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DEVELOPMENT AREA
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BARTON CREEK NORTH RIM

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This Development Area Declaration of Covenants, Conditions and Restrictions For Barton Creek North Rim (the "Declaration") is made by FM PROPERTIES OPERATING CO., a Delaware general partnership (the "Declarant"), and is as follows:

RECITALS

A. The Declarant is the owner of approximately 60.613 acres of real property located in Travis County, Texas as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property").

B. Pursuant to that one certain Notice of Applicability of Master Declaration of Covenants, Conditions, and Restrictions for Barton Creek North Rim, dated June 26, 1996, recorded in the Real Property Records of Travis County, Texas, the Property is subject to the Master Declaration of Covenants, Conditions and Restrictions of record in Volume 11324, Page 707 of the Real Property Records of Travis County, Texas (the "Master Declaration").

C. The Master Declaration permits the Declarant to file Development Area Declarations applicable to specific Development Areas, as those terms are used and defined in the Master Declaration, which shall be in addition to the covenants, conditions, and restrictions of the Master Declaration.

D. Declarant desires to create upon the Property a residential community and carry out a uniform plan for the improvement and development of the Property for the benefit of the present and all future owners thereof.

E. Declarant desires to provide a mechanism for the preservation of the community and for the maintenance of common areas and, to that end, desires to subject the Property to the covenants, conditions, and restrictions set forth in this Declaration for the benefit of the Property, and each owner thereof, which shall be in addition to the covenants, conditions, and restrictions set forth in the Master Declaration.

NOW, THEREFORE, it is hereby declared: (i) that all of the Property shall be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which shall run with the Property and shall be binding upon all parties having right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this Declaration shall supplement and be in addition to the covenants, conditions, and restrictions of the Master Declaration.

ARTICLE I

DEFINITIONS

1.01. Defined Terms. Unless the context specifies or requires otherwise, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

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"Architectural Guidelines" shall mean the architectural guidelines adopted by the Master Architectural Control Committee pursuant to this Declaration and as authorized by the Master Declaration, as such architectural guidelines may be amended, modified, or restated from time to time. The Architectural Guidelines are referenced in Sections 2.01, 2.02, 4.01, and elsewhere in this Declaration.

"Assessment" or "Assessments" shall mean all assessment(s) imposed by the Association under this Declaration. ✓

"Association" shall mean and refer to the North Rim Community, Inc., a Texas non-profit corporation. ✓

"Association Restrictions" shall mean this Declaration as the same may be amended from time to time, together with the Articles, Bylaws, and Association Rules, from time to time in effect. ✓

"Association Rules" shall mean the rules and regulations adopted by the Board pursuant to Section 3.04(c) hereof as may be amended from time to time. ✓

"Articles" shall mean the Articles of Incorporation of North Rim Community, Inc., to be filed in the office of the Secretary of State of the State of Texas, as the same may be amended from time to time. ✓

"Bylaws" shall mean the bylaws of the Association as adopted by the Board and as amended from time to time. ✓

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

"Common Area" shall mean and refer to those areas within the Property which have been or may in the future be conveyed to, or leased by, the Association or held for the benefit of the Owners as determined by the Board in its sole discretion, including, without limitation, all private streets and easements for landscape, drainage, irrigation, fence or related purposes. The Common Area may be owned by the Association, but held for the use and enjoyment of the Owners.

"Declarant" shall mean FM Properties Operating Co., a Delaware general partnership, its successors or assigns; provided that any assignment(s) of the rights of FM Properties Operating Co. as Declarant, must be expressly set forth in writing and the mere conveyance of a portion or all of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

"Declaration" shall mean this instrument as it may be amended from time to time.

"Developer" shall mean and refer to John S. Lloyd.

"Improvements" shall mean every structure and all appurtenances of every type, whether temporary or permanent, including but not limited to buildings, outbuildings, sheds, patios, tennis courts, swimming pools, garages, driveways, storage buildings, sidewalks, gazebos, signs, fences, gates, screening walls, retaining walls, stairs, decks, landscaping, landscape improvements, poles, mailboxes, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, playground equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, other utilities, or otherwise.

"Lot" or "Lots" shall mean one or more of the subdivided lots within the Property other than Common Areas.

"Master Architectural Control Committee" shall mean the committee created pursuant to the Master Declaration to establish Architectural Guidelines, to review and approve plans for the construction of Improvements upon the Property, and to carry out its duties as set forth in the Declaration and the Master Declaration.

"Master Association" shall mean and refer to The Barton Creek Property Owners Association, Inc., a Texas non-profit corporation.

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

"Master Common Area" shall mean and refer to those areas within the Property which have been or may in the future be conveyed to, or leased by, the Master Association, including, without limitation, all private streets and easements for landscape, drainage, irrigation, fence or related purposes. ✓

"Master Declaration" shall mean that certain Master Declaration of Covenants, Conditions and Restrictions dated November 28, 1990, of record in Volume 11324, Page 707 of the Real Property Records of Travis County, Texas, filed against the Property and other real estate in Travis County, Texas, as such declaration may be modified, amended, or restated from time to time.

"Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust securing indebtedness and covering any portion of the Property given to secure the payment of a debt.

"Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage(s).

"Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot, but shall not include the Mortgagee under a Mortgage prior to acquisition of its fee simple interest in such Lot pursuant to foreclosure of the lien of such Mortgage.

1.02. General Definitions. Unless the context specifies or requires otherwise, capitalized terms used but not defined in this Declaration are used and defined as they are used and defined in the Master Declaration.

ARTICLE II

GENERAL RESTRICTIONS

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

2.01. Architectural Guidelines. Pursuant to Section 5.01 below, the Master Architectural Control Committee shall adopt Architectural Guidelines applicable to the Property and all Improvements constructed on the Property shall strictly comply with those Architectural Guidelines. Effective the date of this Declaration, the Master Architectural Control Committee has adopted the architectural guidelines set forth in that certain Barton Creek Community The Woods at Barton Creek Architectural Guidelines (the "Woods Guidelines") as the Architectural Guidelines which will be applied to the Property. Any reference in the Woods Guidelines to "The Woods at Barton Creek" or "Barton Creek Section G" shall be substituted with a reference to "Barton Creek North Rim". All other terms and provisions of the Woods Guidelines shall apply to construction on any portion of the Property until such time as the Architectural Guidelines are modified, amended, or restated by the Master Architectural Control Committee as authorized by the Master Declaration and this Declaration. In the event of any conflict between the terms and provisions of the Architectural Guidelines and the terms and provisions of this Declaration, the terms and provisions of this Declaration shall control. In addition, the Master Architectural Control Committee shall have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this

Declaration. The fee referenced in the preceding sentence shall not exceed \$300 per complete set of plans, specifications, and other required documents and information. The Master Architectural Control Committee shall not be required to review any plans until a complete submittal package, as required by this Declaration and The Woods Guidelines, is assembled and submitted to the Master Architectural Control Committee. Such charges shall be held by the Master Architectural Control Committee and used to defray the administrative expenses incurred by the Master Architectural Control Committee in performing its duties hereunder; provided, however, that any excess funds held by the Master Architectural Control Committee shall be distributed to the Association at the end of each calendar year.

2.02. General Restrictions.

(a) No more than fifteen (15) single family residences shall be permitted upon the Property unless additional units are authorized by Declarant as evidenced by an amendment approved and recorded in accordance with Section 8.02.

(b) The Lots shall be used solely for private single family residential purposes and there shall not be constructed or maintained thereon more than one detached single family residence which shall not exceed the following height limitations and shall meet the following criteria:

- (i) Except as provided in (ii), below, the maximum building height shall be no more than thirty-eight feet (38') measured according to the following definition: the vertical distance between the top of the foundation at any point within the structure and the highest ridge, peak, or gable of a roof, excluding chimneys. In addition, the height of any eave on any structure shall not exceed thirty-five feet (35') above the natural grade at any point on the exterior wall of the residence.
- (ii) On any residence for which all roof ridges are at least two hundred feet (200') from the nearest portion of a golf course, the maximum building height shall be no more than forty feet (40') measured according to the following definition: The vertical distance between the top of the foundation at any point within the structure and the highest ridge, peak, or gable of a roof, excluding chimneys.
- (iii) That portion of the foundation visible from the exterior of the structure must be concealed by a combination of (a) extending the exterior stone or stucco to within twelve inches (12") of the finished grade, and (b) constructing terraced planter boxes, which shall be constructed of the same masonry material as the structure and designed so as to minimize the visual impact of the structure's mass and height. 4. ?
- (iv) No gables, other than dormers, shall be permitted on any portion of a roof facing the golf course.
- (v) No roof shall have pitch in excess of 9/12.

(c) Each Lot must contain a private garage for not fewer than three (3) automobiles and off-street parking space for a minimum of two (2) automobiles.

(d) Except for garages on corner Lots, no garage may face or open toward any street, golf course, or greenbelt. Garages located on corner Lots may face a street provided the Master Architectural Control Committee reviews and issues written approval of the location and design of the garage orientation and opening.

(e) Any residence constructed on any Lot must have a floor area of not less than 3,500 square feet, exclusive of open or screened porches, terraces, patios, decks, driveways, and garages. 1.

(f) Unless otherwise expressly approved by the Master Architectural Control Committee the exterior walls of any residence shall consist of one hundred percent (100%) stone or stucco constructed in strict compliance with the requirements of the Architectural Guidelines. The Master Architectural Control Committee shall have the authority to permit the use of wood siding or brick in specific circumstances where the Master Architectural Control Committee determines the limited use of wood siding or brick to be appropriate and consistent with the design requirements set forth in the Architectural Guidelines.

(g) All roofs shall be constructed of clay or concrete tile, the composition and color of which will be expressly approved by the Master Architectural Control Committee.

(h) The location of all buildings and Improvements shall comply with the minimum setbacks shown on the Plat and this Declaration. In addition to the requirements imposed by the Plat, (i) no building or other Improvement (including all fences) shall be located nearer than forty feet (40') from the front Lot line; and (ii) no building or other Improvement (except fences) shall be located nearer than ten feet (10') from any side Lot line, fifty feet (50') from any rear Lot line, or fifty feet (50') from any major thoroughfare or collector street without the express prior written approval of the Master Architectural Control Committee; provided, however, that Developer shall be entitled to designate two Lots with a forty foot (40') setback from Barton Creek Boulevard. In addition to the individual ten foot (10') side Lot line setbacks set forth in the preceding sentence, the two side yard setbacks for each Lot shall total not less than thirty feet (30'); provided, however, that no more than twenty-five percent (25%) of the external portion of a single family residence located upon any Lot may encroach upon the side Lot line setback attributable to such Lot so long as the encroachment does not extend within ten feet (10') of the side Lot line. With respect to any Lot abutting the Barton Creek golf course, no building or other Improvement (including fences) shall be located nearer than eighty feet (80') from the rear lot line.

For the purpose of this restriction, eaves, steps, and open porches shall not be considered as part of the building; provided, however, that this sentence shall not be construed to permit any portion of any construction or building on any Lot to encroach upon another Lot or property. The setbacks referred to in this subpart (h), above, include the thirty-five foot (35') Golf Course Buffer.

(i) No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot; provided that, in connection with its development of the Property and sale of Lots, Developer shall have the right to maintain model homes, temporary or permanent sales and marketing centers and offices, and conduct open houses or other marketing events, to which the general public may be invited.

(j) No portion of the Property may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies, or for a carport or other automobile storage open on more than one side.

(k) No Lot may be used as an apartment house, flat, lodging house, hotel, bed and breakfast lodge, or any similar purpose, but Lots may be leased for single family residential purposes for a minimum term of six (6) months; provided that any lease agreement must be in writing and must be made specifically subject to this Declaration.

(l) Only wood or wood clad windows shall be permitted and all windows on each residence shall have a consistent design throughout the residence and shall strictly comply with the requirements of the Architectural Guidelines.

(m) The design, construction materials, and location of (i) all driveways, and (ii) culverts incorporated into driveways for ditch or drainage crossings, shall be approved by the Master Architectural Control Committee and shall strictly comply with the requirements of the Architectural Guidelines. Driveways shall be a minimum of ten feet (10') in width at their narrowest point. Driveways on corner lots abutting a cul-de-sac and another roadway shall access off the cul-de-sac. No asphalt driveways shall be permitted.

Driveways must be located a minimum of five feet (5') from the side yard lot line and there shall be at least a twenty feet (20') buffer between driveways on adjoining lots which must be landscaped to screen one driveway from the other except as may be otherwise expressly approved in writing by the Master Architectural Control Committee. The Master Architectural Control Committee shall establish design and materials requirements for all driveway culverts to insure that they are consistent in appearance throughout the Property.

(n) The location, design, and materials used in construction of all mailboxes including, without limitation, an address identification marker and a light, shall strictly comply with the requirements of the Architectural Guidelines to insure a uniform appearance throughout the Property.

(o) All fences must be constructed of wrought iron, stone, or wrought iron/stone combination, must not exceed six feet (6') in height, and shall not be located closer to the street than the front of the residence. Any other materials, height, or location of any fences must be approved by the Master Architectural Control Committee and shall strictly comply with the requirements of the Architectural Guidelines.

(p) The second story floor area of any residence located on a lot which adjoins the golf course shall not exceed forty percent (40%) of the enclosed first floor area of the residence. For purposes of this subpart (p), "first floor area" shall include heated or air conditioned space and garages, but shall not include covered or other outdoor spaces. In addition, two-story interior spaces shall be included in the second floor area in calculating the percentage of permitted second floor area under this subpart (p).

(q) There shall be no restriction by this Declaration, or The Woods Guidelines on an Owner's ability to remove cedar and no requirement to replace or revegetate for cedar removal.

2.03. Sight Distance at Intersection. No fence, wall, hedge, or shrub planting that obstructs sight lines at elevations between two (2) and nine (9) feet above the roadway 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 thirty (30) 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 sight-line limitations shall apply on any Lot within the triangular area formed by the street line, a driveway or alley line and a line connecting them at points ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. All tree foliage within such distances of intersections shall be maintained to meet the sight line requirements set forth above. Notwithstanding the foregoing or anything in this Declaration to the contrary, at a minimum, sight distances required by any applicable governmental authority shall be complied with.

2.04. Subdivision Fence and Landscaping. Prior to the occupancy of any residence located within the Property, the Developer shall complete the Subdivision Fence and the Subdivision Landscaping, as those terms are defined in this Section 2.04. The Subdivision Fence shall be located within a ten (10) foot strip of land located on the Property parallel and adjacent to the common boundary of the Property and Barton Creek Boulevard, a private thoroughfare (the "Improvement Tract"). The Subdivision Fence shall be of the same design as the subdivision fence for Barton Creek, Section G, Phase 1 and Phase 2, and shall be constructed of the same materials and color so as to appear to be one continuous fence along Barton Creek Boulevard. The subdivision landscaping, including irrigation for that landscaping, will be located along the Improvement Tract between the Subdivision Fence and Barton Creek Boulevard. The Subdivision Landscaping shall be of the same design and using the same plant materials and irrigation as used along the subdivision fence for Barton Creek Section G, Phase 1 and Phase 2. Within ten (10) days after the Subdivision Fence and Subdivision Landscaping are complete, the Subdivision Fence and the Subdivision Landscaping, as well as an easement sufficient to permit maintenance, repair and access to the Subdivision Fence and Subdivision Landscaping, shall be conveyed to the Master Association as Master Common Area, and shall thereafter be maintained by the Master Association. Any security gate providing access to the Property (the "Security Gate"), upon completion, shall also be conveyed to the Master Association as Master Common Area, and shall thereafter be maintained by the Master Association. The design, materials and location of the Subdivision Fence, Security Gate, and Subdivision Landscaping must be approved prior to construction or installation by

the Master Architectural Control Committee. The design, materials, and location of each private driveway located upon any portion of the Property shall be approved prior to construction by Declarant; provided, however in no event shall any private driveway located on any portion of the Property be permitted within fifteen (15) feet of the north boundary of Barton Creek Boulevard.

2.04.A. Golf Course Buffer. Except for the twenty-foot (20') setback in Section 2.02 (h)(iii), for any Lot which adjoins the golf course, there shall be a thirty-five foot (35') wide buffer zone running parallel and adjacent to the golf course along the entire property line abutting the golf course (the "Golf Course Buffer"). No improvements shall be permitted within the Golf Course Buffer. The Golf Course Buffer shall be preserved as a landscape buffer between the golf course and the balance of the Lot. The Golf Course Buffer is hereby subjected to an access and maintenance easement for the benefit of the Master Association and the Association.

2.05. Antennae and Solar Systems. Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc (collectively "Antennae"), nor any solar energy system ("Solar System"), shall be erected, maintained or placed on a Lot without the prior written approval of the Master Architectural Control Committee; provide, however, that one (1) satellite dish or other similar instrument with a diameter no greater than two feet (2') may be affixed to the rear roof eave of each single family residence located upon the Property. Prior to the erection of any Antennae (unless otherwise permitted by this Section 2.05) or Solar System, plans and specifications and a proposal for screening shall be presented to and expressly approved by the Master Architectural Control Committee, which approval may be denied for any reason whatsoever. Any Antennae or Solar System, if approved, shall be entirely screened from view from adjacent lots and streets.

2.06. Insurance Rates. Nothing shall be done or kept on the Property that would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area, the Association Property, or the improvements located thereon, without the prior written approval of the Board.

2.07. Subdividing and Easements. No Lot shall be further divided or subdivided, nor may any easements or other interests therein covering less than the whole Lot be conveyed by the Owner thereof without the prior express written approval of the Declarant. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No shrubbery, fence or other obstruction shall be placed in any easement. No utility company, water district, political subdivision, or other authorized entity using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, or flowers, or any other landscaping or improvements or to other property of the Owner situated within any such easement.

2.08. Signs. No sign of any kind, including, without limitation, signs advertising property for sale or lease, shall be displayed to the public view without the express prior written approval of the Declarant except for signs that are part of Developer's marketing plan for the Property or any part thereof. The Declarant may permit or prohibit signs of any type advertising a portion of the Property for sale or lease, as it elects, in its sole discretion. Developer intends to implement a marketing program for the Property, which shall include signs advertising property for sale; provided, however, that Declarant may set reasonable standards for such signs including, without limitation, maximum dimensions, style, color, type size, and location.

2.09. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property 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 such containers shall be kept within enclosed structures or otherwise appropriately screened from view from any portion of the Property, other than the Lot on which such containers are properly located.

2.10. **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 Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants. Without limiting the generality of the foregoing, if any noise or nuisance emanates from any Improvement on any Lot, the Association may (but shall not be obligated to) enter any such Improvement and take such reasonable actions necessary to terminate such noise (including silencing any burglar or break-in alarm).

2.11. **Construction of Improvements.** No Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon any of the Property without the prior written approval of the Master Architectural Control Committee.

2.12. **Repair of Buildings.** All Improvements upon any of the Property that are not maintained by the Association shall at all times be kept in good condition and repair and adequately maintained by the Owner thereof. The opinion of the Master Architectural Control Committee as to condition and repair shall be final.

2.13. **Alteration or Removal of Improvements.** Any alteration, remodeling, or construction that in any way alters or modifies the exterior appearance of any Improvements, or the removal of any Improvements within the Property, shall be performed only with the prior written approval of the Master Architectural Control Committee.

2.14. **Drainage.** There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved in writing by the Master Architectural Control Committee.

2.15. **Hazardous Activities.** No activities may be conducted on the Property and no Improvements constructed on the Property that 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 Property, and no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces or in contained barbecue units which are attended while in use for used and cooking purposes only.

2.16. **Temporary Structures.** No tent, shack, or other temporary building, improvement, or structure shall be placed upon the Property without the written approval of the Master Architectural Control Committee; provided, however, that temporary structures necessary for storage of tools and equipment and for office space for architects, builders, and foreman during actual construction may be maintained with the prior approval of Master Architectural Control Committee, such approval to include the nature, size, duration, and location of such structure.

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

2.18. **Unightly Articles: Vehicles.** No article deemed to be unsightly by the Master Architectural Control Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks larger than a 3/4 ton pickup, boats, tractors, semi-trailers, campers, wagons, buses, motorcycles, motor scooters, machinery, garden maintenance equipment and inoperable vehicles shall be kept at all times, except when in actual use, in enclosed structures or screened from view, and no repair or maintenance work shall be done on any of the foregoing or on any automobile (other than minor emergency repairs) except in enclosed garages or other structures. Service areas, storage areas, compost piles, and facilities for hanging, drying, or airing clothing or household fabrics (including, without limitation, clothes lines) shall be screened from view from any portion of the Property other than the Lot on which such areas, piles and facilities are properly located.

No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scraps, refuse, or trash of any kind shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view from any portion of the Property other than the Lot on which such materials are properly located.

2.19. Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any Lot. The keeping of ordinary household pets not to exceed two (2) in number such as dogs and cats is allowed, and the pups, kittens, or offspring of any such permitted household pets may be kept for a period not in excess of eight weeks; provided, however, that no breeding, raising, or boarding of such pets for commercial purposes is permitted on such sites. No poultry, livestock or exotic animal may be kept on any Lot. All pets shall be kept on the Owner's Lot and shall not be allowed to roam loose.

2.20. Travel Trailers and Recreational Vehicles. No travel trailers or recreational vehicles shall be parked in any street or on or near any Lot for more than forty-eight (48) hours or for more than seventy-two (72) hours in any 30-day period, so as to be visible from any other portion of the Property.

2.21. Owner's Responsibility for Maintenance. Each Owner shall maintain and keep in a good state of repair the interior and exterior of all buildings, structures, and other Improvements of any kind or nature that are located upon such Owner's Lot. An Owner, when exercising the right and responsibility of repair, maintenance, replacement, or remodeling, as herein defined, shall never alter in any manner whatsoever the color and exterior appearance of the Improvements located on such Owner's Lot, except by written consent of the Master Architectural Control Committee. Each Owner shall, however, have the exclusive right to paint, plaster, panel, tile, wax, paper, or otherwise refinish and decorate the inner surface of the walls, ceilings, floors, windows, and doors within such Owner's structure. In the event an Owner fails to maintain the Improvements located on such Owner's Lot as provided herein in a manner that the Master Architectural Control Committee deems necessary to preserve the appearance and value of the Property, the Master Architectural Control Committee may notify such Owner of the work required and request that it be done within thirty (30) days from the giving of such notice. In the event such Owner fails to complete such work or maintenance within said period, the Master Architectural Control Committee shall so notify the Board or the Master Board, and the board so notified may (but shall not be obligated to) cause such work to be done and the Owner shall be personally liable to the Association or the Master Association, as the case may be, for the cost of such work. If the Owner fails to pay such cost upon demand, such cost (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) shall be added to the Assessment chargeable to the Owner's Lot(s). Any such amounts added to the Assessments chargeable against a Lot shall be secured by the liens reserved in this Declaration or the Master Declaration for Assessments and may be collected by any means provided in the Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). Each such Owner shall indemnify and hold harmless the Master Association and the Association, their officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Master Association's or the Association's acts or activities under this Section 2.21 (including any cost, fees, expense, liability, claim or cause of action arising out of the Master Association's or the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Master Association's or the Association's gross negligence or wilful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.

2.22. Liability of Owners for Damage to Common Area or Master Common Area. No Owner shall in any way alter, modify, add to, or otherwise perform any work whatsoever upon the Common Area or Master Common Area. The Owner of each Lot shall be liable to the Master Association for all damages to: (i) the Common Area, Master Common Area, or any Improvements constructed thereon; or (ii) to any Improvements constructed upon any Lot, the maintenance of which has been assumed by the Master

Association or the Association; which damage is caused by the neglect, misuse or negligence of such Owner or any tenant or other occupant of such Owner's Lot or such Owner's guest or invitee. The full cost of all repairs of such damage shall be an Assessment against the Owner's Lot, secured by a lien against the Owner's Lot and collectible in the same manner as provided in the Master Declaration or the Declaration.

2.23. Compliance with the Declaration. Each Owner shall comply strictly with the provisions of the Master Declaration and the Declaration (collectively, the "Restrictions") as the same may be amended from time to time. Failure to comply with any of the Restrictions shall constitute a violation of the Restrictions and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Manager or Board on behalf of the Association or by the Master Board on behalf of the Master Association or by the Master Architectural Control Committee or by an aggrieved Owner. Without limiting any rights or powers of the Association or the Board set out in this Declaration, the Board may (but shall not be obligated to) remedy or attempt to remedy any violation of any of the provisions of this Declaration, and the Owner whose violation has been so remedied shall be personally liable to the Association for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) shall be added to the Assessment chargeable to the Owner's Lot(s). Any such amounts added to the Assessments chargeable against a Lot shall be secured by the liens reserved in the Declaration for Assessments and may be collected by any means provided in the Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). Each such Owner shall indemnify and hold harmless the Master Association, the Association, their officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Master Association's or the Association's acts or activities under this Section 2.23 (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Master Association's or the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Master Association's or the Association's gross negligence or wilful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence. ✓

2.24. Butane and Fuel Tanks. No butane or fuel tank or other structure or facility for the storage of combustible fuel (other than gas grills) shall be placed or maintained on the Property unless approved in writing by the Master Architectural Control Committee.

2.25. No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions contained in the Declaration. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

2.26. Swimming Pools. Any swimming pool constructed on a Lot must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies the criteria set out in Section 13-8-70 of the Land Development Code of the City of Austin and all other applicable governmental requirements. Nothing in this Section 2.26 is intended or shall be construed to limit or affect an Owner's obligation to comply with any applicable governmental regulations concerning swimming pool enclosure requirements.

2.27. No Tennis Courts. No tennis courts shall be constructed on any Lot. This Section 2.27 shall not prohibit the installation and construction of "sport courts" on any Lot so long as the design, location, and screening has been approved in advance by the Master Architectural Control Committee.

ARTICLE III

THE ASSOCIATION

3.01. Organization. The Association shall be a non-profit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Notwithstanding any provision in this Declaration to the contrary, Declarant shall be under no obligation to administer, finance, or cause the creation of the Association.

3.02. Membership.

- (a) Any person or entity, upon becoming an Owner, shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the ownership of the Lot that qualifies the Owner thereof for membership. Membership in the Association may not be severed from the ownership of a Lot, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to the said Lot.
- (b) Every Member shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to such Member's Lot, subject to the following restrictions and reservations:
 - (i) the right of the Association to suspend the Member's voting right and right to use the Common Area for any period during which any Assessment against such Member's Lot(s) remains past due, and for any period during which a Member is in violation of the Association Restrictions;
 - (ii) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility on such conditions as may be agreed to by the Members;
 - (iii) the right of the Association to borrow money for the purpose of improving or maintaining the Common Area and, in aid thereof, to mortgage said Common Area;
 - (iv) the right of the Association to make reasonable rules and regulations regarding the use of the Common Area and facilities located thereon by the Members and other persons entitled to such use; and
 - (v) the right of the Association to contract for services with third parties on such terms as the Association may determine to be in the best interest of the Association.

3.03. Voting Rights. The right to cast votes and the number of votes which may be cast for election of members of the Board and on all other matters to be voted on by the Members shall be calculated as follows:

- (a) The Owner of each Lot shall have one (1) vote for each lot so owned. In no event, except as set forth in Section 3.03(c) below, shall any Lot be entitled to more than one (1) vote; provided, however, that in the event of the resubdivision of any Lot into

two or more Lots, the number of votes to which such Lot is entitled shall be increased as necessary to retain the ratio of one (1) vote for each Lot resulting from such resubdivision. No resubdivision shall be effective, for purposes of the Association Restrictions, unless the same is approved by the appropriate governmental entity in accordance with the requirements of Chapter 212 of the Texas Local Government Code then in effect (or its successor statute), and duly recorded in the Real Property Records of Travis County, Texas. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, voting rights shall continue to be determined according to the number of original Lots contained in such consolidated Lot. Nothing herein shall be construed as authorization for any resubdivision or consolidation of Lots; such actions are subject to and require the prior approval of the Master Architectural Committee pursuant to other provisions of this Declaration.

- (b) In addition to the votes to which Developer is entitled by reason of Section 3.03(a), for every one (1) vote outstanding in favor of any other person or entity, Developer shall have four (4) additional votes until such time as Developer no longer owns any of the Lots.
- (c) The right of any Owner to vote may be suspended by the Association, acting through the Board, for any period during which any Assessment against such Owner's Lot(s) remains past due, for any period during which such Owner or such Owner's Lot(s) is in violation of the Association Restrictions.

3.04. 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) Association Property.
 - (1) Ownership and Control. To accept, own, operate, and maintain all Common Area, together with all improvements of whatever kind and for whatever purpose that may be located in said Common Area, and all sidewalks, pathways and private driveways and streets located within the Property.
 - (2) Repair and Maintenance. To maintain in good repair and condition the Common Area and all lands, Improvements, security devices, and other property owned by or leased to the Association, including, without limitation, all sidewalks, pathways, private streets, driveways and fences located within the Property.
 - (3) Taxes. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to the Common Area to the extent that such taxes and assessment are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (b) Insurance. To obtain and maintain in effect policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.
- (c) Rules and Bylaws. To make, establish, and promulgate and in its discretion, to amend or repeal and re-enact the Bylaws and such Association Rules not in conflict

with this Declaration, as it deems proper, covering any and all aspects of its functions, including the use and occupancy of Common Area. In the event of any conflict between the terms and provisions of the Articles, Bylaws, or any other Association Rules with this Declaration, the terms and provisions of this Declaration are intended to, and shall be controlling.

- (d) Records. To keep books and records of the Association's affairs and to make such books and records, together with current copies of the Association Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.
- (e) Other. To carry out and enforce all duties of the Association set forth in the Association Restrictions.

3.05. Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration, the Articles and the Bylaws. It shall further have the power to do and perform any and all acts that 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 and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

- (a) Assessments. To levy assessments as provided herein.
- (b) Right of Entry and Enforcement. To enter at any time in an emergency without notice, or in a non-emergency after twenty-four (24) hours written notice, without being liable to any Owner or any other person or entity, upon any Lot or into any Improvement thereon, or to enter at any time without notice onto any Common Area, for the purpose of enforcing the Association Restrictions or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Association Restrictions. The expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be deemed a special Assessment against such Lot, shall be a lien upon the Lot entered upon and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VI hereof for regular and special Assessments. 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 the Association Restrictions. The Association is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Association Restrictions; 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. Notwithstanding any provision herein to the contrary, the Association may not alter or demolish any Improvements on any Lot other than Common Area or Association Property in enforcing the Association Restrictions before judicial proceedings are instituted by the Association or the written consent of the Owner(s) of the affect Lot(s) has been obtained. Each such Owner shall indemnify and hold harmless the Association, its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Association's acts or activities under this Section 3.05(b) (including any cost, loss, damage, expense, liability, claim

or cause of action arising out of the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Association's gross negligence or wilful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.

- (c) Conveyances. To grant and convey to any person or entity any real property and/or other interest, 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) Roads, streets, walks, street lights, driveways, parking lots, trails, paths and fences;
 - (2) Lines, cables, wires, conduits, pipelines, or other devices for utility purposes;
 - (3) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; or
 - (4) Any similar improvements or facilities.

Nothing set forth above, however, shall be construed to permit the use or occupancy of any improvement or other facility in any way that would violate applicable use and occupancy restrictions imposed thereon by the Association Restrictions, or by any governmental authority.

- (d) Manager. To retain and pay for the services of a Manager to manage and operate the Association, including the Association Property, to the extent deemed advisable by the Board; provided, however, that the Board will have no power to discharge, limit the authority of or interfere with the exercise of functions by, a Manager for the Property appointed pursuant to the Master Declaration. 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 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) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.
- (f) Common Area Services. To pay for water, sewer, garbage removal, landscaping, gardening, and all other utilities or services to, and all maintenance of the Common Area, including, but not limited to, any recreational facilities; to maintain and repair any recreational facilities, easements, roads, roadways, rights-of-way, parkways, median strips, sidewalks, paths, trails, fences, ponds, lakes located within or upon the Common Area, and to maintain and repair other portions of the Common Area.
- (g) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or Assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to applicable law or under the terms of the Association Restrictions.

- (h) Construction on Association Property. To construct new Improvements on or additions to Association Property, subject to the approval of the Architectural Committee.
- (i) Contracts; Property Ownership. To enter into contracts with Declarant and with other persons or entities on such terms and provisions as the Board shall determine, and to acquire, own, and dispose of all manner of real and personal property, whether by grant, lease, gift, or otherwise.
- (j) Security Services. To provide for and construct and maintain facilities for the provision of security regarding the Property.

3.06. Indemnification. To the fullest extent permitted by applicable law, but without duplication of (and subject to) any rights or benefits arising under the Articles or Bylaws of the Association, 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 such person 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 such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court that such person: (i) acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interests of the Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe such 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 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 such 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 such person or incurred by such person in any such capacity, or arising out of the status of such person as such, whether or not the Association would have the power to indemnify such person against such liability hereunder or otherwise.

ARTICLE IV

INSURANCE AND CONDEMNATION

4.01. Insurance. Each Owner shall be required to maintain insurance on the Improvements located upon such Owner's Lot, providing fire and extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for Improvements similar in construction, location and use. Such insurance policies shall be for the full insurable value of the Improvements constructed upon each Lot, shall contain extended coverage and replacement costs endorsements, if reasonably available, and may also contain vandalism and malicious mischief coverage, special form endorsement, a stipulated amount clause and a determinable cash adjustment clause. The Association shall not be required to maintain insurance on the Improvements constructed upon any Lot. The Association may, however, obtain such insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board in its discretion may deem necessary. Insurance premiums for such policies shall be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association shall be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

4.02. **Restoration.** In the event of any fire or other casualty, the Owner shall promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement shall be commenced and completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures damaged or destroyed. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within thirty (30) days after the occurrence of such damage or destruction, and thereafter prosecute same to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) after the occurrence of such damage, the Master Association or the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Owner shall be personally liable to the Master Association or the Association for the cost of such work; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or clean-up, the rights of the Master Association or the Association under this sentence shall not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Master Association or the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1-1/2%) per month) shall be added to the Assessment chargeable to the Owner's Lot(s). Any such amounts added to the Assessments chargeable against a Lot shall be secured by the liens reserved in the Master Declaration or the Declaration for Assessments and may be collected by any means provided in the Master Declaration or Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). Each such Owner shall indemnify and hold harmless the Master Association, the Association and their officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Master Association's or the Association's acts or activities under this Section 4.02, except for such cost, loss, damage, expense, liability, claim or cost of action arising by reason of the Master Association's or the Association's gross negligence or willful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.

4.03. **Condemnation.** In the event that an action in eminent domain is brought to condemn a portion of the Common Area, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for a taking are determined, the damages or awards shall be divided uniformly with equal shares being allocated to each Lot, and thereafter such equal shares shall be paid to the account of each Owner and Mortgagee as their interests may appear, as disclosed to the Association in writing.

4.04. **Mechanic's and Materialmen's Lien.** Each Owner whose structure is repaired, restored, replaced or cleaned up by the Master Association or the Association pursuant to the rights granted under this Article IV, hereby grants to the Master Association or the Association, as the case may be, an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Master Association or the Association. Upon request by the Board or the Master Board and before the commencement of any reconstruction, repair, restoration or replacement, such Owner shall execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Master Association or the Association.

ARTICLE V

ARCHITECTURAL GUIDELINES

5.01. **Compliance with Design and Architectural Guidelines.** Any and all Improvements erected, placed, constructed, painted, altered, modified, or remodeled on any portion of the Property shall strictly comply with the requirements of the Declaration and the Architectural Guidelines, unless a variance is obtained pursuant to Section 5.03.

5.02. **Consolidated Plans and Specifications.** Notwithstanding any provision in this Declaration, the Master Declaration, or the Architectural Guidelines to the contrary, Developer may submit consolidated plans and specifications (the "Consolidated Plans and Specifications") for any Improvement to be located upon a Lot owned by the Developer to the Master Architectural Control Committee for final approval, without the necessity of submitting to a Pre-Design Meeting or Preliminary Design Review, as such terms are defined in the Architectural Guidelines, provided the Consolidated Plans and Specifications otherwise comply with the Declaration and the Architectural Guidelines (unless a variance is obtained pursuant to Section 5.03). Upon receipt by the Master Architectural Control Committee of the Consolidated Plans and Specifications, or any other submission required by the Architectural Guidelines, the Master Architectural Control Committee shall have fifteen (15) days in which to review such Consolidated Plans and Specifications or other submissions. The Consolidated Plans and Specifications or other submissions will be approved by the Master Architectural Control Committee if the Consolidated Plans and Specifications or other submissions comply with this Declaration and the Architectural Guidelines. In the event the Master Architectural Control Committee fails to issue its written response within fifteen (15) days of receipt of the Consolidated Plans and Specifications or other submissions the Master Architectural Control Committee's approval shall be deemed to have been granted without further action.

5.03. **Variances.** The Master Architectural Control Committee may grant variances from compliance with any of the provisions of this Declaration or the Architectural Guidelines or when, in the opinion of the Master Architectural Control Committee, in its sole and absolute discretion, such variance will not be adverse to the overall development plan for the Property, and such variance is justified due to visual or aesthetic considerations or unusual circumstances. All variances must be evidenced in writing and must be signed by at least a majority of the members of the Master Architectural Control Committee. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or the Architectural Guidelines shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive or amend any of the terms and provisions of this or Architectural Guidelines for any purpose except as to the particular property and in the particular instance 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 VI

COVENANT FOR ASSESSMENTS

6.01. **Assessments.** Each Owner of any Lot, by acceptance of a deed therefor or ownership-interest thereto, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant to pay to the Association: (i) Assessments or charges (as specified in Section 6.03 and 6.03A hereof); (ii) Special Assessments (as specified in Section 6.04 hereof); and (iii) late charges (as specified in Section 6.06 hereof). All of such Assessments shall be fixed, established, and collected from time to time as hereinafter provided. The Assessments provided for under this Article VI shall be in addition to the assessments levied pursuant to the Master Declaration. Notwithstanding any provision in this Declaration to the contrary, Assessments authorized by this Declaration shall not be assessed against any Lot within the Property until such time as the Developer conveys such Lot to a third party who intends, at any time and from time to time, to reside thereon.

6.02. 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, and the maintenance and improvement of the Property or any part thereof, including, without limitation, Common Area, and for carrying out the purposes of the Association as stated herein or as otherwise provided in the Articles or Bylaws.

6.03. Establishing Assessments. Each fiscal year, the Board shall estimate the expenses to be incurred by the Association during each year in performing its functions with respect to the Property, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and as between the Lots within the Property, the amount of the Assessments levied against each Lot shall be equal and uniform. The level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable by each Owner to the Association during the fiscal year in equal monthly, quarterly, semi-annual, annual, or other periodic installments, as the Board determines in its sole discretion, on or before the first day of the applicable period.

6.03A. Assessment for Security. Each Owner of a Lot may be assessed a Security Assessment by the Master Association or the Association for maintenance and operation of the security gates and related security facilities located on the Property. The amount of the Security Assessment shall be determined by the Board or Master Board and assessed, billed, collected, secured, administered and payable in the same manner as other assessments under this Article VI or the Master Declaration.

6.04. Special Assessments. In addition to the Assessments authorized by Section 6.03 hereof, the Association may, by vote of its Members as set out in Section 6.04A hereof, levy Special Assessments 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 any of the Common Area, or any portion of the Property owned by the Association, including the necessary fixtures and personal property related thereto, or for carrying out other purposes of or otherwise benefitting the Association.

6.04A. Vote Required for Special Assessment. Special Assessments levied against the Owner(s) of a particular Lot to cure violations of the Association Restrictions by such Owner(s) shall be deemed approved and authorized automatically upon the occurrence of the events giving rise to such curative Special Assessments. Special Assessments to be levied against all Owners as authorized by Section 6.04 hereof must be approved by a majority of the total votes of the membership of the Association determined in accordance with Section 3.03 of this Declaration, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all Members in accordance with the Bylaws.

6.05. Due Date of Assessments. The first Assessment shall become due and payable on each Lot in accordance with the periodic payment schedule established by the Board in accordance with Section 6.03. The due date of any Special Assessment hereunder shall be fixed in the resolution authorizing such Assessment or, if not so fixed or established by other terms of this Declaration, the first day of the first month following the imposition of such Special Assessment. Payments shall be considered delinquent if not paid within five (5) days after their due date.

6.06. Late Charges. If any Assessment is not paid before it is delinquent, the Owner responsible for the payment thereof may be required by the Board to pay a late charge at such rate the Board may designate from time to time, and such late charge (and any reasonable handling costs therefor) shall be a charge upon the Lots owned by the said Owner to which the Assessment relates, collectible in the same manner as herein provided for collection of Assessments, including foreclosure of the lien against such Lot(s); provided, however, such charge shall never exceed the maximum charge permitted under applicable law.

6.07. Owner's Personal Obligation for Payment of Assessments. The Assessments and late charges provided for herein shall be the personal and individual debt of each Owner. No diminution or abatement of Assessments shall be allowed for inconveniences arising from the making of repairs or improvements to the Common Area or any Lot, and no Owner may exempt himself from liability for such Assessments and charges through non-use of such Owner's Lot or otherwise.

6.08. Assessment Lien and Foreclosure. All sums assessed or charged in the manner provided in this Article but unpaid, together with all costs and expenses of collection, including reasonable attorney's fees, are secured by a continuing Assessment lien and shall constitute a charge on or against the Lot covered by such Assessment or charge, which shall bind such property in the hands of the Owner, and such Owner's heirs, devisees, and personal representatives, successors or assigns. The obligation to pay Assessments hereunder is part of the purchase price of each Lot when sold to an Owner. An express lien on each Lot is hereby granted and conveyed by Declarant to the Association to secure the payment thereof in each such instance, each such lien to be superior and paramount to any homestead or other exemption provided by law. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens, and all sums unpaid secured by a first-lien Mortgage securing sums borrowed for the purchase or improvements of the Lot in question, provided such Mortgage was recorded in the Real Property Records of Travis County, Texas before the delinquent Assessment was due. 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 must be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Real Property Records of Travis County, Texas. Each Owner, by accepting a deed to a Lot subject to this Declaration, shall be deemed conclusively to have granted a power of sale to the Association to secure and enforce at any time after such payment becomes delinquent by the non-judicial foreclosure of such lien on the defaulting Owner's Lot by the Association in like manner as a deed of trust or real property mortgage with power of sale under Tex. Prop. Code § 51.002. (For such purpose, William H. Armstrong, III of Travis County, Texas is hereby designated as trustee for the benefit of the Association, with the Association retaining the power to remove any trustee with or without cause and to appoint a successor trustee without the consent or joinder of any other person.) The Assessment liens and rights to foreclosure thereof shall be in addition to and not in substitution of any other rights and remedies the Association may have by law and under the Association Restrictions, including the rights of the Association to institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable trustee's and attorney's fees incurred. The Association shall have the power to bid (in cash or by credit against the amount secured by the lien) 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 Lot, the Association shall report to said Mortgagee any Assessments remaining unpaid for longer than thirty (30) days after the same are due. The lien hereunder shall not be affected by the sale or transfer of any Lot; except, however, that in the event of foreclosure of any first-lien Mortgage, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the first-lien Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Lot Owner from paying assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this paragraph, the Association shall upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release shall be signed by an officer of the Association.

6.09. **Exemptions.** Notwithstanding any provision herein to the contrary, all Common Area and Master Common Area shall be exempt from the payment of any Assessment levied by the Association, regular or special.

6.10. **Restrictive Covenant and Assessment for Section 10(a) Permit.** The assessments provided for in this Article VI above are in addition to the assessment which must be paid by each Owner pursuant to that certain Restrictive Covenant [10(a) Restriction; BARTON CREEK NORTH RIM] recorded in the Real Property Records of Travis County, Texas.

ARTICLE VII

MORTGAGE PROTECTION

7.01. **Notice to Association.** An Owner who mortgages such Owner's Lot and any residence or structure thereon shall notify the Board, giving the name and address of such Owner's Mortgagee. The Board may, at its election, maintain such information in a book entitled "Mortgagees of Owners."

7.02. **Examination of Books.** The Association shall permit Mortgagees to examine the books and records of the Association during normal business hours upon one business day's notice (not less than 24 hours).

7.03. **Taxes, Assessments and Charges.** All taxes, assessments and charges which may become liens prior to first lien mortgages under local law shall relate only to the individual Lots and not to the Property as a whole.

ARTICLE VIII

GENERAL PROVISIONS

8.01. **Duration.** This Declaration and the covenants, conditions, restrictions, easements, 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, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded in the Real Property Records of Travis County, Texas, and continuing through and including January 1, 2026, after which time this Declaration shall be automatically extended for successive periods of five (5) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by members of the Association, entitled to cast at least seventy percent (70%) of the total number of votes 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 such change shall be effective only upon the recording of a certified copy of such resolution in the Real Property Records of Travis County, Texas.

8.02. **Amendment.** This Declaration may be amended or terminated by the recording in the Real Property Records of Travis County, Texas, of an instrument setting forth the amendment executed and acknowledged by (i) the Declarant, acting alone; or (ii) the President and Secretary of the Association certifying that such amendment has been approved by either (a) the Declarant, or (b) Members of the Association entitled to cast at least seventy percent (70%) of the number of votes of the Association and the Declarant.

8.03. **Roadway, Utility and General Fence Easements.** Declarant reserves the right to locate, relocate, construct, erect, and maintain or cause to be located, constructed, erected, and maintained in and on any streets maintained by the Association or areas conveyed to the Association or reserved as Common Area or Master Common Area, roadways, sewer lines, water lines, cable television and other communication

lines, electrical lines and conduits, and other pipelines, conduits, wires, and any public utility function beneath or above the surface of the ground and fences common to the entire Property, with the right of access to the same at any time for the purposes of repair and maintenance.

8.04. 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 (3rd) day (other than a Saturday, 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 in writing to the Secretary of the Association for the purpose of service of notices, or to the residence located on the Lot owned by such person if no address has been given to the Secretary of the Association. Such address may be changed from time to time by notice in writing given by such person to the Secretary of the Association.

8.05. Interpretation. The provision of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Property, provided, however, that the provisions of this Declaration shall not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Property. This Declaration shall be construed and governed under the laws of the State of Texas.

8.06. Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements upon Lots within the Property, so long as such construction is pursuant to proper approval of the Master Architectural Control Committee.

8.07. Gender. Whenever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

8.08. Assignment of Declarant. Notwithstanding any provision 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 person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

8.09. Enforcement and Nonwaiver.

- (a) Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant, the Master Association and/or the Association shall have the right to enforce all of the provisions of this Declaration. The Association or Master Association may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement shall include both damages for and injunctive relief against the breach of any provision hereof. ✓
- (b) Every act or omission whereby any provision of the Association 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 a Lot (at such Owner's own expense), Declarant, the Master Association or the Association. ✓
- (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 Property 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 the Association Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Association Restrictions.

8.10. Construction. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof 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 affect that which is set forth in any of the paragraphs, sections, or articles hereof.

EXECUTED to be effective the 26th day of June, 1996.

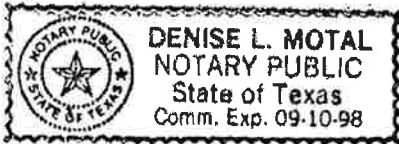
DECLARANT:

FM PROPERTIES OPERATING CO., a Delaware general partnership

By: *William H. Armstrong, III*
William H. Armstrong, III, Attorney-in-Fact

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 26th day of June, 1996, by William H. Armstrong, III, Attorney-in-Fact for FM Properties Operating Co., a Delaware general partnership, on behalf of said partnership.



(SEAL)

Denise L. Motal
Notary Public Signature

AFTER RECORDING, RETURN TO:

Robert D. Burton
Strasburger & Price, L.L.P.
2600 One American Center
600 Congress Avenue
Austin, Texas 78701-3288

EXHIBIT "A"

JUNE 20, 1996 JOB NO. 67000.901 FIELD NOTE NO. 67000-24
CLIENT NO. 60463 CLIENT NAME: FM PROPERTIES OPERATING CO.
PROJECT NAME: NORTH RIM 60.613 ACRES - C.O.A. GRID C-25

FIELD NOTES

A DESCRIPTION OF 60.613 ACRES OF LAND SITUATED IN THE JAMES M. TRIBBLE SURVEY NO. 418 AND THE DRURY H. MINOR SURVEY NO. 416, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN PROPERTY DESIGNATED AS PARCEL A CONVEYED TO FM PROPERTIES OPERATING CO. BY DEED RECORDED IN VOLUME 11706, PAGE 590 OF THE REAL PROPERTY RECORDS OF SAID COUNTY, SAID 60.613 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod found on the north right-of-way (R.O.W.) line of Barton Creek Boulevard, an eighty foot wide R.O.W. dedicated by plat recorded in Volume 85, Page 119A through 120B of the Plat Records of said county, being a southerly corner of that certain 17.516 acre tract of land designated as Parcel H, conveyed to FM Properties Operating Co. by said deed recorded in Volume 11706, Page 590 of the said Real Property Records;

THENCE along the said north R.O.W. line, the following seven (7) courses:

1. a distance of 285.35 feet along the arc of a curve to the left whose radius is 540.00 feet, central angle is $30^{\circ}16'37''$ and whose chord bears $S 65^{\circ}55'59'' W$, 282.04 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
2. $S 50^{\circ}46'16'' W$, 690.13 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set for a point of curvature,
3. a distance of 225.96 feet along the arc of a curve to the right whose radius is 738.95 feet, central angle is $17^{\circ}31'13''$ and whose chord bears $S 59^{\circ}31'53'' W$, 225.08 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set for a point of tangency;
4. $S 68^{\circ}17'30'' W$, 683.57 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set for a point of curvature;
5. a distance of 553.71 feet along the arc of a curve to the left whose radius is 540.00 feet, central angle is $58^{\circ}45'00''$ and whose chord bears $S 38^{\circ}55'00'' W$, 529.77 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set for a point of tangency;

6. S 09°32'30" W, 255.87 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set for a point of curvature, and
7. a distance of 128.69 feet along the arc of a curve to the left whose radius is 540.00 feet, central angle is 13°39'16" and whose chord bears S 02°42'51" W, 128.39 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set for the southeast corner of the herein described 60.613 acres;

THENCE, departing said north R.O.W. line, crossing said Parcel A, the following twenty four (24) courses:

1. N 84°46'34" W, 56.25 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
2. N 24°56'59" W, 421.98 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
3. N 77°16'08" W, 211.91 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found for a corner in the easterly line of Barton Creek ABC Midsection, a proposed subdivision of said Parcel A,
4. N 04°28'24" W, continuing to cross said Parcel A along the said easterly line, 211.54 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
5. N 64°14'21" W, 187.98 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
6. N 30°27'20" W, 290.02 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
7. N 48°06'17" E, 49.72 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
8. N 00°16'23" W, 476.78 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
9. N 44°52'20" W, 164.91 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
10. S 32°49'40" W, 84.51 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
11. S 64°00'55" W, 70.24 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
12. N 90°00'00" W, 67.82 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,

13. N 65°03'00" W, 61.90 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
14. N 39°06'22" W, 72.30 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
15. N 23°13'12" W, 189.38 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
16. N 18°39'56" W, 196.26 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
17. N 06°24'25" W, 267.63 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
18. N 00°23'49" W, 70.11 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" found,
19. N 22°13'12" E, departing said easterly line, 222.13 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
20. N 43°08'57" E, 159.38 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
21. N 65°13'50" E, 42.68 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
22. N 82°02'06" E, 60.84 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set,
23. S 87°30'29" E, 62.56 feet to a 5/8 inch iron rod with plastic cap marked "RUST E&I RPLS 4532" set, and
24. N 83°57'03" E, 295.09 feet to a point in the centerline of Barton Creek being on a southwest line of Barton Valley, a subdivision whose plat is recorded in Volume 69, Page 3 of the said Plat Records;

THENCE along the centerline of Barton Creek, being the southerly lines of said Barton Valley and Fortune Valley, a subdivision whose plat is recorded in Volume 69, Page 4 of the said Plat Records, the following eleven (11) courses:

1. S 04°09'48" E, 196.04 feet to a point,
2. S 30°29'48" E, 301.83 feet to a point,
3. S 28°42'48" E, 299.93 feet to a point,
4. S 31°22'48" E, 301.45 feet to a point,
5. S 32°53'48" E, 131.38 feet to a point,

- 6. S 47°07'48" E, 216.62 feet to a point,
- 7. S 67°47'48" E, 111.15 feet to a point,
- 8. S 82°24'48" E, 230.36 feet to a point,
- 9. N 73°37'12" E, 334.47 feet to a point,
- 10. N 59°06'11" E, 293.06 feet to a point, and
- 11. N 43°51'11" E, 179.79 feet to a point,

THENCE, departing the said centerline of Barton Creek, being a southerly line of said Fortunes Valley, crossing said Parcel A S 77°33'05" E, 224.47 feet pass a 60d nail found for the southwest corner of said 17.516 acre tract, in all, a distance of 347.63 feet along the southerly line of said 17.516 acre tract to a 60d nail found for a corner;

THENCE, continuing along southerly lines of said 17.516 acre tract, the following two (2) courses:

- 1. N 78°43'27" E, 591.63 feet to an 80d nail found, and
- 2. S 09°53'59" E, 55.67 feet to the POINT OF BEGINNING containing 60.613 acres of land more or less.

STATE OF TEXAS:

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS:

That I, William H. Ramsey, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL AT AUSTIN, Travis County, Texas, this the 20th day of June, 1996 A.D.


 Registered Professional Land Surveyor No. 4532
 Rust Lichtler/Jameson
 811 Barton Springs Road,
 Austin, Texas 78704-1164



FILED
96 JUN 27 PM 4:22

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

JUN 27 1996



Carole Williams
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY TEXAS

12717 2054

RECEIPT#: A00037299 TRANS#: A3359 DEPT: REGULAR RECORD \$61.00
CARRIER: BATH, FILE DATE: 6/27/96 TRANS DATE: 6/28/96
MAIL: CHECK 5250

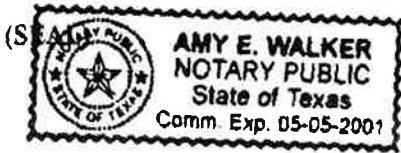
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 11th day of FEBRUARY 1998 by William H. Armstrong, III, Attorney in Fact for FM Properties Operating Co., a Delaware general partnership on behalf of said ~~corporation~~ partnership.

Amy E. Walker

Notary Public Signature



AFTER RECORDING, RETURN TO:

Robert D. Burton
Armbrust Brown & Davis, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701

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

FILED
98 FEB 11 PM 2:29
DANA DE BEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

FEB 11 1998



Dana De Beauvoir
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

23776.102099K

13118 0193

2

RECEIPT#: 80098435 TRANS#: 84681 DEPT: REGULAR RECORD \$11.00
CASHIER: KIMED FILE DATE: 2/11/98 TRANS DATE: 2/11/98
PAID BY: CHECK# 13533

AMENDMENT TO RESTRICTIVE COVENANT
[10(a) RESTRICTION; NORTH RIM - 15 LOTS]

ORIGINAL
FILED FOR RECORD

BARTON CREEK NORTH

This Amendment to Restrictive Covenant [10(a) Restriction; North Rim - 15 Lots] (the "Amendment") is made by STRATUS PROPERTIES OPERATING CO., L.P., a Delaware limited partnership ("Stratus") and is as follows:

RECITALS

A. FM Properties Operating Co., a Delaware general partnership ("FM"), recorded that certain Restrictive Covenant [10(a) Restriction; North Rim - 15 Lots], recorded in Volume 12717, Page 2055 of the Real Property Records of Travis County, Texas, as amended (the "10(a) Restriction"), which relates to certain real property therein described.

B. FM changed its corporate name to Stratus Properties Operating Co., L.P., a Delaware limited partnership (Stratus under this Amendment), and Stratus is the present holder of all rights, title, interests, powers, privileges, benefits and obligations as FM under the 10(a) Restriction.

C. Stratus hereby desires to amend the 10(a) Restriction as set forth hereinbelow.

NOW THEREFORE, Stratus hereby amends and modifies the 10(a) Restriction as follows:

1. Termination of 10(a) Restriction. The following is added as Section 4 to the 10(a) Restriction:

4. Termination. The terms and provisions contained herein shall terminate automatically and be of no further force or effect on January 1, 2008.

2. Amendment to 10(a) Restriction. The following is added as Section 5 to the 10(a) Restriction:

5. Amendment. This Restrictive Covenant can only be amended with the written consent of the Barton Creek North Property Owners Association, Inc. and North Rim Community, Inc.

3. Effect of Amendment. Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the 10(a) Restriction. Unless expressly amended by this Amendment, all other terms and provisions of the 10(a) Restriction remain in full force and effect as written.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

Executed to be effective this 17th day of July, 2007.

STRATUS:

STRATUS PROPERTIES OPERATING CO.,
L.P., a Delaware limited partnership

By: STRS L.L.C., a Delaware limited
liability company, General Partner

By: STRATUS PROPERTIES INC., a
Delaware corporation, Sole Member

By: _____
Name: John E. Baker
Title: Senior Vice President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on July 17, 2007, by John E. Baker, Senior Vice President of Stratus Properties Inc., a Delaware corporation, sole member of STRS L.L.C., a Delaware limited liability company, general partner of Stratus Properties Operating Co., L.P., a Delaware limited partnership, on behalf of said corporation, company and partnership.



Marlane F. Hawes
Notary Public Signature

After Recording Return To:

Robert D. Burton
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS
Dana DeBeauvoir
2007 Jul 18 01:22 PM 2007132486
BENAVIDESV \$20.00
DANA DEBEAUVOIR COUNTY CLERK
TRAVIS COUNTY TEXAS



5

**THIRD AMENDMENT TO DEVELOPMENT AREA
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BARTON CREEK NORTH RIM**

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

This Third Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim (the "Second Amendment") is made by North Rim Community, Inc., a Texas non-profit corporation (the "Association"), as duly authorized by a vote of its members, and is as follows:

RECITALS:

A. FM Properties Operating Co., a Delaware general partnership (the "Declarant"), recorded that certain Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim recorded in Volume 12717, Page 2028 et seq., of the Real Property Records of Travis County, Texas (the "Declaration") which related to certain real property (the "Property").

B. Pursuant to that one certain Notice of Applicability of Master Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, dated June 26, 1996, recorded in Volume 12717, Page 2021, of the Real Property Records of Travis County, Texas, the Property is subject to the Master Declaration of Covenants, Conditions and Restrictions of record in Volume 11324, Page 707 of the Real Property Records of Travis County, Texas (the "Master Declaration").

C. Declarant recorded that certain Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, dated July 18, 1997 recorded in Volume 12980, Page 2243 of the Real Property Records of Travis County, Texas (the "First Amendment").

D. Declarant recorded that certain document which was inadvertently incorrectly titled First Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, February 11, 1998 recorded in Volume 13118, Page 192 of the Real Property Records of Travis County, Texas (the "Second Amendment").

E. Pursuant to Section 8.02 of the Declaration, the Declaration may be amended by recording in the Real Property Records of Travis County, Texas an instrument executed and acknowledged by the President and Secretary of the Association certifying that such amendment has been approved by no less than seventy percent (70%) of the members of the Association entitled to vote.

F. The Members of the Association have expressed a desire to enact a regime whereby Owners of Lots numbered 9 through 18 (the "North Owners") of the Property can act independent of the Owners of Lots numbered 1 through 8 (the "South Owners"), so long as neither group detrimentally affects the rights of the other.

NOW, THEREFORE, the Association hereby declares and certified and hereby amends and modifies the Declaration, by and through the undersigned duly appointed and authorized officers, as follows:

1. The following is added to the end of Article VI, Section 6.03:

Notwithstanding the foregoing, nothing contained herein shall prohibit a Special Area Assessment, as defined in 6.04B below, from being approved or otherwise prohibit the North Owners or the South Owners from approving and levying a Special Area Assessment as described therein that is not equal and uniform throughout the entire Association. It is expressly recognized herein that North Owners and South Owners can approve Assessments for themselves respectively that will greatly differ from the other.

2. The following is added to the end of Article VI, Section 6.04A:

Notwithstanding the foregoing, nothing contained herein shall prohibit a Special Area Assessment, as defined in 6.04B below, from being approved by only a majority of the Special Area, as defined in 6.04B below. Special Area Assessments are expressly not required to be approved by a majority of Owners as defined herein.

3. The following section is inserted after Article VI, Section 6.04A:

6.04B. Special Area Assessments. "North Owners" are defined as the Owners of Lots numbered nine (9) through eighteen (18), as shown on the map or plat recorded in the Plat Records of Travis County, Texas. "South Owners" are defined as Owners of Lots numbered one (1) through eight (8), as shown on the map or plat recorded in the Plat Records of Travis County, Texas. The North Owners and the South Owners are each henceforth known as "Special Areas". In the event that the Board of Directors of the Association identifies an anticipated cost that reasonably benefits or improves the real property of only one Special Area ("Special Area Project"), it shall, upon a majority vote of the Board of Directors, submit the anticipated cost proposal to the Special Area Committee, which shall consist of one (1) Owner from the North Owners and one (1) owner of the South Owners, who shall be appointed for one (1) year terms by the Board of Directors. In the event no Special Area Committee members have been appointed, the Board of Directors shall serve as the same. The Special Area Committee, within thirty (30) days of being notified by the Board of Directors of such Special Area Project, shall prepare an accurate description of the same which

shall then be mailed by regular, first-class mail to the last known address of all Owners. The Board of Directors shall then call a Special Meeting of the Owners for the express purpose of approving the identified Special Area Project as a "Designated Special Area Project." If a majority of Owners authorized by this Declaration vote to approve the identified project as a Designated Special Area Project and thus designate the project as a "North Special Area Project" or a "South Special Area Project", then seventy percent (70%) of the total votes of the Owners in the Special Area defined herein and identified in the Designated Special Area Project designation shall be required to approve any "Special Area Assessment", defined as an assessment levied against only North Owners or South Owners. After such approval, a Special Area Assessment shall be added to the account ledger for each Owner in the Special Area to which the Special Area Assessment applies. After the approval of any Special Area Assessment, such assessment shall be valid, binding, and enforceable against the Owner assessed as any other assessment described or defined in Article VI herein. In no event shall any Special Area Project utilize funds from any reserve, working capital, or other account of the Association unless such funds have been deposited there after having been received from the Special Area Assessment associated with the specific Special Area Project for which it was assessed. It is the express intent of this Section that only funds raised through a Special Area Assessment be used for any Special Area Project. All votes taken pursuant to this Section shall be determined in accordance with Section 3.03 of this Declaration, voting in person or by proxy, at a meeting duly called for such purpose, written notice of which shall be given to all Members in accordance with the Bylaws, unless such vote affects only one Special Area, and then notice shall issue to only those Owners. To the extent this Section conflicts with Section 3.03 herein, this Section shall govern and control.

4. Any capitalized items used and not otherwise defined herein shall have the meanings set forth in the Declaration or Master Declaration. Unless expressly amended by this Second Amendment, all other terms and provisions of the Declaration remain in full force and effect as written.

Executed to be effective this 30 day of October, 2009.

By our signatures below, we, the president and secretary of the Association, acting in our official capacities for the Association, do hereby certify that this Third Amendment has been approved by Members of the Association entitled to cast at least seventy percent (70%) of the votes of the Association.

THE ASSOCIATION

North Rim Community, Inc.

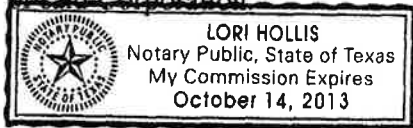
By: Dale J. Mischynski
Dale J. Mischynski
President

By: Isabella C. Cunningham
Isabella C. Cunningham
Secretary

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on October 30, 2009, by Dale J. Mischynski, president of and for North Rim Community, Inc., a Texas Nonprofit Corporation, on behalf of said Corporation.



Lori Hollis
Notary Public Signature

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on October 30, 2009, by Isabella C. Cunningham, secretary of and for North Rim Community, Inc., a Texas Nonprofit Corporation, on behalf of said Corporation.



Lori Hollis
Notary Public Signature

Return:

Slater Kennon & Jameson LLP
4807 Spicewood Springs Rd
Bldg 2, Ste 240
Austin, TX 78759

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2009 Nov 05 10:47 AM 2009185191

DAVISD \$32.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS



u/m

**FOURTH AMENDMENT TO DEVELOPMENT AREA
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BARTON CREEK NORTH RIM**

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

This Fourth Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim (the "Fourth Amendment") is made by North Rim Community, Inc., a Texas nonprofit corporation (the "Association"), as duly authorized by a vote of its members, and is as follows:

RECITALS:

A. FM Properties Operating Co., a Delaware general partnership (the "Declarant"), recorded that certain Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim recorded in Volume 12717, Page 2028 et seq., of the Real Property Records of Travis County, Texas (the "Declaration") which related to certain real property (the "Property").

B. Pursuant to that one certain Notice of Applicability of Master Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, dated June 26, 1996, recorded in Volume 12717, Page 2021, of the Real Property Records of Travis County, Texas, the Property is subject to the Master Declaration of Covenants, Conditions and Restrictions of record in Volume 11324, Page 707, of the Real Property Records of Travis County, Texas (the "Master Declaration").

C. Declarant recorded that certain Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, dated July 18, 1997, recorded in Volume 12980, Page 2243, of the Real Property Records of Travis County, Texas (the "First Amendment").

D. Declarant recorded that certain document which was inadvertently incorrectly titled First Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, dated February 11, 1998, recorded in Volume 13118, Page 192, of the Real Property Records of Travis County, Texas (the "Second Amendment").

E. The Association recorded that certain Third Amendment to Development Area Declaration of Covenants, Conditions and Restrictions for Barton Creek North Rim, dated October 30, 2009, recorded under Document No. 2009185191 of the Official Public Records of Travis County, Texas (the "Third Amendment").

F. Pursuant to Section 8.02 of the Declaration, the Declaration may be amended by recording in the Real Property Records of Travis County, Texas an instrument executed and acknowledged by the President and Secretary of the Association certifying that such amendment has been approved by no less than seventy percent (70%) of the Members of the Association entitled to vote.

G. The Members of the Association have expressed a desire to add vehicle restrictions to the Declaration.

NOW, THEREFORE, the Association hereby declares and certifies and hereby amends and modifies the Declaration, by and through the undersigned duly appointed and authorized officers, as follows:

1. The following new definition is added to Article I, Section 1.01:

“Driveway Access Easement” shall have the same meaning as that certain Driveway Access Easement as defined in the Restrictive Covenant and Driveway Access Easement recorded in Volume 12885, Pages 1-3, of the Official Public Records of Travis County, Texas.

2. The following new section is inserted after Article II, Section 2.27:

2.28. Vehicles.

(a) Parking.

- (i) Except when a driveway or motor court is temporarily blocked by workers or guests, or when visiting another resident, no vehicle owned or operated by a resident may be parked on the Driveway Access Easement at any time. No vehicle owned or operated by anyone may be parked on the Driveway Access Easement (a) overnight, (b) within fifteen feet (15') from a fire hydrant, or (c), with the exception of contractors engaged in home repair, renovation or remodeling projects, on a frequently recurring basis, multiple days per week, or for a continuous period of more than five (5) hours. An Owner who is planning a gathering such as a wedding, party or other event to which guests will be invited, shall provide all Owners with prior notice of the event. For such an event and only during the event, it is permissible for guests to park their vehicles on the Driveway Access Easement so long as the vehicles do not block or prevent safe passage of other vehicles.
- (ii) Parking of vehicles, motorcycles and bicycles in grass areas, dirt areas, flower beds or sidewalks is prohibited.

- (iii) No vehicle may be parked or unattended on the Driveway Access Easement in such a manner as to block or prevent the safe passage of other vehicles. No vehicle may be parked or unattended on the Driveway Access Easement in such a manner as to impede the passage of emergency vehicles (e.g., fire, EMS) or service vehicles (e.g., refuse trucks).
 - (iv) No inoperable vehicle may be stored on the Property except in a closed garage. Vehicles must be serviced or repaired off the Property. Vehicles which have expired license plates, expired inspection stickers, flat tires or which are obviously inoperable due to missing parts are prohibited and must be removed from the Property at the owner's expense. Such vehicles must be removed from the property immediately upon notice from any Board member or management representative.
 - (v) No trailers, recreational vehicles, golf carts, commercial vehicles, or boats or other water craft may be parked on the Property at any time, except in a closed garage.
 - (vi) All vehicles which are parked in an Owner's driveway shall be parked so the front of the vehicle faces the residence. No more than four (4) vehicles may be parked in an Owner's driveway at any one time. Owners are encouraged to utilize garage spaces for parking of vehicles to minimize the number of vehicles in the driveway.
- (b) Towing Illegally Parked Vehicles. Vehicles parked in violation of these rules may be removed and stored without notice or permission of the vehicle's owner or operator or Owner. Notice and removal shall be in accordance with Chapter 684 of the Texas Transportation Code (formerly article 6701 g-2). The Owner is liable for all costs of towing illegally parked vehicles of the Owner, his family, guests or tenants.
- (c) Anti-theft Alarms. Owners and occupants who have vehicles with anti-theft systems shall not allow the alarms or horns to go off and disturb other persons in the Property for more than three (3) minutes. Any vehicle violating the three (3)-minute rule shall be deemed to be illegally parked and subject to immediate towing by the Association under the Texas towing statutes, without prior notice to the vehicle owner or operator. The Association may, without liability to the owner or operator of the vehicle, cut or disconnect any power source to such alarm or horn to avoid having to tow the vehicle.

- (d) Speed Limit. Because of narrow streets and limited sight distances, the speed limit for operation of all motor vehicles in North Rim is 15 mph.
- (e) Gate Access. Anyone who wishes to have gates left open for an open house, party or other gathering should contact the Association's Management Company. Requests must be made Monday through Friday between 9:00 a.m. and 4:00 p.m. at least two (2) business days, but not more than seven (7) business days, before the event. For example, for a party on Saturday, Sunday or Monday, requests must be made no later than 4:00 p.m. the previous Thursday.

In the event a 24-hour gate code is compromised by posting outside the gate, including at the gate call box (a rule violation which will result in a \$50.00 fine) or by providing it to workers or other third parties, the code will be canceled or, at the option of the owner, converted to a limited access daytime worker code.

The cost of gate programming for special events, for new codes, when required because a code is compromised, or for new residents at the time of purchase or lease will be \$25.00 per occasion. This charge is in addition to the fine for posting outside the gate.

- 3. Any capitalized items used and not otherwise defined herein shall have the meanings set forth in the Declaration or Master Declaration. Unless expressly amended by this Fourth Amendment, all other terms and provisions of the Declaration remain in full force and effect as written.

Executed to be effective upon recording in the Official Public Records of Travis County, Texas.

By our signatures below, we, the President and Secretary of the Association, acting in our official capacities for the Association, do hereby certify that this Fourth Amendment has been approved by a vote of sixty-seven percent (67%) of the total votes allocated to Owners in the Association in accordance with Section 209.0041, Texas Property Code, and has been approved by Members of the Association entitled to cast at least seventy percent (70%) of the votes of the Association in accordance with Section 8.02 of the Declaration. No governmental approval is required.

[Signatures to follow.]

THE ASSOCIATION:

North Rim Community, Inc.

By: Dale J. Misczynski
Name: Dale J. Misczynski
President

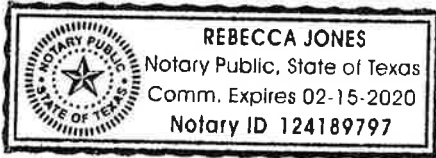
By: Isabella Cunningham
Name: Isabella Cunningham
Secretary

ACKNOWLEDGMENTS

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 9, 2016, by Dale J. Misczynski, President of and for North Rim Community, Inc., a Texas nonprofit corporation, on behalf of said corporation.

(SEAL)

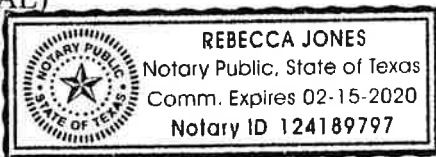


Rebecca Jones
Notary Public Signature

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on May 9, 2016, by Isabella Cunningham, Secretary of and for North Rim Community, Inc., a Texas nonprofit corporation, on behalf of said corporation.

(SEAL)



Rebecca Jones
Notary Public Signature

AFTER RECORDING RETURN TO:

Bill Flickinger
Willatt & Flickinger, PLLC
2001 North Lamar
Austin, Texas 78705

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

May 10, 2016 02:50 PM

2016072360

MORALES: \$46.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Dana DeBeauvoir

Dana DeBeauvoir, County Clerk
Travis County, Texas

Jun 27, 2019 04:00 PM Fee: \$66.00

2019095027

Electronically Recorded

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intentionally added for
electronic file stamp.

10, 2016, recorded under Document No. 2016072360 of the Official Public Records of Travis County, Texas (the "Fourth Amendment").

G. Pursuant to Article VIII, Section 8.02 of the Declaration, the Declaration may be amended by recording in the Real Property Records of Travis County, Texas an instrument executed and acknowledged by the President and Secretary of the Association certifying that such amendment has been approved by the Members of the Association entitled to cast at least seventy percent (70%) of the number of votes of the Association; and, superseding that, pursuant to Section 209.0041(h) of the Texas Property Code, the Declaration may be amended by a vote of sixty-seven percent (67%) of the total votes allocated to property owners entitled to vote on the amendment of the declaration.

H. The Members of the Association have approved the below amendments to the Declaration.

NOW, THEREFORE, the Association hereby declares and certifies and hereby amends and modifies the Declaration, by and through the undersigned duly appointed and authorized officers, as follows:

1. The definition of "Common Area" in Article I, Section 1.01 is hereby amended to read as follows:

"Common Area" shall mean and refer to those areas within the Property which have been or may in the future be conveyed to, leased by, or granted easements over to the Association or for the benefit of the Owners in common, as determined by the Board in its sole discretion, including, without limitation, all private streets and easements for landscape, drainage, irrigation, fencing, walls, entry gates, or related purposes. Common Area shall include the Driveway Access Easement. The Common Area may be owned by the Association, but held for the use and enjoyment of the Owners.

2. Article III, Section 3.04(c) of the Declaration shall be deleted in its entirety and replaced with the following language:

(c) Rules and Bylaws. To make, establish, and promulgate and in its discretion, to amend or repeal and re-enact the Bylaws and such Association Rules not in conflict with this Declaration, as it deems proper, covering nay and all aspects of its functions, including, without limitation, the use and occupancy of the Property. In the event of any conflict between the terms and provisions of the Articles, Bylaws, or Association Rules with this Declaration, the terms and provisions of this Declaration are intended to, and shall be controlling.

3. **Article II, Section 2.09 of the Declaration shall be amended to read as follows:**

2.09 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property 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 such containers shall be kept within enclosed structures or otherwise appropriately screened from view from any portion of the Property, other than the Lot on which such containers are properly located, except for the period from 6:00 p.m. on the day before trash pick-up day to 8:00 p.m. on the day of trash pick-up.

4. **Article II, Section 2.18 of the Declaration shall be deleted in its entirety and replaced with the following language:**

2.18 Unsightly Articles. No article deemed to be unsightly by the Master Architectural Control Committee or the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Service areas, storage areas, compost piles, and facilities for hanging, drying, or airing clothing or household fabrics (including, without limitation, clothes lines) shall be screened from view from any portion of the Property other than the Lot on which such areas, piles, and facilities are properly located. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scraps, refuse, or trash of any kind shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view from any portion of the Property other than the Lot on which such materials are properly located.

5. **Article II, Section 2.20 "Travel Trailers and Recreational Vehicles," of the Declaration shall be deleted in its entirety.**

6. **Article II, Section 2.28 of the Declaration as added by the FOURTH AMENDMENT TO DEVELOPMENT AREA DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BARTON CREEK NORTH RIM is hereby deleted in its entirety and replaced with the following Article II, Section 2.28:**

2.28. Vehicles.

(a) **Permitted and Prohibited Vehicles.** All vehicles brought onto or kept within the Property must be operable, not dilapidated, and must display a current license tag and inspection sticker. **“Permitted Vehicles”** shall include passenger automobiles, sport utility vehicles, motorcycles, motorized bikes, electric scooters, passenger trucks, and small vans. **“Prohibited Vehicles”** shall include, without limitation, recreational vehicles, travel trailers, trailers, graders, commercial vehicles, aircraft, pickup trucks larger than $\frac{3}{4}$ ton, boats, golf carts, panel trucks, flat trucks, vans capable of seating more than ten passengers, tow trucks, tractors, semi-trailers, campers, wagons, buses, machinery, garden maintenance equipment, inoperable, dilapidated, and unlicensed vehicles.

(b) **Temporary Parking of Prohibited Vehicles.** Prohibited Vehicles may not be parked on the Property where they are visible from any other portion of the Property at any time except for the following:

(i) Recreational Vehicles, campers, or travel trailers may be parked on the Driveway Access Easement in front of the vehicle owner’s Lot (but not in front of any other Lot) or on the vehicle owner’s Lot for up to a total of two (2) hours during any thirty (30) day period.

(ii) Prohibited Vehicles belonging to service providers may be parked on the Driveway Access Easement in front of the Lot being serviced (but not in front of any other Lot) or on a Lot for so long as the service provider is actively performing services on a Lot, but in no event, other than to allow emergency repairs to be made on a Lot, between the hours of 7:00 p.m. and 7:00 a.m., on Sundays, or otherwise in violation of the Declaration.

(c) **Parking on Lots.**

(i) Garages may not be used for storage (other than ordinary household storage incidental to residential use) or living purposes, and must be maintained in a manner to accommodate the number of vehicles for which they were designed. Owners are encouraged to utilize garage parking spaces for parking of vehicles to minimize the number of vehicles in the driveway. Garage doors

shall be kept closed other than when opened for vehicular ingress and egress.

(ii) Only Permitted Vehicles may be parked on Lots except that Prohibited Vehicles may be parked within garages so as to be entirely concealed from view when the door is closed.

(iii) Vehicles may be parked only on driveways, and may not be parked on grass, dirt, landscaped areas, walkways, or sidewalks.

(iv) All vehicles parked in driveways shall be parked "head in" so that the front of the vehicle faces the residence.

(v) During the hours of 8:00 a.m. to 10:00 p.m. no more than three (3) vehicles may be parked in an Owner's driveway at any given time. During the hours of 10:00 p.m. to 8:00 a.m. no more than one (1) vehicle may be parked in an Owner's driveway at any given time.

(d) Parking on Driveway Access Easement.

(i) General Restrictions. Except as otherwise specifically allowed by the Declaration, no vehicle may be parked on the Driveway Access Easement:

- (1) between the hours of 10:00 p.m. and 8:00 a.m.;
- (2) within fifteen feet (15') of a fire hydrant;
- (3) in a manner which blocks or prevents the safe passage of other vehicles, including, without limitation, emergency vehicles or trash trucks;
- (4) where the curb has been painted red at the direction of the Board, which shall have the absolute right and discretion to determine which curbs in the Driveway Access Easement shall be painted red to indicate no parking at any time; or
- (5) for more than two (2) hours per twenty-four (24) hour period.

(ii) Owners. Owners may not park their vehicles on the Driveway Access Easement at any time except when the Owner's driveway is temporarily blocked by guests or invitees, or when visiting another resident within the Property.

(iii) Guests and Invitees.

(1) Service Providers. Up to two (2) vehicles per Lot belonging to service providers actively engaged in home repair, renovation, or remodeling projects may be parked on the Driveway Access Easement for so long as the repair, renovation, or remodeling reasonably continues.

(2) Large Event Guests. An Owner who is planning a gathering such as a wedding, party, or other event to which guests will be invited, shall provide all Owners with prior notice of the event. Notwithstanding the preceding restrictions on parking on the Driveway Access Easement, for such an event and only during the event, it is permissible for guests to park their vehicles on the Driveway Access Easement in a manner that does not block or prevent safe passage of other vehicles.

(e) No Parking Areas. Owners, Occupants and/or their guests are not permitted to park within fifteen feet (15') of fire hydrants, or in front of postal boxes, entrances to driveways, or in any manner that blocks the flow of traffic or interferes with another Owner's access to his or her Lot.

(f) Repairs. No repair, restoration, or maintenance work on vehicles shall be carried out within the Property except for emergency repairs necessary in order to facilitate moving a vehicle off of the Property, or repair or maintenance work done entirely within an enclosed garage which does not otherwise create a nuisance or hazard by noise, odors, or the use of hazardous materials.

(g) Anti-Theft Alarms. Owners and occupants who have vehicles with anti-theft systems shall not allow the alarms or horns

to go off and disturb other persons in the Property for more than three (3) minutes. Any vehicle violating the three (3)-minute rule shall be deemed to be illegally parked and subject to immediate towing by the Association under the Texas towing statutes, without prior notice to the vehicle owner or operator. The Association may, without liability to the owner or operator of the vehicle, cut or disconnect any power source to such alarm or horn to avoid having to tow the vehicle.

(h) Speed Limit. Because of narrow streets and limited sight distances, the speed limit for operation of all vehicles on the Property is 15 MPH.

(i) Gate Access. An Owner who wishes to have gates left open for an open house, party, or other gathering should contact the Association's management company to make a request. Requests must be made Monday through Friday between 9:00 a.m. and 4:00 p.m., at least two (2) business days, but not more than seven (7) business days, before the event. For example, for a party on Saturday, Sunday, or Monday, requests must be made no later than 4:00 p.m. the previous Thursday.

Owners shall not provide gate access codes by posting them or providing them to invitees except as provided herein. Limited access daytime invitee codes and 24-hour housekeeper and employee codes are available to be programmed at an Owner's request.

(j) Enforcement.

(i) Towing Illegally Parked Vehicles. Any Vehicle parked in the Driveway Access Easement in violation of this Declaration may be removed and stored without notice or permission of the vehicle's owner or operator or Owner. Notice and removal shall be in accordance with Chapter 2308 of the Texas Occupations Code. The Owner shall be liable for all costs of towing illegally parked vehicles of the Owner, his family, guests, tenants and contractors.

7. **Article VIII, Section 8.09 is hereby amended in its entirety to read:**

8.09. Enforcement and Nonwaiver.

(a) Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant, the Master Association and/or the Association shall have the right to enforce all of the provisions of this Declaration. The Association or Master Association may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement shall include both damages for and injunctive relief against the breach of any provision hereof.

(b) The Board may levy reasonable fines, as an Assessment, against an Owner and the Owner's Lot if the Owner or occupant, or their respective family members, guests, employees, agents, invitees, or contractors violate a provision of the Bylaws, Association Rules, or Declaration. Fines may be levied for each act of violation or for each day a violation continues, and do not constitute a waiver or discharge of the Owner's obligations under the Bylaws, Association Rules, or Declaration.

In addition to fines, the Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area or any facilities located thereon by the Owner or occupant, or their respective family members, guests, employees, agents, invitees, or contractors. The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot is, together with interest at the rate of 1.5% per month or the highest rate permitted by law, whichever is less, and all costs of collection, including attorneys' fees, secured by the lien granted to the Association pursuant to Article VI, Section 6.08 of this Declaration. The fine and/or damage charge shall be considered an Assessment and shall be enforced in accordance with the terms and provisions governing the enforcement of Assessments pursuant to Article VI of the Declaration. Unless otherwise specified in the Declaration, fines shall be \$100 for the first violation, \$200 for the second violation, \$300 for the third violation and \$500 for the fourth and all subsequent violations occurring within the same six-month period following notice to the Owner of such violation. Prior to assessing a fine, notice shall be sent to the Owner in compliance with the applicable provisions of Chapter 209 of the Texas Property Code in effect as of the date of the violation.

(c) Every act or omission whereby any provision of the Association 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 a Lot (at such Owner's own expense), Declarant, the Master Association or the Association.

(d) Any violation of any federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.

(e) The failure to enforce any provision of the Association Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Association Restrictions.

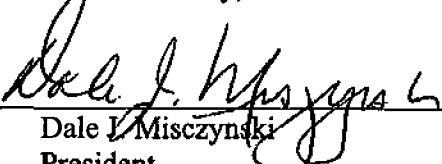
Any capitalized items used and not otherwise defined herein shall have the meanings set forth in the Declaration or Master Declaration. Unless expressly amended by this Fifth Amendment, all other terms and provisions of the Declaration remain in full force and effect as written.

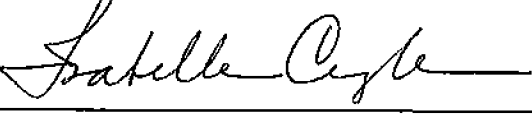
Executed to be effective upon recording in the Official Public Records of Travis County, Texas.

By our signatures below, we, the President and Secretary of the Association, acting in our official capacities for the Association, do hereby certify that this Fifth Amendment has been approved by a vote of sixty-seven percent (67%) of the total votes allocated to Owners in the Association in accordance with Section 209.0041 of the Texas Property Code, and has been approved by Members of the Association entitled to cast at least seventy percent (70%) of the votes of the Association in accordance with Section 8.02 of the Declaration. No governmental approval is required.

THE ASSOCIATION:

North Rim Community, Inc.

By: 
Dale J. Mischynski
President

By: 
Isabella Cunningham

