1) year of the time construction is commenced.
- l. Individual water systems and sewage disposal systems shall be located, constructed and equipped in compliance with Texas State Health Department requirements, rules and regulations of the Upper Guadalupe River Authority, Headwater Underground Water District, and Kerr County Subdivision regulations, and with any other applicable governmental laws, rules or regulations.
- m. No fence shall be constructed, situated or located a distance less than 50 feet from the right of way line of any of the Roads as shown on the Plat of the Properties and all entrances and fences shall be approved by the Architectural Design Review Committee in writing.
- n. All open pits and excavations shall be restored to the condition of the land prior to such excavation. No derrick or other structure shall be located on top of any hill on any of the Properties and any such structure must be well screened behind hills or trees to substantially eliminate visibility from the main road or any residence situated on any of the Properties.
- o. Owners shall be responsible for invited persons, such as guests, contractors, or suppliers, shall insure the understanding of the Rules of the Association by all such parties and shall be responsible for any violations thereof.
- p. Any vehicle requiring a state license to travel on Texas streets and highways must bear a valid state license when being operated on the Properties. Persons operating a licensed vehicle must possess a valid operators permit. Speed limits on all roadways shall not exceed 30 MPH.
- q. Trespassing on private property within the Properties is prohibited.

3. Utility Easements Reserved by Declarant: Easements for the installation, maintenance, repair and removal of public and/or quasi-public utilities and sewer and drainage facilities, and floodway easements, are reserved by Declarant over, under and across the Properties and shall be located on the property boundary line where possible. Full ingress and egress shall be had by Declarant at all times over the Properties for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in

such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility. Declarant shall have the right to assign and transfer the easements and rights herein reserved to or for the benefit of any public or quasi-public utility. Notwithstanding the foregoing, however, Declarant covenants that at any such time as the utilities referred to in this Section shall have been installed or otherwise located on the Properties, Declarant may by written instrument recorded in the Real Property Records of Kerr County, Texas, define the exact location of any such easement and may release the remainder of the Properties or a portion thereof from the provisions of this Section. Any such instrument when executed and filed of record by Declarant shall be effective to limit the location of the easement provided for therein in accordance with its terms and conditions, notwithstanding that the utility company affected may not have executed such instrument.

4. **Creation of Lien and Personal Obligations for Assessments:** Each Owner (by acceptance of a deed for any portion of the Properties whether or not it shall be so expressed in any such deed or other conveyance), hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association assessments and charges. The annual assessments and charges, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Properties and shall be a continuing lien upon each portion of the Properties against which each such assessment is made. Each such assessment and charge, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such property at the time when the assessment and charge becomes due.

5. **Maintenance Charge:** The amount of annual charge and assessment shall be an amount fixed by the Association by vote of the Owners/Members, it being intended that the Association will for each year fix the annual charge and assessment at an amount estimated by the Association to be required in order that the funds produced thereby will approximate the costs and expenditures of such funds for the purposes hereinafter specified. However, until January 1, 2000, such annual charge and assessment, as set forth in the preceding sentence, shall be adjusted as necessary at the end of calendar year 1999, and at the end of each calendar year thereafter, which adjustment shall apply to the succeeding calendar year period.

The annual charge and assessment shall be paid by the respective Owners annually on January 1, in advance. The Declarant shall be exempt from charges and assessments due on its property. If land in the Properties becomes subject to the annual charge and assessment on a date other than January, the Owner of such land shall pay the prorata part of the annual charge and assessment in advance.

Such charges and assessments shall be covenant running with the land and to secure the payment thereof a lien is hereby retained upon the property subject to such charge and assessment. Such charge, assessment and lien are hereby assigned by the Declarant to the Association (without recourse on the Declarant in any manner for payment of such charge and assessment), which will collect all such annual charges and assessments and will administer the fund created thereby in order that uniformity and continuity will be maintained and preserved except as herein provided. Such lien shall be subordinate and inferior to all liens securing amounts due or to become due under any mortgage, vendor's lien or deed of trust affecting the property subject to any such charge or assessment which has been filed for record in Kerr County, Texas, prior to the date payment of such charges or assessments become due and payable, and any foreclosure of any such prior or superior lien under the power of sale of any mortgage, deed of trust or other security investment or through court proceedings, shall cut off and extinguish the liens securing charges and assessments which become due and payable prior to such foreclosure date, but no such foreclosure shall free any property from the lien securing charges or assessments thereafter becoming due and payable under this Section, nor shall the personal obligation of any property Owner foreclosed be extinguished by any foreclosure.

6. **Purpose of the Maintenance Fund:** The annual charge and assessment shall be uniformly imposed upon all lands in the Properties and the maintenance fund created and derived therefrom shall be used to carry out the purposes of these covenants, conditions and restrictions and the purposes of the Association, including without limitation the reimbursement of Declarant for any costs and expenses incurred in connection with such purposes and the costs and expenses for accounting, tax, security, insurance, legal and administration of the Association, the costs and expenses for maintenance of the Roads (including the regrading and working the Roads, drainage and ditches adjacent thereto as needed to provide normal access and in this regard it is understood that the Association shall be responsible for maintaining the Roads) and outside high fence maintenance, if necessary.

In the event that the Association shall expend monies for any of the foregoing purposes in amounts exceeding the amount then in the maintenance fund, the Association shall be entitled to receive reimbursement from amounts thereafter paid into the maintenance fund by Owners of the Properties; provided, however, that the Association will not without the approval of the Members, evidenced by the favorable vote of a majority of the votes entitled to be cast by the Members, at a meeting duly called and held, expend more than two dollars per acre in excess of the funds then held by the Association.

7. Effect of Non-Payment of Assessment: The Personal Obligation of the Owners: The Liens: Remedies of the Association:

- a. If any assessment or charge or any part thereof is not paid on the date(s) when due (being the dates specified in Section 5 of this Article), then the unpaid amount of such assessment and charge shall become delinquent and shall, together with such interest therein and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property of the non-paying Owner and shall be unaffected by any sale or assignment of the property and shall continue in full force and effect. The personal obligation of the then Owner to pay such assessment and charge, however, shall remain such Owner's personal obligation and shall not pass to such Owner's successor in title unless expressly assumed by such successor. No Owner may waive or otherwise escape liability for the assessments and charges provided herein by non-use or abandonment of such Owner's property.
- b. If any assessment or charge or part thereof is not paid within thirty (30) days after the delinquency date, the unpaid amount of such assessments and charges shall bear interest from the date of delinquency at the maximum legal rate of interest for which parties may contract, and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the property subject thereto, and there shall be added to the amount of such assessment and charge all costs and expenses incurred in connection therewith (including reasonable attorney's fees) and in the event a judgment is obtained, such judgment shall include interest on the assessment and charge as above provided, attorney's fees and costs and costs of the action.

8. Architectural Design Review Committee: No building or other improvements shall be erected, placed or altered on the Properties until the Owner or builder has made application to the Architectural Design Review Committee for approval and has submitted construction plans and specifications and a site plan showing the location of the structure or improvements, and such plans have been approved by said Committee as to use, quality and workmanship, harmony of external design with existing structures, and location with respect to topography, final grade elevation and location. The Architectural Design Review Committee is composed of three (3) members who are initially appointed by Declarant and thereafter appointed by the Board. Such members shall serve until their resignation or death, or until their successor is named. At present, the Committee is David M. Cummings, Jr., Clint Cummings, and Scott Cummings. The Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the Board shall have full authority to designate a successor. Neither the members of the Committee nor its representatives shall be entitled to any compensation for services performed pursuant to this covenant. The Committee's approval or disapproval as required herein, shall be in writing. If the Committee, or its designated representative(s), fails to give written approval or disapproval within fourteen (14) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion of the improvements, the proposed plans shall be considered approved and the related covenants shall be deemed to have been fully satisfied. This Committee shall have the right to grant variances of the covenants, conditions and restrictions when deemed reasonable and necessary in their judgment, including without limitations topography, grader, site views and other factors in completing building and improvements, and their decision shall be binding on Owners.

9. Wildlife Committee: The Wildlife Committee shall be composed of at least three Members of the Association and a chairman appointed by the Board. The initial member of such Wildlife Committee shall be the same as the members of the Architectural Design Review Committee. A majority of votes shall prevail on any issue or

subject requiring a decision of the Committee. The Committee may designate a representative to act for it. No compensation shall be due or paid to the members of the Committee for services performed pursuant to this covenant.

The Wildlife Committee shall be responsible for overseeing the management of the free roaming wildlife within the Properties. The Wildlife Committee shall resolve all disputes concerning wildlife matters between Owners and their decision shall be binding on Owners.

10. **Voting Rights in the Association:** Quorum and notice requirements for the Association and Members shall be as set forth in the Bylaws of the Association and any action by the Members/Owners not otherwise specified in this Declaration shall require the assent of the Members/Owners entitled to cast a majority of the votes of the Members/Owners of the Association who are voting in person or by proxy at a meeting called for that purpose, written notice of which shall be given to all Members/Owners for notification and voting purposes at least thirty (30) days in advance and shall set forth the purpose of such meeting.

Any provision of this Declaration to the contrary notwithstanding, any action may be taken without a meeting with the assent given in writing and signed by the Members/Owners required to be cast for approval of a matter. The voting rights of any Member shall be suspended for any period during which any assessment or charge to be paid by such Member remains unpaid.

11. **Powers and Duties:** The Board shall have the powers specified and referenced herein and in the Articles and Bylaws of the Association.

12. **Owner's Obligation to Repair:** Each Owner shall, at his sole cost and expense, maintain and repair his property and the improvements situated thereon, keeping the same in good condition and repair. In the event that any Owner shall fail to maintain and repair his property and the improvements thereon as required hereunder, the Association in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative remedies, shall have the right, through its agents and employees, to enter upon said property and to repair, maintain and restore the property and the exterior of the buildings and any other improvements erected thereon and each Owner (by acceptance of a deed for his property) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand. The failure of any Owner to pay such cost shall have the same consequences as the failure to pay any charge or assessment hereunder when due including a lien therefore and the right of foreclosure thereof.

13. **Duration:** The covenants, conditions and restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Declarant, its respective successors and assigns for the term of twenty (20) years from the date that this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Members entitled to be cast 80% of the votes of Members of the Association at a meeting duly called and held has been recorded, agreeing to abolish said covenants, conditions and restrictions.

14. **Amendment:** The covenants, conditions and restrictions of this Declaration may be amended and changed in whole or in part, or variances granted with respect thereto, only with the consent of 80% of the votes of Members of the Association entitled to be cast at a meeting duly called and held and evidenced by a document, in writing bearing each of their signatures and recorded.

15. **Finality of Determination:** It is understood that the judgment of the Declarant and/or the Board, their respective successors and assigns, in the allocation and expenditure of the maintenance fund shall be final so long as such judgment is excised in good faith. The enumeration of the services for which the maintenance fund may be expended carries no obligation for the Association to furnish any of such services except to the extent of funds actually received by the Association.

16. **Enforcement:** Enforcement of these covenants, conditions and restrictions shall be in Kerr County, Texas and shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these covenants, conditions and restrictions; and

failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

17. **Acceptance of Declaration:** By acceptance of a deed, or by acquiring any ownership interest in any of the Properties included within this Declaration, each person entity for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the Properties covered thereby.

18. **Severability:** Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

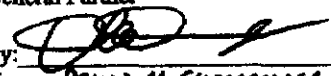
19. **Headings:** The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of the Declaration.

20. **Notices:** Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mails, postage prepaid, addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

IN WITNESS WHEREOF, Declarant has executed this instrument on this the 19 day of Oct, 1998.

LOS ENCINOS, LTD.

BY: Los Encinos LLC,
General Partner

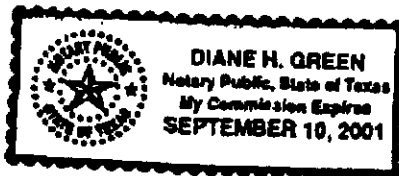
By: 
Name: DAVID M. CUMMINGS JR.
Title: Pres


JOHN C. BRANNEN

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on October 19, 1998, by David M. Cummings, President of LOS ENCINOS, LLC, General Partner of LOS ENCINOS, LTD., on behalf of LOS ENCINOS, LTD.




Notary Public, State of Texas

THE STATE OF TEXAS §

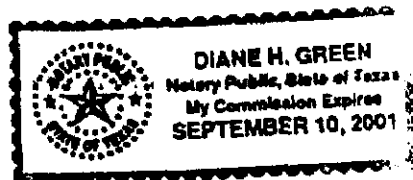
COUNTY OF KERR §

This instrument was acknowledged before me on October 17, 1998, by JOHN C. BRANNEN.

[Signature]
Notary Public, State of Texas

LOS ENCINOS DECLARATIONS

After Recording, Return to:
Los Encinos LLP
190 Fairway Dr.
Kerrville, TX 78028



RECORD Real Property
VOL 979 PG 574
RECORDING DATE

NOV 05 1998



[Signature]
COUNTY CLERK, KERR COUNTY, TEXAS

FILED FOR RECORD
at 3:45 o'clock P M

NOV 4 1998

BILLIE G. MEEKER
Clerk County Court, Kerr County, Texas
[Signature] Deputy

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law. THIS STATE OF TEXAS } COUNTY OF KERR } I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

NOV 05 1998



[Signature]
COUNTY CLERK, KERR COUNTY, TEXAS

RECORDER'S NOTE
AT TIME OF RECORDATION INSTRUMENT FOUND TO BE INADEQUATE FOR BEST PHOTOGRAPHIC REPRODUCTION DUE TO DEPTH & DARKNESS OF PRINT, COLOR OF PRINT OR INK, BACKGROUND OF PAPER, ILLEGIBILITY, CARBON OR PHOTO COPY, ETC.

Tract One

Being all that certain tract or parcel of land lying and being situated in the County of Kerr, State of Texas, comprising a total of 103.50 acres of land out of Kendall County School League No. 2, Abstract No. 219. The said 103.50 acres being a part of a certain 1722.83 acre tract conveyed from Aime Frank Reel, et ux to Farm Credit Bank of Texas by deed dated July 29, 1993 and recorded in Volume 719, Page 572 of the Real Property Records of Kerr County, Texas. The said 103.50 acres being further described by metes and bounds as follows:

VOL 0979 PAGE 582

BEGINNING at a 1/2" iron stake found in fence marking the northwest corner of a certain 7.72 acre tract conveyed from Aime Frank Reel to Louis Albert Reel, II by deed executed August 9, 1992 and recorded in Volume 650, Page 733 of the Real Property Records of Kerr County, Texas and also being 3706.0 feet SOUTH and 8686.9 feet WEST from the most NE corner of Kendall County School League No. 1, Abstract No. 216;

THENCE N 9° 42' W along fence a distance of 1019.24 feet to a found 1/2" iron stake by fence corner post marking the SW corner of Tract No. 6, Los Encinos Subdivision as recorded in Volume 5, Page 99, Plat Records of Kerr County, Texas;

THENCE N 58° 12' E with the southeast line of Los Encinos a distance of 3009.60 feet to a 1/2" iron stake found marking the NW corner of a certain 20.27 acre tract (Vol. 711, Pg. 823);

THENCE S 38° 19' E at 1271.56 feet pass SW corner of said 20.27 acre tract and continue in all a distance of 1301.54 feet to a 1/2" iron stake set in county maintained road;

THENCE along county maintained road as follows:

S 57° 00' W, 1255.53 feet; north line 103.55 acre tract

S 50° 46' W, 177.33 feet;

S 45° 02' W, 864.79 feet;

S 60° 33' W, 330.46 feet; north line 31.02 acre tract

S 79° 04' W, 296.94 feet;

S 88° 35' W, 312.67 feet to the most northerly NW corner of a certain 31.02 acre tract this day surveyed;

THENCE N 17° 57' W with the east line of said 7.72 acre tract a distance of 37.80 feet to a 1/2" iron stake found marking the NE corner of said 7.72 acre tract;

THENCE N 86° 42' W with the north line of said 7.72 acre tract a distance of 487.93 feet to the place of **BEGINNING**.

Tract Two

All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Lots 2, 3, 4, 5, 6, 7, 8, 9, and 10, of Los Encinos, a subdivision of Kerr County, Texas, according to the plat of said subdivision recorded in Volume 5, Page 99, Plat Records of Kerr County, Texas.