

**DECLARATION
OF COVENANTS AND EASEMENTS
FOR
THE HILLS OF BEAR CREEK-PHASE THREE**

We certify that this is a true and correct copy of the original hereof, as filed for record.

Alamo Title Company

By: Mary Stinson

This DECLARATION OF COVENANTS AND EASEMENTS for THE HILLS OF BEAR CREEK-PHASE Two (THE "Declaration") is made effective as of the 28th day of January, 1998 by Choctaw Properties L.L.C. ("Declarant")

BACKGROUND

Declarant is the owner of certain real property in Parker County, Texas, more particularly described on Exhibit "A", attached.

Declarant intends to develop on land, including, but not limited to, the real property described above, a development to be known as "THE HILLS OF BEAR CREEK-PHASE THREE, (the "Development"). Declarant intends by this Declaration to: (1) impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Development; (2) provide a flexible and reasonable procedure for the overall development of the Development; (3) establish a method for the administration, maintenance, preservation, use and enjoyment of the property that is now and hereafter subject to this Declaration and certain other properties described in this Declaration.

Declarant has caused the Association to be formed to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined).

Declarant hereby declares that all of the real property above shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the value. Easements set forth herein shall run with the Property, and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall, subject to the limitations herein provided, inure the benefit of each Owner, his heirs, grantees, distributees, legal representatives, successors, and assigns, and to the Association.

**ARTICLE I
DEFINITIONS**

The following words, when used in this Declaration, shall have the following meanings:

1.01 Association "Association" means THE HILLS OF BEAR CREEK-PHASE THREE HOMEOWNERS' ASSOCIATION, its successors and assigns.

1.02 Board "Board" means the Association Board of Directors.

1.03 Bylaws "Bylaws" means the Association Bylaws.

1.04 Commencement Date "Commencement Date" means the date on which a Tract (as hereinafter defined) is transferred to any person other than Declarant.

1.05 Common Property "Common Property" means all real property and improvements owned by the Association or over which the Association has been granted permanent easements.

Such Common Property shall be held for the common use and enjoyment of the Owners as set out in Article II.

1.06 Declarant "Declarant" means Choctaw Properties L.L.C., its successors and assigns, provided any such successors or assigns shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "A", or the real property which is intended to become part of the Development, and provided further, in the instrument of conveyance to any such successor or assign, such successor or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "A", attached, and which is now or hereafter subjected to this Declaration, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant:" hereunder at any one time.

1.07 Development-Wide Standard "Development-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined by the Board pursuant to the Declaration and Bylaws. Any such determination shall be consistent with the Development-Wide Standard originally established by Declarant.

1.08 Member "Member" means any member of the Association.

1.09 Membership "Membership" means the collective total of all Association Members.

1.10 Occupant "Occupant" means any person occupying all or any portion of a Residence located within the Development for any period of time, regardless of whether such Person is a tenant, guest, or the Owner of the Residence.

1.11 Owner "Owner" means the record owner (including Declarant), whether one or more persons or entities, of fee simple title to any Tract. If fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Tract in fee simple if such loan were paid in full shall be considered the Owner.

1.12 Property "Property" means that certain real property described on Exhibit "A" together with any additional real property as may be subjected to this Declaration pursuant to Article X.

1.13 Residence "Residence" means a Structure situated upon a Tract intended for independent use and occupancy as a residence for a single family. A Structure situated on a Tract shall not become or be used as a Residence until all required permits and certificates have been issued for such Residence. Each Owner shall notify the Association immediately upon issuance of any such permits or certificates.

1.14 Restrictions "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by the Declarant attached to this Declaration.

1.15 Structure "Structure" means:

(a) any excavation, grading, fill, ditch, diversion, drain site preparation work or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Tract, or which affects or alters the flow of waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Tract; and

1.16 Tract. "Tract" means any parcel of land of five or more acres conveyed by Declarant to an Owner. No portion of the Common Property shall ever be a Tract except as provided in Section 2.01(c).

ARTICLE II COMMON PROPERTY

2.01 Conveyance of Common Property.

(a) Declarant shall construct and pave a 22' wide common road conforming with county roads standards in effect as of the date of this Declaration, and shall convey such road to the Association for the use and enjoyment of the Owners ("Common Property").

(b) Subject to Section 2.01 (c), it is contemplated that Declarant will convey or grant easements upon other Common Property to the Association for ingress and egress, for recreation and equestrian use and for landscaping and security. Declarant may at Declarant's sole discretion, increase the Common Property by extending the road and equestrian and recreation easement to accommodate tracts annexed in accordance with Article X, provided, however, no road shall be conveyed to the Association unless such road complies with standards then in effect for county roads.

(c) Except as required or allowed in Sections 2.01(a) and (b), the Common Property may not otherwise be increased or decreased without approval by 75% of the votes of the Members who are present, in person or by proxy, at a duly held meeting of the Members.

(d) Notwithstanding any presumption to the contrary, (i) except as set forth in Section 2.01 (a) and (b), Declarant may also, at Declarant's sole discretion, change (including increase or decrease) the Common Property contemplated to be conveyed to the Association of its use at any time prior to conveyance of such Common Property to the Association, and (ii) fee title to, and all rights in any portion of the Property owned by Declarant and designated as Common Property or designated for public use shall be reserved to Declarant until such time as the same shall be conveyed by Declarant.

2.02 Enjoyment. Every Owner shall have a right and easement to use the Common Property, which right shall be appurtenant to and shall pass with the title to every Tract on transfer, provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by any other person. The Association may permit persons who are not Owners to use part of all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish.

2.03 Association Rights, Powers and Duties. The rights and privileges conferred in Section 2.02 shall be subject to the right, power and obligation of the Association, acting through the Board, to:

(a) regulate the use, operation and maintenance of the Common Property.

(b) grant easements or rights of way over Common Property.

(c) suspend, pursuant to Section 3.05, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02.

(d) sell, lease or otherwise convey all or any part of its properties and interests therein;

(e) contract on behalf of all Tracts for services.

(f) maintain, repair, and replace all common roads, gates, fences, mailboxes and other Common Property including any appurtenant improvements located along common roads or the Common Property.

(g) pay utility charges and all insurance premiums attributable to or connected with the Common Property.

(h) all maintenance shall be consistent with the Development-Wise Standard.

If approved by 75% of the votes of the Members who are present, in person or by proxy, at a duly held meeting of Members, the Association shall have the right, but not the obligation, to maintain and provide services for other property not owned by the Association, whether located within or without the boundaries of the Development, and to enter into easements and covenants to share cost agreements regarding such property where the Board has determined that this would benefit Owners.

2.04 Delegation of Use Any Owner may delegate to his immediate family or his tenants who reside on a Tract his right to use the Common Property.

ARTICLE III
THE HILLS OF BEAR CREEK PHASE THREE HOMEOWNERS' ASSOCIATION

3.01 Association Purposes, Powers and Duties The Association shall be formed as a group for the sole purpose of performing certain functions for the common good and general welfare of the Members. The Association shall have no power or duty to perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the Members. To the extent, and only to the extent, necessary to carry out such purpose, the Association (a) shall have all of the powers and privileges and to perform all Association duties and obligations as set forth in this Declaration, Notwithstanding any provision herein to the contract, for so long as Declarant has the Right of Appointment, the Association shall not have the power to voluntarily incur debt other than trade accounts or the like with approval by 75% of the votes of the Members who are present, in person or by proxy, at a duly held meeting of the Members.

3.02 Association Membership. Every Owner shall automatically be a Member of the Association. Such membership shall terminate only as provided in this Declaration. For voting purposes, there shall be two (2) classes of Members as set forth in Section 3.03.

3.03 Voting Rights

(a) Each Owner, with the exception of Declarant, shall be a Class A Member. Each Class A Member shall be entitled to one (1) Class A Vote per Tract. Where an Owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such

individual as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the Association.

(b) Declarant shall be the sole Class B Member. In no event shall the Class B Member have more or less than the total number of Class A votes held by Owners other than Declarant plus one (1). The Class B Membership shall cease and be converted to Class A Membership at such time as Declarant no longer retains the right to appoint and remove Board members and Association officers pursuant to Section 3.08.

(c) The Development will consist of Tracts to be developed in phases containing unequal numbers of Tracts. A phase may be platted of record in the Office of the Clerk of Parker County, Texas, in accordance with Article X of this Declaration. The Declarant shall notify the Association in writing when the final phase of the Development has been so platted of record. By acceptance of a deed conveying a Tract, each Owner acknowledges that, upon the filing by Declarant of the subdivision plats covering such phases, the total votes outstanding in the Association will automatically increase based upon the number of Tracts in the phases added and in accordance with the formula set forth in subsection (b) of this Section 3.02. In no event shall Class B Membership cease and be converted to Class A Membership (as provided in subsection (b) of this Section 3.03) until after the Association receives the written notice provided for in the preceding sentence, provided, however, nothing contained herein shall obligate the Declarant to develop any proposed phase of the Development unless such phase is subject to this Declaration.

3.04 Board of Directors Association affairs shall be managed by a Board of Directors. The number of Directors and the election of Directors shall be set forth in the Bylaws.

3.05 Suspension of Membership Rights The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02, by reason of having failed to take reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards (as hereinafter defined) of the RRC (as hereinafter defined) within thirty (30) days after having received notice of the same as required herein.

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to Article IV: or

(c) shall be in violation of Association rules and regulations relating to the use, operation and maintenance of Common Property.

Such suspension shall be for the balance of the period in which such Member or person remains in violation, breach or default, as set forth above, except that in the case of a violation described in subsection (c) of Section 3.05, the suspension may be for a period not to exceed 60 days after the cure or termination of such violation. No suspension shall prevent an Owner's ingress to egress from his Tract.

3.06 Termination of Membership Membership shall only cease when a person ceases to be an Owner.

3.07 Voting Procedures The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration and the Association Articles of Incorporation and the Bylaws, as each shall from time to time be in force and effect.

3.08 Appointment of Board

(a) Notwithstanding any provision to the contrary in this Declaration, the Association's Articles of Incorporation or Bylaws, Declarant retains the right to appoint and remove any member of the Board of the Association and any Association officer ("Right of Appointment") until 15 days after the first of the following events shall occur: (i) the expiration of 15 years after the date of the recording of this Declaration (ii) the date upon which all of the Tracts intended by Declarant to be a part of the Development have been conveyed by Declarant to Owners other than a person or persons constituting Declarant; (iii) the surrender by Declarant of its authority to appoint and remove directors and officers by recorded amendment to this Declaration; or (iv) Declarant's failure to timely pay any deficit obligation to the Association required by Section 4.08, and (A) such default is not cured within 10 days of notice of such default, or (B) such default causes the Association to incur any material financial loss, and the Association is not made whole for such loss within 10 days of notice of such loss. Each Owner, by acceptance of a deed to or other conveyance of a Tract, vests in Declarant such Right of Appointment as provided in this Section.

(b) Upon the expiration of the period of Declarant's Right of Appointment, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Tracts. A special meeting of the Association shall be called at such time. At such meeting the Owners shall elect a Board of Directors. Declarant shall thereupon deliver to Board all Association books, accounts, and records Declarant then possesses.

ARTICLE IV
ASSESSMENTS

4.01 Covenant for Assessments and Creation of Lien and Personal Obligation Each Owner, jointly and severally, for himself his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Tract, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to timely pay to the Association all assessments (annual or special) which may or shall be levied by the Association pursuant to this Declaration against all Tracts owned by him.

(b) that there is hereby created a continuing charge and lien upon all Tracts owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon as provided in Section 4.09 hereof and costs of collection including reasonable attorneys' fees.

(c) that such continuing charge and lien on such Tract in the hands of the Owner, the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Tracts, whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed of trust or other instrument, except (i) such liens for taxes or other public charges as are made superior by law, and (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Tract or Tracts (together with any and all Structures which may from time to time be placed or located thereon), and (2) to finance the construction repair or alteration of Structures. A person or entity acquiring a lien or encumbrance on a Tract after this Declaration is recorded shall acknowledge, by the act of filing an instrument creating such lien, that such lien or encumbrance is inferior to the continuing lien for the charge and lien provided for herein, whether or not such acknowledgment is specifically stated in the instrument creating the lien or encumbrance, except as provided by Subsections (i) and (ii) above;

(d) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Tract from liability for any assessment thereafter assessed;

(e) that all annual and special assessments (together with interest thereon as provided in Section 4.09 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Tract owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Tract as provided in Section 4.01(b) of this Declaration) a personal obligation which will survive any sale or transfer of the Tract; provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor; and

(f) that the failure to pay any assessment when due shall constitute a default of the Owner's obligations hereunder, and shall entitle the Association to exercise the remedies provided in this Declaration.

4.02 Purpose of Assessment Assessments shall be used exclusively to provide for the common good and general welfare of Development Residents, primarily including, but not limited to, maintenance of the Common Property and common roads or other improvements, the payment of Association costs and expenses including, without limitation, any ad valorem real and personal property taxes on all Association property, and the enforcement of Declaration Restrictions, provided, however, for so long as Declarant has the Right of Appointment, Assessments shall be used exclusively for Actual Operating Expenses, as hereinafter defined, incurred by the Association. For purposes of this Declaration, "Actual Operating Expenses" shall be limited to expenses incurred for the maintenance and repair of Common Property, ad valorem real and personal property taxes, accounting and other necessary professional services required for the day-to-day operation of the Association and the enforcement of Declaration Restrictions. For so long as Declarant has the Right of Appointment, all other expenditures, including capital expenditures, not specifically included within the foregoing definition of Actual Operating Expenses must be approved by 75% of votes of the Members who are present, in person or by proxy, at a duly held meeting of the Members.

4.03 Accumulation of Funds Permitted The Association shall not be obligated to spend all monies collected in a year, and may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any later year, but may carry forward a surplus as the Board deems desirable for the greater financial security of the Association.

4.04 Annual Assessment

(a) Beginning on the later of January 1, 1999, or the Commencement Date, and continuing thereafter on January 1 of each year thereafter, each Tract shall be subject to an Annual Assessment equal to Twenty and No/100 Dollars (\$20.00) per Acre; provided, however, if the Commencement Date occurs after January 1, 1999, and falls on a day other than January 1, the Annual Assessment for such year shall be prorated so that each Owner pays an Annual Assessment proportional to the number of days remaining in the calendar year. The words "Assessment Year" as used herein shall mean the calendar year, with the first Assessment Year commencing on January 1, of the year immediately following the Commencement Date. For so long as Declarant has the Right of Appointment, the Annual Assessment shall not be reduced below the initial level provided above without Declarant's written consent, or until \$15,000.00 has been deposited in a Bank.

(b) The annual assessment may be increased or decreased at any time and from time to time by Declarant; provided, however, such increase or decrease shall not be more than ten percent

(10%) in any 12 month period unless approved by 75% of the votes of the Members who are present, in person or by proxy, at a duly held meeting of the Members.

4.05 Special Assessments

(a) In addition to Annual Assessments, the Association may levy a Special Assessment to pay any unanticipated operating expense, as well as the cost of any construction, reconstruction, repair or replacement to the Common Property or any common road. During such time as Declarant has the Right of Appointment, any Special Assessments shall require the approval of 75% of the votes of the Members who are present, in person or by proxy, at a duly held meeting of Members. If Declarant no longer has the Right of Appointment, (i) Special Assessments may be levied by the Board in any Assessment Year without Members' consent which Special Assessments in the aggregate do not exceed an amount equal to the Annual Assessment then in effect; and (ii) Special Assessments exceeding such amount shall require the approval of 75% of the votes of the Members who are present, in person or by proxy, at a duly held meeting of the Members.

(b) The Association may also levy, in any Assessment Year and with such frequency as the Association deems necessary, Specific Assessments. Specific Assessments shall be levied to pay expenses incurred for the benefit of a particular Tract(s), and shall be allocated equitably among the Tracts benefited. The failure to exercise authority under this Section shall not be grounds for any action against the Association or the Board, and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses. During such time as Declarant has the Right of Appointment, any Specific Assessments shall require the approval of 75% of votes of the Members who are present, in person or by proxy, at a duly held meeting of Members.

4.06 Assessment Procedure

(a) Each Assessment Year, the Board shall establish the annual assessment and the "Due Date" of such assessment. The Association shall give each Owner 30 days written notice of the total amount of all assessments due by such Owner and their Due Date.

(b) All Members shall be given written notice by the Board not less than 30 nor more than 60 days prior to any meeting of the Members at which the Board proposes taking action pursuant to Section 4.04(b) or Section 4.05. Such notice shall specify the assessment(s) proposed. At such meeting, the presence of Members or of proxies entitled to cast fifty percent (50%) of the total votes outstanding shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement, and the required quorum at such second meeting shall be thirty percent (30%) of the total votes outstanding. Not such second meeting shall be held more than 60 days following the first meeting. If the required quorum is not present at the second meeting, the Board may take such action without Member's vote.

4.07 Uniform Rate of Assessment Annual and Special Assessments (other than Specific Assessments) shall be fixed at a uniform rate for all Tracts.

4.08 Contribution by Declarant For so long as Declarant has the Right of Appointment, Declarant shall not be liable for the payment of any assessments; provided, however, during said period Declarant shall be solely responsible for the payment of the deficit, if any, between the Association's Actual Operating Expenses (but specifically not including an allocation for the reserve allowance), and the sum of all Annual, Special and Specific Assessments collected by the Association in any Assessment Year. Any Payment required by Declarant under this Section shall be

timely paid by Declarant to the Association in accordance with the terms of the Association's liabilities.

4.09 Effect of Non-payment of Assessments. Any Assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the lower of (i) the highest legal rate of interest which can be charged, or (ii) the rate of eighteen (18%) per annum. In no event shall the Board establish a rate of interest in violation of Texas law. In the event of default in the payment of any one or more installments of an Assessment, the Board may declare any remaining Assessment balance at once due and payable. If an Owner does not fully pay any Assessment by the Due Date, such unpaid portion (including any remaining balance declared immediately due and payable under the preceding sentence), together with interest and collection costs, including reasonable attorney's fees, shall be binding personal obligation of such Owner and a lien on such Owner's Tract(s), enforceable as provided herein.

ARTICLE V
EASEMENTS, ZONING AND OTHER RESTRICTIONS

5.01 Easements

(a) Declarant reserves to Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose Declarant deems necessary and not inconsistent with the common good and welfare of the Members.

(b) An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles and the Association, its officers, agents, employees, and management personnel, to enter the Common Property including, but not limited to, common roads, in the performance of their duties.

5.02 Easement Area The words "Easement Area" as used herein shall mean those areas on any Tract or any other portion of the Property with respect to which easements are shown on a recorded deed, easement agreement or on any filed or recorded map or plat relating thereto.

5.03 Entry The Declarant and its employees, agents, successors and assigns, (i) shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved; and (ii) shall have the right to enter upon a Tract to make emergency repairs and to do other work reasonably necessary for the proper maintenance of the Property if an Owner fails to maintain any Tract as required herein, or in the event of an emergency, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area. Neither Declarant nor the Association shall be liable for any damage unless such damage is caused by willful misconduct or gross negligence.

5.04 Zoning and Private Restrictions None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by any recorded subdivision plat of the Development, zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall control.

ARTICLE VI

ENFORCEMENT

6.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association, and (iii) each Owner, his legal representatives, heirs, successors and assigns.

6.02 Right of Abatement

(a) Except where provided herein, in the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action needed to be taken. If the Owner fails to take reasonable steps to remedy such violation within 30 days after the mailing of written notice, the Association shall have a right of abatement ("Right of Abatement").

(b) The Right of Abatement, as used in this Section and in Sections 3.05, 5.08 and 6.12, means the right of the Association, through its agents and employees, to enter at all reasonable time upon any Tract or Structure as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such condition without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions. The Owner of such property at the time such work is performed by the Association shall be personally obligated to reimburse the Association for the cost of such work within 10 days after it is performed by the Association. If such amount is not paid within said period of time, such Owner shall be obligated thereafter to pay interest thereon at the lower of the highest rate permitted by law or 18% per annum, and to pay attorneys' fees and costs incurred by the Association in collecting such obligation. All of the same shall be secured by a lien on such Owner's proper enforceable pursuant to Section 5.04.

6.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, because of a violation of, or failure to perform any of the obligations provided by this Declaration. Therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well any other relief available at law or in equity, to enforce these provisions.

6.04 Collection of Assessment and Enforcement of Lien

(a) If any Assessment, interest, cost or other charge is not paid as required herein, the Association may (i) bring an action at law against the Owner personally obligated to pay the same, (ii) bring an action to foreclose any lien created by this Declaration against the Tract or Tracts subject to the lien (which shall include the right, but not the obligation, to file a notice of lien against said Tract in the deed records of Parker County, Texas, or both, for the purpose of collecting such Assessment, Cost or charge, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any Assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney; To sell the said Tract or Tracts subject to the lien at auction, at the usual place for conducting sales at the Court House in Parker County, Texas, to the highest bidder for cash, after providing to the Owner all notices and performing all acts required by Section 51.002 of the Texas Property Code, all other

notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends. Each Owner hereby constitutes and appoints the Association and its assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or its assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of Assessments, interest, cost or other charge due, together with the costs and expenses of sale and fifteen percent of the aggregate amount due for attorneys' fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted recoupled with an interest and are irrevocable by death, incapacity, or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c)WAIVER, EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, TO THE FULLEST EXTENT PERMITTED BY LAW WAVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR TEXAS LAW (EXCEPT SECTION 51.002 OF THE TEXAS PROPERTY CODE) OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION, AND EACH OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

6.05 No Waiver The failure of Declarant, the Association, or the Owner of any Tract, his or its respective legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE VII

DURATION AND AMENDMENT

7.01 Duration This Declaration shall run with and bind the Property for a period of thirty (30) years from and after the date when this Declaration is filed for record in the county records of Parker County, Texas, after which time this Declaration shall be automatically renewed for successive period of ten (10) years, provided however, that after the end of the said thrity (30) year period and during any ten (10) year renewal period (but only during such renewal period), this Declaration may be terminated by an instrument executed by the proper Association officers and recorded in the deed records Parker County, Texas, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approving such termination which is approved by 75% of the votes of those Class A Members who are present, in person or by proxy, at a meeting of Member duly held in accordance with the Bylaws.

7.02 Amendments by Declarant During any period in which Declarant retains the Right of Appointment:

(a) Declarant may amend this Declaration only if such amendment is necessary or required (i) to bring any provision hereof or thereof into compliance or conformity with the provision of any governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith (ii) to enable any reputable title insurance Company or issue title insurance coverage with respect to any Tract subject to this Declaration, (iii) to enable a lender or purchaser to make or purchase mortgage loans on any Tract subject to this Declaration (iv) to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Tracts subject to this Declaration, or (v) to correct a scrivener's error in the drafting of this Declaration.

(b) Such amendment shall be evidenced by an instrument in writing filed and recorded in the deed records of Parker County, Texas, without the approval of any Member or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Tract or of the Common Property as set forth in this Declaration or if such amendment adversely affects the title to any Tract, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Members affected thereby, or (ii) in the event that such amendment would materially and adversely affect the lien status, security and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this Section 7.02 shall be certified by Declarant as having been duly approved by Declarant, and such Members and mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself.

(c) Each Owner, by acceptance of a deed or other conveyance to a Tract, agrees to be bound by such amendments as permitted by this Section 7.02 and further agrees that if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development.

7.03 Amendments by Association Amendments to this Declaration, other than those authorized by Section 7.02, shall be proposed and adopted in the following manner.

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association which such proposed amendment is to be considered and shall be delivered to each Member.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by Members holding at least 75% of the total votes in the Association provided, however, (i) that any amendment which materially and adversely affects the lien status, security and interest of any mortgagee must be approved by such mortgagee, and (ii) during any period in which Declarant has the Right of Appointment, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and, where required, the Declarant and any mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the President and any vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment.

(d) Notwithstanding any provision herein to the contrary, any amendment to Restrictions must be approved by all of the then Members of the Association.

ARTICLE VIII
ANNEXATION AND FUTURE DEVELOPMENT

8.01 Annexation For so long as Declarant has authority to appoint and remove Directors and Officers of the Association, additional real property up to a total of 60 tracts may be annexed to the Development and developed and marketed by Declarant without the consent of the Class A Members. Such annexations may be accomplished by filing an amendment to the Declaration which has been consented to by the owners of the real property to be annexed if such real property is owned by someone other than Declarant. Each Owner, by acceptance of a deed to his or her Tract, shall be deemed to have consented to and approved of all such amendments to the Declaration, amendments to any existing subdivision plats and new subdivision plats placed of record which are to be subject to the provisions of this Declaration. At the expiration of Declarant's Right of Appointment, no real property may be annexed to the Development unless such annexation is approved by 75% of the votes of the Members who are present, in person or by proxy, at a meeting of Members duly held in accordance with the Bylaws.

ARTICLE IX
MISCELLANEOUS

9.01 No Liability No restriction herein is intended to be, or shall be constructed as, a condition subsequent or as creating a possibility or reverter.

9.02 Severability A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

9.03 Headings Article and Section headings are for convenience only and shall not affect the meaning or interpretation of this Declaration.

9.04 Gender The masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

9.05 Notices All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the RRC, the Owner, or any other person, shall be in writing. All such writing shall be sufficient only if (i) deposited in the United State Mail, certified or registered, return receipt requested with sufficient postage (ii) deposited with an alternative delivery service, such as Federal Express, with appropriate provisions made for delivery, or (iii) actually delivered, and sent to the following addresses.

(a) Declarant

THE HILLS OF BEAR CREEK-PHASE THREE
2400 ELLIS
FORT WORTH, TEXAS 76106

(b) Notice to any Member shall be sufficient if sent to such Member at his or her last known address.

9.06 No Liability Declarant has using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to

enforce the terms and provisions of this Declaration against every other Owner. If this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

9.07 Indemnification and Hold Harmless

(a) The Association shall indemnify every officer and director against any and all expenses, including counsel fees reasonable incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding. If approved by the then Board of Directors) to which he or she may be a party by reason of being, or having been, an officer or director. The officers and directors shall not be liable for any mistake or judgment, negligence or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, gross negligence of bad faith. The officer and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification proved for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

(b) Each Owner shall be liable to the Association for any damage to the Common Property of any type and to any equipment thereon which may be sustained by reason of the negligence of said Owner, his tenants, employees, agents, customers, guests or invites, to the extent that any such damage shall not be covered by insurance. Each Owner does further, by the acceptance of a deed, agree to indemnify each and every other Owner, and to hold harmless each and every other Owner, from any claim of any person for personal injuries or property damage occurring within or upon his Tract.

ARTICLE X
MORTGAGEE PROVISIONS

The following provisions are the benefit of holders of first mortgages on Residences in the Development. This Article applies to both this Declaration and to the Bylaw, notwithstanding any other provisions contained therein.

10.01 Notice An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of

(a) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Residence on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of Assessments or charges owed by a Owner of a Residence subject to the mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first mortgage, upon request, is entitled to written notice from the Association of any default in the

performance by an Owner of a Residence of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; or

(c) any proposed action which would require the consent of a specified percentage of eligible mortgagees.

10.02 Special FHLMC Provision So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 75% of the first mortgagees or any least 75% of the total Members of the Association entitled to vote thereon consent, the Association shall not;

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner.

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Tracts and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any common Property losses for other than the repair, replacement, or reconstruction of such property.

First mortgagees may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

10.03 No Priority No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over the rights of the first mortgagee of any Tract in the cases of distribution to such Owner of insurance proceeds or condemnations awards for losses to or a taking of the Common Property.

10.04 Notice to Association Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Tract.

10.05 Amendment by Board Should the Veterans' Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners may cause an amendment to this Article to be recorded to reflect such changes.

10.06 Veterans Administration Approval As long as the Declarant has an option unilaterally to subject property to this Declaration as provided in Article VIII, the following actions shall require

the prior approval of the Veterans Administration so long as the Veterans Administration is guaranteeing any mortgage in the Development annexation of additional property to the Development, except for annexations by Declarant in accordance with Article X pursuant to a plan of annexation previously approved by the Veterans Administration, dedication of Common Property to any public entity, and material amendment of the Declaration, Bylaws or Articles of Incorporation.

10.07 Applicability of Article X Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Texas law for any of the acts set out in this Article.

10.08 Failure of Mortgagee to Respond Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request.

ARTICLE XI CONDEMNATION

11.01 Condemnation or Governmental Taking If all or any part of the Common Property are taken by any authority having the power of condemnation or eminent domain, or are conveyed in lieu thereof, the funds payable with respect thereto shall be payable to the Association and shall be used by the Association to purchase additional Common Areas to replace that which has been condemned or to take whatever steps are as deemed reasonably necessary to repair any damage suffered from the condemnation. If all of the funds cannot be used in such manner, any remaining funds may be distributed equitably to the Members.

11.02 Tract Condemnation

(a) If all or any part of a Tract is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects not to restore the remainder of the Tract, the Owner shall promptly remove any remaining improvements damaged or destroyed by such taking or conveyance and shall leave the Tract in orderly, safe and slightly condition.


(b) If any part of a Tract is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects to restore the remainder of the Tract, then, subject to the provision of this Declaration, the Owner shall diligently commence within sixty (60) days after taking to restore the remainder of the Tract to the same condition it was in prior to such taking or conveyance.

IN WITNESS WHEREOF, Declarant has executed this DECLARATION OF COVENANTS AND EASEMENTS FOR THE HILLS OF BEAR CREEK-PHASE THREE this the 28th day of January, 1998.

THE HILLS OF BEAR CREEK-PHASE THREE
HOMEOWNERS PAGE 17

Choctaw Properties L.L.C.

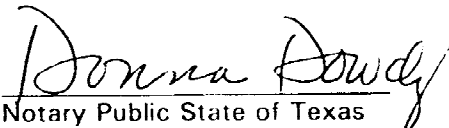
BY:


Everett B. Frazier, Manager

THE STATE OF TEXAS)

COUNTY OF TARRANT)

This instrument was acknowledged before me on this the 28th day of January, 1998 by
Everett B. Frazier, Manager of Choctaw Properties L.L.C.


Notary Public State of Texas

AFTER RECORDING, RETURN TO:

ALAMO TITLE COMPANY
100 S. Las Vegas Trl #C
White Settlement, Tx. 76108

