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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR WELLS BRANCH

2-75-7005

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

THIS DECLARATION, IS MADE THIS 8th day of January,
1982, by PROVIDENT DEVELOPMENT COMPANY, a division of Lexington De-
velopment Company, a Texas limited partnership, hereinafter called Declarant.

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in
Article I, Section 2, of this Declaration; and

WHEREAS; Declarant desires to subject the real property described in
Article I, Section 2 hereof to the covenants, restrictions, charges and liens
hereinafter set forth; and

WHEREAS, Wells Branch Association, Inc. has been incorporated under
the Laws of the State of Texas as a nonprofit corporation, and has been
granted powers of administering and enforcing the said covenants, restric-
tions, charges, and liens and disbursing the assessments and charges herein-
after created;

NOW, THEREFORE, Declarant declares that the real property described
in Article I, Section 2, and such additions thereto as may hereafter be made
pursuant to Article I, Section 3, hereof, is and shall be held, transferred,
sold, conveyed, and occupied subject to the covenants, restrictions, charges
and liens hereinafter set forth.

ARTICLE I

GENERAL

Section 1. Definitions. The following words, when used in this
Declaration, unless the context shall prohibit, shall have the following
meanings:

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- a. "Architectural Control Committee," "Architectural Committee" or "Committee" shall mean and refer to the architectural control committee created pursuant to these restrictions.
- b. "Association" or "Wells Branch Association" shall mean and refer to Wells Branch Association, Inc.
- c. "Board" shall mean and refer to the Board of Directors of the Association.
- d. "The Properties" shall mean and refer to the real property (including improvements) described in Section 2 hereof, and additions thereto, as are subject to this Declaration or any Supplementary Declaration (as hereinafter defined).
- e. "Common Properties", "Common Areas" or "Common Area Greenways" shall mean and refer to those areas of land shown on any recorded plat or its equivalent of The Properties or any portion thereof filed or approved by Declarant and identified thereon as "Common Areas of the Wells Branch Association."
- f. "DECLARANT" shall mean and refer to Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, its successors and assigns and shall include any person or entity to which DECLARANT may assign its rights and privileges, duties, and obligations hereunder, all of which are and shall be assignable.
- g. "Area," when followed by a roman numeral, shall mean and refer to a specific portion of The Properties, the exact geographic location of which shall have been described and defined either in Exhibit "A" referred to in Section 2 of this Article I or in one of the Supplementary Declarations (as hereinafter defined).
- h. "Supplementary Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add to The Properties or (ii) to subject any Area to further covenants, conditions or restrictions or (iii) to withdraw land from the Properties.

Section 2. Property Subject to Declaration. The real property covered by this Declaration is described in Exhibit "A" attached hereto and incorporated herein by reference. All of The Properties and any right, title or

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interest therein shall be owned, held, leased, sold and/or conveyed by DECLARANT, and any subsequent owner of all or any part thereof, subject to this Declaration and the covenants, restrictions, charges and liens set forth herein.

ARTICLE II

DEVELOPMENT, ANNEXATION AND WITHDRAWAL OF LAND

Section 1. Development by DECLARANT. DECLARANT may divide or subdivide The Properties, designate any portion of The Properties to be a separate Area, develop parts of The Properties and, at DECLARANT's option, dedicate parts of The Properties as Common Areas or for other purposes for the benefit of the developed areas, in accordance with its master plan for The Properties. It is contemplated that The Properties will be developed pursuant to a master concept plan, which may, from time to time, be amended or modified, in the sole discretion of DECLARANT in which the development of and restrictions upon each area thereof will benefit each other portion and the whole thereof. As each Area is developed or dedicated, DECLARANT may record one or more Supplementary Declarations and designate the use, classification, and such additional covenants, conditions, and restrictions as DECLARANT may deem appropriate for that Area. Any Supplementary Declaration may provide its own procedure for the amendment of any provisions thereof, as for example, by a specified vote of only the owners of the property within the Area subject thereto. All lands, improvements and uses in each Area so developed shall be subject to both this Declaration and the Supplemental Declaration, if any, for that Area.

Section 2. Annexation. The property described on Exhibit "B" attached hereto and incorporated herein by reference shall be added to The Properties when fee simple title to the said property is acquired by DECLARANT. DECLARANT, and other persons with DECLARANT's written consent may at any time, and from time to time, add any other lands to The Properties. Upon the recording of a Notice of Addition of Land containing the provisions set forth below in this Article II, Section 2 (which Notice may be contained within any Supplementary Declaration affecting such land), the covenants, conditions, and restrictions contained in this Declaration shall

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apply to the added land, and the rights privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration.

The Notice of Addition or withdrawal of Land shall contain the following provisions:

- (A) A reference to this Declaration, which reference shall state the date of recordation hereof and the book and page numbers wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to the added land as set forth herein or that the land has been withdrawn from the provisions hereof;
- (C) Legal description of the added land and language designating said added land with the term "Area" followed by a roman numeral so as to differentiate each respective area from other areas within The Properties; and
- (D) DECLARANT's written consent if the land being added is not owned by DECLARANT. As part of such written consent, DECLARANT may agree with the person who owns such land as to the terms and conditions upon which DECLARANT will exercise its rights and duties, as DECLARANT under this Declaration, with respect to such added lands. Such terms and conditions may provide for joint exercise, as to such lands added, of DECLARANT's rights and duties.

Section 3. Withdrawal of Land. Any land within The Properties which is subdivided under a final plat filed of record in the Plat Records of Travis County, Texas, creating lots intended to be used as homesites for single family detached dwellings shall be automatically exempted from the provisions of this Declaration, and DECLARANT shall, upon the recording of such final plat, file a Notice of Withdrawal of Land in substantially the form set forth in Section 2 above for the addition of land, but providing for the withdrawal of land rather than the addition thereof. DECLARANT, and others with DECLARANT's written consent, may, at any time and from time to time, reduce or withdraw from The Properties any lands to be used for residential pur-

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poses (whether single family or multi-family). The withdrawal shall be accomplished by filing a Notice of Withdrawal of Land in conformance with the procedure set forth above in this Section 3. Upon the filing of a Notice of Withdrawal of Land as provided hereunder, this Declaration shall no longer apply nor have any force or effect with respect to those lands withdrawn, but DECLARANT may, at the time the Notice of Withdrawal of Land is filed, or at any later date, subject the withdrawn lands to additional covenants, conditions and restrictions as Declarant deems appropriate.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to The Properties, and the surviving or consolidated association shall possess all of the rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to The Properties except as hereinafter provided. No merger or consolidation of the Association shall be effective without the written consent of DECLARANT.

ARTICLE III GENERAL RESTRICTIONS

All of The Properties shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

Section 1. Antennas. No exterior radio, television antenna or aerial shall be erected or maintained without the prior written approval of the Architectural Committee, except for any which may, at DECLARANT's option, be erected by DECLARANT or DECLARANT's designated representative.

Section 2. Insurance Rates. Nothing shall be done or kept on The Properties which would increase the rate of insurance on any other portion of

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The Properties without the approval of the Board, nor shall anything be done or kept on The Properties which would result in the cancellation of insurance on any improvements within The Properties or which would be in violation of any law.

Section 3. Subdivision. No previously subdivided lot within The Properties shall be divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the owner thereof (including any Subassociation) without the prior written approval of the Architectural Committee; provided, however, that when DECLARANT is the Owner thereof, DECLARANT may further divide and subdivide any lot or parcel of land and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee; and provided further, that nothing herein shall be deemed to require the approval of the Architectural Committee for the transfer or sale of any lot, including improvements thereon, to more than one person to be held by them as tenants in common or joint tenants, or for the grant of any Mortgage.

Section 4. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon The Properties and no odors shall be permitted to arise therefrom so as to render The Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and any such container shall be kept within an enclosed structure or appropriately screened from view.

Section 5. Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of The Properties without the prior written approval of the Architectural Committee. No noise or other nuisance shall be permitted to exist or operate upon any of The Properties so as to be offensive or detrimental to any other property or to its occupants.

Section 6. Repair of Buildings. All improvements hereafter constructed upon any of The Properties shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the owner (including any Subassociation) thereof. The opinion of the Board as to condition shall be final.

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Section 7. Drainage. There shall be no interference with the established drainage patterns over any of The Properties, except by DECLARANT, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

Section 8. Hazardous Activities. No activities shall be conducted on The Properties and no improvements constructed on The Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon The Properties, no open fires shall be lighted or permitted except in a contained barbeque unit (while attended and in use for cooking purposes), within a safe and well-designed interior fireplace, or such campfires or picnic fires in Common Areas designated for such use by DECLARANT, or by the Association.

Section 9. Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon The Properties, except that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction may be maintained with the prior approval of DECLARANT, such approval to include the nature, size, duration and location of such structures.

Section 10. Mining and Drilling. No portion of The Properties shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

Section 11. Vehicles. The use and storage of all vehicles, including but not limited to helicopters, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles shall be subject to regulation by the Board, which may regulate, prohibit or limit the use thereof within specified parts of The Properties.

Section 12. Animals. No animals or poultry may be kept or raised on The Properties, provided, however, that the keeping of ordinary household pets such as dogs and cats is allowed; and provided further that household pets and other animals may be kept in any pet store or other commercial establishment if such use has been approved by the Board.

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Section 13. Height Limitation. No improvement may be erected upon The Properties which is in excess of sixty feet in height without the prior written approval of the Architectural Committee.

ARTICLE IV
PROTECTIVE COVENANTS

Section 1. Use Limitations. Sites within The Properties may be used for office buildings, light manufacturing and assembly, hotels, religious assemblies, multi-family residential dwellings, retail sales, restaurants, storage, warehousing and related facilities, or other uses permitted in writing by Declarant. The following uses shall not be permitted:

- (a) Overnight parking of campers, mobile homes, boats, trailers or motor homes;
- (b) Any use which would create any dangerous, injurious, noxious, or otherwise objectionable noise, glare, smoke, dust or other form of air pollution, liquid or solid refuse or waste, or other substance as to affect any use within the vicinity;
- (c) Single family residential (unless such land is withdrawn in accordance with Article II, Section 3 hereof);
- (d) Any use contrary to law or which violates any section of this Declaration.

Section 2. Minimum Setback Lines. No structure of any kind and no part thereof shall be placed within these setback lines:

- (a) 25 feet from any Common Area Greenway;
- (b) 50 feet from the right of way of State IH 35, FM 1325 or Wells Branch Parkway;
- (c) 30 feet from any other public street right of way;
- (d) 10 feet from any interior property line;

provided, however, that the following improvements are expressly excluded from these setback requirements: structures below and covered by the ground; steps, walks, driveways, and curbing; planters, walls, fences or hedges, not to exceed 4 feet in height; landscaping; and any other improvement approved in writing by Declarant.

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Section 3. Building Heights. No portion of a building in excess of 35' shall be closer than 100 feet from the street right of way or closer than 100 feet from an interior property line.

Section 4. Parking Areas. Parking areas shall be curbed, guttered and paved; shall have a maximum grade slope of 5%; shall not be provided in front of any building line fronting a street; shall be adequately screened by use of berm, trees, landscaping or other means acceptable to the Committee; and shall be sufficient to accommodate all parking needs for employees, visitors, and company vehicles, without the use of on-street parking. If parking needs increase, additional off-street parking shall be provided by the owner. There shall be provided at least the following minimum parking areas:

| <u>USE CLASSIFICATION</u> | <u>MINIMUM OFF STREET PARKING REQUIREMENTS</u> |
|--|--|
| i. Duplex Residential | 2 spaces per unit |
| ii. Townhouse Residential | 2 spaces per unit |
| iii. Apartment/Condominium | |
| iv. Efficiency | 1 space per unit |
| One Bedroom | 1.5 spaces per unit |
| 2 Bedrooms or Larger | 2 spaces per unit |
| v. Administrative and Business | |
| Office | 1 space per 300 square feet |
| vi. Financial Services | 1 space per 250 square feet |
| vii. General Retail Services | 1 space per 200 square feet |
| viii. Religious Assembly | 1 space per 5 person capacity |
| ix. Professional Offices | 1 space per 200 square feet |
| x. Indoor Service or Display | 1 space per 500 square feet |
| xi. Indoor Storage, Warehousing, Equipment Servicing, or Manufacturing | 1 space per 1000 square feet |
| xii. Outdoor Sales, Service, or Display | 1 space per 750 square feet |

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| <u>USE CLASSIFICATION</u> | <u>MINIMUM OFF STREET PARKING REQUIREMENTS</u> |
|---|--|
| xiii. Outdoor Storage, Equipment Servicing, or Manufacturing | 1 space per 2000 square feet |
| xiv. Hotel or Motel | 1 space per guest room |
| xv. Restaurant or Club | 1 space for each 2-1/2 seats |
| xvi. Theatre | 1 space for each 3-1/2 seats |

Declarant may grant exceptions to and/or variations from any parking requirement, provided that all such variations and/or exceptions must be in writing.

Section 5. Driveways. All driveways shall:

- (a) Not intersect roads, streets or thoroughfares within 30 feet of intersections;
- (b) Have a minimum width of 12 feet; and
- (c) Shall include right turn stacking lanes for entry into site off of IH 35, FM 1325, or Wells Branch Parkway.

Section 6. Signs. All signs must be approved by the Architectural Control Committee in writing prior to installation. Factors to be considered by the Architectural Control Committee may include but shall not be limited to whether such signs meet the following criteria:

- (a) Identify the name and business of the occupant or which offer the premises for sale or for lease.
- (b) Are not of an unusual size or shape when compared to the building or buildings on the premises.
- (c) Do not project above the roof line of a building or in front of the setback line.
- (d) Do not block or detract from adjacent property.
- (e) Preserve the quality and atmosphere of the area.
- (f) Signs over 35' in height shall be at least 100' from right of way lines.

Signs of a flashing or moving character and inappropriately colored signs will not be permitted. The Association shall have the right to enter onto The

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Properties and to remove at the owner's expense, any sign erected without such written approval.

Section 7. Landscaping. Landscaping shall be required on all sites contemporaneously with completion of other improvements, but in no event later than 180 days after first occupancy or completion of buildings, whichever shall first occur and all landscaping shall conform to a landscaping plan approved by the Committee and drawn by a registered landscape architect. Factors to be considered by the Committee may include but shall not be limited to whether the plans meet the following criteria:

- (a) Provide automatic underground sprinkling systems for all landscaped areas;
- (b) Do not obstruct sight lines at street or driveway intersections;
- (c) Preserve existing trees to the extent practical;
- (d) Include at least one tree in the area between the building line and the street right of way line every 35 feet;
- (e) Include landscaping islands a minimum of 9 feet in width for every 20 parking spaces, and include in the islands at least one tree; and
- (f) Permit reasonable access to public and private utility lines and easements for installation and repair.

Section 8. Screening. Storage areas, air conditioning and heating equipment, incinerators, storage tanks, trucks based on the premises, roof objects (including fans, vents, cooling towers, skylights and all roof mounted equipment which rises above the roof line), trash containers and maintenance facilities, shall either be housed in closed buildings or otherwise completely screened from public view in a manner and at a location approved in writing by the Architectural Control Committee. Such screening shall include landscaping or permanent fences of solid materials and be located as far from property lines as reasonably possible unless otherwise approved by the Architectural Control Committee. No antenna or tower shall be erected on The Properties for any purpose without prior written approval from the Architectural Control Committee. Any and all lines and/or wires for communication or for transmission of sound or current, not within a building, shall be constructed or placed and maintained underground.

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Section 9. Loading Docks and Areas. Loading docks and areas shall not be located on the street side of any building or structure, except that the Architectural Control Committee may approve such location in writing (subject to express screening requirements) on one street side of corner buildings or structures. Loading areas may not encroach upon setback areas, except that Declarant may approve such encroachment in connection with the approval of street side loading areas for corner buildings as described in the preceding sentence. Loading docks and areas shall be screened in a manner approved in writing by Declarant, considering such things as location (street side or rear side) and views from adjacent and nearby properties. Loading docks and areas shall not be within 50 feet of any Common Area Greenway frontage.

Section 10. Exterior Illumination. Illumination will be required on all exterior walls facing streets or proposed streets and for all parking areas and walkways between buildings and parking areas unless otherwise waived or modified by Declarant in writing. Such illumination must conform to plans approved in writing by the Architectural Control Committee.

Section 11. Construction Standards.

- (a) All building sides must be faced with brick or stone, or with such other similar quality face materials as may be approved in writing by the Architectural Control Committee. Windows shall not be glazed or reglazed with mirrored or reflective glass without prior written approval of the Architectural Control Committee.
- (b) Construction must conform to plans and specifications approved in writing by the Architectural Control Committee. Factors to be considered by the Committee may include but shall not be limited to whether the plans meet the following criteria:
 - i. Do not include wooden frames;
 - ii. Provide adequate fire protection systems;
 - iii. Provide for all underground utilities (public and private);
 - iv. Preserve the quality and atmosphere of the area and do not detract from adjacent property;
 - v. Do not include exterior fire escapes; and

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- vi. Do not make extensive use of reflective or mirrored glass.
- (c) Each commercial building, complex of buildings, or separate commercial business enterprise shall have a trash compactor on the premises adequate to handle the trash and waste items generated, manufactured, or acquired thereon by such commercial activities. The sorting, handling, moving, storing, removing, and disposing of all such waste materials must be housed or screened in a manner approved in writing by the Architectural Control Committee. All facilities and plans for the disposal of wastes other than by public sewage methods (such as shredding, compaction, incineration, reclamation, or chemical dissolution) must be approved in writing by the Architectural Control Committee.
- (d) Each kitchen facility within a commercial building or complex of buildings shall contain a water flushing garbage grinder disposal.
- (e) No excavation shall be made except in conjunction with construction of an improvement. When such improvement is completed, all exposed openings shall be back filled and graded.
- (f) Once commenced, construction shall be diligently pursued to the end that it may not be left in a partly finished condition any longer than reasonably necessary.

ARTICLE V
MAINTENANCE

Section 1. Duty of Maintenance. Owners and occupants (including lessees) of any part of The Properties shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of The Properties so owned or occupied, including buildings, improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following which shall be performed in a timely manner:

- a. Prompt removal of all litter, trash, refuse, and wastes.
- b. Lawn mowing.
- c. Tree and shrub pruning.

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- d. Watering.
- e. Keeping exterior lighting and mechanical facilities in working order.
- f. Keeping lawn and garden areas alive, free of weeds, and attractive.
- g. Keeping parking areas, driveways, and roads in good repair.
- h. Complying with all government, health and police requirements.
- i. Striping of parking areas and repainting of improvements.
- j. Repair of exterior damage, and wear and tear to improvements.

Section 2. Enforcement. If, in the opinion of the Board any such owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association through the Board may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association through its authorized agent or agents shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The owners and occupants (including lessees) of any part of The Properties on which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such owner or occupant shall fail to reimburse the Association within 30 days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against that portion of The Properties on which said work was performed. Such 'lien' shall have the same attributes as the lien for annual assessments and special assessments set forth hereinabove, which provisions are incorporated herein by reference, and the Association shall have identical powers and rights in all respects, including but not limited to the right of foreclosure.

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ARTICLE VI
THE ASSOCIATION

Section 1. Membership. Each and every person, persons or legal entity who shall own any lot, tract, or parcel of land in The Properties, shall automatically be a member of the Association, PROVIDED that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a member.

Section 2. Classes of Voting Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those members described in Section 1 hereof with the exception of DECLARANT. Class A members shall be entitled to one vote for each one hundred dollars (\$100.00), or major fraction thereof, of assessed value of that portion of The Properties owned by each such member as used by the County of Travis, Texas, for ad valorem tax purposes for the preceding year. When two or more persons or entities hold undivided interests in any part of The Properties, all such persons or entities shall be Class A members, and the vote for such part of The Properties shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each one hundred dollars (\$100.00), or major fraction thereof, of value of the part of The Properties in which such members own undivided interests.

Class B. The Class B member shall be DECLARANT. For every one vote outstanding in favor of the Class A members, the Class B member shall have three votes; PROVIDED, HOWEVER, that from and after December 31, 1991, notwithstanding any other provision of this Article, the Class B member shall be entitled to only one vote for each one hundred dollars (\$100.00), or major fraction thereof, of assessed value of that portion of The Properties owned by it as assessed by Travis County, Texas, for ad valorem tax purposes for the preceding year.

Voting rights may be assigned, in whole or in part, as such rights relate to a particular tract of land, to a lessee holding a ground lease on such parti-

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cular tract of land, PROVIDED that the primary term of such ground lease is for a period of not less than forty (40) years.

Section 3. Duties of the Association. Subject to and in accordance with these restrictions, the Association acting through the Board shall have and perform each of the following duties:

- (a) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by DECLARANT, together with all improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by DECLARANT and to maintain in good repair and condition all lands, improvements, and other Association property owned by or leased to the Association.
- (b) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (c) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount to carry out the Association functions.
- (d) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such rules (the "Rules") and Association Bylaws (the "Bylaws"), not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of Association property. Without limiting the generality of the foregoing, such Rules may set dues and fees and prescribe the regulations governing the operation of Association property. Each member of the Association shall be entitled to examine such Rules and Bylaws at any time during normal working hours at the principal office of the Association.

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- (e) To enforce, on its own behalf and on behalf of all Owners, this Declaration, as beneficiary of said covenants, conditions, and restrictions, and as assignee of DECLARANT; and to perform all other acts, whether or not anywhere expressly authorized herein, as may be reasonably necessary to enforce any of the provisions of this Declaration, the Rules or Bylaws. The Board shall be authorized to institute litigation, settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the provisions of this Declaration, and/or the Rules and Bylaws; provided however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against DECLARANT, its successors or assigns.
- (f) To execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from DECLARANT subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether DECLARANT or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether DECLARANT or the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of the members of the Association, or otherwise, or any combination thereof, as may be deemed appropriate by DECLARANT or the Association, as the case may be, but subject to the limitations imposed by this Declaration.

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- (g) To keep books and records of the Association's affairs.
- (h) To carry out and enforce all duties of the Association set forth in this Declaration, or the Articles or Bylaws of the Association.

Section 4. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association shall have the power and authority at all times as follows:

- (a) To levy assessments as provided in Article VII, below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VII hereof in order to raise the total amount for which the levy in question is being made.
- (b) The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration, the Rules or the Bylaws. The Association shall also have the power to levy a special charge (not to exceed \$50 per violation) or to suspend any member's right to use the Association property (for a period not to exceed thirty days per violation) for any violation of this Declaration, the Rules or the Bylaws.
- (c) To grant and convey to any person or entity the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Association property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder:

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- (1) Parks, parkways, campgrounds, or other recreational facilities or structures;
- (2) Roads, streets, walks, driveways, trails, and paths;
- (3) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
- (4) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; and
- (5) Any similar public, quasi-public, or private improvements or facilities.

Nothing above contained, however, shall be construed to permit use or occupancy of any improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.

- (d) To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.
- (e) To retain and pay for legal and accounting services necessary or proper in the operation of the Association, the operation and management of its property, the enforcement of this Declaration, the Bylaws or the Rules, or in the performance of any other duty, right, power, or authority of the Association.
- (f) To pay for water, sewer, garbage removal, landscaping, gardening, and all other utilities, services and maintenance for the property of the Association.
- (g) To maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes, and other areas of The Properties, as appropriate.

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- (h) To own and operate any and all types of facilities for both active and passive recreation.
- (i) To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.
- (j) To construct new improvements or additions to Association properties, subject to the approval of the Architectural Committee as in this Declaration required.
- (k) To collect on behalf of and for the account of any Subassociation (but not to levy) any assessment made by a Subassociation created pursuant to this Declaration.
- (l) To enter into contracts with DECLARANT and other persons on such terms and provisions as the Board shall determine, to operate and maintain any Common Area or to provide any service or perform any function on behalf of DECLARANT or other person.
- (m) To acquire and own and to dispose of all manner of real and personal property, whether by grant, lease, gift, or otherwise.
- (n) To create a subsidiary or other association to have the rights and powers, and to perform the duties, obligations, or functions necessary to the obtaining of a tax exemption, if it shall ever be ruled or held that an exemption under the Internal Revenue Code is unavailable to the Association under this Declaration; or alternatively, the Association may retain the rights, powers, duties, obligations, or functions which prevent the obtaining of the tax exemption and transfer some or all of its other rights, powers, duties, obligations, and functions to such subsidiary or other association.

Section 5. Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the

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Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

ARTICLE VII

ASSESSMENTS

Section 1. Covenants for Assessments. The DECLARANT for each lot, tract or parcel of land owned by it within The Properties, hereby covenants, and each purchaser of any such lot, tract or parcel of land by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the Association: (1) annual assessments or charges (as specified in Section 3 hereof); and (2) special assessments for capital improvements (as specified in Section 4 hereof), all of such assessments to be fixed, established, and collected from time to time as hereinafter provided.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety, and welfare of the owners of The Properties, and the maintenance and improvement of The Properties or any part thereof, and for

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carrying out the purposes of the Association as stated herein or as otherwise provided in its Articles of Incorporation.

Section 3. Annual Assessment. (a) Each owner of any part of The Properties, with the exception of DECLARANT, shall pay to the Association an annual assessment of \$.10 per one hundred dollars (\$100.00) of assessed value of that portion of The Properties so owned. As used herein the assessed value of any property shall be the assessed value of such property as used by Travis County, Texas for ad valorem tax purposes for the preceding year. The rate of annual assessment may be increased by vote of the membership of the Association, as provided in Section 5 hereof. The Board may, after consideration of current operation and maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The Association may not accumulate a surplus at the end of any year which is more than two times the maximum permissible annual assessment for that year. The Board shall, should excess surplus (as above defined) exist at the end of any year, reduce the next total annual assessment by an amount at least equal to said excess surplus. (b) DECLARANT shall pay to the Association for any undeveloped land owned by DECLARANT within The Properties, an annual assessment of \$.30 per one hundred dollars (\$100.00) of assessed value of such undeveloped land. For developed land which it owns within The Properties, DECLARANT shall pay the standard annual assessment of \$.10 per \$100.00 of assessed value of property owned. The rate of DECLARANT'S annual assessment may be raised or lowered in accordance with the procedures established in Subsection (a) hereinabove, but DECLARANT shall always pay at the standard assessment rate for developed property and at three (3) times the standard rate for undeveloped property. For purposes of this section, land owned by DECLARANT within The Properties shall be considered to be developed if, at the time the assessment is levied, the land is part of a platted lot and if any building or other permanent improvement has been constructed upon the lot and is ready for use or occupancy whether for commercial, industrial, business, residential or any other purpose.

Section 4. Special Assessments. In addition to the annual assessments authorized by Section 3 hereof, the Association may, by vote of its

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members as set out in Section 6 hereof, levy in any assessment year or years a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any improvement located upon The Properties, including the necessary fixtures and personal property related thereto, or for carrying out other purposes of or otherwise benefiting the Association. The formula used in allocating the burden of any special assessment among the Owners shall be the same as the formula used in Section 3 above for calculating annual assessments, including the provision requiring that the assessment levied against DECLARANT on undeveloped property be calculated at a rate three (3) times the rate levied against other Owners.

Section 5. Vote Required for Increase in Rate of Annual Assessment.

The increase in the rate of the annual assessment as authorized by Section 3 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Vote Required for Special Assessment. The special assessment authorized by Section 4 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 7. Commencement Date of Annual Assessment. The first annual assessment provided for herein shall commence on January 1, 1982 and shall continue thereafter from year to year.

Section 8. Due Date of Assessments. The first annual assessment shall become due and payable on August 31, 1982, and shall be considered delinquent if not paid within thirty (30) days from its due date. The assessments for any year thereafter shall become due and payable on the same day of each succeeding year and delinquent if not paid within thirty (30) days of their due date. The due date and delinquent date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

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Section 9. Owner's Personal Obligation for Payment of Assessments.

The annual and special assessments provided for herein shall be the personal and individual debt of the owner of the property covered by such assessments. No owner may exempt himself from liability for such assessments. In the event of default in the payment of any such assessment, the owner of the property shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the assessment from the due date thereof, (or if there is no such highest rate, then at the rate of 2% per month) together with all costs and expenses of collection, including reasonable attorneys' fees.

Section 10. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 9 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the property covered by such assessment, which shall bind such property in the hands of the owner, and such owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said property, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement of the property in question. The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. To evidence the aforesaid assessment lien, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the owner of the property covered by such lien and a description of the property. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such lien for payment of assessments shall attach with the priority above set forth from the date that such payment becomes delinquent as set forth in Section 8 above and may be enforced by the foreclosure of the defaulting owner's property by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or the Association

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may institute suit against the owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a prior lien on any part of The Properties, the Association shall report to said mortgagee any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

Section 11. Common Properties Exempt. All Common Properties as defined in Article I hereof, and any common properties of any other association designated on any recorded plat filed by DECLARANT shall be exempt from the payment of any assessments levied by the Association, annual or special.

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Designation of Committee. The Association shall have an Architectural Control Committee, which shall consist of three (3) members who shall be natural persons, and who shall be appointed by the Board. Until December 31, 1991, the appointment of the members of the Architectural Control Committee must be approved by DECLARANT, and any and all members of such committee may be removed by the Board and/or the DECLARANT without cause. After such date, the Board shall have the exclusive right and power at any time and from time to time to create and fill vacancies on the Architectural Control Committee.

Section 2. Function of Architectural Control Committee. No Improvement, as that term is hereinafter defined, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of The Properties until plans and specifications, in such form and detail as the Architectural Control Committee may deem necessary, shall have been submitted to and approved in writing by such committee. The Committee shall approve plans and specifications submitted for its review and such other information as it deems proper, including without limitation any

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environmental impact statement required by the Committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.

Section 3. Content of Plans and Specifications. The plans and specifications to be so submitted and approved shall include the following items unless waived by the Committee:

a. A topographical plat shall be submitted showing existing contour grades and showing the location and dimensions of all existing and proposed Improvements. Existing and finished grades shall be shown at lot corners and at corners of proposed Improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the lot contours is contemplated.

b. The structural design, exterior elevations, exterior materials, colors, textures and shapes of all Improvements shall be described, along with any diagrams or representations necessary to depict all proposed exterior illumination, (including location and method), utility connections and fire protection systems.

c. A Landscaping plan shall be submitted, drawn by a registered landscape architect, showing walkways, fences and walls, elevation changes, watering systems, vegetation and ground cover, parking area and driveway plan, screening, (including size, location, and method), signs, (including size, shape, color, location, and materials), reservoirs, detention ponds, drainage facilities, pipes, lines, meteres, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, television, or other utilities.

Section 4. Definition of "Improvement." Improvement shall mean and include all buildings, structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any new exterior construction or exterior improvement exceeding \$5,000.00 in cost which may not be included in any of the foregoing. It does not include garden shrub or tree replacements. It does include both original

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improvements and all subsequent changes and improvements other than normal maintenance.

Section 5. Basis of Approval. Approval of plans and specification shall be based on adequacy of site dimensions, structural design, conformity and harmony of external design and location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of these protective covenants and the general plan for development of The Properties.

Section 6. Failure of the Committee to Act. If the Architectural Control Committee fails to approve or to disapprove such plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that the Committee has approved such plans and specifications, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances specifically reserved to DECLARANT herein. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and/or reject the balance.

Section 7. Limitation of Liability. Neither the DECLARANT, the Association, the Architectural Control Committee nor any of the members of the Committee or the Board shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

ARTICLE IX COMMON PROPERTIES

Section 1. Easements of Enjoyment. Subject to the provisions of Section 3 hereof, every member of the Association and every person or entity leasing property within The Properties shall have a right and easement of enjoyment in and to the Common Properties.

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Section 2. Title to Common Properties. DECLARANT shall convey ownership of the Common Properties to the Association which shall be responsible for their operation and maintenance, within five years after their designation as such in accordance with Article I, Section 1(e) above.

Section 3. Extent of Easements. The rights and easements of enjoyment created hereby shall be subject to all conditions, covenants and restrictions contained herein, including but not limited to the following:

- (a) The right of the Association to prescribe rules and regulations for the use, enjoyment, and maintenance of the Common Properties;
- (b) The right of the Association to sell and convey the Common Properties, or any part thereof, provided such sale or conveyance is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting;
- (c) The right of the Association to borrow money for the purpose of improving the Common Properties, or any part thereof, and to mortgage the Common Properties, or any part thereof;
- (d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties, or any part thereof, against foreclosure;
- (e) The right of the Association to suspend the easements of enjoyment of any member of the Association during which time any assessment levied hereunder remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

Section 4. Damages. Each member of the Association and each lessee of any portion of The Properties shall be liable to the Association for any damage to property of the Association which may be sustained by reason of the negligent or intentional misconduct of such person or of his family,

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guests or invitees. If the property, the ownership or leasing of which entitles the member or lessee thereof to use Association property, is owned or leased jointly or in common, the liability of all such joint or common owners or lessees shall be joint and several. The amount of such damage may be assessed against such person's real and personal property on or within The Properties, including the leasehold estate of any lessee or the lessor of such lessee, and may be collected as provided herein for the collection of assessments.

Section 5. Damage and Destruction. In case of destruction of or damage to Association property by fire or other casualty, the available insurance proceeds shall be paid to the Association, which shall contract to repair or rebuild the Association property so damaged. Should the insurance proceeds be insufficient to pay all of the costs of repairing or rebuilding the damage, the Association may levy a special assessment to make good any deficiency. If the Board determines not to rebuild any property so destroyed or damaged, or to build facilities substantially different from those which were destroyed or damaged, it shall call a special meeting of the members to consider such decision. If the members of the Association, by three-fourths (3/4) of the votes cast at such meeting, elect to ratify such decision, the Board shall act accordingly; but if the members do not by such percentage elect to ratify such decision, the Board shall proceed to repair or rebuild the damaged or destroyed facility with payment therefor to be made as set forth in this Section.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1. Duration. This Declaration and the covenants, restrictions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and every owner of any part of The Properties, including DECLARANT, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including 2022, after which time said covenants shall be automatically extended for successive periods of five (5) years unless a change

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(the word "change" including additions, deletions or modifications thereto whole or in part) is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of such meeting; PROVIDED, HOWEVER, that no such change shall be effective until one (1) year following the vote referred to above, nor shall any such change be effective prior to the recording of a certified copy of such resolution in the Deed Records of Travis County, Texas.

Section 2. Amendment. This Declaration may be amended by the DECLARANT so long as DECLARANT holds a majority of the votes of the Association. No amendment by DECLARANT shall be effective until there has been recorded in the deed records of Travis County, Texas, an instrument executed and acknowledged by DECLARANT and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the DECLARANT had the requisite number of votes. In addition, this Declaration may be amended by the recording in the Travis County deed records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by members of the Association entitled to cast at least sixty percent (60%) of the number of votes of the Association.

Section 3. Utility Easements. The DECLARANT reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas conveyed to the Association or reserved as Common Areas, sewer and other pipe-lines, conduits, wires and any public utility function beneath or above the surface of the ground, with the approval of the Architectural Committee, with the right of access to the same at any time for the purposes of repair and maintenance.

Section 4. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage pre-

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paid, addressed to the person at the address given by such person to the Association for the purpose of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such person to the Association.

Section 5. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of Wells Branch. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 6. Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements by an owner (including DECLARANT) upon property within The Properties. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with the provisions of this Declaration, and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary waiver of the applicable provision and any provision prohibiting temporary structures, may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction.

Section 7. Exemption of DECLARANT. Notwithstanding anything in this Declaration to the contrary, neither DECLARANT nor any of DECLARANT's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of DECLARANT to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within The Properties.

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Section 8. Assignment of DECLARANT. Notwithstanding anything in this Declaration to the contrary, DECLARANT may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights and duties hereunder.

Section 9. Enforcement and Nonwaiver.

- (a) Except as otherwise provided herein, any owner of land within The Properties, at his own expense, DECLARANT, and/or the Board shall have the right to enforce all of the provisions of these Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.
- (b) Every act or omission whereby any provision of these Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any owner of land within The Properties (at his own expense), DECLARANT, or the Board.
- (c) Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any portion of The Properties is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.
- (d) The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

Section 10. Construction. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for

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convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

EXECUTED as of the day and year first written above.

PROVIDENT DEVELOPMENT COMPANY, a
division of LEXINGTON DEVELOPMENT
COMPANY, a Texas limited partnership

By James H. Mills
James H. Mills, Attorney-in-Fact

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

Before me, the undersigned authority, on this day personally appeared James H. Mills, Attorney-in-Fact for Provident Development Company, a division of Lexington, Development Company, a Texas limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said limited partnership, and in the capacity therein stated.

Given under my hand and seal of office, this 8th day of January, 1982.

NOTARY SEAL

My Commission Expires:

10-16-85

Ranae D. Pettijohn
Notary Public, Travis County, Texas

RANA E. D. PETTIJOHN
(Name - Typed or Printed)

SDB25/C

FILED

JAN 14 11 13 AM '82

Laris H. [Signature]
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS
I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me, and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on



JAN 14 1982

Laris H. [Signature]
COUNTY CLERK
TRAVIS COUNTY, TEXAS

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1500

2-80-4203

ADDENDUM NUMBER ONE TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR WELLS BRANCH

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

THAT WHEREAS, Provident Development Company, ("Provident") a division of Lexington Development Company, a Texas limited partnership, as Declarant, filed that one certain Declaration of Covenants, Conditions and Restrictions for Wells Branch ("Declaration") of record in Volume 7660, Page 5, of the Real Property Records of Travis County, Texas, on January 14, 1982; and

WHEREAS, the Declaration was inadvertently filed without the attachment of Exhibit "A" and Exhibit "B" which are referred to in the Declaration; and

WHEREAS, Provident now desires to add and to incorporate Exhibit "A" and Exhibit "B" into the Declaration, such exhibits being attached hereto and incorporated herein by reference:

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS THAT Provident, acting herein by and through its duly authorized representative, does hereby add and incorporate Exhibit "A" and Exhibit "B" to the Declaration as if the same had been originally set forth therein. With the addition of Exhibit A and Exhibit B as hereinabove provided, the Declaration remains in full force and effect as therein written.


DEED RECORDS
Travis County, Texas

7696 716

2-80-4204

EXECUTED this 5 day of MARCH, 1982.

PROVIDENT DEVELOPMENT COMPANY, A
Division of LEXINGTON DEVELOPMENT
COMPANY, a Texas limited
partnership

By: 
James H. Mills,
Attorney in Fact

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on
MARCH 5, 1982 by James H. Mills, Attorney in Fact for
Provident Development Company, a division of Lexington
Development Company, a Texas limited partnership, on behalf of
said partnership.

NOTARY SEAL

Ranae D. Pettijohn
Notary Public in and for
The State of Texas

Ranae D. Pettijohn
My Commission Expires
10-10-85

(Name - Typed or Printed)

My Commission Expires:

PCA9/37

CARLSON, DIPPEL & MARX
SURVEYING COMPANY

2-80-4205

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, THE NELSON MERRILL SURVEY NO. 70, THE J.P. WHELIN SURVEY NO. 108, AND THE L.C. CUNNINGHAM SURVEY NO. 63, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO JAMES H. MILLS, TRUSTEE, AS RECORDED IN VOLUME 7244, PAGE 1422 THROUGH 1425 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 788.988 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake at the southwest corner of said Mills tract, same being at the northeast intersection of Howard Lane and F.M. 1325, for the southwest corner of the herein described tract,

THENCE, N 19°19'E, along the east R.O.W. line of F.M. 1325, at 893.67 feet, passing a concrete monument, in all 1691.03 feet to a concrete monument at the beginning of a non-tangent curve,

THENCE, with said curve to the left, whose radius equals 2352.12 feet, an arc distance of 65.58 feet, and whose sub-chord bears N 18°58'E, 65.58 feet passing an iron stake found, in all an arc distance of 699.36 feet, and whose chord bears N 10°55'E, 696.79 feet to a concrete monument,

THENCE, N 02°34'50"E, 66.64 feet to a concrete monument,

THENCE, continuing along the east R.O.W. line of F.M. 1325, N 02°22'30"E, 1023.60 feet to an iron stake and N 16°42'30"E, 142.0 feet to an iron stake at the northwest corner of said Mills tract, same being the southeast intersection of F.M. 1325 and Bratton Lane, for the northwest corner of the herein described tract,

THENCE, S 64°25'E, along the south R.O.W. line of Bratton Lane, 221.87 feet to an iron stake for an angle point,

THENCE, along the southerly and easterly R.O.W. line of Bratton Lane, the following four (4) courses and distances, numbered 1 through 4,

1. S 60°46'55"E, at 2341.48 feet passing an iron stake, in all 2764.46 feet to an iron stake,
2. S 64°04'E, 100.31 feet to an iron stake,
3. S 66°23'E, 34.13 feet to an iron stake for an ell corner,
4. N 30°53'20"E, at 33.0 feet pass an iron stake, in all 674.57 feet to an iron stake for an ell corner,

THENCE, S 59°56'40"E, with a fence, 980.28 feet to an iron stake for an ell corner,

THENCE, N 29°39'E, with a fence, 1133.39 feet to an iron stake for an ell corner,

THENCE, S 60°16'50"E, along a fence, 1809.20 feet to an iron stake for angle point,

THENCE, S 64°59'45"E, 8.35 feet to an iron stake for an ell corner,

THENCE, N 33°06'45"E, with a fence, 113.11 feet to an iron stake for an ell corner,

Continued on Page 2.

FIELD NOTES -- 788.988 Acres
Page 2

2-80-4206

THENCE, with a fence along the north line of said Mills tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 61°11'45"E, 1258.59 feet to an iron stake,
2. S 60°38'50"E, 540.28 feet to an iron stake,
3. S 61°24'45"E, 743.43 feet to an iron stake found at the northeast corner of said Mills tract, same being in the west R.O.W. line of IH 35 for the northeast corner of the herein described tract,

THENCE, along the westerly R.O.W. line of IH 35, the following nine (9) courses and distances, numbered 1 through 9,

1. S 16°02'35"W, 938.0 feet to an iron stake found,
2. S 16°04'30"W, 325.12 feet to an iron stake found,
3. S 15°41'45"W, 118.97 feet to a concrete monument,
4. S 00°52'20"E, 967.95 feet to a concrete monument,
5. S 01°14'E, 169.92 feet to an iron stake found,
6. S 01°08'E, 3.78 feet to a concrete monument,
7. S 01°13'30"E, 144.30 feet to a concrete monument,
8. S 09°15'30"W, 2069.61 feet to a concrete monument,
9. S 09°20'30"W, 769.69 feet to an iron stake found at the southeast corner of said Mills tract, for the southeast corner of the herein described tract,

THENCE, along the southerly line of said Mills, the following ten (10) courses and distances, numbered 1 through 10,

1. N 60°10'45"W, 530.99 feet to an iron stake,
2. N 59°46'45"W, 200.0 feet to an iron stake,
3. N 60°33'45"W, 431.41 feet to an iron stake,
4. N 63°52'45"W, 121.87 feet to an iron stake,
5. N 60°54'45"W, 398.56 feet to an iron stake,
6. N 61°04'45"W, 200.0 feet to an iron stake,
7. N 60°50'45"W, 389.11 feet to an iron stake,
8. N 60°59'45"W, 478.10 feet to an iron stake,
9. N 60°47'45"W, 1280.17 feet to an iron stake,
10. N 60°54'45"W, 1413.40 feet to an iron stake found in the east line of that certain 124.17 acre tract of land deeded to A.H. and G.E. Robinson in Volume 1065, Page 21 of the Travis County, Texas Deed Records, for an ell corner,

THENCE, N 28°53'E, with a fence, 1575.54 feet to an iron stake at the east corner of said Robinson tract, for an ell corner,

THENCE, along the north line of said Robinson tract, the following three (3) courses and distances, numbered 1 through 3,

1. N 62°43'W, 7.64 feet,
2. N 60°48'30"W, 2445.30 feet,
3. N 60°32'W, 580.34 feet to an iron stake found at the northwest corner of said Robinson tract for an ell corner of the herein described tract,

Continued on Page 3.

ORIGINAL DIM

7696 719

FIELD NOTES --- 788.988 Acres
Page 3.

2-80-4207

THENCE, along the west line of said Robinson tract, the following five (5) courses and distances, numbered 1 through 5,

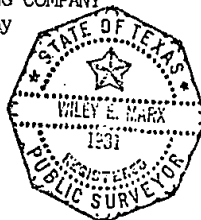
1. S 29°04'30"W, 78.40 feet to an iron stake,
2. S 29°38'30"W, 8.87 feet to a concrete monument
3. S 28°48'30"W, 836.80 feet to a concrete monument,
4. S 45°06'30"W, 0.91 feet to an iron stake,
5. S 29°14'W, 871.55 feet to an iron stake at the southwest corner of said Robinson tract, same being in the north R.O.W. line of Howard Lane, for an ell corner,

THENCE, N 62°00'W, along the northerly R.O.W. line of Howard Lane, 913.21 feet to the PLACE OF BEGINNING, containing 788.988 Acres of Land.

Prepared By:

W. E. Marx
CARLSON, DIPPEL & MARX SURVEYING COMPANY
4806 North Interregional Highway
Austin, Texas 78751

DATE 3-25-81



ORIGINAL DIM

7696 720

CARLSON, DIPPEL & MARX
SURVEYING COMPANY

2-80-4208

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING ALL OF THAT CERTAIN 124.17 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.H. AND G.E. ROBINSON IN VOLUME 1065, PAGE 21 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 123.892 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake found at the southwest corner of said Robinson tract, same being in the north R.O.W. line of Howard Lane, for the southwest corner of the herein described tract,

THENCE, with a fence along the east line of said Hirshfeld tracts, the following five (5) courses and distances, numbered 1 through 5,

1. N 29°14'00" E, 871.55 feet to an iron stake found,
2. N 45°06'30" E, 0.91 feet to a concrete monument found,
3. N 28°48'30" E, 836.80 feet to a concrete monument found,
4. N 29°38'30" E, 8.87 feet to an iron stake found,
5. N 29°04'30" E, 78.40 feet to an iron stake found for the northwest corner of the herein described.

THENCE, S 60°32'00" E, with a fence, 580.34 feet to an iron stake for an angle point,

THENCE, S 60°48'30" E. with a fence, 2445.30 feet to an iron stake found for an angle point,

THENCE, S 62°43'00" E, 7.64 feet to an iron stake at the northeast corner of said Robinson tract for the northeast corner of the herein described tract,

THENCE, S 28°53'00" W, with a fence, 1575.54 feet to an iron stake found for an angle point,

THENCE, S 28°48'15" W, along a fence, 189.40 feet to an iron stake in the north R.O.W. line of Howard Lane, for the southeast corner of the herein described tract,

Continued on Page 2.

EXHIBIT "B"

ORIGINAL DIM

FIELD NOTES - 123.892 Acres
Page 2 of 2.

2-80-4209

THENCE, with a fence along the north R.O.W. line of Howard Lane, the following three (3) courses and distances,

1. N 61°22'00" W, 680.25 feet to a point,
2. N 61°12'30" W, 900.0 feet to a point,
3. N 61°26'30" W, 1458.0 feet to the PLACE OF BEGINNING, containing 123.892 acres of land as fenced and used upon the ground.

Surveyed By

[Signature]
CARLSON, DIPPEL & MARX SURVEYING COMPANY
4806 North Interregional Highway
Austin, Texas 78751

Date

8/10/81

FILED

MAR 9 11 29 AM '82

[Signature]
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS

I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me; and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on

COUNTY OF TRAVIS

MAR 9 1982

[Signature]
COUNTY CLERK
TRAVIS COUNTY, TEXAS



ORIGINAL DIM

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722

900
2-86-6603

MAY 24-82~~25~~ 9233 * 9.00

AMENDMENT NUMBER ONE
TO DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR WELLS BRANCH

THE STATE OF TEXAS §
COUNTY OF TRAVIS § KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the undersigned is the DECLARANT under that certain Declaration Of Covenants, Conditions, And Restrictions For Wells Branch (the "Declaration") of record in Volume 7660; Page 5, Real Property Records of Travis County, Texas; and

WHEREAS, the undersigned holds a majority of the votes of Wells Branch Association, and as such has the power to amend the Declaration; and

WHEREAS, the undersigned desires to amend and modify the Declaration as set forth hereinbelow:

NOW THEREFORE, the undersigned does hereby modify and amend Article III, Section 1 of the Declaration to read as follows:

Section 1. Antennas. No antenna, satellite dish receiver or other device designed to receive telecommunication signals, including but not limited to radio, television and microwave signals, shall be erected or maintained upon the Property, except for any such devices which may, at DECLARANT'S option, be erected or approved by DECLARANT or DECLARANT'S designated representatives or assigns; provided, however, that if the prior written approval of the Architectural Committee is obtained as to size, materials used,

location and appropriate landscaping or screening from view, such devices may be erected upon any lot improved for usage as a single family dwelling and used solely in connection with the single family residence erected upon said lot. 2-86-6604

Except as modified hereby, all terms and provisions of the Declaration are hereby confirmed and ratified.

EXECUTED this 18th day of MAY, 1982.

PROVIDENT DEVELOPMENT COMPANY,
a Division of LEXINGTON DEVELOPMENT
COMPANY, a Texas limited partnership

By: James H. Mills, Attorney-in-Fact

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on MAY 18, 1982, by James H. Mills, Attorney-in-Fact for Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, on behalf of said partnership.

NOTARY SEAL

Joyce R. Hogan
Notary Public in and for
the State of Texas

JOYCE R. HOGAN
MY COMMISSION EXPIRES
September 22, 1985

Name (Typed or Printed)

My Commission Expires:

CONSENT OF MORTGAGEE

Texas Commerce Bank Austin, National Association, as the owner and holder of an indebtedness secured by a deed of trust

covering the property encumbered by this document, said deed of trust being of record in Volume 7375, Page 111, Deed of Trust Records of Travis County, Texas, does hereby join in the execution of this Amendment Number One To Declaration Of Covenants, Conditions And Restrictions For Wells Branch for the purpose of evidencing its consent hereto and subordinating its lien to this Amendment.

Executed this 18TH day of MAY, 1982.

2-86-6605

Texas Commerce Bank Austin,
National Association

NO SEAL

By: [Signature]
Its: Senior Vice President

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 18, 1982, by R. DON HARDEN, SENIOR VICE PRESIDENT of Texas Commerce Bank Austin, National Association, a national banking association, on behalf of said bank.

NOTARY SEAL

[Signature]
Notary Public in and for
The State of Texas

WILLIE JOZWIAK

(Name - Typed or Printed)

My Commission Expires:

10-7-84

PCA10/96

7758 774

FILED

MAY 24 11 29 AM '82

Deirdre Hines
COUNTY CLERK
TRAVIS COUNTY, TEXAS

INDEXED

NOTARY SEAL

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this Instrument was FILED on the
date and at the time stamped hereon by me; and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on

MAY 24 1982



Deirdre Hines
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Charge & Return for:
David B. Hemmick
1300 American Bank Tower
Austin, Texas 78701

5-88-0002

7758 - 775

6700
3-19-8481

RESTATEMENT OF DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR WELLS BRANCH

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS

WHEREAS, Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, as DECLARANT, filed that one certain Declaration of Covenants, Conditions and Restrictions For Wells Branch of record in Volume 7660, Page 5, Deed Records of Travis County, Texas, as amended and supplemented by an Addendum Number One to Declaration of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 7696, Page 716 of the Deed Records of Travis County, Texas, and an Amendment Number One to Declaration of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 7758, Page 772 of the Deed Records of Travis County, Texas (all of which are hereinafter collectively referred to as the "Declaration") subjecting the real property described in Article I, Section 2 to the covenants, restrictions, charges and liens herein set forth therein; and

WHEREAS, Wells Branch Association, Inc. has been incorporated under the Laws of the State of Texas as a nonprofit corporation, and has been granted powers of administering and enforcing the said covenants, restrictions, charges, and liens and disbursing the assessments and charges created in the Declaration;

WHEREAS, DECLARANT holds a majority of the votes of the Wells Branch Association, Inc., and as such has the power to amend the Declaration as provided in Article X, Section 2 thereof; and

WHEREAS, DECLARANT desires to restate the Declaration to incorporate certain amendments thereto; and

WHEREAS, DECLARANT further desires to impose the covenants, conditions and restrictions set forth in the following restatement of the Declaration in order to protect and enhance the value, attractiveness and desirability of the Properties;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT DECLARANT, acting herein by and through its undersigned duly authorized representative, does hereby amend and restate the Declaration as set forth hereinbelow and declare that the real property described in Article I, Section 2, and such additions thereto as may hereafter be made pursuant to Article I, Section 3, hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, charges and liens hereinafter set forth.

ARTICLE I
GENERAL

Section 1. Definitions. The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

a. "Architectural Control Committee," "Architectural Committee" or "Committee" shall mean and refer to the architectural control committee created pursuant to this Declaration.

b. "Association" or "Wells Branch Association" shall mean and refer to Wells Branch Association, Inc.

c. "Board" shall mean and refer to the Board of Directors of the Association.

d. "The Properties" shall mean and refer to the real property (including improvements) described in Section 2 hereof, and additions thereto, as are subject to this Declaration or any Supplementary Declaration (as hereinafter defined).

e. "Common Properties", "Common Areas" or "Common Area Greenways" shall mean and refer to (i) those areas of land shown on any recorded plat or its equivalent of the Properties or any portion thereof filed or approved by DECLARANT and identified thereon as "Common Area" or "Common Area of the Wells Branch Association", or (ii) any land conveyed, leased, dedicated or assigned by DECLARANT or by a third party (with the consent of DECLARANT) to the Association for maintenance and operation, including, but not limited to, easements, roads, roadways, rights-of-way, parkways, median strips, sidewalks, parks, paths, trails, ponds and lakes located within the Properties.

f. "DECLARANT" shall mean and refer to Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, its successors and assigns and shall include any person or entity to which DECLARANT may assign its rights and privileges, duties, and obligations hereunder, all of which are and shall be assignable.

g. "Area", when followed by a roman numeral, shall mean and refer to a specific portion of The Properties, the exact geographic location of which shall have been described and defined either in Exhibit "A" referred to in Section 2 of this Article I or in one of the Supplementary Declarations (as hereinafter defined).

h. "Supplementary Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add to The Properties or (ii) to subject any Area to further covenants, conditions or restrictions or (iii) to withdraw land from the Properties.

i. "District" shall mean and refer to North Austin Growth Corridor Municipal Utility District No. 1.

j. "Subassociation" shall mean and refer to any non-profit association hereinafter incorporated under the laws of the State of Texas by DECLARANT or by the owners of all or a specific portion of the Properties for the purpose of administering and enforcing any covenants, conditions or restrictions imposed upon such portion of the Properties pursuant to a Supplemental Declaration, which covenants, conditions and restrictions shall be in addition to those set forth in this Declaration.

k. "District Common Properties" shall mean and refer to any land conveyed, leased, dedicated or assigned by DECLARANT or by a third party (with the consent of DECLARANT) to the North Austin Growth Corridor Municipal Utility District No. 1 for the purpose of holding, maintaining or operating such land as parks, recreational areas, greenbelts, or open space.

Section 2. Property Subject to Declaration. The real property covered by this Declaration is described in Exhibit "A" attached hereto and incorporated herein by reference, and shall include any additions thereto pursuant to this Declaration. All of The Properties and any right, title or interest therein shall be owned, held, leased, sold and/or conveyed by DECLARANT, and any subsequent owner of all or any part thereof, subject to this

3-19-8483

Declaration and the covenants, restrictions, charges and liens set forth herein.

ARTICLE II
DEVELOPMENT, ANNEXATION AND WITHDRAWAL OF LAND

Section 1. Development by DECLARANT. DECLARANT may divide or subdivide The Properties, designate any portion of The Properties to be a separate Area, develop parts of The Properties and, at DECLARANT's option, dedicate parts of The Properties as Common Areas or for other purposes for the benefit of the developed areas, in accordance with its master plan for The Properties. It is contemplated that The Properties will be developed pursuant to a master concept plan, which may, from time to time, be amended or modified, in the sole discretion of DECLARANT, in which the development of and restrictions upon each area thereof will benefit each other portion and the whole thereof. As each Area is developed or dedicated, DECLARANT may record one or more Supplementary Declarations and designate the use, classification, and such additional covenants, conditions, and restrictions as DECLARANT may deem appropriate for that Area. Any Supplementary Declaration may provide its own procedure for the amendment of any provisions thereof, as, for example, by a specified vote of only the owners of the property within the Area subject thereto. All lands, improvements and uses in each Area so developed shall be subject to both this Declaration and the Supplemental Declaration, if any, for that Area.

Section 2. Annexation. The property described on Exhibit "B" attached hereto and incorporated herein by reference shall be added to The Properties when fee simple title to the said property is acquired by DECLARANT. DECLARANT, and other persons with DECLARANT's written consent may at any time, and from time to time, add any other lands to The Properties. Upon the recording of a Notice of Addition of Land containing the provisions set forth below in this Article II, Section 2 (which Notice may be contained within any Supplementary Declaration affecting such land), the covenants, conditions, and restrictions contained in this Declaration shall apply to the added land, and the rights privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration.

The Notice of Addition or withdrawal of Land shall contain the following provisions:

- (A) A reference to this Declaration, which reference shall state the date of recordation hereof and the book and page numbers wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to the added land as set forth herein or that the land has been withdrawn from the provisions hereof;
- (C) Legal description of the added land and language designating said added land with the term "Area" followed by a roman numeral so as to differentiate each respective area from other areas within The Properties; and
- (D) DECLARANT's written consent if the land being added is not owned by DECLARANT. As part of such written consent, DECLARANT may agree with the person who owns such land as to the terms and conditions upon which

DECLARANT will exercise its rights and duties, as DECLARANT under this Declaration, with respect to such added lands. Such terms and conditions may provide for joint exercise, as to such lands added, of DECLARANT's rights and duties.

Section 3. Withdrawal of Land. Any land within The Properties which is subdivided under a final plat filed of record in the Plat Records of Travis County, Texas, creating lots intended to be used as homesites for single family detached dwellings shall be automatically exempted from the provisions of this Declaration, and DECLARANT shall, upon the recording of such final plat, file a Notice of Withdrawal of Land in substantially the form set forth in Section 2 above for the addition of land, but providing for the withdrawal of land rather than the addition thereof. DECLARANT, and others with DECLARANT's written consent, may, at any time and from time to time, reduce or withdraw from The Properties any lands to be used for residential purposes (whether single family or multi-family). The withdrawal shall be accomplished by filing a Notice of Withdrawal of Land in conformance with the procedure set forth above in this Section 3. Upon the filing of a Notice of Withdrawal of Land as provided hereunder, this Declaration shall no longer apply nor have any force or effect with respect to those lands withdrawn, but DECLARANT may, at the time the Notice of Withdrawal of Land is filed, or at any later date, subject the withdrawn lands to additional covenants, conditions and restrictions as Declarant deems appropriate.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to The Properties, and the surviving or consolidated association shall possess all of the rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to The Properties except as hereinafter provided. No merger or consolidation of the Association shall be effective without the written consent of DECLARANT.

ARTICLE III GENERAL RESTRICTIONS

All of The Properties shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

Section 1. Antennas. No antenna, satellite dish receiver or other device designed to receive telecommunication signals, including but not limited to radio, television and microwave signals, shall be erected or maintained upon the Property, except for any such devices which may, at DECLARANT'S option, be erected or approved by DECLARANT or DECLARANT'S designated representatives or assigns; provided, however, that if the prior written approval of the Architectural Committee is obtained as to size, materials used, location and appropriate landscaping or screening from view, such devices may be erected upon any lot improved for usage as a single family dwelling and used solely for the benefit of the single family residence erected upon said lot.

Section 2. Insurance Rates. Nothing shall be done or kept on The Properties which would increase the rate of insurance on any other portion of The Properties without the approval of the Board, nor shall anything be done or kept on The Properties which would result in the cancellation of insurance on any improvements within The Properties or which would be in violation of any law.

Section 3. Subdivision. No previously subdivided lot within The Properties shall be divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the owner thereof (including any Subassociation) without the prior written approval of the Architectural Committee; provided, however, that when DECLARANT is the Owner thereof, DECLARANT may further divide and subdivide any lot or parcel of land and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee; and provided further, that nothing herein shall be deemed to require the approval of the Architectural Committee for the transfer or sale of any lot, including improvements thereon, to more than one person to be held by them as tenants in common or joint tenants, or for the grant of any Mortgage.

Section 4. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon The Properties and no odors shall be permitted to arise therefrom so as to render The Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and any such container shall be kept within an enclosed structure or appropriately screened from view.

Section 5. Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of The Properties without the prior written approval of the Architectural Committee. No noise or other nuisance shall be permitted to exist or operate upon any of The Properties so as to be offensive or detrimental to any other property or to its occupants.

Section 6. Repair of Buildings. All improvements hereafter constructed upon any of The Properties shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the owner (including any Subassociation) thereof. The opinion of the Board as to condition shall be final.

Section 7. Drainage. There shall be no interference with the established drainage patterns over any of The Properties, except by DECLARANT, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

Section 8. Hazardous Activities. No activities shall be conducted on The Properties and no improvements constructed on The Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon The Properties, no open fires shall be lighted or permitted except in a contained barbeque unit (while attended and in use for cooking purposes), within a safe and well-designed interior fireplace, or such campfires or picnic fires in Common Areas designated for such use by DECLARANT, or by the Association.

Section 9. Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon The Properties, except that temporary structures necessary

for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction may be maintained with the prior approval of DECLARANT, such approval to include the nature, size, duration and location of such structures.

Section 10. Mining and Drilling. No portion of The Properties shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

Section 11. Vehicles. The use and storage of all vehicles, including but not limited to helicopters, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles shall be subject to regulation by the Board, which may regulate, prohibit or limit the use thereof within specified parts of The Properties.

Section 12. Animals. No animals or poultry may be kept or raised on The Properties, provided, however, that the keeping of ordinary household pets such as dogs and cats is allowed; and provided further that household pets and other animals may be kept in any pet store or other commercial establishment if such use has been approved by the Board.

Section 13. Height Limitation. No improvement may be erected upon The Properties which is in excess of sixty feet in height without the prior written approval of the Architectural Committee.

ARTICLE IV PROTECTIVE COVENANTS

Section 1. Use Limitations. Sites within The Properties may be used for office buildings, light manufacturing and assembly, hotels, religious assemblies, multi-family residential dwellings, retail sales, restaurants, storage, warehousing and related facilities, or other uses permitted in writing by Declarant. The following uses shall not be permitted:

- (a) Overnight parking of campers, mobile homes, boats, trailers or motor homes;
- (b) Any use which would create any dangerous, injurious, noxious, or otherwise objectionable noise, glare, smoke, dust or other form of air pollution, liquid or solid refuse or waste, or other substance as to affect any use within the vicinity;
- (c) Single family residential (unless such land is withdrawn in accordance with Article II, Section 3 hereof);
- (d) Any use contrary to law or which violates any section of this Declaration.

Section 2. Minimum Setback Lines. No structure of any kind and no part thereof shall be placed within these setback lines:

- (a) 25 feet from any Common Area Greenway;
- (b) 50 feet from the right of way of State IH 35, FM 1325 or Wells Branch Parkway;

(c) 30 feet from any other public street right of way;

(d) 10 feet from any interior property line;

provided, however, that the following improvements are expressly excluded from these setback requirements: structures below and covered by the ground; steps, walks, driveways, and curbing; planters, walls, fences or hedges, not to exceed 4 feet in height; landscaping; and any other improvement approved in writing by Declarant.

Section 3. Building Heights. No portion of a building in excess of 35' shall be closer than 100 feet from the street right of way or closer than 100 feet from an interior property line.

Section 4. Parking Areas. Parking areas shall be curbed, guttered and paved; shall have a maximum grade slope of 5%; shall not be provided in front of any building line fronting a street; shall be adequately screened by use of berm, trees, landscaping or other means acceptable to the Committee; and shall be sufficient to accommodate all parking needs for employees, visitors, and company vehicles, without the use of on-street parking. If parking needs increase, additional off-street parking shall be provided by the owner. There shall be provided at least the following minimum parking areas:

| <u>USE CLASSIFICATION</u> | <u>MINIMUM OFF STREET PARKING REQUIREMENTS</u> |
|---|--|
| i. Duplex Residential | 2 spaces per unit |
| ii. Townhouse Residential | 2 spaces per unit |
| iii. Apartment/Condominium | |
| iv. Efficiency | 1 space per unit |
| One Bedroom | 1.5 spaces per unit |
| 2 Bedrooms or Larger | 2 spaces per unit |
| v. Administrative and Business Office | 1 space per 300 square feet |
| vi. Financial Services | 1 space per 250 square feet |
| vii. General Retail Services | 1 space per 200 square feet |
| viii. Religious Assembly | 1 space per 5 person capacity |
| ix. Professional Offices | 1 space per 200 square feet |
| x. Indoor Service or Display | 1 space per 500 square feet |
| xi. Indoor Storage, Warehousing, Equipment Servicing or Manufacturing | 1 space per 1000 square feet |
| xii. Outdoor Sales, Service, or Display | 1 space per 750 square feet |
| <u>USE CLASSIFICATION</u> | <u>MINIMUM OFF STREET PARKING REQUIREMENTS</u> |
| xiii. Outdoor Storage, Equipment, Servicing, or Manufacturing | 1 space per 2000 square feet |
| xiv. Hotel or Motel | 1 space per guest room |
| xv. Restaurant or Club | 1 space for each 2-1/2 seats |
| xvi. Theatre | 1 space for each 3-1/2 seats |

Declarant may grant exceptions to and/or variations from any parking requirement, provided that all such variations and/or exceptions must be in writing.

Section 5. Driveways. All driveways shall:

(a) Not intersect roads, streets or thoroughfares within 30 feet of intersections;

- (b) Have a minimum width of 12 feet; and
- (c) Shall include right turn stacking lanes for entry into site off of IH 35, FM 1325, or Wells Branch Parkway.

Section 6. Signs. All signs must be approved by the Architectural Control Committee in writing prior to installation. Factors to be considered by the Architectural Control Committee may include but shall not be limited to whether such signs meet the following criteria:

- (a) Identify the name and business of the occupant or which offer the premises for sale or for lease.
- (b) Are not of an unusual size or shape when compared to the building or buildings on the premises.
- (c) Do not project above the roof line of a building or in front of the setback line.
- (d) Do not block or detract from adjacent property.
- (e) Preserve the quality and atmosphere of the area.
- (f) Signs over 35' in height shall be at least 100' from right of way lines.

Signs of a flashing or moving character and inappropriately colored signs will not be permitted. The Association shall have the right to enter onto The Properties and to remove at the owner's expense, any sign erected without such written approval.

Section 7. Landscaping. Landscaping shall be required on all sites contemporaneously with completion of other improvements, but in no event later than 180 days after first occupancy or completion of buildings, whichever shall first occur and all landscaping shall conform to a landscaping plan approved by the Committee and drawn by a registered landscape architect. Factors to be considered by the Committee may include but shall not be limited to whether the plans meet the following criteria:

- (a) Provide automatic underground sprinkling systems for all landscaped areas;
- (b) Do not obstruct sight lines at street or driveway intersections;
- (c) Preserve existing trees to the extent practical;
- (d) Include at least one tree in the area between the building line and the street right of way line every 35 feet;
- (e) Include landscaping islands a minimum of 9 feet in width for every 20 parking spaces, and include in the islands at least one tree; and
- (f) Permit reasonable access to public and private utility lines and easements for installation and repair.

Section 8. Screening. Storage areas, air conditioning and heating equipment, incinerators, storage tanks, trucks based on the premises, roof objects (including fans, vents, cooling towers, skylights and all roof mounted equipment which rises

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above the roof line), trash containers and maintenance facilities, shall either be housed in closed buildings or otherwise completely screened from public view in a manner and at a location approved in writing by the Architectural Control Committee. Such screening shall include landscaping or permanent fences of solid materials and be located as far from property lines as reasonably possible unless otherwise approved by the Architectural Control Committee. No antenna or tower shall be erected on The Properties for any purpose without prior written approval from the Architectural Control Committee. Any and all lines and/or wires for communication or for transmission of sound or current, not within a building, shall be constructed or placed and maintained underground.

Section 9. Loading Docks and Areas. Loading docks and areas shall not be located on the street side of any building or structure, except that the Architectural Control Committee may approve such location in writing (subject to express screening requirements) on one street side of corner buildings or structures. Loading areas may not encroach upon setback areas, except that Declarant may approve such encroachment in connection with the approval of street side loading areas for corner buildings as described in the preceding sentence. Loading docks and areas shall be screened in a manner approved in writing by Declarant, considering such things as location (street side or rear side) and views from adjacent and nearby properties. Loading docks and areas shall not be within 50 feet of any Common Area Greenway frontage.

Section 10. Exterior Illumination. Illumination will be required on all exterior walls facing streets or proposed streets and for all parking areas and walkways between buildings and parking areas unless otherwise waived or modified by Declarant in writing. Such illumination must conform to plans approved in writing by the Architectural Control Committee.

Section 11. Construction Standards.

- (a) All building sides must be faced with brick or stone, or with such other similar quality face materials as may be approved in writing by the Architectural Control Committee. Windows shall not be glazed or reglazed with mirrored or reflective glass without prior written approval of the Architectural Control Committee.
- (b) Construction must conform to plans and specifications approved in writing by the Architectural Control Committee. Factors to be considered by the Committee may include but shall not be limited to whether the plans meet the following criteria:
 - i. Do not include wooden frames;
 - ii. Provide adequate fire protection systems;
 - iii. Provide for all underground utilities (public and private);
 - iv. Preserve the quality and atmosphere of the area and do not detract from adjacent property;
 - v. Do not include exterior fire escapes; and

- vi. Do not make extensive use of reflective or mirrored glass
- (c) Each commercial building, complex of buildings, or separate commercial business enterprise shall have a trash compactor on the premises adequate to handle the trash and waste items generated, manufactured, or acquired thereon by such commercial activities. The sorting, handling, moving, storing, removing, and disposing of all such waste materials must be housed or screened in a manner approved in writing by the Architectural Control Committee. All facilities and plans for the disposal of wastes other than by public sewage methods (such as shredding, compaction, incineration, reclamation, or chemical dissolution) must be approved in writing by the Architectural Control Committee.
- (d) Each kitchen facility within a commercial building or complex of buildings shall contain a water flushing garbage grinder disposal.
- (e) No excavation shall be made except in conjunction with construction of an improvement. When such improvement is completed, all exposed openings shall be back filled and graded.
- (f) Once commenced, construction shall be diligently pursued to the end that it may not be left in a partly finished condition any longer than reasonably necessary.

ARTICLE V MAINTENANCE

Section 1. Duty of Maintenance. Owners and occupants (including lessees) of any part of The Properties shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of The Properties so owned or occupied, including buildings, improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following which shall be performed in a timely manner:

- a. Prompt removal of all litter, trash, refuse, and wastes.
- b. Lawn mowing.
- c. Tree and shrub pruning.
- d. Watering.
- e. Keeping exterior lighting and mechanical facilities in working order.
- f. Keeping lawn and garden areas alive, free of weeds, and attractive.
- g. Keeping parking areas, driveways, and roads in good repair.
- h. Complying with all government, health and police requirements.
- i. Striping of parking areas and repainting of improvements.

- j. Repair of exterior damage, and wear and tear to improvements.

Section 2. Enforcement. If, in the opinion of the Board any such owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association through the Board may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association through its authorized agent or agents shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The owners and occupants (including lessees) of any part of The Properties on which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such owner or occupant shall fail to reimburse the Association within 30 days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against that portion of The Properties on which said work was performed. Such lien shall have the same attributes as the lien for annual assessments and special assessments set forth hereinabove, which provisions are incorporated herein by reference, and the Association shall have identical powers and rights in all respects, including but not limited to the right of foreclosure.

ARTICLE VI THE ASSOCIATION

Section 1. Membership. Each and every person, persons or legal entity who shall own any lot, tract, or parcel of land in The Properties, shall automatically be a member of the Association, PROVIDED that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a member.

Section 2. Classes of Voting Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those members described in Section 1 hereof with the exception of DECLARANT. Class A members shall be entitled to one vote for each one hundred dollars (\$100.00), or major fraction thereof, of assessed value of that portion of The Properties owned by each such member as used by the County of Travis, Texas, for ad valorem tax purposes for the preceding year. When two or more persons or entities hold undivided interests in any part of The Properties, all such persons or entities shall be Class A members, and the vote for such part of The Properties shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each one hundred dollars (\$100.00), or major fraction thereof, of value of the part of The Properties in which such members own undivided interests.

Class B. The Class B member shall be DECLARANT. For every one vote outstanding in favor of the Class A members, the Class B member shall have three votes; PROVIDED, HOWEVER, that from and after December 31, 1991, notwithstanding any other provision of this Article, the Class B member shall be entitled to only one vote for each one hundred dollars (\$100.00), or major fraction thereof, of assessed value of that

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portion of The Properties owned by it as assessed by Travis County, Texas, for ad valorem tax purposes for the preceding year.

Voting rights may be assigned, in whole or in part, as such rights relate to a particular tract of land, to a lessee holding a ground lease on such particular tract of land, PROVIDED that the primary term of such ground lease is for a period of not less than forty (40) years.

Section 3. Duties of the Association. Subject to and in accordance with these restrictions, the Association acting through the Board shall have and perform each of the following duties:

- (a) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by DECLARANT, together with all improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by DECLARANT and to maintain in good repair and condition all lands, improvements, and other Association property owned by or leased to the Association.
- (b) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (c) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount to carry out the Association functions.
- (d) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such rules (the "Rules") and Association Bylaws (the "Bylaws"), not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of Association property. Without limiting the generality of the foregoing, such Rules may set dues and fees and prescribe the regulations governing the operation of Association property. Each member of the Association shall be entitled to examine such Rules and Bylaws at any time during normal working hours at the principal office of the Association.
- (e) To enforce, on its own behalf and on behalf of all Owners, this Declaration, as beneficiary of said covenants, conditions, and restrictions, and as assignee of DECLARANT; and to perform all other acts, whether or not anywhere expressly authorized herein, as may be reasonably necessary to enforce any of the provisions of this Declaration, the Rules or Bylaws. The Board shall be authorized to institute litigation, settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the provisions of this Declaration, and/or the Rules and Bylaws; provided however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against DECLARANT, its successors or assigns.

- (f) To execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from DECLARANT subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether DECLARANT or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether DECLARANT or the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of the members of the Association, or otherwise, or any combination thereof, as may be deemed appropriate by DECLARANT or the Association, as the case may be, but subject to the limitations imposed by this Declaration.
- (g) To keep books and records of the Association's affairs.
- (h) To carry out and enforce all duties of the Association set forth in this Declaration, or the Articles or Bylaws of the Association.

Section 4. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association shall have the power and authority at all times as follows:

- (a) To levy assessments as provided in Article VII, below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VII hereof in order to raise the total amount for which the levy in question is being made.
- (b) The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration, the Rules or the Bylaws. The Association shall also have the power to levy a special charge (not to exceed \$50 per violation) or to suspend any member's right to use the Association property (for a period not to exceed thirty days per violation) for any violation of this Declaration, the Rules or the Bylaws.
- (c) To grant and convey to any person or entity the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any

Association property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder:

- (1) Parks, parkways, campgrounds, or other recreational facilities or structures;
- (2) Roads, streets, walks, driveways, trails, and paths;
- (3) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
- (4) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; and
- (5) Any similar public, quasi-public, or private improvements or facilities.

(Nothing above contained, however, shall be construed to permit use or occupancy of any improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.

- (d) To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.
- (e) To retain and pay for legal and accounting services necessary or proper in the operation of the Association, the operation and management of its property, the enforcement of this Declaration, the Bylaws or the Rules, or in the performance of any other duty, right, power, or authority of the Association.
- (f) To pay for water, sewer, garbage removal, landscaping, gardening, and all other utilities, services and maintenance for the property of the Association.
- (g) To maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes, and other areas of The Properties, as appropriate.
- (h) To own and operate any and all types of facilities for both active and passive recreation.
- (i) To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.
- (j) To construct new improvements or additions to Association properties, subject to the approval of the

Architectural Committee as in this Declaration required.

- (k) To collect on behalf of and for the account of any Subassociation (but not to levy) any assessment made by a Subassociation created pursuant to this Declaration.
- (l) To enter into contracts with DECLARANT and other persons on such terms and provisions as the Board shall determine, to operate and maintain any Common Area or to provide any service or perform any function on behalf of DECLARANT or other person.
- (m) To acquire and own and to dispose of all manner of real and personal property, whether by grant, lease, gift, or otherwise.
- (n) To create a subsidiary or other association to have the rights and powers, and to perform the duties, obligations, or functions necessary to the obtaining of a tax exemption, if it shall ever be ruled or held that an exemption under the Internal Revenue Code is unavailable to the Association under this Declaration; or alternatively, the Association may retain the rights, powers, duties, obligations, or functions which prevent the obtaining of the tax exemption and transfer some or all of its other rights, powers, duties, obligations, and functions to such subsidiary or other association.

Section 5. Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

ARTICLE VII ASSESSMENTS

Section 1. Covenants for Assessments.

- (a) The DECLARANT for each lot, tract or parcel of land owned by it within The Properties, hereby covenants, and each purchaser of any such lot, tract or parcel of land by acceptance

of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the Association: (1) annual assessments or charges (as specified in Section 3 hereof); and (2) special assessments for capital improvements (as specified in Section 4 hereof), all of such assessments to be fixed, established, and collected from time to time as hereinafter provided.

(b) In addition, the DECLARANT, for each lot, tract or parcel of land owned by it within the Properties, hereby covenants, and each purchaser of any such lot, tract or parcel of land, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the District, for so long as the District holds, operates and maintains any District Common Properties, such assessments as the District, acting by and through its Board of Directors, deems reasonably appropriate for the purpose of owning, leasing, operating, maintaining and repairing the District Common Properties, including any administrative expenses and insurance-related expenses related thereto, and/or such charges or fees for use of the District Common Properties as the Board of Directors of the District may establish from time to time. It is acknowledged and agreed that any assessment established by the District hereunder shall not be subject to the limitations set forth in Sections 3, 4, 5, 6, 7 and 8 of this Article VII, but shall be governed by the provisions set forth in Sections 9, 10, 11 and 12 of this Article. DECLARANT and each purchaser of land within the Properties further covenant to abide by, and to fully comply with, all rules and regulations which may be promulgated by the District regarding the use or operation of the District Common Properties.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety, and welfare of the owners of The Properties, and the maintenance and improvement of The Properties or any part thereof, and for carrying out the purposes of the Association as stated herein or as otherwise provided in its Articles of Incorporation.

Section 3. Annual Assessment. (a) Each owner of any part of The Properties, with the exception of DECLARANT, shall pay to the Association an annual assessment of \$.10 per one hundred dollars (\$100.00) of assessed value of that portion of The Properties so owned. As used herein the assessed value of any property shall be the assessed value of such property as used by Travis County, Texas for ad valorem tax purposes for the preceding year. The rate of annual assessment may be increased by vote of the membership of the Association, as provided in Section 5 hereof. The Board may, after consideration of current operation and maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The Association may not accumulate a surplus at the end of any year which is more than two times the maximum permissible annual assessment for that year. The Board shall, should excess surplus (as above defined) exist at the end of any year, reduce the next total annual assessment by an amount at least equal to said excess surplus. (b) DECLARANT shall pay to the Association for any undeveloped land owned by DECLARANT within The Properties, an annual assessment of \$.30 per one hundred dollars (\$100.00) of assessed value of such undeveloped land. For developed land which it owns within The Properties, DECLARANT shall pay the standard annual assessment of \$.10 per \$100.00 of assessed value of property owned. The rate of DECLARANT'S annual assessment may be raised or lowered in accordance with the procedures established in Subsection (a) hereinabove, but DECLARANT shall always pay at the standard assessment rate for

developed property and at three (3) times the standard rate for undeveloped property. For purposes of this section, land owned by members as set out in Section 6 hereof, levy in any assessment year or years a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any improvement located upon The Properties, including the necessary fixtures and personal property related thereto, or for carrying out other purposes of or otherwise benefiting the Association. The formula used in allocating the burden of any special assessment among the Owners shall be the same as the formula used in Section 3 above for calculating annual assessments, including the provision requiring that the assessment levied against DECLARANT on undeveloped property be calculated at a rate three (3) times the rate levied against other Owners.

Section 4. Special Assessments. In addition to the annual assessments authorized by Section 3 hereof, the Association may, by vote of its members as set out in Section 6 hereof, levy in any assessment year or years a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any improvement located upon The Properties, including the necessary fixtures and personal property related thereto, or for carrying out other purposes of or otherwise benefiting the Association. The formula used in allocating the burden of any special assessments, including the provision requiring that the assessment levied against DECLARANT on undeveloped property be calculated at a rate three (3) times the rate levied against other Owners.

Section 5. Vote Required for Increase in Rate of Annual Assessment. The increase in the rate of the annual assessment as authorized by Section 3 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Vote Required for Special Assessment. The special assessment authorized by Section 4 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 7. Commencement Date of Annual Assessment. The first annual assessment provided for herein shall commence on January 1, 1982 and shall continue thereafter from year to year.

Section 8. Due Date of Assessments. The first annual assessment shall become due and payable on August 31, 1982, and shall be considered delinquent if not paid within thirty (30) days from its due date. The assessments for any year thereafter shall become due and payable on the same day of each succeeding year and delinquent if not paid within thirty (30) days of their due date. The due date and delinquent date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 9. Owner's Personal Obligation for Payment of Assessments. The annual and special assessments provided for herein shall be the personal and individual debt of the owner of the property covered by such assessments. No owner may exempt himself from liability for such assessments. In the event of

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default in the payment of any such assessment, the owner of the property shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the assessment from the due date thereof, (or if there is no such highest rate, then at the rate of 2% per month) together with all costs and expenses of collection, including reasonable attorneys' fees.

Section 10. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 9 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the property covered by such assessment, which shall bind such property in the hands of the owner, and such owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said property, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement of the property in question. The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. To evidence the aforesaid assessment lien, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the owner of the property covered by such lien and a description of the property. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such lien for payment of assessments shall attach with the priority above set forth from the date that such payment becomes delinquent as set forth in Section 8 above and may be enforced by the foreclosure of the defaulting owner's property by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or the Association may institute suit against the owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a prior lien on any part of The Properties, the Association shall report to said mortgagee any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

Section 11. District Common Properties and Common Properties Exempt. All District Common Properties and all Common Properties, as defined herein, and any common properties of any other association designated on any recorded plat filed by DECLARANT shall be exempt from the payment of any assessments levied by the District or the Association.

Section 12. Assessments by the District. Any assessments levied by the District pursuant to Section 1(b) of this Article shall be in addition to, and not in lieu of, any annual or special assessments levied by the Association hereunder and the separate taxing authority of the District. All assessments by the District hereunder: (i) shall be the personal obligation of each of the owners of the property assessed as well as a lien and a charge against such owner's property; (ii) shall bear interest at the same rate as is provided herein for assessments of the Association; and (iii) shall be collectible in the same manner as provided in Section 10 of this Article VII for the

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collection of assessments of the Association including, but not limited to, foreclosure upon the property assessed. The District shall have and enjoy the same rights and powers with respect to the District Common Properties as set forth herein as being rights and powers of the Association with respect to the Common Properties including, but not limited to: (i) the right to file and to foreclose upon any assessment lien; (ii) the right to adopt reasonable rules and regulations for the use of the District Common Properties; (iii) the right to suspend any owner's right to use the District Common Properties during any period when an assessment by the District hereunder remains unpaid and for any period as a penalty for any infraction of its published rules and regulations; and (iv) the right to collect and to institute legal proceedings for the payment for any damage to the District Common Properties or any sum arising hereunder.

ARTICLE VIII ARCHITECTURAL CONTROL COMMITTEE

Section 1. Designation of Committee. The Association shall have an Architectural Control Committee, which shall consist of three (3) members who shall be natural persons, and who shall be appointed by the Board. Until December 31, 1991, the appointment of the members of the Architectural Control Committee must be approved by DECLARANT, and any and all members of such committee may be removed by the Board and/or the DECLARANT without cause. After such date, the Board shall have the exclusive right and power at any time and from time to time to create and fill vacancies on the Architectural Control Committee.

Section 2. Function of Architectural Control Committee. No Improvement, as that term is hereinafter defined, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of The Properties until plans and specifications, in such form and detail as the Architectural Control Committee may deem necessary, shall have been submitted to and approved in writing by such committee. The Committee shall approve plans and specifications submitted for its review and such other information as it deems proper, including without limitation any environmental impact statement required by the Committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.

Section 3. Content of Plans and Specifications. The plans and specifications to be so submitted and approved shall include the following items unless waived by the Committee:

a. A topographical plat shall be submitted showing existing contour grades and showing the location and dimensions of all existing and proposed Improvements. Existing and finished grades shall be shown at lot corners and at corners of proposed Improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the lot contours is contemplated.

b. The structural design, exterior elevations, exterior materials, colors, textures and shapes of all Improvements shall be described, along with any diagrams or representations necessary to depict all proposed exterior illumination, (including location and method), utility connections and fire protection systems.

c. A Landscaping plan shall be submitted, drawn by a registered landscape architect, showing walkways, fences and walls, elevation changes, watering systems, vegetation and ground cover, parking area and driveway plan, screening, (including size, location, and method), signs, (including size, shape, color, location, and materials), reservoirs, detention ponds, drainage facilities, pipes, lines, meteres, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, television, or other utilities.

Section 4. Definition of "Improvement." Improvement shall mean and include all buildings, structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any new exterior construction or exterior improvement exceeding \$5,000.00 in cost which may not be included in any of the foregoing. It does not include garden shrub or tree replacements. It does include both original improvements and all subsequent changes and improvements other than normal maintenance.

Section 5. Basis of Approval. Approval of plans and specification shall be based on adequacy of site dimensions, structural design, conformity and harmony of external design and location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of these protective covenants and the general plan for development of The Properties.

Section 6. Failure of the Committee to Act. If the Architectural Control Committee fails to approve or to disapprove such plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that the Committee has approved such plans and specifications, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances specifically reserved to DECLARANT herein. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and/or reject the balance.

Section 7. Limitation of Liability. Neither the DECLARANT, the Association, the Architectural Control Committee nor any of the members of the Committee or the Board shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

Section 8. Variances. The Committee may grant variances from compliance with the provisions of Article IV, Section 2 and/or Article IV, Section 7 of this Declaration when, in the opinion of the Committee, such variance will not impair or detract from the high quality of development of the Properties, and such variance is justified due to aesthetic or visual considerations or unusual circumstances. Any request for a variance which is submitted to the Committee shall be accompanied by a site plan detailing the landscaping and setbacks proposed by the applicant. Any variance approved by the Committee shall be supported by an affirmative finding of

the Committee that the development of the property in question pursuant to the site plan will compensate for the variance from the applicable landscaping and/or setback requirements of this Declaration through the use of berms, screening, buffering, alternative landscaping designs, or similar means. All variances granted must be approved by at least a two-thirds (2/3) vote of the members of the Committee and must be evidenced by a written instrument, in recordable form, and a copy of the site plan approved by the Committee shall be attached thereto. If a variance is granted, no violation of this Declaration shall be deemed to have occurred with respect to the specific provision for which the variance was granted provided that the development of the property affected by the variance is in compliance with all details set forth on the site plan designed to compensate therefor. The granting of any such variance shall not operate or be deemed to operate to waive or amend any of the terms and provisions of this Declaration for any purpose except as to the particular property and the particular matter covered by the variance, and such variance shall not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions hereof.

ARTICLE IX COMMON PROPERTIES

Section 1. Easements of Enjoyment. Subject to the provisions of Section 3 hereof, every member of the Association and every person or entity leasing property within The Properties shall have a right and easement of enjoyment in and to the Common Properties.

Section 2. Title to Common Properties. DECLARANT shall convey ownership of the Common Properties to the Association which shall be responsible for their operation and maintenance, within five years after their designation as such in accordance with Article I, Section 1(e) above.

Section 3. Extent of Easements. The rights and easements of enjoyment created hereby shall be subject to all conditions, covenants and restrictions contained herein, including but not limited to the following:

- (a) The right of the Association to prescribe rules and regulations for the use, enjoyment, and maintenance of the Common Properties;
- (b) The right of the Association to sell and convey the Common Properties, or any part thereof, provided such sale or conveyance is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting;
- (c) The right of the Association to borrow money for the purpose of improving the Common Properties, or any part thereof, and to mortgage the Common Properties, or any part thereof;
- (d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties, or any part thereof, against foreclosure;
- (e) The right of the Association to suspend the easements of enjoyment of any member of the Association during which time any assessment levied hereunder

remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

Section 4. Damages. Each member of the Association and each lessee of any portion of The Properties shall be liable to the Association for any damage to property of the Association which may be sustained by reason of the negligent or intentional misconduct of such person or of his family, guests or invitees. If the property, the ownership or leasing of which entitles the member or lessee thereof to use Association property, is owned or leased jointly or in common, the liability of all such joint or common owners or lessees shall be joint and several. The amount of such damage may be assessed against such person's real and personal property on or within The Properties, including the leasehold estate of any lessee or the lessor of such lessee, and may be collected as provided herein for the collection of Assessments.

Section 5. Damage and Destruction. In case of destruction of or damage to Association property by fire or other casualty, the available insurance proceeds shall be paid to the Association, which shall contract to repair or rebuild the Association property so damaged. Should the insurance proceeds be insufficient to pay all of the costs of repairing or rebuilding the damage, the Association may levy a special assessment to make good any deficiency. If the Board determines not to rebuild any property so destroyed or damaged, or to build facilities substantially different from those which were destroyed or damaged, it shall call a special meeting of the members to consider such decision. If the members of the Association, by three-fourths (3/4) of the votes cast at such meeting, elect to ratify such decision, the Board shall act accordingly; but if the members do not by such percentage elect to ratify such decision, the Board shall proceed to repair or rebuild the damaged or destroyed facility with payment therefor to be made as set forth in this Section.

Section 6. Transfer of District Common Properties by the District.

a. In the event that the District, its successors or assigns, or any other governmental entity at any time in the future, ceases or elects not to maintain or to operate the District Common Properties, or otherwise becomes incapable of legally operating or maintaining the District Common Properties, the District, acting by and through its Board of Directors, shall be authorized and entitled to convey the District Common Properties to a homeowner's association (the "Single Family Homeowners Association") created pursuant to a petition signed by at least twenty-five percent (25%) of the record title owners of all of the lots intended for single family detached dwellings (the "Single Family Property Owners"), which, at the time such petition is recorded, are shown on recorded plats out of all of the property originally described in this Declaration, plus any additions to such property as herein provided. In the event that the requisite percentage of the Single Family Property Owners fail or elect not to create a Single Family Homeowners Association within thirty (30) days after the District has posted notice within the boundaries of the District at the location at which official District notices are customarily posted, or if there is no such place, at a location within the District selected by the Board of Directors of the District, advising such Single Family Property Owners that the District will no longer maintain and operate the District Common Properties, the District, or its successors or assigns, shall be entitled to transfer the District Common Properties to the

Single Family Property Owners in equal, undivided interests, and each of the Single Family Property Owners shall be obligated to accept such transfer. If the District transfers the District Common Properties to the Single Family Homeowners Association, the Single Family Homeowners Association shall succeed to all of the rights of the District with respect to the District Common Properties including, but not limited to, the rights set forth in Section 12 of Article VII hereof. Following any transfer or conveyance of the District Common Properties, the District shall have no further responsibility therefor or liability related thereto.

b. At such time as all of the land within the District is annexed by the City of Austin, Texas (the "City"), the District may convey the District Common Properties to the City for operation and maintenance and, upon acceptance thereof by the City, the District's right to collect the assessment provided herein shall terminate, and the District Common Properties shall thereafter be maintained and operated at the sole expense of the City and the District shall have no further responsibility therefor or liability related thereto.

ARTICLE X MISCELLANEOUS PROVISIONS

Section 1. Duration. This Declaration and the covenants, restrictions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and every owner of any part of The Properties, including DECLARANT, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including January 21, 2022, after which time said covenants shall be automatically extended for successive periods of five (5) years unless a change (the word "change" including additions, deletions or modifications thereto, in whole or in part) is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of such meeting; PROVIDED, HOWEVER, that no such change shall be effective until one (1) year following the vote referred to above, nor shall any such change be effective prior to the recording of a certified copy of such resolution in the Deed Records of Travis County, Texas.

Section 2. Amendment. This Declaration may be amended by the DECLARANT so long as DECLARANT holds a majority of the votes of the Association. No amendment by DECLARANT shall be effective until there has been recorded in the deed records of Travis County, Texas, an instrument executed and acknowledged by DECLARANT and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the DECLARANT had the requisite number of votes. In addition, this Declaration may be amended by the recording in the Travis County deed records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by members of the Association entitled to cast at least sixty percent (60%) of the number of votes of the Association.

Section 3. Utility Easements. The DECLARANT reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas conveyed to the Association or reserved as Common Areas, sewer and other pipe-lines, conduits, wires and any public utility

function beneath or above the surface of the ground, with the approval of the Architectural Committee, with the right of access to the same at any time for the purposes of repair and maintenance.

Section 4. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such person to the Association.

Section 5. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of Wells Branch. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 6. Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements by an owner (including DECLARANT or the District) upon property within The Properties. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with the provisions of this Declaration, and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision of this Declaration including, but not limited to, any provision prohibiting temporary waiver of the applicable provision and any provision prohibiting temporary structures, may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction.

Section 7. Exemption of DECLARANT. Notwithstanding anything in this Declaration to the contrary, neither DECLARANT nor any of DECLARANT's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of DECLARANT to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within The Properties.

Section 8. Assignment of DECLARANT. Notwithstanding anything in this Declaration to the contrary, DECLARANT may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights and duties hereunder.

Section 9. Enforcement and Nonwaiver.

- (a) Except as otherwise provided herein, any owner of land within The Properties, at his own expense,

DECLARANT, and/or the Board shall have the right to enforce all of the provisions of these Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

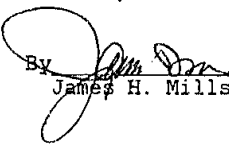
- (b) Every act or omission whereby any provision of these Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any owner of land within The Properties (at his own expense), DECLARANT, or the Board.
- (c) Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any portion of The Properties is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.
- (d) The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

Section 10. Construction. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

Section 11. Exemption of District. Anything to the contrary contained herein or in any amendment hereto notwithstanding, nothing contained in this Declaration is intended or shall be construed to limit the powers and authority of the District, as granted to the District by any applicable statute, rule or regulation, or to require the District to seek or obtain the approval of any Architectural Committee, Association, Subassociation, or Single Family Homeowners' Association created hereunder prior to undertaking the construction of any District facility or improvement or fulfilling any other function of the District, or prior to obtaining any easement or right-of-way required by the District.

EXECUTED as of the 5th day of May, 1983.

PROVIDENT DEVELOPMENT COMPANY, a
division of LEXINGTON DEVELOPMENT
COMPANY, a Texas limited partnership

By 
James H. Mills, Attorney-in-Fact

CONSENT OF MORTGAGEE

Texas Commerce Bank Austin, National Association, as the owner and holder of certain indebtedness secured by deeds of trust covering the property encumbered by this document, said deeds of trust being of record in Volume 7273, Page 2106, Deed

3-19-8506

of Trust Records of Travis County, Texas; Volume 7375, Page 111, Real Property Records of Travis County, Texas, and Volume 7613, Page 649, Real Property Records of Travis County, Texas, does hereby join in the execution of this Restatement of Declaration of Covenants, Conditions And Restrictions For Wells Branch for the purpose of evidencing its consent hereto and subordinating its lien to this Restatement.

Executed this 5th day of May, 1983.

Texas Commerce Bank Austin,
National Association

By: John R. Donoghue
Its: Assistant Vice President

NO SEAL

THE STATE OF TEXAS :
COUNTY OF TRAVIS :

Before me, the undersigned authority, on this day personally appeared James H. Mills, Attorney-in-Fact for Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said limited partnership, and in the capacity therein stated.

Given under my hand and seal of office, this 5th day of May, 1983.

NOTARY SEAL

My Commission Expires:

2-4-87

Cheri Warfield
Notary Public, State of Texas

(Name - Typed or Printed)

CHERI WARFIELD

My Commission Expires 2-4-87

THE STATE OF TEXAS :
COUNTY OF TRAVIS :

This instrument was acknowledged before me on May 5th, 1983, by John Donoghue, assistant Vice president Real Estate, of Texas Commerce Bank Austin, National Association, a national banking association, on behalf of said association.

NOTARY SEAL

My Commission Expires:

2-4-87

Cheri Warfield
Notary Public, State of Texas
CHERI WARFIELD

My Commission Expires 2-4-87

(Name - Typed or Printed)

2935R/SBL

CARTERSON, DIPPEL & MARX

SURVEYING COMPANY

FIELD NOTES

3-19-8507

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, THE NELSON MERRILL SURVEY NO. 70, THE J.P. WHELIN SURVEY NO. 108, AND THE L.C. CUNNINGHAM SURVEY NO. 63, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO JAMES H. MILLS, TRUSTEE, AS RECORDED IN VOLUME 7244, PAGE 1422 THROUGH 1425 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 788.988 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake at the southwest corner of said Mills tract, same being at the northeast intersection of Howard Lane and F.M. 1325, for the southwest corner of the herein described tract,

THENCE, N 19°19'E, along the east R.O.W. line of F.M. 1325, at 893.67 feet, passing a concrete monument, in all 1691.03 feet to a concrete monument at the beginning of a non-tangent curve,

THENCE, with said curve to the left, whose radius equals 2352.12 feet, an arc distance of 65.58 feet, and whose sub-chord bears N 18°58'E, 65.58 feet passing an iron stake found, in all an arc distance of 699.36 feet, and whose chord bears N 10°55'E, 696.79 feet to a concrete monument,

THENCE, N 02°34'50"E, 66.64 feet to a concrete monument,

THENCE, continuing along the east R.O.W. line of F.M. 1325, N 02°22'30"E, 1023.60 feet to an iron stake and N 16°42'30"E, 142.0 feet to an iron stake at the northwest corner of said Mills tract, same being the southeast intersection of F.M. 1325 and Bratton Lane, for the northwest corner of the herein described tract,

THENCE, S 64°25'E, along the south R.O.W. line of Bratton Lane, 221.87 feet to an iron stake for an angle point,

THENCE, along the southerly and easterly R.O.W. line of Bratton Lane, the following four (4) courses and distances, numbered 1 through 4,

1. S 60°46'55"E, at 2341.48 feet passing an iron stake, in all 2764.46 feet to an iron stake,
2. S 64°04'E, 100.31 feet to an iron stake,
3. S 66°23'E, 34.13 feet to an iron stake for an ell corner,
4. N 30°53'20"E, at 33.0 feet pass an iron stake, in all 674.57 feet to an iron stake for an ell corner,

THENCE, S 59°56'40"E, with a fence, 980.28 feet to an iron stake for an ell corner,

THENCE, N 29°39'E, with a fence, 1133.39 feet to an iron stake for an ell corner,

THENCE, S 60°16'50"E, along a fence, 1809.20 feet to an iron stake for angle point,

THENCE, S 64°59'45"E, 8.35 feet to an iron stake for an ell corner,

THENCE, N 33°06'45"E, with a fence, 113.11 feet to an iron stake for an ell corner,

Continued on Page 2.

8087 970

3-19-8508

THENCE, with a fence along the north line of said Mills tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 61°11'45"E, 1258.59 feet to an iron stake,
2. S 60°38'50"E, 540.28 feet to an iron stake,
3. S 61°24'45"E, 743.43 feet to an iron stake found at the northeast corner of said Mills tract, same being in the west R.O.W. line of IH 35 for the northeast corner of the herein described tract,

THENCE, along the westerly R.O.W. line of IH 35, the following nine (9) courses and distances, numbered 1 through 9,

1. S 16°02'35"W, 938.0 feet to an iron stake found,
2. S 16°04'30"W, 325.12 feet to an iron stake found,
3. S 15°41'45"W, 118.97 feet to a concrete monument,
4. S 00°52'20"E, 967.95 feet to a concrete monument,
5. S 01°14'E, 169.92 feet to an iron stake found,
6. S 01°08'E, 3.78 feet to a concrete monument,
7. S 01°13'30"E, 144.30 feet to a concrete monument,
8. S 09°15'30"W, 2069.61 feet to a concrete monument,
9. S 09°20'30"W, 769.69 feet to an iron stake found at the southeast corner of said Mills tract, for the southeast corner of the herein described tract,

THENCE, along the southerly line of said Mills, the following ten (10) courses and distances, numbered 1 through 10,

1. N 60°10'45"W, 530.99 feet to an iron stake,
2. N 59°46'45"W, 200.0 feet to an iron stake,
3. N 60°33'45"W, 431.41 feet to an iron stake,
4. N 63°52'45"W, 121.87 feet to an iron stake,
5. N 60°54'45"W, 398.56 feet to an iron stake,
6. N 61°04'45"W, 200.0 feet to an iron stake,
7. N 60°50'45"W, 389.11 feet to an iron stake,
8. N 60°59'45"W, 478.10 feet to an iron stake,
9. N 60°47'45"W, 1280.17 feet to an iron stake,
10. N 60°54'45"W, 1413.40 feet to an iron stake found in the east line of that certain 124.17 acre tract of land deeded to A.H. and G.E. Robinson in Volume 1065, Page 21 of the Travis County, Texas Deed Records, for an ell corner,

THENCE, N 28°53'E, with a fence, 1575.54 feet to an iron stake at the east corner of said Robinson tract, for an ell corner,

THENCE, along the north line of said Robinson tract, the following three (3) courses and distances, numbered 1 through 3,

1. N 62°43'W, 7.64 feet,
2. N 60°48'30"W, 2445.30 feet,
3. N 60°32'W, 580.34 feet to an iron stake found at the northwest corner of said Robinson tract for an ell corner of the herein described tract,

Continued on Page 3.

FIELD NOTES -- 788.988 Acres
Page 3.

3-19-8509

THENCE, along the west line of said Robinson tract, the following five (5) courses and distances, numbered 1 through 5,

1. S 29°04'30"W, 78.40 feet to an iron stake,
2. S 29°38'30"W, 8.87 feet to a concrete monument
3. S 28°48'30"W, 836.80 feet to a concrete monument,
4. S 45°06'30"W, 0.91 feet to an iron stake,
5. S 29°14'W, 871.55 feet to an iron stake at the southwest corner of said Robinson tract, same being in the north R.O.W. line of Howard Lane, for an ell corner,

THENCE, N 62°00'W, along the northerly R.O.W. line of Howard Lane, 913.21 feet to the PLACE OF BEGINNING, containing 788.988 Acres of Land.

Prepared By:

W. E. Marx
CARLSON, DIPPET & MARX SURVEYING COMPANY
4806 North Interregional Highway
Austin, Texas 78751

DATE 3-25-81

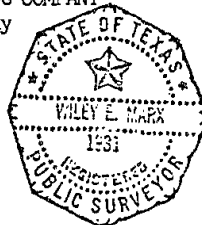


EXHIBIT A PAGE 3

8087 972

CARLSON, DIPPEL & MARX
SURVEYING COMPANY

FIELD NOTES

3-19-8510

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING ALL OF THAT CERTAIN 124.17 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A.H. AND G.E. ROBINSON IN VOLUME 1065, PAGE 21 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 123.892 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake found at the southwest corner of said Robinson tract, same being in the north R.O.W. line of Howard Lane, for the southwest corner of the herein described tract,

THENCE, with a fence along the east line of said Hirshfeld tracts, the following five (5) courses and distances, numbered 1 through 5,

1. N 29°14'00" E, 871.55 feet to an iron stake found,
2. N 45°06'30" E, 0.91 feet to a concrete monument found,
3. N 28°48'30" E, 836.80 feet to a concrete monument found,
4. N 29°38'30" E, 8.87 feet to an iron stake found,
5. N 29°04'30" E, 78.40 feet to an iron stake found for the northwest corner of the herein described.

THENCE, S 60°32'00" E, with a fence, 580.34 feet to an iron stake for an angle point,

THENCE, S 60°48'30" E. with a fence, 2445.30 feet to an iron stake found for an angle point,

THENCE, S 62°43'00" E, 7.64 feet to an iron stake at the northeast corner of said Robinson tract for the northeast corner of the herein described tract,

THENCE, S 28°53'00" W, with a fence, 1575.54 feet to an iron stake found for an angle point,

THENCE, S 28°48'15" W, along a fence, 189.40 feet to an iron stake in the north R.O.W. line of Howard Lane, for the southeast corner of the herein described tract,

Continued on Page 2.

EXHIBIT B PAGE 1

8087 973


FIELD NOTES - 123.892 Acres

3-19-8511

THENCE, with a fence along the north R.O.W. line of Howard Lane, the following three (3) courses and distances,

1. N 61°22'00" W, 680.25 feet to a point,
2. N 61°12'30" W, 900.0 feet to a point,
3. N 61°26'30" W, 1458.0 feet to the PLACE OF BEGINNING, containing 123.892 acres of land as fenced and used upon the ground.

Surveyed By


CARLSON, DIPPEL & MARX SURVEYING COMPANY
4806 North Interregional Highway
Austin, Texas 78751

Date

8/10/81

CARLSON, DIPPEL & MARX
SURVEYING COMPANY

3-19-8512

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE NELSON MERRILL SURVEY NO. 70 AND THE J.P. WHELIN SURVEY NO. 108, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THOSE TWO CERTAIN TRACTS CONVEYED TO H.L. WILLIAMS OF RECORD IN VOLUME 3038, PAGE 2304 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 141.476 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake in the easterly R.O.W. line of Bratton Lane, being the northwesterly corner of Wells Branch Phase A Section One, a subdivision of record in Plat Book 81, Pages 199 and 200 of the Travis County, Texas Plat Records, for the southeasterly corner of the herein described tract,

THENCE, along the easterly R.O.W. line of Bratton Lane, N 30°39'45"E, 2739.74 feet to an iron stake at the beginning of a curve,

THENCE, with said curve to the right, whose radius equals 206.34 feet, an arc distance of 240.80 feet and whose chord bears N 63°56'45"E, 227.37 feet to an iron stake for the northeasterly corner of the herein described tract,

THENCE, along the northerly line of the herein described tract, the following four (4) courses and distances, numbered 1 through 4,

1. S 82°37'15"E, 62.50 feet,
2. S 62°11'E, 582.15 feet,
3. S 60°13'30"E, 627.85 feet,
4. S 60°24"E, 1341.80 feet to an iron stake for the northeasterly corner of the herein described tract,

THENCE, along the easterly line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 29°01'45"W, 1341.0 feet,
2. S 28°40'15"W, 197.51 feet,
3. S 30°45'45"W, 305.79 feet to an iron stake for the southeasterly corner of the herein described tract,

THENCE, along the southerly line of the herein described tract, the following courses and distances, numbered 1 through 4,

1. N 64°59'45"W, 8.35 feet,
2. N 60°16'50"W, 1809.20 feet to an iron stake for an ell,
3. S 29°39'W, 1133.39 feet to an iron stake for an ell,
4. N 59°56'40"W, 980.28 feet to the the PLACE OF BEGINNING, containing 141.476 Acres of Land.

Surveyed By:



Date 3-24-83

Wiley E. Marx, R.P.S. #1931
Carlson, Dippel & Marx Surveying Company
2499 Capital of Texas Highway, Suite 105
Austin, Texas 78746



EXHIBIT B PAGE 3 8087 975

FILED
MAY 12 9 25 AM '83

3-19-8513

Doris H. Angeline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

f

CEX-1041

STATE OF TEXAS
I hereby certify that this Instrument was FILED on the
state and at the time stamped hereon by me; and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on

MAY 12 1983



Doris H. Angeline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

BROWN, MARONEY, ROSE, BAKER & HARRIS
1500 AMES TOWER
221 WEST BORTH STREET
AUSTIN, TEXAS 78701

8087 . 976

500

CERTIFICATE

THE STATE OF TEXAS S

3 48 3689

COUNTY OF TRAVIS S DEC 13-83 2738 * 5.00

WHEREAS, on January 8, 1982, PROVIDENT DEVELOPMENT COMPANY, a division of Lexington Development Company, a Texas limited partnership, as Declarant filed that one certain Declaration of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 7660, Pages 5-37, Deed Records of Travis County, Texas (the "Declaration"); and

WHEREAS, since the date of filing of the Declaration, the following instruments have been placed of record in the Deed Records of Travis County, Texas amending, supplementing and/or restating the Declaration:

| | |
|-------------------|--|
| March 5, 1982 | Addendum Number One to Declaration of Covenants, Conditions and Restrictions for Wells Branch (Volume 7696, Page 716) |
| May 18, 1982 | Amendment Number One to Declaration of Covenants, Conditions and Restrictions for Wells Branch (Volume 7758, Page 772) |
| May 5, 1983 | Restatement of Covenants, Conditions and Restrictions for Wells Branch (Volume 8087, Page 944) |
| December 13, 1983 | Second Restatement of Covenants, Conditions and Restrictions for Wells Branch |

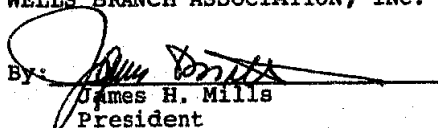
WHEREAS, Article X, Section 2 of the Declaration provides that no amendment of the Declaration shall be effective until an instrument executed and acknowledged by the President and Secretary of the Wells Branch Association, Inc. (the "Association") is placed of record in the Deed Records of Travis County, Texas, certifying that DECLARANT had the requisite number of votes to amend the Declaration;

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the undersigned, the duly qualified and acting President and Secretary of the Association, hereby certify that as of the date of each of the amendments, supplements, and restatements of the Declaration set forth above, Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, as DECLARANT, held a majority of the votes of the Association, thus holding a requisite number of votes to amend the Declaration.

Executed this 13th day of December, 1983.

WELLS BRANCH ASSOCIATION, INC.

NO SEAL

By: 
James H. Mills
President

Attest:


Bette J. Lordeman
Secretary

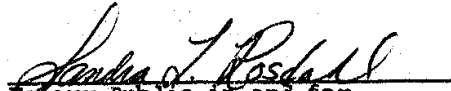
DEED RECORDS
Travis County, Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

3 48 3690

This instrument was acknowledged before me on December 13, 1983, by James H. Mills, President of Wells Branch Association, Inc., on behalf of said association.


Notary Public in and for
The State of Texas

NOTARY SEAL

Sandra L. Rosdahl
Name of Notary-Printed or Typed

My Commission Expires:

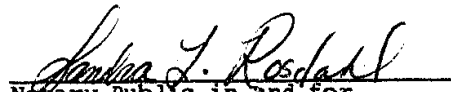
SANDRA ROSDAHL

My Commission Expires Mar. 25, 1987

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 13, 1983, Bette J. Lordeman, Secretary of Wells Branch Association, Inc., on behalf of said association.


Notary Public in and for
The State of Texas

NOTARY SEAL

Sandra L. Rosdahl
Name of Notary-Printed or Typed

My Commission Expires:

SANDRA ROSDAHL

My Commission Expires Mar. 25, 1987

FILED

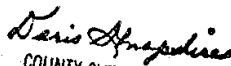
1983 DEC 13 PM 3:32


COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS
I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me; and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on

DEC 13 1983




COUNTY CLERK
TRAVIS COUNTY, TEXAS

8370 314

79.00
2.00
0.00SECOND RESTATEMENT OF DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR WELLS BRANCHTHE STATE OF TEXAS §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS:

3 48 3822

WHEREAS, Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, as DECLARANT, has filed that one certain Declaration of Covenants, Conditions and Restrictions For Wells Branch of record in Volume 7660, Page 5, Deed Records of Travis County, Texas, as amended and supplemented by an Addendum Number One to Declaration of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 7696, Page 716 of the Deed Records of Travis County, Texas, and an Amendment Number One to Declaration of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 7758, Page 772 of the Deed Records of Travis County, Texas as restated in the Restatement of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 8087, Page 944, Deed Records of Travis County, Texas (collectively, the "Prior Declarations") subjecting the real property described in Article I, Section 2 hereof to the covenants, restrictions, charges and liens herein set forth therein; and

WHEREAS, DECLARANT desires and intends that this Second Restatement of Covenants, Conditions and Restrictions for Wells Branch (hereinafter, the "Declaration") shall incorporate all of the provisions of the Prior Declarations, shall supercede the Prior Declarations, and shall be the single expression of all covenants, conditions, restrictions, charges and liens applicable to The Properties, as herein defined; and

WHEREAS, Wells Branch Association, Inc. has been incorporated under the Laws of the State of Texas as a nonprofit corporation, and has been granted powers of administering and enforcing the said covenants, restrictions, charges, and liens and disbursing the assessments and charges created in the Prior Declarations and in this Declaration; and

WHEREAS, DECLARANT holds a majority of the votes of the Wells Branch Association, Inc., and as such has the power to amend the Prior Declarations as provided in Article X, Section 2 thereof; and

WHEREAS, DECLARANT further desires to amend the Prior Declarations as set forth herein, and to impose the covenants, conditions and restrictions set forth in this Declaration in order to protect and enhance the value, attractiveness and desirability of the Properties;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT DECLARANT, acting herein by and through its undersigned duly authorized representative, does hereby amend and restate the Prior Declarations as set forth in this Declaration, which Declaration shall supercede and replace the Prior Declarations, and declare that the real property described in Article I, Section 2, and such additions thereto as may hereafter be made pursuant to Article II, Section 2, hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, charges and liens hereinafter set forth.

ARTICLE I
GENERAL

Section 1. Definitions. The following words, when used in this Declaration, unless the context shall prohibit, shall have the following meanings:

a. "Architectural Control Committee," "Architectural Committee" or "Committee" shall mean and refer to the architectural control committee created pursuant to this Declaration.

b. "Association" or "Wells Branch Association" shall mean and refer to Wells Branch Association, Inc.

c. "Board" shall mean and refer to the Board of Directors of the Association.

d. "The Properties" shall mean and refer to the real property (including improvements) described in Section 2 hereof, and additions thereto, as are subject to this Declaration or any Supplementary Declaration (as hereinafter defined).

e. "Common Properties", "Common Areas" or "Common Area Greenways" shall mean and refer to (i) those areas of land shown on any recorded plat or its equivalent of the Properties or any portion thereof filed or approved by DECLARANT and identified thereon as "Common Area" or "Common Area of the Wells Branch Association", or (ii) any land conveyed, leased, dedicated or assigned by DECLARANT or by a third party (with the consent of DECLARANT) to the Association for maintenance and operation, including, but not limited to, easements, roads, roadways, rights-of-way, parkways, median strips, sidewalks, parks, paths, trails, ponds and lakes located within the Properties.

f. "DECLARANT" shall mean and refer to Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, its successors and assigns and shall include any person or entity to which DECLARANT may assign its rights and privileges, duties, and obligations hereunder, all of which are and shall be assignable.

g. "Area", when followed by a roman numeral, shall mean and refer to a specific portion of The Properties, the exact geographic location of which shall have been described and defined either in Exhibit "A" referred to in Section 2 of this Article I or in one of the Supplementary Declarations (as hereinafter defined).

h. "Supplementary Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add to The Properties or (ii) to subject any Area to further covenants, conditions or restrictions or (iii) to withdraw land from the Properties.

i. "District" shall mean and refer to North Austin Growth Corridor Municipal Utility District No. 1.

j. "Subassociation" shall mean and refer to any nonprofit association hereinafter incorporated under the laws of the State of Texas by DECLARANT or by the owners of all or a specific portion of the Properties for the purpose of administering and enforcing any covenants, conditions or restrictions imposed upon such portion of the Properties pursuant to a Supplemental Declaration, which covenants, conditions and restrictions shall be in addition to those set forth in this Declaration.

k. "District Common Properties" shall mean and refer to any land conveyed, leased, dedicated or assigned by DECLARANT or by a third party (with the consent of DECLARANT) to the North Austin Growth Corridor Municipal Utility District No. 1 for the purpose of holding, maintaining or operating such land as parks, recreational areas, greenbelts, or open space.

1. "Street" shall mean and refer to a road or right-of-way that has been or is intended to be dedicated for use by the public.

Section 2. Property Subject to Declaration. The real property covered by this Declaration is described in Exhibit "A" attached hereto and incorporated herein by reference, and shall include any additions thereto pursuant to this Declaration. All of The Properties and any right, title or interest therein shall be owned, held, leased, sold and/or conveyed by DECLARANT, and any subsequent owner of all or any part thereof, subject to this Declaration and the covenants, restrictions, charges and liens set forth herein.

ARTICLE II DEVELOPMENT, ANNEXATION AND WITHDRAWAL OF LAND

Section 1. Development by DECLARANT. DECLARANT may divide or subdivide The Properties, designate any portion of The Properties to be a separate Area, develop parts of The Properties and, at DECLARANT's option, dedicate parts of The Properties as Common Areas or for other purposes for the benefit of the developed areas, in accordance with its master plan for The Properties. It is contemplated that The Properties will be developed pursuant to a master concept plan, which may, from time to time, be amended or modified, in the sole discretion of DECLARANT, in which the development of and restrictions upon each area thereof will benefit each other portion and the whole thereof. As each Area is developed or dedicated, DECLARANT may record one or more Supplementary Declarations and designate the use, classification, and such additional covenants, conditions, and restrictions as DECLARANT may deem appropriate for that Area. Any Supplementary Declaration may provide its own procedure for the amendment of any provisions thereof, as, for example, by a specified vote of only the owners of the property within the Area subject thereto. All lands, improvements and uses in each Area so developed shall be subject to both this Declaration and the Supplemental Declaration, if any, for that Area.

Section 2. Annexation. The property described on Exhibit "B" attached hereto and incorporated herein by reference shall be added to The Properties when fee simple title to the said property is acquired by DECLARANT. DECLARANT, and other persons with DECLARANT's written consent may at any time, and from time to time, add any other lands to The Properties. Upon the recording of a Notice of Addition of Land containing the provisions set forth below in this Article II, Section 2 (which Notice may be contained within any Supplementary Declaration affecting such land), the covenants, conditions, and restrictions contained in this Declaration shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration.

The Notice of Addition or Withdrawal of Land shall contain the following provisions:

- (A) A reference to this Declaration, which reference shall state the date of recordation hereof and the book and page numbers wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to the added land as set forth herein or that the land has been withdrawn from the provisions hereof;

- (C) Legal description of the added land and language designating said added land with the term "Area" followed by a roman numeral so as to differentiate each respective area from other areas within The Properties; and
- (D) DECLARANT's written consent if the land being added is not owned by DECLARANT. As part of such written consent, DECLARANT may agree with the person who owns such land as to the terms and conditions upon which DECLARANT will exercise its rights and duties, as DECLARANT under this Declaration, with respect to such added lands. Such terms and conditions may provide for joint exercise, as to such lands added, of DECLARANT's rights and duties.

Section 3. Withdrawal of Land. Any land within The Properties which is subdivided under a final plat filed of record in the Plat Records of Travis County, Texas, creating lots intended to be used as homesites for single family detached dwellings shall be automatically exempted from the provisions of this Declaration, and DECLARANT shall, upon the recording of such final plat, file a Notice of Withdrawal of Land in substantially the form set forth in Section 2 above for the addition of land, but providing for the withdrawal of land rather than the addition thereof. DECLARANT, and others with DECLARANT's written consent, may, at any time and from time to time, reduce or withdraw from The Properties any lands to be used for residential purposes (whether single family or multi-family). The withdrawal shall be accomplished by filing a Notice of Withdrawal of Land in conformance with the procedure set forth above in this Section 3. Upon the filing of a Notice of Withdrawal of Land as provided hereunder, this Declaration shall no longer apply nor have any force or effect with respect to those lands withdrawn, but DECLARANT may, at the time the Notice of Withdrawal of Land is filed, or at any later date, subject the withdrawn lands to additional covenants, conditions and restrictions as Declarant deems appropriate.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to The Properties, and the surviving or consolidated association shall possess all of the rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to The Properties except as hereinafter provided. No merger or consolidation of the Association shall be effective without the written consent of DECLARANT.

ARTICLE III GENERAL RESTRICTIONS

All of The Properties shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

Section 1. Antennas. It being the intention of DECLARANT to strictly limit the number of external antennas and to

encourage collective communication systems, antennas, satellite dish receivers or other devices designed to receive telecommunication signals, including but not limited to radio, television or microwave signals which are intended for cable television, network television reception or entertainment purposes, whether commercial or otherwise, may only be erected or maintained upon The Properties, with the prior written approval of DECLARANT or DECLARANT'S designated representatives or assigns at DECLARANT'S sole option, and which approval may be withheld for any reason at all. If DECLARANT grants approval for any such devices, DECLARANT may require appropriate placement and landscaping to insure that they are screened from view or placed in a location so as not to be intrusive to other property owners. Antennas, satellite dish receivers or other devices designed and intended to receive telecommunications signals for uses other than network television reception, cable television or entertainment purposes shall be permitted upon the written approval of the Architectural Committee, as to size, materials used, location and appropriate landscaping or screening from view, which consent shall not be unreasonably withheld but the Architectural Committee shall encourage and require the use of collective systems whenever reasonably practical.

Section 2. Insurance Rates. Nothing shall be done or kept on The Properties which would increase the rate of insurance on any other portion of The Properties without the approval of the Board, nor shall anything be done or kept on The Properties which would result in the cancellation of insurance on any improvements within The Properties or which would be in violation of any law.

Section 3. Subdivision. No previously subdivided lot within The Properties shall be divided or subdivided into two or more lots of less than three (3) acres each, nor may any easements or other interests therein less than the whole be conveyed by the owner thereof (including any Subassociation) without the prior written approval of the Architectural Committee; provided, however, that when DECLARANT is the Owner thereof, DECLARANT may further divide and subdivide any lot or parcel of land and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee; and provided further, that nothing herein shall be deemed to require the approval of the Architectural Committee for the transfer or sale of any lot, including improvements thereon, to more than one person to be held by them as tenants in common or joint tenants, or for the grant of any Mortgage. No subdivision or resubdivision permitted hereunder shall, without the prior written approval of the Architectural Committee, result in an increase in the number of or the extension of any existing public or private streets serving the property so subdivided or resubdivided.

Section 4. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon The Properties and no odors shall be permitted to arise therefrom so as to render The Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and any such container shall be kept within an enclosed structure or appropriately screened from view.

Section 5. Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of The Properties without the prior written approval of the Architectural Committee. No noise or other nuisance shall be permitted to exist or operate upon any of The

Properties so as to be offensive or detrimental to any other property or to its occupants.

Section 6. Repair of Buildings. All improvements hereafter constructed upon any of The Properties shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the owner (including any Subassociation) thereof. The opinion of the Board as to condition shall be final.

Section 7. Drainage. There shall be no interference with the established drainage patterns over any of The Properties, except by DECLARANT, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

Section 8. Hazardous Activities. No activities shall be conducted on The Properties and no improvements constructed on The Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon The Properties, no open fires shall be lighted or permitted except in a contained barbeque unit (while attended and in use for cooking purposes), within a safe and well-designed interior fireplace, or such campfires or picnic fires in Common Areas designated for such use by DECLARANT, or by the Association.

Section 9. Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon The Properties, except that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction may be maintained with the prior approval of DECLARANT, such approval to include the nature, size, duration and location of such structures.

Section 10. Mining and Drilling. No portion of The Properties shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

Section 11. Vehicles. The use and storage of all vehicles, including but not limited to helicopters, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles shall be subject to regulation by the Board, which may regulate, prohibit or limit the use thereof within specified parts of The Properties.

Section 12. Animals. No animals or poultry may be kept or raised on The Properties, provided, however, that the keeping of ordinary household pets such as dogs and cats is allowed; and provided further that household pets and other animals may be kept in any pet store or other commercial establishment if such use has been approved by the Board.

Section 13. Height Limitation. No improvement may be erected upon The Properties which is in excess of sixty feet in height without the prior written approval of the Architectural Committee.

Section 14. Prefabricated Buildings. No preconstructed, prefabricated, or existing structure may be moved upon or relocated to any portion of the Properties, unless approved by the Architectural Control Committee.

ARTICLE IV
PROTECTIVE COVENANTS

Section 1. Use Limitations. Sites within The Properties may be used for office buildings, light manufacturing and assembly, hotels, religious assemblies, multi-family residential dwellings, retail sales, restaurants, storage, warehousing and related facilities, or other uses permitted in writing by Declarant. The following uses shall not be permitted:

- (a) Overnight parking of campers, mobile homes, boats, trailers or motor homes;
- (b) Any use which would create any dangerous, injurious, noxious, or otherwise objectionable noise, glare, smoke, dust or other form of air pollution, liquid or solid refuse or waste, or other substance as to affect any use within the vicinity;
- (c) Single family residential (unless such land is withdrawn in accordance with Article II, Section 3 hereof);
- (d) Any use contrary to law or which violates any section of this Declaration.

Section 2. Minimum Setback Lines. No structure of any kind and no part thereof shall be placed within these setback lines:

- (a) 25 feet from any Common Area Greenway;
- (b) 50 feet from the right of way of State IH 35, FM 1325 or Wells Branch Parkway;
- (c) 30 feet from any other public street right of way;
- (d) 10 feet from any interior property line;

provided, however, that the following improvements are expressly excluded from these setback requirements: structures below and covered by the ground; steps, walks, driveways, and curbing; planters, walls, fences or hedges, not to exceed 4 feet in height; landscaping; and any other improvement approved in writing by Declarant.

Section 3. Building Heights. Unless a variance is granted as provided in Article VIII, Section 8 hereof, no portion of a building in excess of 35' shall be closer than 100 feet from the street right of way or closer than 100 feet from a side or rear property line.

Section 4. Parking Areas. Unless a variance is granted as provided in Article VIII, Section 8 hereof, parking areas shall be curbed, guttered and paved; shall have a maximum grade slope of 5%; shall not be provided in front of any building line fronting a street; shall be adequately screened by use of berm, trees, landscaping or other means acceptable to the Committee; and shall be sufficient to accommodate all parking needs for employees, visitors, and company vehicles, without the use of on-street parking. If parking needs increase, additional off-street parking shall be provided by the owner. There shall be provided at least the following minimum parking areas:

| <u>USE CLASSIFICATION</u> | <u>MINIMUM OFF STREET PARKING REQUIREMENTS</u> |
|---|--|
| i. Duplex Residential | 2 spaces per unit |
| ii. Townhouse Residential | 2 spaces per unit |
| iii. Apartment/Condominium | |
| iv. Efficiency | 1 space per unit |
| One Bedroom | 1.5 spaces per unit |
| 2 Bedrooms or Larger | 2 spaces per unit |
| v. Administrative and Business Office | 1 space per 300 square feet |
| vi. Financial Services | 1 space per 250 square feet |
| vii. General Retail Services | 1 space per 200 square feet |
| viii. Religious Assembly | 1 space per 5 person capacity |
| ix. Professional Offices | 1 space per 200 square feet |
| x. Indoor Service or Display | 1 space per 500 square feet |
| xi. Indoor Storage, Warehousing, Equipment Servicing or Manufacturing | 1 space per 1000 square feet |
| xii. Outdoor Sales, Service, or Display | 1 space per 750 square feet |
| xiii. Outdoor Storage, Equipment, Servicing, or Manufacturing | 1 space per 2000 square feet |
| xiv. Hotel or Motel | 1 space per guest room |
| xv. Restaurant or Club | 1 space for each 2-1/2 seats |
| xvi. Theatre | 1 space for each 3-1/2 seats |

Declarant may grant exceptions to and/or variations from any parking requirement, provided that all such variations and/or exceptions must be in writing.

Section 5. Driveways. All driveways shall:

- (a) Not intersect roads, streets or thoroughfares within 30 feet of intersections;
- (b) Have a minimum width of 12 feet; and
- (c) Shall include right turn stacking lanes for entry into site off of IH 35, FM 1325, or Wells Branch Parkway.

Section 6. Signs. All signs must be approved by the Architectural Control Committee in writing prior to installation. Factors to be considered by the Architectural Control Committee may include but shall not be limited to whether such signs meet the following criteria:

- (a) Identify the name and business of the occupant or which offer the premises for sale or for lease.
- (b) Are not of an unusual size or shape when compared to the building or buildings on the premises.
- (c) Do not project above the roof line of a building or in front of the setback line.
- (d) Do not block or detract from adjacent property.
- (e) Preserve the quality and atmosphere of the area.
- (f) Signs over 35' in height shall be at least 100' from right of way lines.

Signs of a flashing or moving character and inappropriately colored signs will not be permitted. The Association shall have the right to enter onto The Properties and to remove at the

owner's expense, any sign erected without such written approval. Developer may submit a set of design standards for signs within a planned development and once the standards are approved by the Architectural Committee, no further approval of individual signs shall be required so long as the signs meet the criteria established by the Architectural Committee.

Section 7. Landscaping. Landscaping shall be required on all sites contemporaneously with completion of other improvements, but in no event later than 180 days after first occupancy or completion of buildings, whichever shall first occur and all landscaping shall conform to a landscaping plan approved by the Committee and drawn by a registered landscape architect. Unless a variance is granted as provided in Article VIII, Section 8 hereof, factors to be considered by the Committee may include but shall not be limited to whether the plans meet the following criteria:

- (a) Provide automatic underground sprinkling systems for all landscaped areas;
- (b) Do not obstruct sight lines at street or driveway intersections;
- (c) Preserve existing trees to the extent practical;
- (d) Include at least one tree in the area between the building line and the street right of way line every 35 feet;
- (e) Include landscaping islands a minimum of 9 feet in width for every 20 parking spaces, and include in the islands at least one tree; and
- (f) Permit reasonable access to public and private utility lines and easements for installation and repair.

Section 8. Screening. Antennas, satellite dish receivers or other devices designed to receive telecommunications signals approved by the Architectural Committee, storage areas, air conditioning and heating equipment, incinerators, storage tanks, trucks based on the premises, roof objects (including fans, vents, cooling towers, skylights and all roof mounted equipment which rises above the roof line), trash containers and maintenance facilities, shall either be housed in closed buildings or otherwise completely screened from public view in a manner and at a location approved in writing by the Architectural Control Committee. Such screening shall include landscaping or permanent fences of solid materials and be located as far from property lines as reasonably possible unless otherwise approved by the Architectural Control Committee. No antenna or tower shall be erected on The Properties for any purpose without prior written approval from the Architectural Control Committee. Any and all lines and/or wires for communication or for transmission of sound or current, not within a building, shall be constructed or placed and maintained underground.

Section 9. Loading Docks and Areas. Loading docks and areas shall not be located on the street side of any building or structure except that loading docks or areas may be located on that side of a building or structure fronting on Howard Lane, and the Architectural Control Committee may approve such location in writing (subject to express screening requirements) on one street side of corner buildings or structures. Loading areas may not encroach upon setback areas, except that Declarant may approve such encroachment in connection with the approval of

street side loading areas for corner buildings as described in the preceding sentence. Loading docks and areas shall be screened in a manner approved in writing by Declarant, considering such things as location (street side or rear side) and views from adjacent and nearby properties. Loading docks and areas shall not be within 50 feet of any Common Area Greenway frontage.

Section 10. Exterior Illumination. Illumination will be required on all parking areas and walkways between buildings and parking areas unless otherwise waived or modified by Declarant in writing. Such illumination must conform to plans approved in writing by the Architectural Control Committee.

Section 11. Construction Standards.

- (a) All building sides must be faced with brick or stone, or with such other similar quality face materials as may be approved in writing by the Architectural Control Committee. Tilt wall type building materials may be used only with specific approval of the Architectural Committee as to quality and appearance. Windows shall not be glazed or reglazed with mirrored glass without prior written approval of the Architectural Control Committee.
- (b) Construction must conform to plans and specifications approved in writing by the Architectural Control Committee. Factors to be considered by the Committee may include but shall not be limited to whether the plans meet the following criteria:
 - i. Do not include wooden frames;
 - ii. Provide adequate fire protection systems;
 - iii. Provide for all underground utilities (public and private);
 - iv. Preserve the quality and atmosphere of the area and do not detract from adjacent property;
 - v. Do not include exterior fire escapes; and
 - vi. Do not make extensive use of highly reflective or mirrored glass.
- (c) The sorting, handling, moving, storing, removing, and disposing of all trash and waste materials must be housed or screened in a manner approved in writing by the Architectural Control Committee. Not more than one (1) waste receptacle shall be permitted for each building used for commercial or industrial purposes, unless a greater number is approved by the Architectural Committee and is justified by a building of an unusual shape or configuration, it being the intention of the DECLARANT to encourage the use of trash compactors and to reduce the number of trash dumpsters used within The Properties. All facilities and plans for the disposal of wastes other than by public sewage methods (such as shredding, compaction, incineration, reclamation, or chemical dissolution) must be approved in writing by the Architectural Control Committee.
- (d) Each kitchen facility within a commercial building or complex of buildings shall contain a water flushing garbage grinder disposal.

- (e) No excavation shall be made except in conjunction with construction of an improvement. When such improvement is completed, all exposed openings shall be back filled and graded.
- (f) Once commenced, construction shall be diligently pursued to the end that it may not be left in a partly finished condition any longer than reasonably necessary.

ARTICLE V MAINTENANCE

Section 1. Duty of Maintenance. Owners and occupants (including lessees) of any part of The Properties shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of The Properties so owned or occupied, including buildings, improvements and grounds in connection therewith, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following which shall be performed in a timely manner:

- a. Prompt removal of all litter, trash, refuse, and wastes.
- b. Lawn mowing.
- c. Tree and shrub pruning.
- d. Watering.
- e. Keeping exterior lighting and mechanical facilities in working order.
- f. Keeping lawn and garden areas alive, free of weeds, and attractive.
- g. Keeping parking areas, driveways, and roads in good repair.
- h. Complying with all government, health and police requirements.
- i. Striping of parking areas and repainting of improvements.
- j. Repair of exterior damage, and wear and tear to improvements.

Section 2. Enforcement. If, in the opinion of the Board any such owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association through the Board may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Association through its authorized agent or agents shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The owners and occupants (including lessees) of any part of The Properties on which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such owner or occupant shall fail to reimburse the Association within 30 days after receipt of a statement for such work from the

Association, then said indebtedness shall be a debt of all of said persons jointly and severally, and shall constitute a lien against that portion of The Properties on which said work was performed. Such lien shall have the same attributes as the lien for annual assessments and special assessments set forth hereinabove, which provisions are incorporated herein by reference, and the Association shall have identical powers and rights in all respects, including but not limited to the right of foreclosure.

ARTICLE VI THE ASSOCIATION

Section 1. Membership. Each and every person, persons or legal entity who shall own any lot, tract, or parcel of land in The Properties, shall automatically be a member of the Association, PROVIDED that any person or entity who holds such an interest merely as security for the performance of any obligation shall not be a member.

Section 2. Classes of Voting Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those members described in Section 1 hereof with the exception of DECLARANT. Class A members shall be entitled to one vote for each one hundred dollars (\$100.00), or major fraction thereof, of assessed value of that portion of The Properties owned by each such member as used by the County of Travis, Texas, for ad valorem tax purposes for the preceding year. When two or more persons or entities hold undivided interests in any part of The Properties, all such persons or entities shall be Class A members, and the vote for such part of The Properties shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each one hundred dollars (\$100.00), or major fraction thereof, of value of the part of The Properties in which such members own undivided interests.

Class B. The Class B member shall be DECLARANT. For every one vote outstanding in favor of the Class A members, the Class B member shall have three votes; PROVIDED, HOWEVER, that from and after December 31, 1991, notwithstanding any other provision of this Article, the Class B member shall be entitled to only one vote for each one hundred dollars (\$100.00), or major fraction thereof, of assessed value of that portion of The Properties owned by it as assessed by Travis County, Texas, for ad valorem tax purposes for the preceding year.

Voting rights may be assigned, in whole or in part, as such rights relate to a particular tract of land, to a lessee holding a ground lease on such particular tract of land, PROVIDED that the primary term of such ground lease is for a period of not less than forty (40) years.

Section 3. Duties of the Association. Subject to and in accordance with these restrictions, the Association acting through the Board shall have and perform each of the following duties:

- (a) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by DECLARANT, together with all improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all

other property, real and personal, conveyed or leased to the Association by DECLARANT and to maintain in good repair and condition all lands, improvements, and other Association property owned by or leased to the Association.

- (b) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (c) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount to carry out the Association functions.
- (d) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such rules (the "Rules") and Association Bylaws (the "Bylaws"), not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of Association property. Without limiting the generality of the foregoing, such Rules may set dues and fees and prescribe the regulations governing the operation of Association property. Each member of the Association shall be entitled to examine such Rules and Bylaws at any time during normal working hours at the principal office of the Association.
- (e) To enforce, on its own behalf and on behalf of all Owners, this Declaration, as beneficiary of said covenants, conditions, and restrictions, and as assignee of DECLARANT; and to perform all other acts, whether or not anywhere expressly authorized herein, as may be reasonably necessary to enforce any of the provisions of this Declaration, the Rules or Bylaws. The Board shall be authorized to institute litigation, settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the provisions of this Declaration, and/or the Rules and Bylaws; provided however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against DECLARANT, its successors or assigns.
- (f) To execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from DECLARANT subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether DECLARANT or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether DECLARANT or the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of the members of

the Association, or otherwise, or any combination thereof, as may be deemed appropriate by DECLARANT or the Association, as the case may be, but subject to the limitations imposed by this Declaration.

- (g) To keep books and records of the Association's affairs.
- (h) To carry out and enforce all duties of the Association set forth in this Declaration, or the Articles or Bylaws of the Association.

Section 4. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association shall have the power and authority at all times as follows:

- (a) To levy assessments as provided in Article VII, below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VII hereof in order to raise the total amount for which the levy in question is being made.
- (b) The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration, the Rules or the Bylaws. The Association shall also have the power to levy a special charge (not to exceed \$50 per violation) or to suspend any member's right to use the Association property (for a period not to exceed thirty days per violation) for any violation of this Declaration, the Rules or the Bylaws.
- (c) To grant and convey to any person or entity the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Association property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder:
 - (1) Parks, parkways, campgrounds, or other recreational facilities or structures;
 - (2) Roads, streets, walks, driveways, trails, and paths;
 - (3) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
 - (4) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; and
 - (5) Any similar public, quasi-public, or private improvements or facilities.

(Nothing above contained, however, shall be construed to permit use or occupancy of any improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.

- (d) To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.
- (e) To retain and pay for legal and accounting services necessary or proper in the operation of the Association, the operation and management of its property, the enforcement of this Declaration, the Bylaws or the Rules, or in the performance of any other duty, right, power, or authority of the Association.
- (f) To pay for water, sewer, garbage removal, landscaping, gardening, and all other utilities, services and maintenance for the property of the Association.
- (g) To maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes, and other areas of The Properties, as appropriate.
- (h) To own and operate any and all types of facilities for both active and passive recreation.
- (i) To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles or Bylaws of the Association.
- (j) To construct new improvements or additions to Association properties, subject to the approval of the Architectural Committee as in this Declaration required.
- (k) To collect on behalf of and for the account of any Subassociation (but not to levy) any assessment made by a Subassociation created pursuant to this Declaration.
- (l) To enter into contracts with DECLARANT and other persons on such terms and provisions as the Board shall determine, to operate and maintain any Common Area or to provide any service or perform any function on behalf of DECLARANT or other person.
- (m) To acquire and own and to dispose of all manner of real and personal property, whether by grant, lease, gift, or otherwise.

- (n) To create a subsidiary or other association to have the rights and powers, and to perform the duties, obligations, or functions necessary to the obtaining of a tax exemption, if it shall ever be ruled or held that an exemption under the Internal Revenue Code is unavailable to the Association under this Declaration; or alternatively, the Association may retain the rights, powers, duties, obligations, or functions which prevent the obtaining of the tax exemption and transfer some or all of its other rights, powers, duties, obligations, and functions to such subsidiary or other association.

Section 5. Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

ARTICLE VII ASSESSMENTS

Section 1. Covenants for Assessments.

(a) The DECLARANT for each lot, tract or parcel of land owned by it within The Properties, hereby covenants, and each purchaser of any such lot, tract or parcel of land by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the Association: (1) annual assessments or charges (as specified in Section 3 hereof); and (2) special assessments for capital improvements (as specified in Section 4 hereof), all of such assessments to be fixed, established, and collected from time to time as hereinafter provided.

(b) In addition, the DECLARANT, for each lot, tract or parcel of land owned by it within the Properties, hereby covenants, and each purchaser of any such lot, tract or parcel of land, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant to pay to the District, for so long as the District holds, operates and maintains any District Common Properties, such assessments as the District, acting by and through its Board of Directors, deems reasonably appropriate for the purpose of owning, leasing, operating, maintaining and

repairing the District Common Properties, including any administrative expenses and insurance-related expenses related thereto, and/or such charges or fees for use of the District Common Properties as the Board of Directors of the District may establish from time to time. It is acknowledged and agreed that any assessment established by the District hereunder shall not be subject to the limitations set forth in Sections 3, 4, 5, 6, 7 and 8 of this Article VII, but shall be governed by the provisions set forth in Sections 9, 10, 11 and 12 of this Article. DECLARANT and each purchaser of land within the Properties further covenant to abide by, and to fully comply with, all rules and regulations which may be promulgated by the District regarding the use or operation of the District Common Properties.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety, and welfare of the owners of The Properties, and the maintenance and improvement of The Properties or any part thereof, and for carrying out the purposes of the Association as stated herein or as otherwise provided in its Articles of Incorporation.

Section 3. Annual Assessment.

(a) Each owner of any part of The Properties, with the exception of DECLARANT, shall pay to the Association an annual assessment of \$.10 per one hundred dollars (\$100.00) of assessed value of that portion of The Properties so owned. As used herein the assessed value of any property shall be the assessed value of such property as used by Travis County, Texas for ad valorem tax purposes for the preceding year. The rate of annual assessment may be increased by vote of the membership of the Association, as provided in Section 5 hereof. The Board may, after consideration of current operation and maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The Association may not accumulate a surplus at the end of any year which is more than two times the maximum permissible annual assessment for that year. The Board shall, should excess surplus (as above defined) exist at the end of any year, reduce the next total annual assessment by an amount at least equal to said excess surplus.

(b) DECLARANT shall pay to the Association for any undeveloped land owned by DECLARANT within The Properties, an annual assessment of \$.30 per one hundred dollars (\$100.00) of assessed value of such undeveloped land. For developed land which it owns within The Properties, DECLARANT shall pay the standard annual assessment of \$.10 per \$100.00 of assessed value of property owned. The rate of DECLARANT'S annual assessment may be raised or lowered in accordance with the procedures established in Subsection (a) hereinabove, but DECLARANT shall always pay at the standard assessment rate for developed property and at three (3) times the standard rate for undeveloped property. For purposes of this section, land owned by DECLARANT within the Properties shall be considered to be developed if, at the time an assessment is levied the land is part of a platted lot and if any building or other permanent improvement has been constructed upon the lot and is ready for use or occupancy, whether for commercial, industrial, business, residential, or any other purpose.

Section 4. Special Assessments. In addition to the annual assessments authorized by Section 3 hereof, the Association may, by vote of its members as set out in Section 6 hereof, levy in any assessment year or years a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any improvement located upon The Properties, including the necessary fixtures and personal property related thereto, or for carrying

out other purposes of or otherwise benefiting the Association. The formula used in allocating the burden of any special assessments, including the provision requiring that the assessment levied against DECLARANT on undeveloped property be calculated at a rate three (3) times the rate levied against other Owners shall be the same as the formula set forth in Section 3 above.

Section 5. Vote Required for Increase in Rate of Annual Assessment. The increase in the rate of the annual assessment as authorized by Section 3 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6. Vote Required for Special Assessment. The special assessment authorized by Section 4 hereof must be approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 7. Commencement Date of Annual Assessment. The first annual assessment provided for herein shall commence on January 1, 1982 and shall continue thereafter from year to year.

Section 8. Due Date of Assessments. The first annual assessment shall become due and payable on August 31, 1982, and shall be considered delinquent if not paid within thirty (30) days from its due date. The assessments for any year thereafter shall become due and payable on the same day of each succeeding year and delinquent if not paid within thirty (30) days of their due date. The due date and delinquent date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 9. Owner's Personal Obligation for Payment of Assessments. The annual and special assessments provided for herein shall be the personal and individual debt of the owner of the property covered by such assessments. No owner may exempt himself from liability for such assessments. In the event of default in the payment of any such assessment, the owner of the property shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the assessment from the due date thereof, (or if there is no such highest rate, then at the rate of 2% per month) together with all costs and expenses of collection, including reasonable attorneys' fees.

Section 10. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall, together with interest as provided in Section 9 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the property covered by such assessment, which shall bind such property in the hands of the owner, and such owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said property, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing in either instance sums borrowed for the improvement of the property in question. The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of

the Association. To evidence the aforesaid assessment lien, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the owner of the property covered by such lien and a description of the property. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such lien for payment of assessments shall attach with the priority above set forth from the date that such payment becomes delinquent as set forth in Section 8 above and may be enforced by the foreclosure of the defaulting owner's property by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or the Association may institute suit against the owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee holding a prior lien on any part of The Properties, the Association shall report to said mortgagee any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

Section 11. District Common Properties and Common Properties Exempt. All District Common Properties and all Common Properties, as defined herein, and any common properties of any other association designated on any recorded plat filed by DECLARANT shall be exempt from the payment of any assessments levied by the District or the Association.

Section 12. Assessments by the District. Any assessments levied by the District pursuant to Section 1(b) of this Article shall be in addition to, and not in lieu of, any annual or special assessments levied by the Association hereunder and the separate taxing authority of the District. All assessments by the District hereunder: (i) shall be the personal obligation of each of the owners of the property assessed as well as a lien and a charge against such owner's property; (ii) shall bear interest at the same rate as is provided herein for assessments of the Association; and (iii) shall be collectible in the same manner as provided in Section 10 of this Article VII for the collection of assessments of the Association including, but not limited to, foreclosure upon the property assessed. The District shall have and enjoy the same rights and powers with respect to the District Common Properties as set forth herein as being rights and powers of the Association with respect to the Common Properties including, but not limited to: (i) the right to file and to foreclose upon any assessment lien; (ii) the right to adopt reasonable rules and regulations for the use of the District Common Properties; (iii) the right to suspend any owner's right to use the District Common Properties during any period when an assessment by the District hereunder remains unpaid and for any period as a penalty for any infraction of its published rules and regulations; and (iv) the right to collect and to institute legal proceedings for the payment for any damage to the District Common Properties or any sum arising hereunder.

ARTICLE VIII ARCHITECTURAL CONTROL COMMITTEE

Section 1. Designation of Committee. The Association shall have an Architectural Control Committee, which shall consist of three (3) members who shall be natural persons, and who shall be appointed by the Board. Until December 31, 1991, the appointment of the members of the Architectural Control

Committee must be approved by DECLARANT, and any and all members of such committee may be removed by the Board and/or the DECLARANT without cause. After such date, the Board shall have the exclusive right and power at any time and from time to time to create and fill vacancies on the Architectural Control Committee.

Section 2. Function of Architectural Control Committee. No Improvement, as that term is hereinafter defined, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of The Properties until plans and specifications, in such form and detail as the Architectural Control Committee may deem necessary, shall have been submitted to and approved in writing by such committee. The Committee shall approve plans and specifications submitted for its review and such other information as it deems proper, including without limitation any environmental impact statement required by the Committee. The Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.

Section 3. Content of Plans and Specifications. The plans and specifications to be so submitted and approved shall include the following items unless waived by the Committee:

a. A topographical plat shall be submitted showing existing contour grades and showing the location and dimensions of all existing and proposed Improvements. Existing and finished grades shall be shown at lot corners and at corners of proposed Improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the lot contours is contemplated.

b. The structural design, exterior elevations, exterior materials, colors, textures and shapes of all Improvements shall be described, along with any diagrams or representations necessary to depict all proposed exterior illumination, (including location and method), utility connections and fire protection systems.

c. A Landscaping plan shall be submitted, drawn by a registered landscape architect, showing walkways, fences and walls, elevation changes, watering systems, vegetation and ground cover, parking area and driveway plan, screening, (including size, location, and method), signs, (including size, shape, color, location, and materials), reservoirs, detention ponds, drainage facilities, pipes, lines, meteres, antennae, towers and other facilities used in connection with water, sewer, gas, electric, telephone, television, or other utilities.

Section 4. Definition of "Improvement." Improvement shall mean and include all buildings, structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows with mirrored or reflective glass, and any new exterior construction or exterior improvement exceeding \$5,000.00 in cost which may not be included in any of the foregoing. It does not include garden shrub or tree replacements. It does include both original improvements and all subsequent changes and improvements other than normal maintenance.

Section 5. Basis of Approval. Approval of plans and specification shall be based on adequacy of site dimensions, structural design, conformity and harmony of external design and location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and

conformity to both the specific and general intent of these protective covenants and the general plan for development of The Properties.

Section 6. Failure of the Committee to Act. If the Architectural Control Committee fails to approve or to disapprove such plans and specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that the Committee has approved such plans and specifications, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances specifically reserved to DECLARANT herein. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and/or reject the balance.

Section 7. Limitation of Liability. Neither the DECLARANT, the Association, the Architectural Control Committee nor any of the members of the Committee or the Board shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

Section 8. Variances. The Committee may grant variances from compliance with the provisions of Article IV, Section 2 (Minimum Setback Lines); Article IV, Section 3 (Building Heights); Article IV, Section 4 (Parking Areas); and Article IV, Section 7 (Landscaping) of this Declaration when, in the opinion of the Committee, such variance is justified due to aesthetic or visual considerations or unusual circumstances, and the following additional requirements are met:

- (a) Any request for a variance which is submitted to the Committee shall be accompanied by a site plan detailing the proposed location of all improvements, the proposed heights and setbacks for all improvements and the landscaping proposed for the site.
- (b) Any variance from Article IV, Section 2 must be compensated for through the use of berms, screening, buffering, alternative landscape design or similar means which, in the opinion of the Committee, satisfy or accomplish the purposes of the setback requirements of this Declaration, by providing spacing between structures and between structures and public streets, and buffering or screening of adjacent properties or uses.
- (c) Any variance from Article IV, Section 3 must be supported by a finding of the Committee that (i) there are no adjoining, single family residential uses that would be adversely impacted by the variance, (ii) permitting additional height is justified due to the location of the property and/or the nature and location of adjoining uses, and (iii) the design of the proposed structures would not detract from the overall quality and appearance of The Properties. The site plan shall indicate the proposed design and exterior composition of all proposed structures on the site.
- (d) Any variance from Article IV, Section 4 must be supported by an affirmative finding of the Committee

that the alternative parking proposed would be equivalent to or exceed the quality, appearance, accessibility, and utility of the parking required pursuant to this Declaration. In no event shall a variance be permitted which would result in a reduction in the off-street parking required pursuant to this Declaration.

- (e) Any variance from Article IV, Section 7 must be compensated for through the use of alternative landscaping designs which, in the opinion of the Committee, are equivalent to or exceed the quality of landscaping required pursuant to this Declaration.

All variances granted must be approved by at least a two-thirds (2/3) vote of the members of the Committee and must be evidenced by a written instrument, in recordable form, and a copy of the site plan approved by the Committee shall be attached thereto. If a variance is granted, no violation of this Declaration shall be deemed to have occurred with respect to the specific provision for which the variance was granted provided that the development of the property effected by the variance is in compliance with all details set forth on the site plan designed to compensate therefor. The granting of any such variance shall not operate or be deemed to operate to waive or amend any of the terms and provisions of this Declaration for any purpose except as to the particular property and the particular matter covered by the variance, and such variance shall not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions hereof.

ARTICLE IX COMMON PROPERTIES

Section 1. Easements of Enjoyment. Subject to the provisions of Section 3 hereof, every member of the Association and every person or entity leasing property within The Properties shall have a right and easement of enjoyment in and to the Common Properties.

Section 2. Title to Common Properties. DECLARANT shall convey ownership of the Common Properties to the Association which shall be responsible for their operation and maintenance, within five years after their designation as such in accordance with Article I, Section 1(e) above.

Section 3. Extent of Easements. The rights and easements of enjoyment created hereby shall be subject to all conditions, covenants and restrictions contained herein, including but not limited to the following:

- (a) The right of the Association to prescribe rules and regulations for the use, enjoyment, and maintenance of the Common Properties;
- (b) The right of the Association to sell and convey the Common Properties, or any part thereof, provided such sale or conveyance is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting;

- (c) The right of the Association to borrow money for the purpose of improving the Common Properties, or any part thereof, and to mortgage the Common Properties, or any part thereof;
- (d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties, or any part thereof, against foreclosure;
- (e) The right of the Association to suspend the easements of enjoyment of any member of the Association during which time any assessment levied hereunder remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations.

Section 4. Damages. Each member of the Association and each lessee of any portion of The Properties shall be liable to the Association for any damage to property of the Association which may be sustained by reason of the negligent or intentional misconduct of such person or of his family, guests or invitees. If the property, the ownership or leasing of which entitles the member or lessee thereof to use Association property, is owned or leased jointly or in common, the liability of all such joint or common owners or lessees shall be joint and several. The amount of such damage may be assessed against such person's real and personal property on or within The Properties, including the leasehold estate of any lessee or the lessor of such lessee, and may be collected as provided herein for the collection of Assessments.

Section 5. Damage and Destruction. In case of destruction of or damage to Association property by fire or other casualty, the available insurance proceeds shall be paid to the Association, which shall contract to repair or rebuild the Association property so damaged. Should the insurance proceeds be insufficient to pay all of the costs of repairing or rebuilding the damage, the Association may levy a special assessment to make good any deficiency. If the Board determines not to rebuild any property so destroyed or damaged, or to build facilities substantially different from those which were destroyed or damaged, it shall call a special meeting of the members to consider such decision. If the members of the Association, by three-fourths (3/4) of the votes cast at such meeting, elect to ratify such decision, the Board shall act accordingly; but if the members do not by such percentage elect to ratify such decision, the Board shall proceed to repair or rebuild the damaged or destroyed facility with payment therefor to be made as set forth in this Section.

Section 6. Transfer of District Common Properties by the District.

a. In the event that the District, its successors or assigns, or any other governmental entity at any time in the future, ceases or elects not to maintain or to operate the District Common Properties, or otherwise becomes incapable of legally operating or maintaining the District Common Properties, the District, acting by and through its Board of Directors, shall be authorized and entitled to convey the District Common Properties to a homeowner's association (the "Single Family Homeowners Association") created pursuant to a petition signed by at least twenty-five percent (25%) of the record title owners of all of the lots intended for single family detached dwellings (the "Single Family Property Owners"), which, at the time such petition is recorded, are shown on recorded plats out of all of the property originally described in this Declaration, plus any

additions to such property as herein provided. In the event that the requisite percentage of the Single Family Property Owners fail or elect not to create a Single Family Homeowners Association within thirty (30) days after the District has posted notice within the boundaries of the District at the location at which official District notices are customarily posted, or if there is no such place, at a location within the District selected by the Board of Directors of the District, advising such Single Family Property Owners that the District will no longer maintain and operate the District Common Properties, the District, or its successors or assigns, shall be entitled to transfer the District Common Properties to the Single Family Property Owners in equal, undivided interests, and each of the Single Family Property Owners shall be obligated to accept such transfer. If the District transfers the District Common Properties to the Single Family Homeowners Association, the Single Family Homeowners Association shall succeed to all of the rights of the District with respect to the District Common Properties including, but not limited to, the rights set forth in Section 12 of Article VII hereof. Following any transfer or conveyance of the District Common Properties, the District shall have no further responsibility therefor or liability related thereto.

b. At such time as all of the land within the District is annexed by the City of Austin, Texas (the "City"), the District may convey the District Common Properties to the City for operation and maintenance and, upon acceptance thereof by the City, the District's right to collect the assessment provided herein shall terminate, and the District Common Properties shall thereafter be maintained and operated at the sole expense of the City and the District shall have no further responsibility therefor or liability related thereto.

ARTICLE X MISCELLANEOUS PROVISIONS

Section 1. Duration. This Declaration and the covenants, restrictions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and every owner of any part of The Properties, including DECLARANT, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including January 21, 2022, after which time said covenants shall be automatically extended for successive periods of five (5) years unless a change (the word "change" including additions, deletions or modifications thereto, in whole or in part) is approved by a majority of the total eligible votes of the membership of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of such meeting; PROVIDED, HOWEVER, that no such change shall be effective until one (1) year following the vote referred to above, nor shall any such change be effective prior to the recording of a certified copy of such resolution in the Deed Records of Travis County, Texas.

Section 2. Amendment. This Declaration may be amended by the DECLARANT so long as DECLARANT holds a majority of the votes of the Association. No amendment by DECLARANT shall be effective until there has been recorded in the deed records of Travis County, Texas, an instrument executed and acknowledged by DECLARANT and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the DECLARANT had the requisite number of votes. In addition, this Declaration may be amended by the

recording in the Travis County deed records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by members of the Association entitled to cast at least sixty percent (60%) of the number of votes of the Association.

Section 3. Utility Easements. The DECLARANT reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas conveyed to the Association or reserved as Common Areas, sewer and other pipe-lines, conduits, wires and any public utility function beneath or above the surface of the ground, with the approval of the Architectural Committee, with the right of access to the same at any time for the purposes of repair and maintenance.

Section 4. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage, print prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such person to the Association.

Section 5. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of Wells Branch. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 6. Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements by an owner (including DECLARANT or the District) upon property within The Properties. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with the provisions of this Declaration, and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision of this Declaration including, but not limited to, any provision prohibiting temporary waiver of the applicable provision and any provision prohibiting temporary structures, may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction.

Section 7. Exemption of DECLARANT. Notwithstanding anything in this Declaration to the contrary, neither DECLARANT nor any of DECLARANT's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of DECLARANT to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within The Properties.

Section 8. Assignment of DECLARANT. Notwithstanding anything in this Declaration to the contrary, DECLARANT may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights and duties hereunder.

Section 9. Enforcement and Nonwaiver.

- (a) Except as otherwise provided herein, any owner of land within The Properties, at his own expense, DECLARANT, and/or the Board shall have the right to enforce all of the provisions of these Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.
- (b) Every act or omission whereby any provision of these Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any owner of land within The Properties (at his own expense), DECLARANT, or the Board.
- (c) Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any portion of The Properties is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.
- (d) The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

Section 10. Construction. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

Section 11. Exemption of District. Anything to the contrary contained herein or in any amendment hereto notwithstanding, nothing contained in this Declaration is intended or shall be construed to limit the powers and authority of the District, as granted to the District by any applicable statute, rule or regulation, or to require the District to seek or obtain the approval of any Architectural Committee, Association, Subassociation, or Single Family Homeowners' Association created hereunder prior to undertaking the construction of any District facility or improvement or fulfilling any other function of the District, or prior to obtaining any easement or right-of-way required by the District.

EXECUTED as of the 13th day of December, 1983. 3 43 3848

PROVIDENT DEVELOPMENT COMPANY, a
division of LEXINGTON DEVELOPMENT
COMPANY, a Texas limited partnership

By: James H. Mills
James H. Mills, Attorney-in-Fact

CONSENT OF MORTGAGEE

Texas Commerce Bank Austin, National Association, as the owner and holder of certain indebtedness secured by deeds of trust covering the property encumbered by this document, said deeds of trust being of record in Volume 7273, Page 2106, Deed of Trust Records of Travis County, Texas; Volume 7375, Page 111, Real Property Records of Travis County, Texas, Volume 7613, Page 649, Real Property Records of Travis County, Texas, and Volume 7966, Page 411, Real Property Records of Travis County, Texas, does hereby join in the execution of this Second Restatement of Declaration of Covenants, Conditions And Restrictions For Wells Branch for the purpose of evidencing its consent hereto and subordinating its lien to this Second Restatement.

Executed this 13th day of DECEMBER, 1983.

Texas Commerce Bank Austin,
National Association

NO SEAL

By: John R. Dwyer
Its: VICE PRESIDENT

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

Before me, the undersigned authority, on this day personally appeared James H. Mills, Attorney-in-Fact for Provident Development Company, a division of Lexington Development Company, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said limited partnership, and in the capacity therein stated.

Given under my hand and seal of office, this 13th day of December, 1983.

NOTARY SEAL

My Commission Expires:

Sandra L. Rosdahl
Notary Public, State of Texas

Sandra L. Rosdahl
(Name - Typed or Printed)

SANDRA ROSDAHL
My Commission Expires Mar. 25, 1987.

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

3 48 3849

This instrument was acknowledged before me on Dec. 13, 1983, by John W. Donoghue, Vice President of Texas Commerce Bank Austin, National Association, a national banking association, on behalf of said association.

Sandra L. Rosdahl
Notary Public, State of Texas

My Commission Expires:

SANDRA ROSDAHL

Sandra L. Rosdahl
(Name - Typed or Printed)

~~My Commission Expires Mar. 25, 1987.~~

NOTARY SEAL

2935R/SBL

TRACT 1

CARLSON, DIPPEL & MARX
SURVEYING COMPANY

FIELD NOTES

3 48 3850

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, THE NELSON MERRILL SURVEY NO. 70, THE J.P. WHELIN SURVEY NO. 108, AND THE L.C. CUNNINGHAM SURVEY NO. 63, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO JAMES H. MILLS, TRUSTEE, AS RECORDED IN VOLUME 7244, PAGE 1422 THROUGH 1425 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 788.988 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake at the southwest corner of said Mills tract, same being at the northeast intersection of Howard Lane and F.M. 1325, for the southwest corner of the herein described tract,

THENCE, N 19°19'E, along the east R.O.W. line of F.M. 1325, at 893.67 feet, passing a concrete monument, in all 1691.03 feet to a concrete monument at the beginning of a non-tangent curve,

THENCE, with said curve to the left, whose radius equals 2352.12 feet, an arc distance of 65.58 feet, and whose sub-chord bears N 18°58'E, 65.58 feet passing an iron stake found, in all an arc distance of 699.36 feet, and whose chord bears N 10°55'E, 696.79 feet to a concrete monument,

THENCE, N 02°34'50"E, 66.64 feet to a concrete monument,

THENCE, continuing along the east R.O.W. line of F.M. 1325, N 02°22'30"E, 1023.60 feet to an iron stake and N 16°42'30"E, 142.0 feet to an iron stake at the northwest corner of said Mills tract, same being the southeast intersection of F.M. 1325 and Bratton Lane, for the northwest corner of the herein described tract,

THENCE, S 64°25'E, along the south R.O.W. line of Bratton Lane, 221.87 feet to an iron stake for an angle point,

THENCE, along the southerly and easterly R.O.W. line of Bratton Lane, the following four (4) courses and distances, numbered 1 through 4,

1. S 60°46'55"E, at 2341.48 feet passing an iron stake, in all 2764.46 feet to an iron stake,
2. S 64°04'E, 100.31 feet to an iron stake,
3. S 66°23'E, 34.13 feet to an iron stake for an ell corner,
4. N 30°53'20"E, at 33.0 feet pass an iron stake, in all 674.57 feet to an iron stake for an ell corner,

THENCE, S 59°56'40"E, with a fence, 980.28 feet to an iron stake for an ell corner,

THENCE, N 29°39'E, with a fence, 1133.39 feet to an iron stake for an ell corner,

THENCE, S 60°16'50"E, along a fence, 1809.20 feet to an iron stake for angle point,

THENCE, S 64°59'45"E, 8.35 feet to an iron stake for an ell corner,

THENCE, N 33°06'45"E, with a fence, 113.11 feet to an iron stake for an ell corner,

Continued on Page 2.

4806 N. INTERREGIONAL HWY. • AUSTIN, TEXAS 78751 (512) 458-4140

EXHIBIT A

3 48 3851

THENCE, with a fence along the north line of said Mills tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 61°11'45"E, 1258.59 feet to an iron stake,
2. S 60°38'50"E, 540.28 feet to an iron stake,
3. S 61°24'45"E, 743.43 feet to an iron stake found at the northeast corner of said Mills tract, same being in the west R.O.W. line of IH 35 for the northeast corner of the herein described tract,

THENCE, along the westerly R.O.W. line of IH 35, the following nine (9) courses and distances, numbered 1 through 9,

1. S 16°02'35"W, 938.0 feet to an iron stake found,
2. S 16°04'30"W, 325.12 feet to an iron stake found,
3. S 15°41'45"W, 118.97 feet to a concrete monument,
4. S 00°52'20"E, 967.95 feet to a concrete monument,
5. S 01°14'E, 169.92 feet to an iron stake found,
6. S 01°08'E, 3.78 feet to a concrete monument,
7. S 01°13'30"E, 144.30 feet to a concrete monument,
8. S 09°15'30"W, 2069.61 feet to a concrete monument,
9. S 09°20'30"W, 769.69 feet to an iron stake found at the southeast corner of said Mills tract, for the southeast corner of the herein described tract,

THENCE, along the southerly line of said Mills, the following ten (10) courses and distances, numbered 1 through 10,

1. N 60°10'45"W, 530.99 feet to an iron stake,
2. N 59°46'45"W, 200.0 feet to an iron stake,
3. N 60°33'45"W, 431.41 feet to an iron stake,
4. N 63°52'45"W, 121.87 feet to an iron stake,
5. N 60°54'45"W, 398.56 feet to an iron stake,
6. N 61°04'45"W, 200.0 feet to an iron stake,
7. N 60°50'45"W, 389.11 feet to an iron stake,
8. N 60°59'45"W, 478.10 feet to an iron stake,
9. N 60°47'45"W, 1280.17 feet to an iron stake,
10. N 60°54'45"W, 1413.40 feet to an iron stake found in the east line of that certain 124.17 acre tract of land deeded to A.H. and G.E. Robinson in Volume 1065, Page 21 of the Travis County, Texas Deed Records, for an ell corner,

THENCE, N 28°53'E, with a fence, 1575.54 feet to an iron stake at the east corner of said Robinson tract, for an ell corner,

THENCE, along the north line of said Robinson tract, the following three (3) courses and distances, numbered 1 through 3,

1. N 62°43'W, 7.64 feet,
2. N 60°48'30"W, 2445.30 feet,
3. N 60°32'W, 580.34 feet to an iron stake found at the northwest corner of said Robinson tract for an ell corner of the herein described tract,

Continued on Page 3.

FIELD NOTES — 788.988 Acres
Page 3.

3 48-3852

THENCE, along the west line of said Robinson tract, the following five (5) courses and distances, numbered 1 through 5,

1. S 29°04'30"W, 78.40 feet to an iron stake,
2. S 29°38'30"W, 8.87 feet to a concrete monument
3. S 28°48'30"W, 836.80 feet to a concrete monument,
4. S 45°06'30"W, 0.91 feet to an iron stake,
5. S 29°14'W, 871.55 feet to an iron stake at the southwest corner of said Robinson tract, same being in the north R.O.W. line of Howard Lane, for an ell corner,

THENCE, N 62°00'W, along the northerly R.O.W. line of Howard Lane, 913.21 feet to the PLACE OF BEGINNING, containing 788.988 Acres of Land.

Prepared By:

W. E. Marx
CARLSON, DIPPET & MARX SURVEYING COMPANY
4806 North Interregional Highway
Austin, Texas 78751

DATE 3-25-81

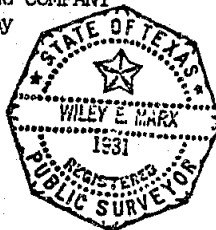


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TRACT 2

CARLSON, DIPPEL & MARX3
SURVEYING COMPANY

48 3853

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN 123.892 ACRE TRACT OF LAND CONVEYED TO A.H. AND G.E. ROBINSON BY DEED RECORDED IN VOLUME 1065, PAGE 21 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 25.056 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point being the northwest corner of said 123.892 acre tract, for the northwest corner of the herein described tract,

THENCE, along the north line of said 123.892 acre tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 60°32'E, 580.34 feet,
2. S 60°48'30"E, 2445.30 feet,
3. S 62°43'E, 7.64 feet to a point being the northeast corner of said 123.892 acre tract, for the northeast corner of the herein described tract,

THENCE, along the easterly line of the herein described tract, S 28°53'W, 684.98 feet to a point for the southeast corner of the herein described tract,

THENCE, along the southerly line of the herein described tract, the following ten (10) courses and distances, numbered 1 through 10,

1. N 26°50'W, 540.34 feet to a point at the beginning of a curve,
2. With curve to the left, whose radius equals 1258.24 feet, an arc distance of 302.32 feet and whose chord bears N 33°43'W, 301.60 feet,
3. N 40°36'W, 95.0 feet to a point at the beginning of a curve,
4. With curve to the left, whose radius equals 2328.20 feet, an arc distance of 483.55 feet, and whose chord bears N 46°33'W, 482.69 feet,
5. N 52°30'W, 102.02 feet to a point at the beginning of a curve,
6. With a curve to the left, whose radius equals 944.25 feet, an arc distance of 633.94 feet, and whose chord bears N 71°44'W, 622.10 feet,
7. S 89°02'W, 385.0 feet to a point at the beginning of a curve,
8. With curve to the left, whose radius equals 1011.77 feet, an arc distance of 285.48 feet, and whose chord bears S 80°57'W, 284.54 feet,
9. S 72°52'W, 385.0 feet to a point at the beginning of a curve,
10. With curve to the left, whose radius equals 2164.78 feet, an arc distance of 356.63 feet, and whose sub-chord bears S 68°08'45"W, 356.23 feet to a point for the southwest corner of the herein described tract,

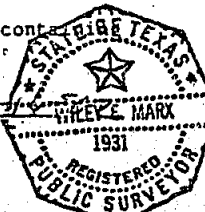
THENCE, along the westerly line of the herein described tract, the following five (5) courses and distances, numbered 1 through 5,

1. N 29°14'E, 199.75 feet,
2. N 45°06'30"E, 0.91 feet,
3. N 28°48'30"E, 836.80 feet,
4. N 29°38'30"E, 8.87 feet,
5. N 29°04'30"E, 78.40 feet to the PLACE OF BEGINNING, containing 25.056 Acres of Land.

Surveyed By: *[Signature]*

Carlson, Dippel & Marx Surveying Company
2499 Capital of Texas Highway, Suite 105
Austin, Texas 78746

Date // *[Signature]*



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CARLSON, DIPPEL & MARX

SURVEYING COMPANY

3 48 3854

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT DESCRIBED IN A DEED TO A.H. AND G.E. ROBINSON OF RECORD IN VOLUME 1065, PAGE 21 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 33.745 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake in the northerly R.O.W. line of Howard Lane, being the southeast corner of said Robinson tract, for the southeast corner of the herein described tract,

THENCE, along the said northerly R.O.W. line of Howard Lane, being the south line of the herein described tract, the following two (2) courses and distances, numbered 1 and 2,

1. N 61°22'W, 680.25 feet,
2. N 61°12'30"W, 160.0 feet to an iron stake for the southwest corner of the herein described tract,

THENCE, along the westerly line of the herein described tract, the following eight (8) courses and distances, numbered 1 through 8,

1. N 28°47'30"E, 10.0 feet to an iron stake at the beginning of a curve,
2. With curve to the left, whose radius equals 15.0 feet, an arc distance of 23.56 feet, and whose chord bears N 73°47'30"E, 21.21 feet,
3. N 28°47'30"E, 251.26 feet to an iron stake at the beginning of a curve,
4. With curve to the left, whose radius equals 560.0 feet, an arc distance of 275.50 feet, and whose chord bears N 14°42'E, 272.73 feet,
5. N 00°36'15"E, 590.70 feet to an iron stake at the beginning of a curve,
6. With curve to the right, whose radius equals 630.00 feet, an arc distance of 424.02 feet, and whose chord bears N 19°53'E, 416.06 feet,
7. N 39°10'E, 186.50 feet, to an iron stake at the beginning of a curve,
8. With curve to the left, whose radius equals 15.0 feet, an arc distance of 23.91 feet, and whose chord bears N 06°30'W, 21.45 feet to an iron stake in the southerly R.O.W. line of Wells Branch Parkway, as dedicated by Wells Branch Parkway Street Dedication, a subdivision of record in Plat Book 83, Pages 140D and 141A of the Travis County, Texas Deed Records, for the northwest corner of the herein described tract,

THENCE, along the southerly R.O.W. line of said Wells Branch Parkway, being the north line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. With a curve to the right, whose radius equals 2602.23 feet, an arc distance of 525.14 feet, and whose sub-chord bears S 46°23'E, 524.25 feet to an iron stake at the beginning of a curve,
2. With curve to the right, whose radius equals 1269.66 feet, an arc distance of 305.62 feet, and whose chord bears S 33°42'15"E, 304.88 feet,

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3. S 26°48'30"E, 531.17 feet to an iron stake for the northeast corner of the herein described tract,

THENCE, along the east line of the herein described tract, the following two (2) courses and distances, numbered 1 and 2,

1. S 28°53'W, 907.22 feet,
2. S 28°48'15"W, 189.40 feet to the PLACE OF BEGINNING, containing 33.745 Acres of Land.

Surveyed By:


Wiley E. Marx, R.P.S. #1931
Carlson, Dippel & Marx Surveying Company
2499 Capital of Texas Highway, Suite 105
Austin, Texas 78746

Date 7/27/83

/jm
Job No. 525
July 22, 1983

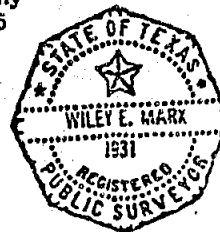


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SAVE AND EXCEPT, HOWEVER, THE FOLLOWING TRACTS OR PARCELS OF LAND, WHICH HAVE HERETOFORE BEEN WITHDRAWN FROM THE PRIOR DECLARATIONS, AND TO WHICH THIS DECLARATION SHALL NOT APPLY:

1. Wells Branch, Phase A, Section One, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 81, Pages 199-200, Plat Records of Travis County, Texas (Withdrawn in Volume 7829, Pages 713-714, Deed Records of Travis County, Texas).
2. Wells Branch, Phase A, Section Two, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 81, Pages 201-202, Plat Records of Travis County, Texas (Withdrawn in Volume 7831, Pages 26-27, Deed Records of Travis County, Texas).
3. Wells Branch, Phase A, Section Three, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 81, Pages 203-204, Plat Records of Travis County, Texas (Withdrawn in Volume 7831, Pages 24-25, Deed Records of Travis County, Texas).
4. Wells Branch, Phase A, Section Four, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 81, Pages 205, Plat Records of Travis County, Texas (Withdrawn in Volume 7831, Pages 22-23, Deed Records of Travis County, Texas).
5. Wells Branch, Phase B, Section 1, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 83, Pages 81d-82a, Plat Records of Travis County, Texas (Withdrawn in Volume 8218, Pages 29-30, Deed Records of Travis County, Texas).
6. Wells Branch, Phase B, Section 2, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 83, Pages 82b-82c, Plat Records of Travis County, Texas (Withdrawn in Volume 8218, Pages 33-34, Deed Records of Travis County, Texas).
7. Wells Branch, Phase B, Section 3, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 83, Pages 82d-83a, Plat Records of Travis County, Texas (Withdrawn in Volume 8218, Pages 31-32, Deed Records of Travis County, Texas).
8. Wells Branch, Phase C, Section 1, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 83, Pages 146b-146c, Plat Records of Travis County, Texas (Withdrawn in Volume 8226, Pages 757-758, Deed Records of Travis County, Texas).
9. Wells Branch, Phase D, Section 1, a subdivision in Travis County, Texas, as shown on the map or plat thereof recorded in Volume 83, Pages 178b-178c, Plat Records of Travis County, Texas (Withdrawn in Volume 8226, Pages 755-756, Deed Records of Travis County, Texas).

EXHIBIT A

Page 7 of 7

8370 480

ROBINSON
ACREAGE
Jacoby

TRACT 1

CARLSON, DIPPEL & MARX
SURVEYING COMPANY
FIELD NOTES

43 3857

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE FRANCISCO GARCIA SURVEY NO. 60, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THAT CERTAIN TRACT CONVEYED TO A.H. AND G.E. ROBINSON OF RECORD IN VOLUME 1063, PAGE 21 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, AND OUT OF AND A PART OF THAT CERTAIN TRACT CONVEYED FROM A.H. AND G.E. ROBINSON TO PROVIDENT DEVELOPMENT COMPANY OF RECORD IN VOLUME 7244, PAGE 1422 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 65.44 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake for the southwest corner of the A.H. and G.E. Robinson tract, said point being the southwest corner of the herein described tract,

THENCE, N 29°14'E, 671.80 feet to an iron stake in the southerly R.O.W. line of Wells Branch Parkway,

THENCE, with the southerly R.O.W. line of said Wells Branch Parkway, the following seven (7) courses and distances, numbered 1 through 7,

1. With a curve to the right, whose radius equals 2164.78 feet, an arc distance of 356.63 feet and whose chord bears N 68°08'45"E, 356.23 feet,
2. N 72°52'E, 385.0 feet to an iron stake at the beginning of a curve,
3. With curve to the right, whose radius equals 1011.77 feet, an arc distance of 285.48 feet, and whose chord bears N 80°57'E, 284.54 feet,
4. N 89°02'E, 385.0 feet to an iron stake at the beginning of a curve,
5. With curve to the right, whose radius equals 944.25 feet, an arc distance of 633.94 feet, and whose chord bears S 71°44'E, 622.10 feet,
6. S 52°30'E, 141.35 feet to an iron stake at the beginning of a curve,
7. With curve to the right, whose radius equals 2602.23 feet, an arc distance of 15.33 feet, and whose sub-chord bears S 52°20'E, 15.32 feet to an iron stake at the beginning of a curve, for the northeasterly corner of the herein described tract,

THENCE, along the easterly line of the herein described tract, the following eight (8) courses and distances, numbered 1 through 8,

1. With curve to the right, whose radius equals 15.0 feet, an arc distance of 23.91 feet, and whose chord bears S 06°30'E, 21.45 feet,
2. S 39°10'W, 186.50 feet to an iron stake at the beginning of a curve,
3. With curve to the left, whose radius equals 630.0 feet, an arc distance of 424.02 feet, and whose chord bears S 19°53'W, 416.06 feet,
4. S 00°36'15"W, 590.70 feet to an iron stake at the beginning of a curve,
5. With curve to the right, whose radius equals 560.0 feet, an arc distance of 275.50 feet, and whose chord bears S 14°42'W, 272.73 feet,
6. S 28°47'30"W, 251.26 feet to an iron stake at the beginning of a curve,
7. With curve to the right, whose radius equals 15.0 feet, an arc distance of 23.56 feet, and whose chord bears S 73°47'30"W, 21.21 feet to an iron stake,
8. S 28°47'30"W, 10.0 feet to an iron stake for the most southeasterly corner of the herein described tract,

2499 CAPITAL OF TEXAS HWY., SUITE 204 • AUSTIN, TEXAS 78746 • (512) 327-8290

EXHIBIT B

Page 1 of 3

8370

481

THENCE, along the southerly line of the herein described tract, the following two (2) courses and distances, numbered 1 and 2,

1. N 61°12'30"W, 740.0 feet,
2. N 61°26'30"W, 1458.0 feet to the PLACE OF BEGINNING, containing 65.44 Acres of Land.

Prepared By: Carlson, Dippel & Marx Surveying Company
2499 Capital of Texas Highway, Suite 105
Austin, Texas 78746

/jm
Job No. 755
October 20, 1982

EXHIBIT B

Page 2 of 3

TRACT 2

CARLSON, DIPPEL & MARX
SURVEYING COMPANY

48 3859

FIELD NOTES

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE NELSON MERRILL SURVEY NO. 70 AND THE J.P. WHELIN SURVEY NO. 108, SITUATED IN TRAVIS COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED AS BEING OUT OF AND A PART OF THOSE TWO CERTAIN TRACTS CONVEYED TO H.L. WILLIAMS OF RECORD IN VOLUME 3038, PAGE 2304 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 141.476 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron stake in the easterly R.O.W. line of Bratton Lane, being the northwesterly corner of Wells Branch Phase A Section One, a subdivision of record in Plat Book 81, Pages 199 and 200 of the Travis County, Texas Plat Records, for the southeasterly corner of the herein described tract,

THENCE, along the easterly R.O.W. line of Bratton Lane, N 30°39'45"E, 2739.74 feet to an iron stake at the beginning of a curve,

THENCE, with said curve to the right, whose radius equals 206.34 feet, an arc distance of 240.80 feet and whose chord bears N 63°56'45"E, 227.37 feet to an iron stake for the northeasterly corner of the herein described tract,

THENCE, along the northerly line of the herein described tract, the following four (4) courses and distances, numbered 1 through 4,

1. S 82°37'15"E, 62.50 feet,
2. S 62°11'E, 582.15 feet,
3. S 60°13'30"E, 627.85 feet,
4. S 60°24"E, 1341.80 feet to an iron stake for the northeasterly corner of the herein described tract,

THENCE, along the easterly line of the herein described tract, the following three (3) courses and distances, numbered 1 through 3,

1. S 29°01'45"W, 1341.0 feet,
2. S 28°40'15"W, 197.51 feet,
3. S 30°45'45"W, 305.79 feet to an iron stake for the southeasterly corner of the herein described tract,

THENCE, along the southerly line of the herein described tract, the following courses and distances, numbered 1 through 4,

1. N 64°59'45"W, 8.35 feet,
2. N 60°16'50"W, 1809.20 feet to an iron stake for an ell,
3. S 29°39'W, 1133.39 feet to an iron stake for an ell,
4. N 59°56'40"W, 980.28 feet to the the PLACE OF BEGINNING, containing 141.476 Acres of Land.

Surveyed By:

Wiley E. Marx
Wiley E. Marx, R.P.S. #1931
Carlson, Dippel & Marx Surveying Company
2499 Capital of Texas Highway, Suite 105
Austin, Texas 78746

Date 3-24-83

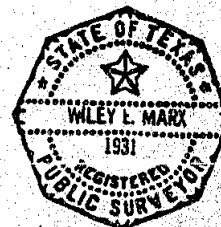


EXHIBIT B

8370

483

Page 3 of 3

3 48 3860

STATE OF TEXAS
I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me, and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamp hereon by me, on

DEC 13 1983

FILED

1983 DEC 13 PM 3:32

Doris Anapoline
COUNTY CLERK
TRAVIS COUNTY, TEXAS



Doris Anapoline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

8370 446

INDEXED
NOTATION MADE

Return to:
TRAVIS TITLE CO.
ONE PARK NORTH
8200 MOPAC, SUITE 240
AUSTIN, TEXAS 78759

Attention: Malone
R. J. Allen Branda

8370 484

12 2023

03956433

AUG 16-85 5925 * 11.00

RESTRICTIVE COVENANTS

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF TRAVIS

§

That Nash Phillips/Copus, Inc. being the sole owner of all lots in Wells Branch E-1, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of said subdivision recorded in the Plat Book 85, Page(s) 69B and 69C, Plat Records of Travis County, Texas hereby imposes the following covenants, conditions, and restrictions upon all of said property:

1) LAND USE AND BUILDING TYPE. No lot shall be used except for residential purposes. Except as herein after provided, no building shall be erected, altered, placed, or permitted to remain on any lot, other than one detached single family dwelling not to exceed two and one-half stories in height, and a private garage for not more than three cars.

2) DWELLING COST, QUALITY AND SIZE. The total floor area of any single family structure or dwelling, exclusive of one-story open porches and garages or carports, built on any lot in said subdivision shall contain not less than 500 square feet and shall cost not less than \$30,000 based upon cost levels prevailing on the date these covenants are recorded. It is the intention and purpose of this covenant to assure that all such dwellings shall be of the quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost herein for the minimum permitted dwelling size.

3) EASEMENTS. Public utility easements are reserved as shown on the recorded plat and over the rear seven and one-half feet of each lot. These easements are reserved for installation and maintenance of public utilities and public drainage facilities, and they are also reserved in each block as needed for adequate surface drainage of all lots within each block. Easements five feet in width are also reserved on each side of all side lot lines as needed for adequate surface drainage of all other lots within the block. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may change the direction of flow in the drainage channels or swales in the easements or which may obstruct or retard the flow of water through the drainage channels or swales in the easements; provided, however, that a brick return of two (2) feet maximum extension and a fireplace originally constructed as part of the residence shall be allowed on each residence within this easement if adequate surface drainage is maintained. The easement area in each lot and all improvements in it shall be maintained by the owner of the lot except for those improvements for which a public authority or utility company is responsible.

4) BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 25 feet minimum, 35 feet maximum, to the front lot line, or nearer than 10 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7 1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not be considered as part of

REAL PROPERTY RECORDS
Travis County, Texas

09311 0001

the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

5) NUISANCES. No noxious or offensive activity shall be carried upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No vehicle or motor repair work, other than minor emergency repair, shall be conducted on any lot or in the street or streets adjoining any lot. No "A" frame, hoist or other device for lifting vehicles or parts thereof, and no disabled vehicle shall be stored or parked in the open on any lot or any street adjoining any lot. Notwithstanding any of the above, no vehicle of any type shall be parked in the open on a portion of any lot other than a private driveway constructed with the approval of the Architectural Control Committee.

6) TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be placed or used on any lot at any time as a residence either temporarily or permanently.

7) SIGNS. No sign of any kind shall be displayed to the public view on any single family residential lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale, or rent, or signs used by a builder to advertise the property during the construction and sales period.

8) UNSIGHTLY OBJECTS. Motorboats, campers, trucks or trailers, and other unsightly vehicles or objects, including satellite dish receivers, shall be parked, stored or installed in the back of the front wall line of the house and shielded by a solid wood or masonry privacy fence or an enclosed building, which screens such objects from ordinary public view; provided, however, that any such fencing and/or enclosures shall comply with applicable state, county and municipal regulations.

9) OIL AND MINING OPERATIONS. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, crude oil tanks, tunnels, mining excavations, or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

10) COMMERCIAL USE. No part of any of said property shall ever be used for a business or commercial purpose or for carrying on any trade or profession, except that NASH PHILLIPS/COPUS, INC., its successors, or agents may erect and maintain sales offices and exhibit houses in said subdivision.

11) RESUBDIVISION. The owner or owners of any two or more adjacent lots shall have the right, without the consent of the remaining property owners in the subdivision, to resubdivide provided such resubdivision is approved by the Architectural Control Committee.

12) LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for commercial purposes.

13) GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as 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 disposal of such material shall be kept in a clean and sanitary condition.

14) SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or

in the case of a rounded property corner from the intersection of the street property lines extended. The same sightline limitation shall apply on any lot within 10 feet from the intersections of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sightlines.

15) FENCES, WALLS, AND HEDGES. Fence, walls and hedges shall not be built or maintained forward of the front wall of the house erected on that lot, except for trellises and/or decorative fences included in the architectural design of the house. Those decorative fences shall be allowed to extend no more than fifteen feet in front of the front wall line of the house. Side yard fences on corner lots may be built on the property line as limited by the provisions of Paragraph 14.

16) EXISTING DWELLINGS. No existing dwelling shall be moved onto any lot in this subdivision.

17) ARCHITECTURAL CONTROL:

A) No building shall be erected or placed on any lot in said subdivision nor shall any existing structure be altered or removed until the building plans and specifications showing exterior design, height, building material and color scheme thereof, and a plot plan showing the location of the structure and driveways have been submitted to and approved in writing by the Architectural Control Committee.

B) The Architectural Control Committee is composed of Bill Bulloch, Tom Buffington and Mark Elbrecht. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, Nash Phillips/Copus, Inc. shall have the option of changing the membership of the Committee.

C) The Architectural Control Committee shall exercise its best judgement to see that all improvements and structures in the subdivision conform to and harmonize with the existing surrounding structures, and that trees and environment are reasonably protected; and when, in the opinion of the Committee, a waiver or modification of any of these restrictive covenants would not impair or detract from the high quality of the subdivision, it may by written instrument in recordable form waive or modify any such restriction. In the same manner, it shall have the power to approve or disapprove resubdivisions of parts of the subdivisions and to permit in the resubdivided areas, the creation of residential Planned Unit Developments as now defined in Chapter 45 of the Austin City Code. The Architectural Control Committee shall serve without compensation and shall not be liable in damages to anyone for any action taken or any failure to act.

D) If said building plans, specifications, and plot plan are not approved or disapproved within thirty days following the date on which the same are submit-

ted for approval, or if no injunction suit shall have been commenced prior to the completion of the work, then proper approval of the building plans, specifications and plot plan shall be conclusively presumed to have been had and obtained.

18) PARKS AND RECREATIONAL FACILITIES. Certain of the Wells Branch parks and recreational facilities have been dedicated by Provident to the North Austin Growth Corridor Municipal Utility District No. 1 ("District") for operation and maintenance. Each of the owners of Lots within the Subdivision shall be entitled to non-exclusive use of the parks and recreational facilities subject to such rules, regulations and requirements as may be established by the District from time to time. The owners of each of the Lots also assume and agree to pay such fees as may be established by the District from time to time for the reasonable and necessary costs of maintaining and operating such parks and recreational facilities.

In the event that the District, its assigns or any other governmental entity at anytime in the future, ceases or elects not to maintain or to operate the parks and recreational facilities, a petition favoring the formation of a homeowner's association may be filed in the deed records of Travis County, Texas, signed by the record title owners of at least twenty-five percent (25%) of all of the lots intended for single family detached dwellings, which at the time such petition is recorded are shown on recorded plats out of all of the property described in that one certain Second Restatement of Declaration of Covenants, Conditions and Restrictions for Wells Branch of record in Volume 8370, Page 446 of the Deed Records of Travis County, Texas.

Upon the recordation of such a petition having the requisite number of signatures, a homeowner's association ("Association") will be deemed to have been created and the record title owners of all of the Lots covered by this Declaration shall be members thereof. Each Lot covered by the Association shall be entitled to one vote, and the Association shall elect such officers and directors and adopt such rules and regulations as it shall deem appropriate by majority vote of the members.

The Association shall be entitled to levy an annual assessment against each lot which is subject to the Association for the purpose of maintaining, operating and repairing parks, landscaping and recreational facilities. Each of the owners of lots subject thereto promise and agree to pay such assessment when due and further agree that if not paid, such assessment, together with interest thereon at the highest rate allowed by law, the costs of collection and reasonable attorney's fees shall be a continuing lien against such lot until paid. The Association, by action of its board of directors, may foreclose such lien through judicial proceedings.

19) TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded after which time said covenants shall be automatically extended for successive periods of ten years, unless an instrument signed by a majority of then owners of lots in said subdivision has been recorded, agreeing to change said covenants, conditions and restrictions, in whole or in part.

20) ENFORCEMENTS. Enforcement shall be by proceedings at law or in equity against any persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

21) SEVERABILITY. Invalidation of any one of these covenants by judgment or a court order shall in no way affect any of the other provisions which shall remain in full force and effect.

WITNESS its hand this 29th day of July, 1985.

NASH PHILLIS/COPUS, INC.

By TL Buffington
Tom Buffington, President
Single Family Division

THE STATE OF TEXAS

§

THE COUNTY OF TRAVIS

§

BEFORE ME, the undersigned authority, on this day personally appeared Tom Buffington known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and conditions therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29th day of July, 1985.

Rosalyn Peterson
Notary Public, State of Texas

NOTARY SEAL

My Commission Expires: _____

ROSALYN PETERSON
Notary Public State of Texas
Commission Exp. 6-21-88

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
this date and at the time stated herein by me; and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas, on

AUG 16 1985



Louis Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED

AUG 16 11 52 AM '85

Louis Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Ret:
Rosalyn Peterson
NPC Land Management
4412 Spicewood 1-701
Austin 78759

09311 0005

902

AMENDMENT TO
RESTRICTIVE COVENANTS

0 4 CO C683

THE STATE OF TEXAS }

COUNTY OF TRAVIS }

1000

124280

9.00 RTEA
1 11/21/85

WHEREAS, Nash Phillips/Copus, Inc., as the owner of all the following described property, has filed an instrument styled "Restrictive Covenants," in Volume 9311, Page 0001, in the Real Property Records of Travis County, Texas, against the following described lots, to-wit:

Lots 10, 11, 12, 13, and 14, Block "C", Wells Branch Phase E Section 1, a subdivision in Travis County, Texas, according to the map or plat thereof as recorded in Plat Book 85, Pages 69B and 69C, of the Plat Records of Travis County, Texas; and,

WHEREAS, Nash Phillips/Copus, Inc., herein referred to as Declarant, as provided in Paragraph 17 of said Restrictive Covenants, does hereby desire to AMEND, ALTER AND CHANGE Paragraph 4 of said "Restrictive Covenants," currently stated therein as follows, to-wit:

- 4) BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 25 feet minimum, 35 feet maximum, to the front lot line, or nearer than 10 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7-1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not be considered as part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

NOW, THEREFORE, it is hereby declared that the above described Paragraph 4 of the Restrictive Covenants in Volume 9311, Page 0001, of the Real Property Records of Travis County, Texas, is AMENDED, ALTERED AND CHANGED to read as follows, to-wit:

- 4) BUILDING LOCATION. No building shall be located on said Lots 10, 11, 12, 13, and 14, Block "C" nearer than 23.5 feet minimum, 35 feet maximum, to the front lot line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7-1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not

be considered as part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

In all other respects the above described "Restrictive Covenants," shall be in full force and effect.

WHEREAS, the Declarant will convey the above-described properties, subject to certain protective covenants, conditions, restrictions, liens and charges as set forth in the above-described "Restrictive Covenants;"

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

EXECUTED by said Declarant, this the 21ST day of November, 1985.

NASH PHILLIPS/COPUS, INC.

By: TLB-M
Tom Buffington, President
Single Family Division

THE STATE OF TEXAS }
COUNTY OF TRAVIS }

BEFORE ME, the undersigned authority, on this day personally appeared Tom Buffington, representative of the Architectural Control Committee, President of Nash Phillips/Copus, Inc., Single Family Division, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation and Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 9TH day of November, 1985, A.D.

Constance Howe
Notary Public in and for
The State of Texas

NOTARY SEAL

My Commission Expires: 12-11-88

APPROVAL GRANTED HERewith FOR AMENDMENT TO RESTRICTIVE COVENANTS
AS RECORDED IN VOLUME 9311, PAGE 0001, REAL PROPERTY RECORDS,
TRAVIS COUNTY, TEXAS.

EXECUTED this the 21ST day of November, 1985.

ARCHITECTURAL CONTROL COMMITTEE

By: *Bill Bulloch*
Bill Bulloch, Member

THE STATE OF TEXAS X
COUNTY OF TRAVIS X

BEFORE ME, the undersigned authority, on this day personally
appeared Bill Bulloch, member of the Architectural Control
Committee, known to me to be the person whose name is subscribed
to the foregoing instrument, and acknowledged to me that he
executed the same for the purposes and consideration therein
expressed, in the capacity therein stated and as the act and deed
of Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 21ST day
of November, 1985, A.D.

NOTARY SEAL

Constance Howe
Notary Public in and for
The State of Texas

My Commission Expires: 12-11-88

EXECUTED this the 21ST day of November, 1985.

ARCHITECTURAL CONTROL COMMITTEE

By: *Mark Elbrecht*
Mark Elbrecht, Member

THE STATE OF TEXAS X
COUNTY OF TRAVIS X

BEFORE ME, the undersigned authority, on this day personally
appeared Mark Elbrecht, member of the Architectural Control
Committee, known to me to be the person whose name is subscribed
to the foregoing instrument, and acknowledged to me that he
executed the same for the purposes and consideration therein
expressed, in the capacity therein stated and as the act and deed
of Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 21ST day
of November, 1985, A.D.

NOTARY SEAL

Constance Howe
Notary Public in and for
The State of Texas

My Commission Expires: 12-11-88

85-22-M
11-19-85

09461 0090

FILED

1985 NOV 21 PM 1:20

Naris Angershire
COUNTY CLERK
TRAVIS COUNTY, TEXAS

*Currington Assoc
9027 Northgate Blvd
78758*

STATE OF TEXAS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me; and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas, on

COUNTY OF TRAVIS

NOV 21 1985



Naris Angershire
COUNTY CLERK
TRAVIS COUNTY, TEXAS

82/11

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AMENDMENT TO
RESTRICTIVE COVENANTS

THE STATE OF TEXAS X
COUNTY OF TRAVIS X

11.00.0155C
01/27/86

WHEREAS, Nash Phillips/Copus, Inc., as the owner of all the following described property, has filed an instrument styled "Restrictive Covenants," in Volume 9311, Page 0001, in the Real Property Records of Travis County, Texas, against the following described lots, to-wit:

Lot 6, Block "E", Wells Branch Phase E Section 1, a subdivision in Travis County, Texas, according to the map or plat thereof as recorded in Plat Book 85, Pages 69B and 69C, of the Plat Records of Travis County, Texas; and,

WHEREAS, Nash Phillips/Copus, Inc., herein referred to as Declarant, as provided in Paragraph 17 of said Restrictive Covenants, does hereby desire to AMEND, ALTER AND CHANGE Paragraph 4 of said "Restrictive Covenants," currently stated therein as follows, to-wit:

- 4) BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 25 feet minimum, 35 feet maximum, to the front lot line, or nearer than 10 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7-1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not be considered as part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

NOW, THEREFORE, it is hereby declared that the above described Paragraph 4 of the Restrictive Covenants in Volume 9311, Page 0001, of the Real Property Records of Travis County, Texas, is AMENDED, ALTERED AND CHANGED to read as follows, to-wit:

- 4) BUILDING LOCATION. No building shall be located on said Lot 6, Block "E" nearer than 23.5 feet minimum, 35 feet maximum, to the front lot line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7-1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not be considered as part of the

REAL PROPERTY RECORDS
Travis County, Texas

09545 0545

building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

In all other respects the above described "Restrictive Covenants," shall be in full force and effect.

WHEREAS, the Declarant will convey the above-described properties, subject to certain protective covenants, conditions, restrictions, liens and charges as set forth in the above-described "Restrictive Covenants;"

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

EXECUTED by said Declarant, this the 27th day of January, 1986.

NASH PHILLIPS/COPUS, INC.

By:

TL Buffington
Tom Buffington, President
Single Family Division

THE STATE OF TEXAS X
COUNTY OF TRAVIS X

BEFORE ME, the undersigned authority, on this day personally appeared Tom Buffington, representative of the Architectural Control Committee, President of Nash Phillips/Copus, Inc., Single Family Division, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation and Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 27th day of January, 1986, A.D.

NOTARY SEAL

Sherry Testolin
Notary Public in and for
The State of Texas
Sherry Testolin
My Commission Expires: 11/09/89

APPROVAL GRANTED HERewith FOR AMENDMENT TO RESTRICTIVE COVENANTS
AS RECORDED IN VOLUME 9311, PAGE 0001, REAL PROPERTY RECORDS,
TRAVIS COUNTY, TEXAS.

EXECUTED this the 27th day of January, 1986.

ARCHITECTURAL CONTROL COMMITTEE

By: Bill Bulloch

Bill Bulloch, Member

THE STATE OF TEXAS }
COUNTY OF TRAVIS }

BEFORE ME, the undersigned authority, on this day personally
appeared Bill Bulloch, member of the Architectural Control
Committee, known to me to be the person whose name is subscribed
to the foregoing instrument, and acknowledged to me that he
executed the same for the purposes and consideration therein
expressed, in the capacity therein stated and as the act and deed
of Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 27th day
of January, 1986, A.D.

NOTARY SEAL

Sherry Testolin
Notary Public in and for
The State of Texas
Sherry Testolin
My Commission Expires: 11/09/89

EXECUTED this the 27th day of January, 1986.

ARCHITECTURAL CONTROL COMMITTEE

By: Mark Elbrecht

Mark Elbrecht, Member

THE STATE OF TEXAS }
COUNTY OF TRAVIS }

BEFORE ME, the undersigned authority, on this day personally
appeared Mark Elbrecht, member of the Architectural Control
Committee, known to me to be the person whose name is subscribed
to the foregoing instrument, and acknowledged to me that he
executed the same for the purposes and consideration therein
expressed, in the capacity therein stated and as the act and deed
of Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 27th day
of January, 1986, A.D.

NOTARY SEAL

Sherry Testolin
Notary Public in and for
The State of Texas
Sherry Testolin
My Commission Expires: 11/09/89

C85-22-M
01-23-86

09545 0547

AMENDMENT TO
RESTRICTIVE COVENANTS

THE STATE OF TEXAS X
COUNTY OF TRAVIS X

WHEREAS, Nash Phillips/Copus, Inc., as the owner of all the following described property, has filed an instrument styled "Restrictive Covenants," in Volume 9311, Page 0001, in the Real Property Records of Travis County, Texas, against the following described lots, to-wit:

Lot 6, Block "E", Wells Branch Phase E Section 1, a subdivision in Travis County, Texas, according to the map or plat thereof as recorded in Plat Book 85, Pages 69B and 69C, of the Plat Records of Travis County, Texas; and,

WHEREAS, Nash Phillips/Copus, Inc., herein referred to as Declarant, as provided in Paragraph 17 of said Restrictive Covenants, does hereby desire to AMEND, ALTER AND CHANGE Paragraph 4 of said "Restrictive Covenants," currently stated therein as follows, to-wit:

- 4) BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 25 feet minimum, 35 feet maximum, to the front lot line, or nearer than 10 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7-1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not be considered as part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

NOW, THEREFORE, it is hereby declared that the above described Paragraph 4 of the Restrictive Covenants in Volume 9311, Page 0001, of the Real Property Records of Travis County, Texas, is AMENDED, ALTERED AND CHANGED to read as follows, to-wit:

- 4) BUILDING LOCATION. No building shall be located on said Lot 6, Block "E" nearer than 23.5 feet minimum, 35 feet maximum, to the front lot line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building set back lines. No dwelling shall be located on any interior lot nearer than 7-1/2 feet to the rear lot line. For the purposes of this covenant, eaves, steps, open porches, and the two-foot (2') brick returns and fireplaces mentioned in Section 3 above, shall not be considered as part of the

building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

In all other respects the above described "Restrictive Covenants," shall be in full force and effect.

WHEREAS, the Declarant will convey the above-described properties, subject to certain protective covenants, conditions, restrictions, liens and charges as set forth in the above-described "Restrictive Covenants;"

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

EXECUTED by said Declarant, this the 27th day of January, 1986.

NASH PHILLIPS/COPUS, INC.

By:

TL Buffington
Tom Buffington, President
Single Family Division

THE STATE OF TEXAS }
COUNTY OF TRAVIS }

BEFORE ME, the undersigned authority, on this day personally appeared Tom Buffington, representative of the Architectural Control Committee, President of Nash Phillips/Copus, Inc., Single Family Division, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation and Architectural Control Committee.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 27th day of January, 1986, A.D.

Sherry Testolin
Notary Public in and for
The State of Texas
Sherry Testolin
My Commission Expires: 11/09/89

FILED

1986 JAN 27 PM 4:09

CURINGTON ASSOC,
9027 North GATE
AUSTIN, TX 78758
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me; and
was duly RECORDED, in the Volume and Page of the
named RECORDS of Travis County, Texas on

JAN 27 1986



Don Angeline
COUNTY CLERK
TRAVIS COUNTY, TEXAS

09545 0549

90072358

FOURTH AMENDMENT TO SECOND RESTATEMENT OF
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR WELLS BRANCH

FILM CODE

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00004625380

10:18 AM 5946

2 2 88/22/90

900723.58-DOC#

16.31-CHK#

STATE OF TEXAS §
COUNTY OF TRAVIS §

The undersigned, being desirous of amending the Second Restatement of Declaration of Covenants, Conditions and Restrictions for Wells Branch ("Second Restatement"), executed by Provident Development Company ("Provident"), a division of Lexington Development Company, a Texas limited partnership, on December 13, 1983, as filed at Volume 8370, Page 446, of the Deed Records of Travis County, Texas, as amended in the Corrected First Amendment to the Second Restatement dated November 13, 1985, and recorded at Volume 9489, Page 708, Real Property Records of Travis County, Texas, by Second Amendment to Second Restatement of Declaration of Covenants, Conditions and Restrictions for Wells Branch, dated April 2, 1987, and filed at Volume 10201, Page 620, the Real Property Records of Travis County, Texas, and by Third Amendment to Second Restatement dated January 18, 1989, and filed at Volume 10859, Page 254, Real Property Records of Travis County, Texas, do hereby certify and swear as follows:

Section 4 of Article X is deleted in its entirety and a new Section 4 is substituted therefor in the form attached hereto as Exhibit "A".

The undersigned further attest that this amendment was approved by more than sixty percent (60%) of the total value of the votes represented at a meeting of the Association duly held on December 6, 1989.

IN WITNESS WHEREOF, the undersigned have duly made, signed, acknowledged and sworn to this Fourth Amendment to Second Restrictions for Wells Branch on this 21 day of August, 1990.

WELLS BRANCH ASSOCIATION, INC.
A Texas Non-Profit Corporation

By: Joe A. Duncan
Name: Joe A. Duncan
Title: President

By: Cheri Woodfield
Name: Cheri Woodfield
Title: Secretary

AFTER RECORDING RETURN TO:
Melanie Barnes
Groce, Locke & Hebdon
A Professional Corporation
100 Congress, Suite 1001
Austin, Texas 78701

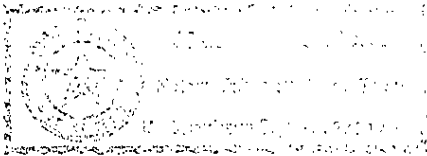
REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

11256 0163

THE STATE OF TEXAS

COUNTY OF TRAVIS

On this 21st day of August, 1990, appeared JOE A. DUNCAN, President of Wells Branch Association, Inc., a Texas non-profit corporation, who signed the instrument on behalf of said corporation.



Jillayne Broome
Notary Public, State of Texas

Jillayne Broome
(Printed Name of Notary)

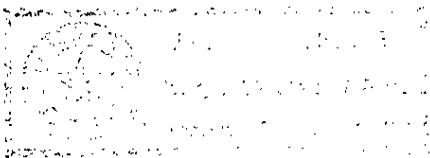
12-21-92

(Date Commission Expires)

THE STATE OF TEXAS

COUNTY OF TRAVIS

On this 21st day of August, 1990, appeared Cheri Warfield, Secretary of Wells Branch Association, Inc., a Texas non-profit corporation, who signed the instrument on behalf of said corporation.



Jillayne Broome
Notary Public, State of Texas

Jillayne Broome
(Printed Name of Notary)

12-21-92

(Date Commission Expires)

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

11256 0164

EXHIBIT "A"

Section 4. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage print prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association. It shall be the sole responsibility of the new owner of property in the Association to notify the Association at its business offices of any change in ownership or change of address of an owner. The Association shall be entitled to rely on its records with respect to the identity and address of any owner for notice by the Association of any action.

FILED
90 AUG 22 AM 10:12
DANA DEBEAUVOR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped herein by me; and
was duly RECORDED, in the Volume and Page of the
said RECORDS of Travis County, Texas, on

AUG 22 1990



Dana Debeauvoir
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

11256 0165

DOC. NO.
91095458

FILM CODE

00004761613

NOTICE OF ASSESSMENT LIEN
FOR WELLS BRANCH COMMERCIAL PROPERTY

STATE OF TEXAS)
COUNTY OF TRAVIS)

12:17 PM 2078
KNOW ALL PERSONS BY THESE PRESENTS:

5.00 INDX
2 3 10/31/91

12:18 PM 2078

2.00 RECM
2 3 10/31/91

That the Second Restatement of Declaration of Covenants, Conditions, and Restrictions for Wells Branch, dated December 13, 1983, and recorded in Volume 8370, Page 446, Deed Records of Travis County, Texas, as amended from time to time, created a lien in favor of Wells Branch Association, Inc. ("Association"), a Texas nonprofit association, for unpaid owners' association assessments on the property subject to such restrictions.

910954.58-0004

Any purchaser of property in the commercial sections of the subdivision is hereby notified that such purchaser will be responsible for outstanding assessments owed at the date of purchase, together with penalties and attorney's fees, if any, and any amounts accruing thereafter. Information regarding the Association's current annual assessment rate, the balance of assessments owed on a particular property, or forms for closing certificates and assessment letters may be obtained by contacting the following:

Wells Branch Association, Inc.
c/o the David B. Edelman Co.
5929 Balcones Drive
Austin, Texas 78731
(512) 452-7622

Further, the Seller of any tract subject to these restrictions shall furnish to the title company at closing a completed closing certificate from the Association stating the amount of any assessments owed, together with per diem charges accruing. Seller shall also deliver an Assessment Letter to purchaser directing future payments, with proof of delivery of same furnished to the Association. Failure to comply with this paragraph will subject seller to continued liability for assessments.

DATED:

October 29, 1991

WELLS BRANCH ASSOCIATION, INC.

By:

Joe A. Duncan
Joe A. Duncan, President

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

11555 0073

SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED before me by Joe A. Duncan, President of Wells Branch Association, Inc., a Texas nonprofit corporation, on this 29 day of October, 1991.

Roxanne Baxter

Notary Public, State of Texas

Printed Name:

My Commission expires



ref to:

Riggs & Harrison

600 Congress Ave. Suite 2840

Austin, TX 78701

STATE OF TEXAS

COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the date and at the time stamped herein by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Travis County, Texas, on

FILED

OCT 31 12 14 PM '91

OCT 31 1991

DANA DEBEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS



Dana Debeauvoir
COUNTY CLERK
TRAVIS COUNTY, TEXAS

- 2 -

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

11555 0074



Dyana Limon-Mercado

Dyana Limon-Mercado, County Clerk
Travis County, Texas

May 30, 2024 12:23 PM Fee: \$33.00

2024059235

Electronically Recorded

**AMENDED AND RESTATED MANAGEMENT CERTIFICATE
OF
WELLS BRANCH RESIDENTIAL PROPERTY OWNERS ASSOCIATION, INC. (D/B/A
STONERIDGE WELLS BRANCH PROPERTY OWNERS ASSOCIATION, INC.)**

The undersigned, being an officer of Wells Branch Residential Property Owners Association, Inc. (d/b/a Stoneridge Wells Branch Property Owners Association, Inc.) (the "**Association**"), and in accordance with Section 209.004 of the Texas Property Code, does hereby certify as follows:

1. The name of the subdivision: Wells Branch.
2. The name of the Association: Wells Branch Residential Property Owners Association, Inc. (d/b/a Stoneridge Wells Branch Property Owners Association, Inc.)
3. The recording data for the subdivision: See Exhibit "A"
4. The recording data for the declaration with any amendments and/or supplements to the declaration: See Exhibit "A"
5. The name and mailing address of the Association: Wells Branch Residential Property Owners Association, Inc. (d/b/a Stoneridge Wells Branch Property Owners Association, Inc.), c/o CSA Management, Inc., 9011 Mountain Ridge Dr., Ste. 200, Austin, TX 78759.
6. The name, mailing address, telephone number, and email address of the person managing the Association:

Name: CSA Management, Inc.
Mailing Address: 9011 Mountain Ridge Dr., Ste. 200, Austin, TX 78759
Telephone Number: (512) 453-6566
Email Address: associations@csarealtygroup.com

7. Website to access the Association's dedicatory instruments:
<https://www.stoneridgepoa.com/overview/>
8. Amount and description of fees related to property transfer in the subdivision:
The Association fees are in the following amounts:

Transfer Fee - \$250.00.

Resale Certificate - \$355.00.

Rushed Resale Certificate: \$400.00

ACKNOWLEDGEMENT

The foregoing is a true and correct copy of the Management Certificate for the association identified below.

WELLS BRANCH RESIDENTIAL PROPERTY OWNERS ASSOCIATION, INC. (D/B/A STONERIDGE WELLS BRANCH PROPERTY OWNERS ASSOCIATION, INC.), a Texas non-profit corporation

By: [Signature]

Name: K. McManus as Agent for WBRPOA

Title: Managing Agent

STATE OF TEXAS

§

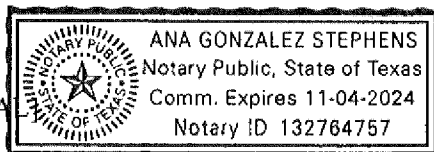
§

COUNTY OF Travis

§

This instrument was acknowledged before me this 7 day of May, 2024 by K. McManus as Managing Agent of Wells Branch Residential Property Owners Association, Inc. (d/b/a Stoneridge Wells Branch Property Owners Association, Inc.), a Texas non-profit corporation, on behalf of said non-profit corporation.

[SEAL]



[Signature]
Notary Public Signature

AFTER RECORDING RETURN TO:

WINSTEAD PC

600 W. 5th Street, Suite 900

Austin, Texas 78701

avaldes@winstead.com

EXHIBIT "A"

RECORDING DATA FOR THE DECLARATION AND RELATED DOCUMENTS

1. Wells Branch – Covenants, Conditions and Restrictions, recorded in Volume 12197, Page 0452, Film Number 00005148278, Official Public Records of Travis County, Texas.
2. Wells Branch – First Amendment to Covenants, Conditions and Restrictions, recorded in Volume 12503, Page 0915, Film Number 00005322694, Official Public Records of Travis County, Texas.
3. Wells Branch – Supplemental Covenants, Conditions and Restrictions, recorded in Volume 12503, Page 0923, Film Number 00005322695, Official Public Records of Travis County, Texas.
4. Wells Branch – First Amended Bylaws, recorded as Document No. 2022152904, Official Public Records of Travis County, Texas.
5. Wells Branch – Records Retention Policy, recorded as Document No. 2022156980, Official Public Records of Travis County, Texas.
6. Wells Branch – Correction Affidavit to the First Amended Bylaws, recorded as Document No. 2022170366, Official Public Records of Travis County, Texas.

WELLS BRANCH PHASE E SECTION ONE

STATE OF TEXAS:
COUNTY OF TRAVIS:

KNOW ALL MEN BY THESE PRESENTS: THAT, MASH PHILLIPS/COPIUS, INC., ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF TEXAS, HAVING ITS HOME OFFICE IN AUSTIN, TEXAS, ACTING HEREIN BY AND THROUGH JACK E. DAVIS, SENIOR VICE-PRESIDENT AND SENIOR OWNERS OF THAT CERTAIN TRACT OF LAND, OUT OF THE J.P. WELLS SURVEY NO. 108, SITUATED IN TRAVIS COUNTY, TEXAS, CONVEYED BY DEED RECORDED IN VOLUME 8892, PAGE 82A, DEED RECORDS, TRAVIS COUNTY, TEXAS, DO HEREBY SUBDIVIDE 22.57 ACRES OF LAND IN ACCORDANCE WITH THE MAP OR PLAT SHOWN HEREON, TO BE KNOWN AS "WELLS BRANCH PHASE E SECTION ONE", AND DO HEREBY DEDICATE TO THE PUBLIC, THE USE OF THE STREETS AND EASEMENTS, SHOWN HEREON.

WITNESS MY HAND, THIS 15th DAY OF November, 1984, A.D.

Jack E. Davis
JACK E. DAVIS, SENIOR VICE-PRESIDENT
MASH PHILLIPS/COPIUS, INC.
P.O. BOX 14503, AUSTIN, TEXAS 78761

STATE OF TEXAS:
COUNTY OF TRAVIS:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED JACK E. DAVIS, SENIOR VICE-PRESIDENT FOR MASH-PHILLIPS/COPIUS, INC., KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT OF WRITING, AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.

WITNESS MY HAND AND SEAL OF OFFICE, THIS THE 15th DAY OF November, 1984, A.D.

Jill S. Shelton Jill S. Shelton
NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS
MY COMMISSION EXPIRES: 2-4-85

APPROVED FOR ACCEPTANCE:

DATE: 12-4-84

James B. Duggan James B. Duggan, Director
OFFICE OF LAND DEVELOPMENT SERVICES

ACCEPTED AND AUTHORIZED FOR RECORD BY THE PLANNING COMMISSION, CITY OF AUSTIN, THIS THE 4 DAY OF Dec, 1984, A.D.

Ed Wendler Jr.
ED WENDLER JR., SECRETARY

Gilbert M. Martinez
GILBERT M. MARTINEZ, CHAIRMAN

FILED FOR RECORD AT 11:00 O'CLOCK A.M., THIS THE 15th DAY OF Jan, 1985 A.D.

K. Terrell
K. TERRELL, DEPUTY

Doris Shropshire
DORIS SHROPSHIRE, CLERK, COUNTY COURT, TRAVIS COUNTY, TEXAS

STATE OF TEXAS:
COUNTY OF TRAVIS:

I, DORIS SHROPSHIRE, CLERK OF THE COUNTY COURT, WITHIN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING AND ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE, ON THE 15th DAY OF Jan, 1985 A.D., AT 11:00 O'CLOCK A.M., AND DULY RECORDED ON THE 15th DAY OF Jan, 1985 A.D., AT 11:05 O'CLOCK A.M., IN THE PLAT RECORDS OF SAID COUNTY AND STATE IN PLAT BOOK 85, PAGE(S) 69B-69C.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY COURT OF SAID COUNTY, THE DATE LAST WRITTEN ABOVE.

K. Terrell
K. TERRELL, DEPUTY

Doris Shropshire
DORIS SHROPSHIRE, CLERK, COUNTY COURT, TRAVIS COUNTY, TEXAS

STATE OF TEXAS:
COUNTY OF TRAVIS:

I, DORIS SHROPSHIRE, COUNTY CLERK OF TRAVIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT ON THE 2nd DAY OF Jan, 1985 A.D., THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS, PASSED AN ORDER AUTHORIZING THE FILING OF THIS PLAT AND THAT SAID ORDER WAS DULY ENTERED IN THE MINUTES OF SAID COUNTY IN BOOK 3, PAGE 467.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY COURT OF SAID COUNTY, THE 2nd DAY OF Jan, 1985 A.D.

E. Wall
E. WALL, DEPUTY

Doris Shropshire
DORIS SHROPSHIRE, CLERK, COUNTY COURT, TRAVIS COUNTY, TEXAS

IN APPROVING THIS PLAT BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS, IT IS UNDERSTOOD THAT THE BUILDING OF ALL STREETS, ROADS, OR OTHER PUBLIC THOROUGHFARES, OR ANY BRIDGES OR CULVERTS NECESSARY TO BE PLACED ON SUCH ROADS, STREETS, OR OTHER PUBLIC THOROUGHFARES SHALL BE THE RESPONSIBILITY OF THE OWNERS AND/OR DEVELOPERS OF THE TRACT OF LAND COVERED BY THIS PLAT AND IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PRESCRIBED BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS, AND SAID COURT ASSUMES NO OBLIGATION TO BUILD ANY OF THE STREETS, ROADS, OTHER PUBLIC THOROUGHFARES, OR ANY BRIDGES OR CULVERTS IN CONNECTION THEREWITH.

BE IT RESOLVED BY THE COMMISSIONERS COURT OF TRAVIS COUNTY, TEXAS, THAT THE ACCEPTANCE FOR MAINTENANCE BY TRAVIS COUNTY, TEXAS OF THE ROADS OR STREETS IN REAL ESTATE SUBDIVISIONS DOES NOT OBLIGATE THE COUNTY TO INSTALL STREET MARKING SIGNS, AS THIS IS CONSIDERED TO BE A PART OF THE DEVELOPERS CONSTRUCTION, BUT THAT ERRECTING SIGNS FOR TRAFFIC CONTROL, SUCH AS FOR SPEED LIMITS AND STOP AND YIELD SIGNS, SHALL REMAIN THE RESPONSIBILITY OF THE COUNTY.

I, THOMAS J. DODD, AN AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS, TO PRACTICE THE PROFESSION OF SURVEYING, AND HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH CHAPTER 13-3, OF THE AUSTIN CITY CODES, IS TRUE AND CORRECT TO THE BEST OF MY ABILITY, AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

SURVEYED BY: Thomas J. Dodd
THOMAS J. DODD, R.A., A.D. 1982
CARLSON & DIPPOLD SURVEYING COMPANY
2499 Capital of Texas Highway, Suite #105
Austin, Texas 78746

DATE: 8-25-84 ENGINEERING BY: Chinda A. Taylor
CHINDA A. TAYLOR, INCORPORATED
2499 Capital of Texas Highway, Suite #204
Austin, Texas 78746

DATE: 8-23-84

| CURVE DATA | | | | | | | | | | |
|------------|-----------|--------|-----------|---------|-----------|--------|---------|-----------|-----------|------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| I 30°15' | 50°55' | 50°55' | 33°55' | 33°55' | 34°35' | 34°35' | 90°00' | 32°29' | 32°29' | 101°11' |
| R 718.04 | 305.00 | 375.00 | 505.32 | 435.02 | 603.91 | 533.91 | 15.00 | 247.15 | 197.15 | 225.00 |
| T 194.08 | 145.21 | 178.53 | 154.00 | 132.65 | 188.00 | 166.21 | 15.00 | 72.00 | 57.43 | 274.34 |
| A 379.10 | 271.04 | 333.25 | 295.95 | 267.51 | 364.51 | 322.26 | 23.56 | 140.12 | 111.77 | 397.35 |
| C 374.71 | 262.21 | 323.39 | 254.61 | 253.77 | 359.01 | 317.39 | 21.21 | 138.25 | 110.28 | 347.69 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| I 101°11' | 34°50' | 34°50' | 91°11'30" | 104°15' | 55°35'18" | 46°34' | 273°08' | 80°24'20" | 72°07'40" | 101°43'06" |
| R 175.00 | 225.00 | 175.00 | 15.00 | 15.00 | 15.00 | 30.00 | 50.00 | 15.00 | 15.00 | 15.00 |
| T 212.99 | 70.53 | 54.90 | 15.45 | 19.29 | 13.59 | 12.91 | 12.68 | 12.68 | 10.93 | 13.43 |
| A 309.05 | 136.79 | 106.39 | 24.00 | 27.29 | 22.41 | 24.38 | 238.35 | 21.05 | 18.89 | 26.63 |
| C 270.42 | 114.69 | 104.76 | 21.52 | 23.69 | 20.38 | 23.72 | 238.35 | 19.36 | 17.67 | 23.27 |
| 23 | 24 | | | | | | | | | |
| I 40°02' | 34°03'34" | | | | | | | | | |
| R 225.0 | 175.0 | | | | | | | | | |
| T 22.32 | 53.60 | | | | | | | | | |
| A 157.47 | 104.03 | | | | | | | | | |
| C 154.20 | 102.50 | | | | | | | | | |

NOTE: THE 100 YEAR FLOOD PLAN SHALL BE CONTAINED WITHIN THE DRAINAGE EASEMENTS AS SHOWN HEREON. FEMA MAP REFERENCE 481026-0110B DATED 4-1-82 DETENTION NOTE: PRIOR TO ANY CONSTRUCTION ON ANY LOT IN THIS SUBDIVISION DRAINAGE PLANS WILL BE SUBMITTED TO THE CITY OF AUSTIN PUBLIC WORKS DEPT. FOR REVIEW. RAINFALL RUNOFF SHALL BE RUN TO THE AMOUNT ESTABLISHED BY THE REGIONAL DETENTION PLANS APPROVED BY THE CITY OF AUSTIN.

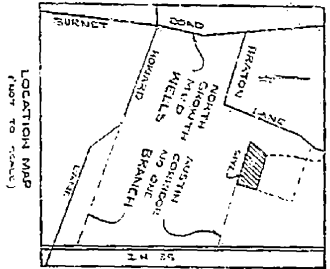
SIDEWALK NOTE: SIDEWALKS SHALL BE PLACED ON BOTH SIDES OF WELLS PORT DRIVE (THE WEST SIDE OF ROSA WELLS LANE, THE NORTH EAST SIDE OF WATERWAY BEND, THE SOUTH SIDE OF NATHAN DRIVE AND THE WEST SIDE OF NATURAL SPRINGS WAY, ALSO ONE SIDE OF WELLS PORT COVE AND WATERWAY COVE.

NOTE: NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTION IS MADE TO THE NORTH AUSTIN GROWTH CORRIDOR MUD NO. 1 WATER AND WASTEWATER SYSTEM.

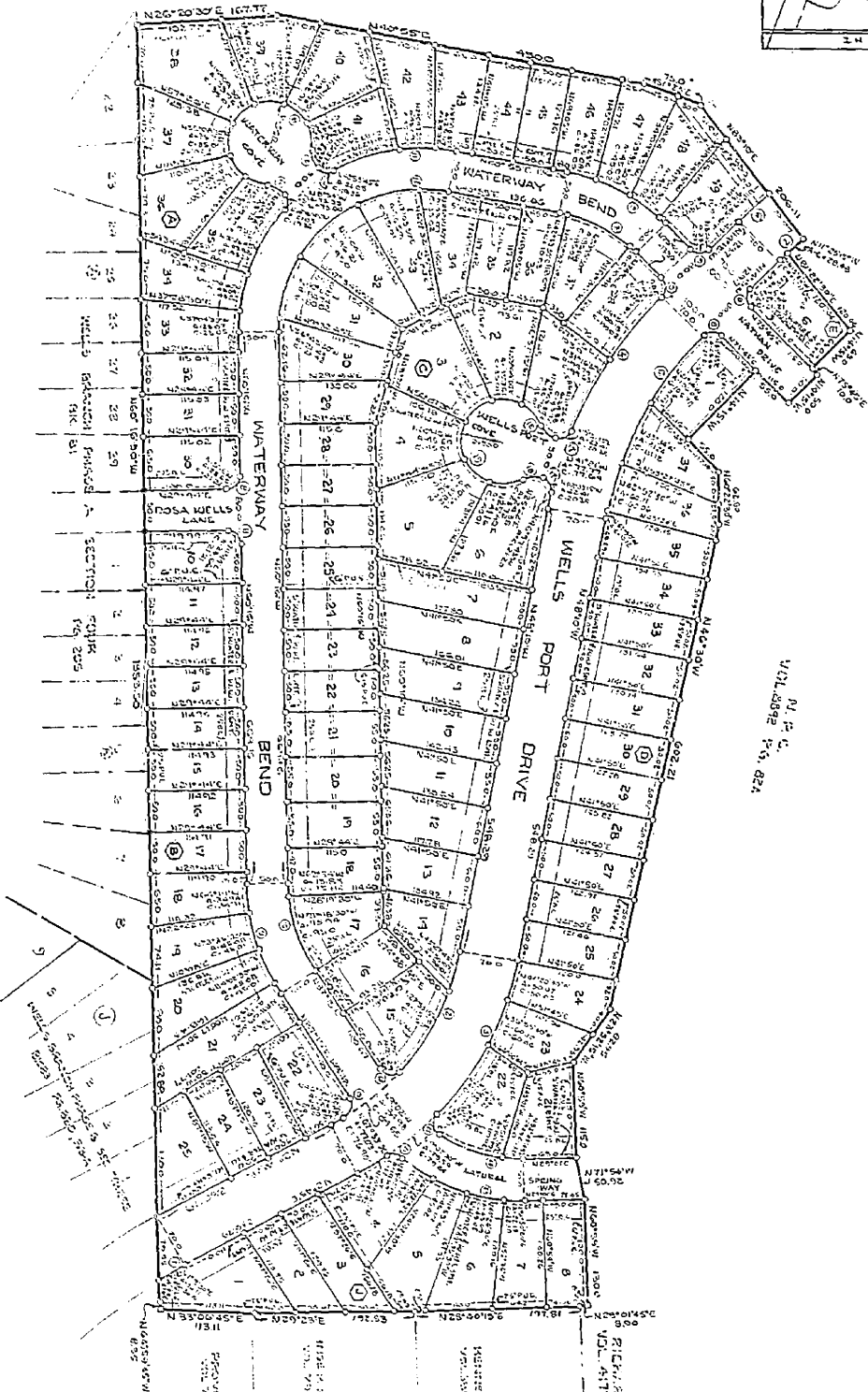
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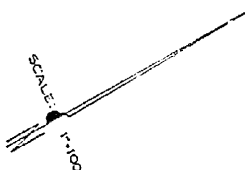
WELLS BRANCH PHASE E SECTION ONE



L.J. P. C.
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L.J. P. C.
VOL. 85, P. 69C, 82A



- LEGEND**
- 1 - IRON END FOUND
 - 2 - IRON END SET
 - 3 - CONCRETE REMOVAL SET
 - 4 - CONCRETE REMOVAL SET
 - 5 - BUILDING LINE SETBACK
 - 6 - PRIVATE UTILITY EASEMENT
 - 7 - TOTAL NO. OF LOTS: 42
 - 8 - NUMBER 805, 794

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85 805

CB-84-40.1