

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR GRAYHAWK**

THIS DECLARATION is made on the date hereinafter set forth by ELDORADO RANCH, LTD., a Texas limited partnership, hereinafter referred to as the "Declarant".

WITNESSETH

WHEREAS, the Declarant is the Owner of certain real property in the City of Frisco, Denton County, Texas (sometimes referred to herein as "City") which is described in Exhibit "A" pages 1 through 4, attached hereto and made a part hereof (the "Property").

WHEREAS, Declarant desires to create an exclusive planned community known as GRAYHAWK on the Property and such other land as may be added thereto pursuant to the terms and provisions of this Declaration;

NOW THEREFORE, the Declarant declares that the Property shall be held, sold and conveyed subject to the restrictions, covenants and conditions declared below, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a planned community of high standards. Such covenants shall be binding on all parties having any right, title or interest therein or any party thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to the Grayhawk Association of Homeowners, Inc., a Texas not-for-profit corporation established for the purpose set forth herein or such other similar association name to which Declarant can obtain approval for usage by the Secretary of State of Texas.

Section 2. "Common Areas" shall mean and refer to that portion of the Property, if any, conveyed to the Association for the use and benefit of the Owners. Common area shall include any recreational facility or amenities, owned by the Association, which may be constructed for the use and benefit of the Owners.

Section 3. "Common Maintenance Areas" shall mean and refer to the Common Areas, if any, and the (i) entrance monuments, (ii) drainage facilities, (iii) detention ponds, (iv) right-of-way landscaping, (v) improved landscape buffer easements, and (vi) such other areas as deemed appropriate by the Board of Directors of the Association for the preservation, protection and enhancement of the property values and the general health, safety or welfare of the Owners, lying within dedicated public streets, easements or rights-of way as shown on the final plat(s) of the Property approved by the City and recorded in the records of Denton County.

Section 4. "Declarant" shall mean and refer to ELDORADO RANCH, LTD., as well as its successors and assigns who are designated as such in writing by the Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign. Except for ELDORADO RANCH, LTD., no Declarant may designate any person or entity as a Declarant or assign its rights or obligations as a Declarant as provided herein.

Section 5. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for, and any amendments, annexations and supplements hereto made in accordance with its terms.

Section 6. "Lot" shall mean and refer to any plot of land indicated upon any recorded subdivision map of Property or any part thereof creating single-family home sites, with the exception of the Common Area and areas deeded to a governmental authority or utility, together with all improvements thereon.

Section 7. "Mortgage" shall mean any mortgage, deed of trust or similar instrument granted by Owner and filed of record for the purpose of encumbering real property as security for an obligation with respect to the property.

Section 8. "Mortgagee" shall mean the lawful holder in due course of a Mortgage.

Section 9. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 10. "Property" shall mean and refer to the real property described in Exhibit "A" pages 1 through 4, and such additions thereto as may be brought within the jurisdiction of the Association and be made subject to this Declaration.

Section 11. "Unit" shall mean and refer to any residential dwelling situated upon any Lot.

ARTICLE II GRAYHAWK ASSOCIATION OF HOMEOWNERS, INC.

Section 1. Establishment of Association. The formal establishment of the Association will be accomplished by the filing of the Articles of Incorporation of the Association with the Secretary of State for the State of Texas and the subsequent issuance by the Secretary of State of the Certificate of Incorporation of the Homeowner's Association.

Section 2. Adoption of Bylaws. Bylaws for the Association will be established and adopted by the Board of Directors of the Association.

Section 3. Membership. The Declarant and every other Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Every member shall have the right at all reasonable times during business hours to inspect the books of the Association.

Section 4. Funding. Subject to the terms of Section 5, Article II, and the other terms and conditions this Article II, for each Lot owned by Declarant, Declarant hereby covenants to pay, and each Owner of any Lot by accepting a deed of conveyance for the Lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) annual assessments or charges; (2) special assessments for working capital fund as well as capital improvements; and (3) specific assessments against an Owner(s) or Lot(s) as authorized by this Declaration, including without limitation, fines, attorneys' fees or sanctions as well as specific charges relating to damages caused for Common Areas and as a result of a specific Owner's negligence or conduct; such assessments to be established and collected as hereinafter provided. Such assessments will remain effective for the full term (and extended term, if applicable) of this Declaration. The annual, special, and specific assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land, and there shall be a continuing lien upon the Lot of each Owner for the amount of all such charges. The annual and special assessments together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Upon transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges against the Lot due either prior to or at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

No Owner may exempt himself from liability for assessments, by non-use of Common Area, abandonment of his Lot, or for any other reason. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Section 5. Assessments.

(a) **Lots Owned by Class A Members and Annual Assessments.** Subject to the terms of this Article, each Lot is hereby subject to an initial maximum maintenance charge or annual assessment of \$41.67 per month or \$500.00 per annum unless and until such maintenance charge shall be adjusted by the Association. For the purpose of accumulating such charges, a fund shall be designated and known as the "maintenance fund", to which annual maintenance charges or assessments will be paid by the Owner or Owners of each Lot in advance in monthly, quarterly, or annual installments. The Association may begin charging assessments under this Section 5(a) immediately upon the sale of the first Lot to a Class A Member, and such assessments shall continue to be charged throughout the term of this Declaration. The rate at which each Lot will be assessed, and whether such assessment shall be payable monthly, quarterly, or annually, will be determined by the Board of Directors of the Association at least thirty (30) days in advance of each affected assessment period. Said rate may be adjusted from time to time by the Board of Directors as the needs of the Association may, in the judgment of the Directors, require. The assessment for each Lot shall be uniform except as provided in Subsection (b) of this Section 5. The Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an

officer of the Association setting forth whether or not the assessment has been paid for the assessment period.

(b) Lots by Declarant. Notwithstanding the foregoing, the Declarant shall be exempt from any assessment charged to Owners so long as there is a Class B membership as set forth in Section 8 of this Article II. Declarant hereby agrees that for such period of time as there is a Class B membership in effect and Declarant's Lots are exempt from assessment as provided above, that Declarant shall provide initial funding of a reasonable amount as necessary in Declarant's sole discretion, to begin the operation of the Association and shall, for one year after the sale of the first Lot to a Class A Member, pay any amount necessary to makeup any deficit in the operating expenses of the Association, in the event that the annual maintenance fund revenues and special assessment revenues are insufficient to pay the operating expenses of the Association. Declarant shall provide the funds necessary to make up the first calendar year deficit, within thirty (30) days of receipt of a request for payment thereof from the Association, provided that if the deficit is the result of the failure or refusal of an Owner or Owners to pay their annual maintenance assessments or special assessments, the Association shall diligently pursue all available remedies against such defaulting Owners, including foreclosure of the lien for assessment charges and/or the immediate institution of litigation to recover the unpaid assessments, and shall reimburse the Declarant the amounts, if any, so collected. If the operating expenses of the Association exceed the assessments collected after the first calendar year of operation, and so long as during the Declarant Control Period, Declarant will cause such deficit to be funded by one of the following means: i) capital contribution; ii) by loan from Declarant represented by a promissory note; or iii) by causing Association to borrow the funds from a lending institution.

(c) Purpose of Maintenance Fund. As described in Subpart (a) of this Section 5, the Association shall establish a maintenance fund. The Association shall use the proceeds of such fund in providing for normal, recurring maintenance charges for the Common Maintenance Areas for the use and benefit of all members of the Association, as set forth herein and in Article III, hereof as well as to provide adequate reserves to allow for removal of entry features, water features or other amenities if required by City laws. Such uses and benefits to be provided by the Association may include, by way of clarification and not limitation, any and all of the following: normal, recurring maintenance of the Common Maintenance Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for existing landscaping as well as installation of screening or beautification plantings or expenses necessary to preserve and/or enhance Common Area improvements) and the improvements to such Common Maintenance Areas, such as Sprinkler systems, and private streets or roadways (if any) dedicated to the Association, provided the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Maintenance Areas; payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions, and conditions affecting the property to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with retaining policemen and/or watchmen, if any; oversight of vacant Lots; and doing any other thing or things necessary or desirable in the opinion of the Board of Directors of the

Association to keep the Property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the Board of Directors in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith.

(d) Transfer of Control, Deficits, and Reserve Fund. Notwithstanding anything contained in this Agreement to the contrary, as of the time Declarant transfers control of the Board of Directors of the Association to the Homeowners (the "Transition Period"), Declarant shall ensure the Association has sufficient funds to make up any deficit and allow for reasonable operating reserves by making a sufficient capital contribution to the Association. To the extent a deficit is only projected to occur at a future time during the calendar year of the Transition Period, Declarant shall only be obligated to fund up to the amount of the deficit projected in the Accredited Cost Projection (as defined below) and shall not be obligated to make any contribution until the deficit is actually incurred by the Association during the calendar year of the Transition Period. To ensure Declarant provides adequate reserves to the Association for maintenance purposes, Declarant shall conduct a reserve study which may be reviewed by the City before Declarant relinquishes control of the Board of Directors. For purposes of this Section 5(d), a "deficit" shall exist only to the extent that the budget prepared by a reputable management company which performs management services for the Association based on reasonable industry practices and standards applicable to calculating budgets and deficits with respect to homeowners' associations (an "Accredited Cost Projection"), indicates that the operating expenses of the Association exceed the assessments already collected and projected to be collected for that calendar year. In no event shall Declarant be required to fund in excess of the deficit amount calculated in accordance with the preceding sentence.

In the event of a "deficit", Declarant shall cause the Association to establish a Reserve Fund. The Reserve Fund shall be funded by Declarant either contributing additional funds to the maintenance fund or contributing to a separate account. The Reserve Fund may thereafter be utilized for maintenance, repair and replacement of improvements of the Common Maintenance Areas as generally described in Section 5(a) or as required under Article III, Section 7 of this Agreement. The calculations of the amounts sufficient for the Reserve Fund shall be based on the Accredited Cost Projection.

(e) Special Assessment for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessments authorized above, the Association may levy special assessments as follows:

(i) Upon the sale of each Lot by Declarant to a Class A Member, regardless of whether the Lot has a completed Unit thereon or not, a special assessment equal to ten (10) months' estimated regular monthly assessments may be assessed. This special assessment, which is nonrefundable, shall be due and payable upon conveyance of each Lot to the first Class A Member to purchase that Lot. Such special assessment shall be available for all necessary expenditures of the Association. Notwithstanding anything contained in this Declaration to the contrary,

the liability and obligation for this special assessment shall be the sole obligation of the Class A Member purchasing the Lot, and Declarant shall have no personal liability or obligation for such special assessment.

(ii) In any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any nonrecurring maintenance, or the acquisition, construction, reconstruction, repair, or replacement of a capital improvement upon any Common Maintenance Area, including fixtures and personal property related thereto may be assessed. Such special assessment may be assessed upon 30 days written notice to the Owners after the affirmative vote of the Board of Directors at any regular or special Board of Directors Meeting. The Association shall not commingle the proceeds of such special assessment with the maintenance fund. Special assessment proceeds shall be used solely and exclusively to fund the nonrecurring maintenance or improvements in question.

(f) Specific Assessments. In addition to the annual and special assessments set forth above, the Association, through its Board of Directors, is authorized to levy specific assessments against a particular Lot or Lots or Owner or Owners, without imposing such levy against all Owners of Lots within the Association, under the following circumstances:

(i) In the event special benefits are provided for an Owner or Lot as requested by one or more Owners of Lots, the Board may change a Specific Assessment. These costs may include overhead, administrative costs or other expenses associated with providing the benefit conferred. Specific assessments under this circumstance may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred in the future;

(ii) In the event the Association acts to cause a Lot to be brought into compliance with the provisions of this Declaration, the Bylaws or rules of the Association, and in the event of damage caused to Common Areas as a result of a specific Owner or Owners' direct or indirect conduct, a specific assessment may be charged with respect to such Lots. In the event of a specific assessment under these circumstances, the Board shall give the Owner ten days prior written notice and an opportunity for a hearing according to the Bylaws before levying a specific assessment under this subsection; and

(iii) For sanctions or fines levied pursuant to this Declaration and the Bylaws.

Action or inaction of the Board of Directors in exercising or failing to exercise its authority to charge a particular specific assessment, shall not constitute a waiver or release of the Board's continuing authority to subsequently impose a specific assessment at any other time or for any reason.

Section 6. Remedies of the Association for Nonpayment of Assessments. Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the highest non-usurious rate of interest allowed by Texas law or 18% per annum, whichever is less. The Association shall have the authority to impose late charges to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien retained herein against the property. All cost incurred in such action, including, without limitation, attorney's fees, court costs and interest, shall be added to the amount of the assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of his property.

To secure the payment of the annual maintenance charge or assessment, any and all special assessments and specific assessments established hereby and to be levied on individual Lots as above provided, together with all late charges accrued thereon, attorney's fees and all other costs of any kind associated with foreclosure, there is hereby reserved a lien for the benefit of the Association, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary. The lien may be foreclosed through judicial or nonjudicial foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 *et seq.* (Vernon 1984) and Tex. Prop. Code Ann. Section 209.010 and 209.011 *et seq.* (Vernon 2002), as it may be amended (the "Foreclosure Statute"), in like manner for any deed of trust on real property. In connection with the lien created herein, each Owner of a Lot hereby grants to the Association, whether or not it is so expressed in the deed or other conveyance to such Owner, a power of sale to be exercised in accordance with the Foreclosure Statute.

The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. The Association may sue for unpaid assessments and other charges without foreclosing or waiving the lien securing the same.

Section 7. Subordinated Lien to Secure Payment. Notwithstanding the lien rights referenced in Section 6 above, each such lien in favor of the Association to secure payment of assessments shall be specifically made secondary, subordinate, and inferior to all liens, present and future, given, granted, and created by or at the insistence and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot; and further provided that as a condition precedent to any proceeding or procedure to enforce such lien upon any Lot upon which there is an outstanding, valid, and subsisting first mortgage, Association shall provide sixty (60) days written notice of such proposed action, such a notice, which shall be sent to the nearest office of the lienholder by prepaid U.S. registered mail, to contain the statement of the delinquent assessment upon which the proposed action is based. Upon the request of such first mortgage lienholder, beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to holder thereof. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale, foreclosure, or transfer shall relieve such Lot from liability for any assessments thereafter becoming

due or from the lien thereof. The Association shall have the right to file notices of liens in favor of such Association in the official records of Denton County, Texas.

Section 8. Voting Rights. The Association shall have two classes of voting membership:

(a) Class A. Class A Members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. The Class B Member shall be the Declarant who shall be entitled to three (3) votes for each unoccupied Lot owned by it. The Class B membership shall cease and be converted to Class A membership one hundred (120) days after the conveyance of the Lot which causes the total votes outstanding in the Class B membership to be less than a majority of all votes, or upon Declarant's voluntary conversion from Class B membership to Class A membership, whichever occurs earlier. Class B membership may be reinstated (at the sole option of Declarant) at any time. Declarant's Class B status would again constitute a majority of all votes if additional Lots owned by Declarant are annexed to this Declaration.

(c) Suspension. All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any assessment duly established pursuant to this Article or is otherwise in default hereunder or under the Bylaws or Rules and Regulations of the Association and such suspension shall apply to the proxy authority of the Voting Representative, if any.

Section 9. Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all members, or delivered to their residences, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At any such meeting called in the presence of members or of proxies of then qualified Voting Representatives entitled to cast in excess of twenty-five percent (25%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be two-thirds (2/3) of the quorum requirement for such immediately preceding the meeting. The Association may call as many subsequent meetings as may be required to achieve a quorum (the quorum requirement being reduced for each such meeting). No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 10. Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Lots, including the maintenance and insurance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors. So long as required by the ordinances of the City of Frisco, the Association shall take such actions as are necessary to maintain reserves in its maintenance and/or reserve fund to maintain (and if necessary remove) entry features, water features or other amenities.

**ARTICLE III
GENERAL POWERS AND DUTIES OF THE
BOARD OF DIRECTORS OF THE ASSOCIATION**

Section 1. Purpose of Maintenance Fund. The Board, for the benefit of the Owners, shall provide and shall pay out of the maintenance fund provided in Article II above the following:

(a) Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Owners, if any.

(b) Care and preservation of the Common Maintenance Area.

(c) The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board (provided that any contract for management of the Association shall be terminable by the Association, with no penalty upon ninety (90) days prior written notice to the managing party) and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager.

(d) Legal and accounting services.

(e) A policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors.

(f) Workers compensation insurance to the extent necessary to comply with any applicable laws.

(g) Such fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable.

(h) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, or assessments (including taxes or assessments assessed against an individual Owner) which the Board is required to obtain or pay for pursuant to the terms of this Declaration or Bylaws or which in its opinion shall be necessary or proper for the enforcement of this Declaration.

Section 2. Powers and Duties of Board. The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws of the Association:

(a) To execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.

(b) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.

(c) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.

(d) To protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.

(e) To make reasonable rules and regulations for the operation of the Common Maintenance Areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument in writing signed by Owners constituting a majority of the votes of the Association.

(f) To make available for inspection by Owners within sixty (60) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals.

(g) To adjust the amount, collect and use any insurance proceeds to repair damaged property or replace lost property, and if proceeds are insufficient to repair damaged property or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.

(h) To enforce the provisions of any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.

(i) To collect all assessments and enforce all penalties for non-payment including the filing and foreclosure of liens and institution of all other legal proceedings.

Section 3. Enforcement. The Association may impose sanctions for violation(s) of this Declaration, the Bylaws or rules, in accordance with procedures set forth in the Bylaws and as allowed at law and in particular in accordance with the Tex. Prop. Code under the "Texas Residential Property Owner's Protection Act", including without limitation, by means of setting and imposing monetary fines and suspending an Owner's right to vote and/or use recreational facilities, if any, within the Common Area. In addition, consistent with Powers and Duties of the Board per Article 4.22 of the Bylaws, the Association may exercise self-help to cure violations (including, without limitation, the towing of vehicles and the removal of personal property), and may suspend any services it provides to the Lot of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall also be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board on behalf of the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Board Powers Exclusive. The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

Section 5. Maintenance Contracts. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

Section 6. Insurance. The Association shall obtain and maintain at all times, as a Common Expense, such insurance as the Board of Directors may deem appropriate, including a casualty insurance policy or policies affording fire and extended coverage in an amount that at least equals the full replacement value of all structures within the Common Maintenance Area of the Association and a liability insurance policy or policies in amounts not less than Five Hundred Thousand (\$500,000.00) Dollars for injury, including death, to a single person; One Million (\$1,000,000.00) Dollars for injury or injuries, including death, arising out of a single occurrence; and One Hundred Thousand (\$100,000.00) Dollars property damage, covering the Association, the Board of Directors, officers, and all agents and employees of the Association, and all Unit Owners and other persons entitled to occupy any Unit or other portion of the Association Property. The City shall also be a named beneficiary of any such policy, but coverage for the City shall be strictly limited to the Association's liability to the City pursuant to this Declaration, and nothing further.

The improvements and betterments made by the individual Unit Owners shall be excluded from this required coverage, but each Owner shall have the right to obtain additional coverage for such improvements, betterments, or personal property at his own expense. The policies may contain reasonable deductibles, and the amount thereof shall be added to the face amount of the policies in determining whether the insurance equals at least full replacement cost.

In addition to the insurance required hereinabove, the Board shall, in its discretion, consider obtaining as a common expense:

- (a) Workmen's compensation insurance if and to the extent necessary to meet the requirements of applicable law;
- (b) Public liability insurance covering occurrences on the Common Areas, including, without limitation, any Community Recreation Facility, as defined below, and officers' and directors' liability insurance in such amounts as the Board may determine, but in no event less than One Million (\$1,000,000.00) Dollars per occurrence. (Such insurance shall contain a cross-liability endorsement.);
- (c) Fidelity bonds covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. If reasonably available, such bonds shall be in an amount at least equal to no less than three (3) months' operating expenses plus reserves on hand as of the beginning of the fiscal year and shall contain

waivers of any defense based upon the exclusion of persons serving without compensation;
and

- (d) Other insurance as the Board of Directors may determine to be necessary.

Section 7. Purpose of Reserve Fund. The Board may, at its discretion, utilize any amounts funded into the Reserve Fund established under Article II, Section 5(d) of this Agreement, for maintenance and refurbishment of the improvements, as needed. Otherwise, after the Declarant control period, to the extent the Association has not maintained such improvements in accordance with the provisions of this Declaration or the applicable laws of the City, amounts in the Reserve Fund may be utilized to fund removal of improvements if duly and properly ordered to do so by the City. Notwithstanding, the City may only order the removal of one or more Common Area improvements after providing the Association written notice and a reasonable opportunity to cure any alleged violations and allowing Association the benefit of all due process of law.

ARTICLE IV TITLE TO AND USAGE OF COMMON AREAS

Section 1. Association to Hold. The Association shall assume all maintenance obligations with respect to any Common Areas which may be hereafter established. Nothing contained herein shall create an obligation on the part of Declarant to establish any Common Area.

Section 2. Condemnation. In the event of condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the funds payable with respect thereto shall be payable to the Association and shall be used by the Association to purchase additional Common Areas to replace that which has been condemned or to take whatever steps that it deems reasonably necessary to repair or correct any damage suffered as a result of the condemnation. In the event that the Board of Directors of the Association determines that the funds cannot be used in such a manner due to lack of available land for additional Common Areas or for whatever reason, any remaining funds may be utilized by the Association for the general maintenance fund.

ARTICLE V RIGHTS AND RESTRICTIONS AFFECTING OWNERSHIP

Section 1. Association Existence, Lot Boundaries, and Common Areas. Regardless of any other provision in this Declaration to the contrary, unless at least two-thirds (2/3) of the first Mortgagees (parties holding a purchase money security interest pledged by an Owner against a Unit) or Owners other than Declarant, as well as the City, shall have given their prior written approval, neither the Association or any Unit Owner shall:

- (a) by act or omission seek to abandon or terminate the Association;
- (b) except as provided herein and in the Act for condemnation, substantial damage and destruction, and expansion of the Association, change the percentage interest in the Common Areas, or obligations for common expenses or votes in the Association of any unit;

(c) subdivide, partition, or relocate the boundaries of any unit;

(d) by act or omission, withdraw the submission of the subjected property, except as provided by the Association Instruments, or abandon, subdivide, partition, encumber, sell, or transfer the Common Areas (the granting of easements for public utilities or for similar purposes, including cable television in the community, consistent with the intended use of the Common Areas by the Association or the Declarant shall not be deemed a transfer); or

(e) use hazard insurance proceeds for losses to any portion of the Property for other than repair, replacement, or reconstruction of such property, except as provided by statute for substantial loss to the Units and/or Common Areas.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from first Mortgagees or Unit Owners when a larger percentage vote is otherwise required by the Act or the Association Instruments for any of the actions contained in this subparagraph.

Section 2. Liability for Unpaid Dues. Any person, institution or entity who obtains title to a Unit pursuant to the remedies provided in a Mortgage is not liable for such Unit's unpaid dues or charges that accrue prior to the acquisition of title to such unit by such person, but such person shall be responsible for all charges that occur subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 3. Mortgage Holder's Rights. A Mortgagee shall have certain rights, with regard to the Association and the Association shall cooperate regarding such rights as follows:

(a) Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, an audited financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

(b) Regardless of anything to the contrary contained in these documents, the provisions of this Declaration governing sales and leases shall not apply to impair the right of any first Mortgagee to:

- (i) foreclose or take title to a unit pursuant to remedies contained in any Mortgage; or
- (ii) take a deed or assignment in lieu of foreclosure; or
- (iii) sell, lease, or otherwise dispose of a unit acquired by the Mortgagee.

Section 4. Owner's Responsibility. Except as provided with respect to common area maintenance by the Association, all maintenance of a Lot and unit and all structures, parking areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the standards established by the Association Covenants Control Committee.

Section 5. Party Walls and Similar Structures. With respect to structures existing between or adjacent to Lots, the Owner shall act as follows:

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party structure, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators appointed shall appoint one additional arbitrator. The decision by a majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE VI EASEMENTS

Section 1. Utility Easements. As long as Class B membership shall be in effect, the Declarant hereby reserves the right to grant perpetual, nonexclusive easements for the benefit of the Declarant or its designees, upon, across, over, through and under any portion of the Common Area or any portion of any Lot outside of the permitted building area of such Lot, for ingress, egress, installation, replacement, repair, maintenance, use and operation of all utility and service lines and service systems, public and private, including, without limitation, cable television. Declarant, for itself and its designees, reserves the right to retain title to any such easements. Upon cessation of Class B membership, the Association shall have the right to grant the easements described herein.

Section 2. Declarant's Easement of Correct Drainage. As long as Class B membership shall be in effect, Declarant hereby reserves a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety, and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damage, as may be necessary to provide adequate drainage for any portion of the Property. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant to correct or maintain any drainage facilities within the Property.

Section 3. Easement for Unintentional Encroachment. The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Common Area caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching property to the extent of such encroachment.

Section 4. Entry Easement. In the event that the Owner fails to maintain the Lot as required herein, or in the event of emergency repairs and to do the work reasonably necessary for the proper maintenance and operation of the Property, the Declarant and Association reserves an easement of entry upon the Lot and any such entry thereon shall not be deemed a trespass, and the Association or Declarant shall not be liable for any damage so created unless such damage is caused by the Declarant's or Association's willful misconduct or gross negligence.

Section 5. Drainage Easements. Easements for the installation and maintenance of utilities, storm water retention/detention ponds, and/or a conservation area are reserved as may be sworn on the recorded plat. Within these easement areas, no structure, plant or material shall be placed or permitted to remain which may hinder or change the direction or flow of drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

Section 6. Temporary Completion Easement. All Lots shall be subject to easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assignees, over and upon the front, side or rear yards of the Property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon Lots adjacent to the Property, provided that such easement shall terminate twelve (12) months after the date such Lot is conveyed to the Owner by the Declarant.

ARTICLE VII USE AND OCCUPANCY

All Lots and dwellings shall be used and occupied for single-family residence purposes. No Lot or dwelling may be used for commercial, institutional or other non-residential purpose if such use involves the attendance or entry of non-residents upon the Lot or otherwise diminishes the residential character of the Lot or neighborhood. This prohibition shall not apply to "garage sales" conducted with prior written consent of the Association provided that no Owner shall conduct more

than two (2) garage sales of no more than two (2) days duration each during any twelve (12) month period.

ARTICLE VIII PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement in and to the Common Areas and a right and easement of ingress and egress to, from and through said Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions executed within the allowances of the Texas Residential Protection Act:

(a) The right of the Association to establish and publish rules and regulations governing the use of the Common areas affecting the welfare of Association members;

(b) The right of the Association to suspend the right of use of the Common Areas and the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association, subject to the provisions hereof, to dedicate or transfer all or any part of the Common Areas, if any, to any public agency, authority or utility for such purposes and subject to the conditions as may be agreed by the Association. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded agreeing to such dedication or transfer;

(d) All easements herein described are easements appurtenant to and running with the land; they shall at all times inure to the benefit of and be binding upon the Owners, and all of their grantees, and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

Section 2. Effect of Declaration. Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, restrictions and covenants herein described or to this Declaration shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees, or trustees of said parcels as fully and completely as if those easements, restrictions and covenants were fully related and set forth in their entirety in said documents.

Section 3. Damage and Destruction – Insured by Association.

(a) **General.** Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to

substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, Class "A" Members representing at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and the Class "B" Member, if any, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within thirty (30) days following commencement of said sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to cover the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against each Lot and the Owner thereof for the deficiency pursuant to Article II Section 5 (d) (ii) hereof. Additional assessments may be made in a like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 4. Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction.

Section 5. Rezoning Prohibited. No Lot shall be rezoned to any classification allowing commercial, institutional or other non-residential use without the express written consent of the Association and Declarant (as long as Declarant owns any Lot subject to this Declaration), which may be withheld in Declarant's sole discretion. Declarant or the Association may enforce this covenant by obtaining an injunction against any unapproved rezoning at the expense of the enjoined party.

**ARTICLE IX
CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS**

Section 1. Residential Use. All Lots shall be used for single-family residential purposes only. Except as otherwise specifically provided for in this Article, no building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family residence per Lot, which residence may not exceed two (2) stories in height, and one private garage as provided below. An Owner may construct a permanent storage building on a Lot in addition to the detached single-family residence and one private garage so long as the storage building is of the same materials and design as the residence with similar color and roofing materials and so long as the structure is no more than 8 x 10 feet in floor area and no more than 8 feet in height at the peak of the roof. Notwithstanding, the buildings specifically permitted in Section 6. and Section 21. of this Article will be allowed so long as such buildings are not visible from any contiguous street.

Section 2. Single-Family Use. Each residence may be occupied by only one (1) family consisting of persons related by blood, adoption, or marriage or no more than two (2) unrelated persons living together as a single house keeping unit. This Section does not prohibit occupancy of the residence by household servants along with the permitted occupants described in this Section.

Section 3. Garage Required. Each residence shall have one (1) garage and no more than one (1). Such garage shall be suitable for parking not less than two (2) nor more than three (3) standard size automobiles. The garage must conform in design and materials with the main structure. No carports will be allowed within this subdivision.

Section 4. Restrictions on Subdivision. None of the Lots shall be subdivided into smaller Lots.

Section 5. Driveways. All driveways shall be surfaced with concrete or similar substance acceptable to the City.

Section 6. Temporary Dwellings and Building Materials. No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, and gazebos may be placed on a Lot only in places which are not visible from any street contiguous with the Lot) shall be permitted on any Lot except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a given Lot during construction of the residences on that Lot. No building material of any kind or character shall be placed or stored upon the property until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed within the property lines of the Lot upon which the improvements are to be erected. Notwithstanding anything contained herein to the contrary, any storage building to be placed or erected on a Lot shall be governed by Section 21 of this Article IX.

Section 7. Boats, Aircraft, and Recreational Vehicles. No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street in the Addition, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view. No such vehicle shall be used as a residence or office temporarily or permanently. This restriction shall

not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity. "Storage" of any vehicle or equipment described in the first sentence of this Section, shall mean that the vehicle or equipment remains in any area not allowed for storage in excess of 24 hours.

Section 8. Trucks. Trucks with tonnage in excess of one (1) ton and any vehicle with painted advertisement shall not be permitted to park overnight within the Addition except those used by a builder during the construction of improvements.

Section 9. Explosive Cargo. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Addition at any time.

Section 10. Temporary Structures. No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building shall be used on any property at any time as a dwelling house; provided, however, that any builder may maintain and occupy model homes, sales offices and construction trailers during the construction period.

Section 11. Drilling. No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Addition, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Addition. Neither derrick nor other structure designed for using in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Addition.

Section 12. Animals and Livestock. No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Addition except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, geese, turkeys, skunks or any other animals that may interfere with the quietude, health, or safety of the community. No more than four (4) pets will be permitted on each Lot. Pets must be restrained or confined on the homeowner's back Lot inside a fenced area or within the house. It is the pet owner's responsibility to keep the Lot clean and free of pet debris. All animals must be properly tagged for identification.

Section 13. Trash. No Lot or other area in the Addition shall be used as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may be stored on Lots during construction so long as construction progresses without undue delay.

Section 14. Water. No individual water supply system shall be permitted in the Addition.

Section 15. Sewage. No individual sewage disposal system shall be permitted in the Addition.

Section 16. Temporary Occupancy. No garage, garage house, storage building or other out-building (except for sales offices and construction trailers during the construction period) shall be occupied by any Owner, tenant or other person prior to the erection of a residence.

Section 17. Air-Conditioning. No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence.

Section 18. Antennas. Except with the written permission of Declarant, no antennas shall be permitted in this Addition except antennas for AM or FM radio reception and UHF and VHF television reception. All antennas shall be located inside the attic of the main residential structure except as permitted by written permission of Declarant.

Section 19. Business Use. No Lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. No activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Addition, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales office until such builder's last residence in the Addition is sold. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowner's use and enjoyment of their residences or yards.

Section 20. Sight Distance and Intersection. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area as required by the City or formed by the street right-of-way lines and a line connecting them at points ten (10) feet from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Notwithstanding anything in this Section to the contrary, to the extent any requirements of the City exceed the requirements stated herein, the City requirements shall control and this Section shall be deemed amended to meet any such greater requirements for so long as they are in place.

Section 21. Relocated Structures. Except for children's playhouses, dog houses and other small low visibility buildings not visible from any street contiguous with the Lot, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon. A storage building structure prefabricated and assembled at the Lot, shall be considered an acceptable relocated structure so long as it is small and of low visibility. To be small and of low visibility, a structure must be no more than 8' by 10' in floor area and no more than 8' in height. Also, such structure may not be visible from any street contiguous with the Lot.

Section 22. Interference with Utilities or Drainage Channels. Within easements on each Lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow

within drainage channels or which may obstruct or retard the flow of water through drainage channels.

Section 23. Signs. No sign of any kind shall be displayed to the public view on any Lot except one (1) professional security system sign of not more than one (1) square foot, one (1) sign of not more than five (5) square feet advertising the property for rent or sale, or signs used by a builder to advertise the property during the construction and sales period. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. Notwithstanding, Declarant shall have the right to erect such signs as Declarant deems appropriate. To the extent any requirements of this Section become out of compliance with the requirements of the City, then this Section shall be deemed to comply with such greater requirements of the City for so long as necessary to remain in compliance.

Section 24. Laundry. The drying of clothes in full public view is prohibited.

Section 25. Fires. Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted anywhere in the Addition.

Section 26. Minimum Floor Area. The total air-conditioned living area of the main residential structure, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall not be less than the minimum habitable floor area as required by the City.

Section 27. Building Materials. The exterior wall area of each building constructed or placed on a Lot shall be constructed of materials as required by the City. Roofing shall be wood shingle or wood shake, composition, or other materials of a substance acceptable to all governing authorities, including but not limited to the City, VA and FHA.

Section 28. Side Line and Front Line Setback Restrictions. No dwelling shall be located on any Lot nearer to the front Lot line or nearer to the side Lot line than the minimum setback lines shown on the Plat or required by all governing authorities, including but not limited to the City, VA and FHA.

Section 29. Waiver of Front Setback Requirements. With the written approval of Declarant, any building may be located further back from the front property line of a Lot than provided above, where, in the opinion of Declarant, the proposed location of the building will add to the appearance and value of the Lot and will not substantially detract from the appearance of the adjoining Lots.

Section 30.1 Fences and Walls. No fence, wall or hedge shall be erected or maintained on any Lot nearer to the street than is permitted by applicable city ordinance or regulation. All fences and walls shall be properly maintained in good condition by the Owner of the Lot upon which the fence or wall sits unless the maintenance thereof is specifically assumed by Declarant or the Association by written notice to Owner. Chipping paint, rotting wood, leaning portions or those portions in a state of disrepair shall be properly cared for, maintained and/or replaced by the Owner of the Lot upon which the fence or wall sits, all subject to the requirements of the Declarant or the Association.

Section 30.2 Fencing Requirements at Eldorado Parkway, Teel Road, Panther Creek Parkway and FM 423. All Owners of Lots whose rear Lot lines or side Lot lines are adjacent to Eldorado Parkway, Teel Road, Panther Creek Parkway and FM 423 will be required to construct specific fencing on rear or side lot line boundaries which are adjacent to these four (4) thoroughfares (but only where fencing is allowed by City Code). The fencing must meet the specifications provided in Exhibit "B" ("Fencing Specifications") attached to this Declaration and incorporated herein by reference. The Fencing Specifications generally require a six-foot (6') board on board cedar fence. Each Owner of a Lot bound by the Fencing Specifications provided in this Section shall also be required to maintain the fence in accordance with Section 30.1. Neither Declarant nor Association will be responsible for maintaining the fencing required in this Section 30.2.

Section 31. Sidewalks. All sidewalks shall conform to City specifications and regulations.

Section 32. Mailboxes. Mailboxes shall be constructed of a material and design acceptable to the all-governing authorities including but not limited to, the City, VA and FHA.

Section 33. Grayhawk Boulevard Landscape Requirements. All Lots having front Lot lines adjacent to Grayhawk Boulevard between Eldorado Parkway and Panther Creek Parkway (the "Grayhawk Lots") and each Owner of a Grayhawk Lot, will be required to plant and maintain trees in the front yard of each Grayhawk Lot at the same time as the Owner constructs a Unit on the Lot. The trees required by this Section shall be in addition to any trees planted by the Declarant along the parkway in the common area. To the extent Declarant has satisfied these requirements, Owner will only be required to comply with the maintenance, irrigation, and replacement requirements of the already planted trees.

(a) Zones. There will be two (2) Zones at the front of each Grayhawk Lot. Zone 1 will be that strip of land running the entire width of the Lot in length and fifteen feet in depth, and bounded by the front Lot line, the side Lot lines, and the line parallel to and fifteen feet in distance from the front Lot line. Zone 2 shall be an adjacent strip of land to Zone 1, also running the entire width of the Lot in length and fifteen feet in depth, and bounded by the back line (furthest from Grayhawk Boulevard, Eldorado Parkway or Panther Creek Parkway, wherever the Lot fronts) of Zone 1, the side Lot lines, and extending to a line parallel to and fifteen feet (15') in distance from the back line of Zone 1 deeper into the Lot.

(b) Tree Requirements. In Zone 1 of the Grayhawk Lots, upon the construction of any Unit thereon, the Owner shall be required to plant one (1) Live Oak tree (*Quercus Virginiana*) with a minimum three-inch (3") diameter. This tree should be planted in a location in Zone 1 of the Lot in a manner so as not to create a repetitive pattern with any surrounding trees in Zone 1 whether within the Grayhawk Lot in question or neighboring Lots adjacent to or across the street from the Lot in question. In Zone 2, each Owner shall be required to plant three (3) ornamental trees consisting of any combination of Mexican Plum (*Prunus Mexicana*) or Eastern Redbud (*Cercis Canadensis*). These trees should have a minimum of a sixty-five (65) gallon container when installed. As with Zone 1, the Zone 2 trees must be planted in locations so as not to create a symmetrical or repetitive pattern with any neighboring Grayhawk Lot in comparison with their Zone 1 or Zone 2 trees.

Notwithstanding, if Zone 2 were to be divided in half in terms of width, all three (3) trees may not be planted in one single half of Zone 2.

(c) Irrigation. Along with the plantings of the above referenced trees, each Owner of a Grayhawk Lot shall be required to provide automatic irrigation with drip or bubbler heads at the location of each tree required in Grayhawk Zone 1 or Zone 2. Spray irrigation coverage alone will not be sufficient. Further, each Owner of any Grayhawk Lot will be bound to maintain all such trees and replace any which are damaged, destroyed or die for any reason. In cases where the Declarant has already installed any required Zone trees or other vegetation, the Owner of the affected Grayhawk Lot will be required to install automatic irrigation, with bubblers or drip systems for trees and/or spray for turf and shrubs which takes over the irrigation responsibility from the Declarant's system. Declarant must be notified by the Owner or Owner's agent prior to any change in irrigation.

Section 34. Terrain and Lot Drainage. No planting, construction, or any other activity shall be undertaken which, in any way, alters or affects the drainage or natural flow of water from any of the Lots.

Section 35. Development Activity. Notwithstanding any other provision herein, Declarant and its successors and assigns shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and the construction and sale of the dwelling units on the Property.

ARTICLE X ANNEXATION

Section 1. Annexation by Declarant. At any time during the initial term of this Declaration, the Declarant may, at its sole option, annex additional property to this Declaration to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant.

(a) Declaration of Annexation. Annexation shall be evidenced by a written Declaration of Annexation executed by Declarant setting forth the legal description of the property being annexed and the restrictive covenants to be applied to such annexed property.

Section 2. Annexation by Action of Members. At any time the Board of Directors may request approval of the membership for the annexation of additional property into the Association to be subject to all of the terms of this Declaration to the same extent as if originally included herein. No such annexation shall be effective unless approved in writing by a majority vote of the Members of the Association. Any property that is contiguous to existing property to this Declaration may be annexed hereto according to the foregoing requirements, provided however, that no such annexation shall be effective without the consent and joinder of the owners of the property to be annexed. Such annexation must be evidenced by a Declaration of Annexation as set forth in Subsection 1(a) above executed by the parties herein described.

Section 3. No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any other member to annex any property to this Declaration and no Owner of property excluded from the Declaration shall have any right to have such property annexed thereto.

Section 4. Effect of Annexation on Class B Membership. In determining the number of Lots owned by Declarant for the purpose of Class B Membership status according to Article II, Section 6, the total number of Lots covered by the Declaration including all Lots annexed thereto shall be considered. If Class B Membership has previously expired but annexation of additional property restores the ratio of Lots owned by Declarant to the number required for Class B Membership, such Class B Membership shall be reinstated.

ARTICLE XI GENERAL

Section 1. Rights. For so long as Declarant shall own any of the Lots contained within the Property as it currently exists or as such properties shall have been annexed to be governed by these Declarations and continuing until such date as Declarant no longer owns any Lot contained within the Property (or such Property as may be annexed pursuant to these Declarations), Declarant shall have the sole and exclusive right to establish the Homeowner's Association contemplated by these Declarations. Upon establishing the Homeowner's Association made reference to herein, Declarant shall be relieved of all rights and obligations (except those specifically applicable to Class B Memberships and then only to the extent Declarant is a Class B Member and only to the extent such rights and obligations are imposed upon Declarant by these Declarations) and such obligations shall, from the formation of such Homeowner's Association forward, become the obligations of the Homeowner's Association. At the time Declarant transfers control of the Board of Directors of the Association, the Declarant must transfer to the Association all control over utilities related to Common Areas and amenities owned by the Association. Declarant shall also disclose total cost to date of maintaining the Common Areas.

Section 2. Remedies. In the event of any default by any Owner under the provisions of the Declaration, Bylaws or rules and regulations of the Association, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and said rules and regulations, and those which may be available at law or in equity, and may prosecute any action or other proceeding against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for the payment of the money and collection thereof, or for any combination of the remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses, and all damages, permitted by law but, with reference to any Lots financed by FHA insured loans, not in excess of the maximum rate of FHA loans at the time of delinquency, from the due date until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of respective maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of the additions and improvements thereto, and upon all of his personal property upon the

Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner.

Section 3. Term and Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless seventy-five percent (75%) of the votes outstanding shall have voted to terminate the covenants and restrictions of this Declaration and prior approval has been obtained from the City which termination shall be by written instrument signed by seventy-five percent (75%) of the Owners and countersigned by a duly authorized representative of the City and properly recorded in the Denton County, Texas land records. Notwithstanding anything contained herein to the contrary, during any time in which Declarant is the Owner of any Lot in the Property, Declarant shall have the right, within its sole discretion, to make amendments to this Declaration, without the consent of any other Owner. However, the City must also approve Amendments by Declarant, but only if the amendment in question directly amends a provision related to funding the Association which is specifically covered by one or more ordinances of the City of Frisco then in effect which specifically restrict funding of the Association. This Declaration may otherwise be amended by an instrument signed by Owners and Declarant constituting not less than seventy-five percent (75%) of the votes of the Association and countersigned by a duly authorized representative of the City. Any amendment must be recorded.

Section 4. Multiple Declarants. In the event Declarant, pursuant to its rights as provided herein, designates one or more Declarants such that there are Multiple Declarants, each such Declarant shall be responsible for its pro rata portion, based upon the number of Lots owned by the Declarant compared to the total number of Lots owned by all Declarants, of all expenses and other financial obligations and such other duties and obligations as are set forth herein. In the event a decision or election by Declarant is to be made pursuant to the provisions hereof, and there is more than one Declarant, the decision shall be made by majority vote of the Declarants and each Declarant shall be entitled to one vote per Lot owned. Each Declarant agrees to mutually cooperate in good faith to diligently and completely perform all of the obligations of a Declarant under this Agreement. To the extent a Declarant constructs a Unit on a Lot, then Declarant shall be deemed a Class A Member with respect to that Lot only, for purposes of this Declaration, including without limitation with respect to all assessments.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain, in full force and effect.

Section 6. Rights and Obligations. The provisions of this Declaration and the Articles of Incorporation and Bylaws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording of the acceptance of a deed conveying a Lot of any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the Articles of Incorporation and Bylaws, whether or not mention thereof is made in said deed.

Section 7. Indemnification of Declarant. Except to the extent of Declarant's gross negligence or willful misconduct, the Association shall indemnify and hold harmless Declarant from any and all claims, actions, debts, demands or causes of action which may be brought against Declarant and arising in any way in connection with the Association

Section 8. Miscellaneous Provisions. Any provisions of this Declaration or of the Articles of Incorporation and Bylaws to the contrary notwithstanding, the following provisions shall control:

(a) All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Section 9. 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 10. Conflicts. In the event of conflict between the terms of this Declaration and the Bylaws, rules, regulations or Articles of Incorporation of the Association, this Declaration shall control.

Section 11. Failure of Association to Perform Duties. Should the Association fail to carry out its duties as specified in this Declaration, the City or its lawful agents shall have the right and ability, after due notice to the Association, to remove any landscape systems, features or elements that cease to be maintained by the Association; to perform the responsibilities of the Association if the Association fails to do so in compliance with any of the provisions of this Declaration or of any applicable City codes or regulations; to assess the Association for all costs incurred by the City in performing said responsibilities if the Association fails to do so; and/or to avail itself of any other enforcement actions available to the City; or to the extent of costs incurred for the repair, replacement, or maintenance of any Common Maintenance Area located within any public right-of-way dedicated to the City to avail itself of the Association's right to assess and impose liens upon Lots of the Property, or any other enforcement actions pursuant to state law or Federal codes and regulations. Should the City exercise its rights as specified above and except in the event of the City's gross negligence or willful misconduct, the Association shall indemnify and hold harmless the City from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's removal of any landscape systems, features or elements that cease to be maintained by the Association, or from the City's performance of the aforementioned operations, maintenance or supervision responsibilities of the Association due to the Association's failure to perform said duties.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, and attested as of the 22nd day of January, 2002.

DECLARANT:

ELDORADO RANCH, LTD.

By: Intermandeco, Ltd.,
Its: General Partner
By: Intermandeco GP, LLC,
Its: General Partner

ATTEST:

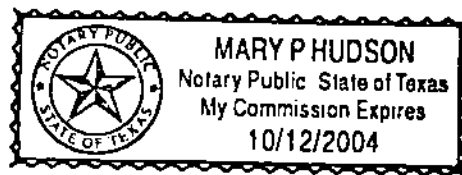
Handwritten signature

By: ~~Issam Karanouh~~
Title: Manager

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

The foregoing instrument was acknowledged before me on this 22nd day of January, 2002 by Issam Karanouh, as Manager of Intermandeco GP, LLC, general partner of Intermandeco, Ltd., as general partner of Eldorado Ranch, Ltd., on behalf of said limited partnership.

Mary P. Hudson
Notary Public in and for the State of Texas



LEGAL DESCRIPTION - GRAYHAWK TRACT

BEING, a tract of land situated in the J.H. Hawkins Survey, Abstract No. 607, P.T. Homes Survey, Abstract No. 644, J.H. Shahan Survey, Abstract No. 1233, J.D. Hawkins Survey, Abstract No. 579, H.G. Hawkins Survey, Abstract No. 589, and the M.E.P. & P.R.R. Company Survey, Abstract No. 917 in the City of Frisco, Denton County, Texas, being out of a 360.210 acre tract, as described in Clerks File No. 99-R0114439, a 219.177 acre tract, as described in Clerks File No. 00-R0037997, a 100.784 acre tract, as described in Volume 838, Page 507, a 2.00 acre tract, as described in Clerks File No. 01-R0015325, and a 36.27 acre tract, as described in Clerks File No. 01-R0015326 in the Deed Records of Denton County, Texas, and being more particularly described as follows

BEGINNING, at the southeast corner of the 360.210 acre tract and being in the north line of F.M. 2934;

THENCE, South 89°29'00" West, along the south line of said 360.210 acre tract and along the north line of said F.M. 2934, for a distance of 110.20 feet, to a ½ inch iron rod;

THENCE, South 89°30'00" West, continuing along said lines, for a distance of 1930.40 feet, to a ½ inch iron rod at the point of curvature of a curve to the right, having a radius of 5679.58 feet, a central angle of 01°11'00", and a tangent of 58.65 feet,

THENCE, continuing along said lines and along said curve to the right for an arc distance of 117.30 feet (Chord Bearing North 89°54'30" West - 117.30 feet), to the point of tangency;

THENCE, North 89°19'00" West, continuing along said lines, for a distance of 58.64 feet, to a ½ inch iron rod;

THENCE, North 87°53'04" West, continuing along said lines, for a distance of 200.06 feet, to a ½ inch iron rod;

THENCE, North 89°19'00" West continuing along said lines, for a distance of 1396.93 feet, to a ½ inch iron rod being the most southerly southwest corner of said 360.210 acre tract;

THENCE, North 42°57'54" West, departing said north line and with said south line, for a distance of 77.24 feet, to a ½ inch iron rod being the most westerly southwest corner of said 360.210 acre tract and in the east line of F.M. 423 being on a curve to the left, having a radius of 5774.58 feet, a central angle of 03°05'18", and a tangent of 155.67 feet;

THENCE, along said east line and along the west line of the 360.210 acre tract and with said curve to the left for an arc distance of 311.27 feet (Chord Bearing North 02°13'52" East - 311.23 feet), to a ½ inch iron rod at the point of tangency;

THENCE, North 00°41'14" East, continuing along said east and west lines, for a distance of 864.10 feet, to a ½ inch iron rod;

THENCE, North 03°32'59" East, continuing along said lines, for a distance of 100.12 feet, to a ½ inch iron rod;

THENCE, North 00°41'14" East, continuing along said lines, for a distance of 585.89 feet, to a ½ inch iron rod being the most westerly northwest corner of the 360.210 acre tract;

THENCE, North 89°36'06" East, departing the east line of said F.M. 423 and along a north line of said 360.210 acre tract, for a distance of 170.63 feet, to a ½ inch iron rod being the southwest corner of said 36.27 acre tract;

THENCE, North 01°02'41" West, along the west line of the 36.27 acre tract, for a distance of 832.56 feet, to a ½ inch iron rod set,

THENCE, South 88°44'00" West, continuing along said west line, for a distance of 145.79 feet, to a ½ inch iron rod set in the east line of F.M. 423;

THENCE, North 00°40'06" East, continuing along said lines, for a distance of 915.83 feet, to a ½ inch iron rod set,

THENCE, North 50°22'11" East, departing said lines, for a distance of 138.36 feet, to a ½ inch iron rod set being the most northerly northwest corner of the 36.27 acre tract;

THENCE, North 89°19'54" East, along said north line passing a ½ inch iron rod at 636.33 feet, being the northeast corner of the 36.27 acre tract and the northwest corner of said 2.00 acre tract, for a total distance of 685.91 feet, to a ½ inch iron rod set;

THENCE, North 00°40'15" East, along said west line, for a distance of 942.07 feet, to a ½ inch iron rod set on a curve to the right, having a radius of 1360.00 feet, a central angle of 10°54'52", and a tangent of 129.93 feet;

THENCE, along said curve to the left for an arc distance of 259.07 feet (Chord Bearing North 75°59'15" West - 258.68 feet), to a ½ inch iron rod;

THENCE, North 71°10'29" West, for a distance of 150.98 feet, to a ½ inch iron rod;

THENCE, North 64°38'05" West, for a distance of 194.05 feet, to a ½ inch iron rod in the east line of F.M. 423;

THENCE, North 25°21'05" East, along said east line, for a distance of 29.49 feet, to a 5/8 inch iron rod;

THENCE, North 31°03'43" East, continuing along said east line, for a distance of 100.50 feet, to a ½ inch iron rod;

THENCE, North 25°21'05" East, continuing along said east line, for a distance of 400.00 feet, to a 5/8 inch iron rod;

THENCE, North 19°38'27" East, continuing along said east line, for a distance of 100.50 feet, to a 1/2 inch iron rod;

THENCE, North 25°21'05" East, continuing along said east line, for a distance of 1045.85 feet, to a 5/8 inch iron rod being the northwest corner of said 219.177 acre tract;

THENCE, North 89°55'17" East, departing said east line of said F.M. 423 and along the north line of said 219.177 acre tract, for a distance of 2495.86 feet, to a 1/2 inch iron rod;

THENCE, North 01°06'14" West, with a west line of said 219.177 acre tract, for a distance of 1302.25 feet, to a 1/2 inch iron rod;

THENCE, North 89°06'48" East, along the north line of the 219.177 acre tract, for a distance of 2157.51 feet, to a 1/2 inch iron rod being the northeast corner of the 219.177 acre tract;

THENCE, South 00°23'09" East, along the east line of the 219.177 acre tract and being in the center a gravel road (Hawkins Road), for a distance of 2070.47 feet, to a 1/2 inch iron rod, being the easterly most southeast corner of said 219.177 acre tract, also being the northeast corner of a 100.784 acre tract, as described in said Deed Records of Denton County, Texas;

THENCE, South 00°09'13" East, along the east line of said 100.931 acre tract and with said gravel road, for a distance of 2214.67 feet, to a 1/2 inch iron rod, being the southeast corner of said 100.784 acre tract;

THENCE, South 89°41'04" West, departing said gravel road and along the south line of said 100.784 acre tract, for a distance of 1113.94 feet, to a 1/2 inch iron rod, being in the east line of said 357.857 acre tract;

THENCE, North 00°02'52" East, departing said south line, for a distance of 30.00 feet;

THENCE, South 89°41'04" West, for a distance of 299.96 feet, to a 1/2 inch iron rod at the point of curvature of a curve to the right, having a radius of 330.00 feet, a central angle of 37°52'16", and a tangent of 113.21 feet;

THENCE, along said curve to the right for an arc distance of 218.12 feet (Chord Bearing North 71°22'48" West - 214.17 feet), to a 1/2 inch iron rod at the point of tangency;

THENCE, North 52°26'40" West, for a distance of 38.45 feet, to a 1/2 inch iron rod;

THENCE, South 37°33'20" West, for a distance of 456.94 feet, to a 1/2 inch iron rod at the point of curvature of a curve to the left, having a radius of 500.00 feet, a central angle of 09°41'50", and a tangent of 42.41 feet;

THENCE, along said curve to the left for an arc distance of 84.62 feet (Chord Bearing South 42°24'14" West - 84.52 feet), to a ½ inch iron rod set at the point of tangency,

THENCE, South 47°15'09" West, for a distance of 32.72 feet, to a ½ inch iron rod set on a curve to the right, having a radius of 300.00 feet, a central angle of 20°39'51", and a tangent of 54.70 feet;

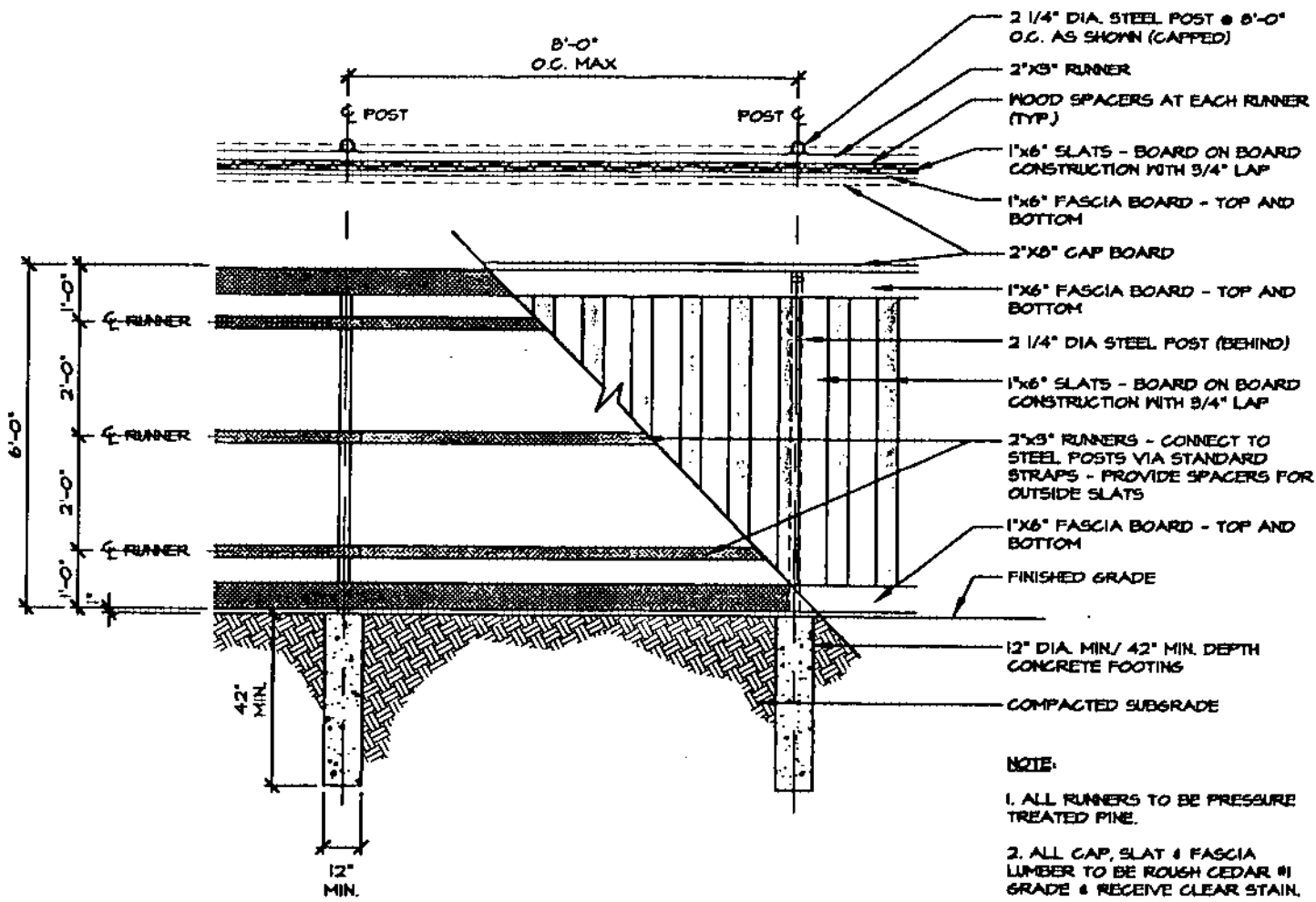
THENCE, along said curve to the right for an arc distance of 108.20 feet (Chord Bearing South 32°24'55" East - 107.61 feet), to a ½ inch iron rod;

THENCE, South 89°57'08" East, for a distance of 834.88 feet, to a ½ inch iron rod set in the east line of said 360.210 acre tract;

THENCE, South 00°02'52" West, along said east line, for a distance of 419.41 feet, to a ½ inch iron rod;

THENCE, South 87°56'58" West, continuing along said east line, for a distance of 677.69 feet, to a ½ inch iron rod;

THENCE, South 00°04'33" East, continuing along said east line, for a distance of 2596.17 feet, to the POINT OF BEGINNING and containing 711.536 acres of land



- NOTE:**
1. ALL RUNNERS TO BE PRESSURE TREATED PINE.
 2. ALL CAP, SLAT & FASCIA LUMBER TO BE ROUGH CEDAR #1 GRADE & RECEIVE CLEAR STAIN.

EXHIBIT B

CEDAR BOARD ON BOARD FENCE

DETAIL

SCALE : 1/2" = 1'-0"

Filed For Record in:
DENTON COUNTY, TX
CYNTHIA MITCHELL, COUNTY CLERK

On Jan 22 2002
At 2:18pm

Receipt #: 4017
Recording: 67.00
Doc/Mgmt: 6.00
Doc/Num: 2002-R0008616
Doc/Type: DEC
Deputy -Felicia