

6705640

105436 CA

ECI--7-00 102220 705640 1ST A PM 45.0

6733581

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

168-87-2334

GREENBRIAR COLONY TENNIS AND SWIM ASSOCIATION, INC. 170-82-0457

THE STATE OF TEXAS : 120-132577 705.1 L.D. PD 45.5  
COUNTY OF HARRIS : KNOW ALL MEN BY THESE PRESENTS:

THAT this Declaration is made on the date hereinafer set forth by  
Lorenzo Construction Company and E - M Associates, a joint venture composed of  
T.M.C. Funding Inc., a Texas corporation, and Edwards Construction Company, a  
Texas corporation, (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant E - M Associates is the Owner of that certain real  
property known as Greenbriar Colony Patio Homes, a subdivision in Harris County,  
Texas, according to the map or plat thereof recorded in Volume: 298,  
Page 14 of the Map Records of Harris County, Texas, and  
Lorenzo Construction Company is the owner of Greenbriar Colony Townhouses  
according to the map or plat thereof recorded in Volume 295, Page 79 of the  
Map Records of Harris County, Texas; and

WHEREAS, it is deemed to be in the best interests of Declarant and  
any other persons who may purchase property in those portions of Greenbriar Colony  
Patio Homes or Townhouses that are set aside for development as a residential  
subdivision (hereinafter referred to as the "Subdivision"), that there be  
established and maintained a uniform plan for the improvement and development  
of the Subdivision as a highly restricted and modern residential subdivision;

WHEREAS, Declarant has agreed to construct, at its sole cost and  
expense, a swimming pool, tennis court, bath house and accessory facilities upon  
Reserve E, Greenbriar Colony Townhouses, Harris County, Texas, hereinafter  
Recreational Facilities Tract, for the exclusive use, benefit and enjoyment of  
all the owners of the above described lots.

WHEREAS, Declarant does hereby desire to assess and equally appor-  
tion all expenses of operation and maintenance of the Recreational Facilities  
Tract and the public street lighting among all the owners of said lots within  
said Subdivisions:

NOW THEREFORE, Declarant hereby adopts and establishes the follow-  
ing restrictions, covenants and conditions and declares that all of the properties

NOTE- This instrument is being rerecorded to reflect the Volume &  
Page of the Greenbriar Colony Patio Homes

1168-87-2335

hereinafter described as being within the Subdivision shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property regardless of whether or not said easements, restrictions, covenants and conditions are set out in full or by reference in any contract, deed or other instrument executed with reference to property within the Subdivision. These easements, covenants, restrictions and conditions shall run with said real property and be binding upon all parties having or acquiring any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

170-82-0458

#### ARTICLE I

##### Definitions

Section 1. "Association" shall mean and refer to GREENBRIAR COLONY TENNIS AND SWIM ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to those portions of the Subdivision over which dedicated public named streets have been constructed.

Section 3. "Declarant" shall mean and refer to Lorenzo Construction Company, a Texas corporation and E - M Associates, their successors and assigns, if such successors and assigns should acquire more than one Lot, as hereinafter defined, in the Subdivision for purposes of development or resale.

Section 4. "Lot" shall mean and refer to any plots of land located within the Subdivision, as hereinafter defined, which Lots have been specifically identified by means of a survey and an accompanying metes and bounds description or by a replat of the one or more of the Reserves or any portion thereof.

Section 5. "Living Unit" shall mean and refer to any improvements on a Tract which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons living together as a single house-keeping unit.

Section 6. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 7. "Occupied Tract" shall mean and refer to any Tract in which there is a Living Unit in which one or more persons are residing.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Tract or

1168-87-2336

Patio Home Tract which is a part of the Subdivisions, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall, however, include any mortgagee or lien holder who acquires fee simple title to any Townhouse Tract or patio home tract through judicial or non-judicial foreclosure.

170-82-0459

Section 9. "Recreational Facilities Tract" shall mean and refer to that portion of the Greenbriar Colony Townhouses Subdivision owned by the Association for the common use and enjoyment of the Members of the Association and shall consist of that portion of Reserve "E" in Greenbriar Colony Townhouses, upon which Declarant is to construct the above-mentioned recreational facilities.

Section 10. "Subdivision" shall mean and refer to that certain real property within the perimeters of the legal description of Greenbriar Colony Townhouses, as set forth on the map or plat thereof recorded in Volume 295, Page 79 of the Map Records of Harris County, Texas, and Greenbriar Colony Patio Homes, as set forth on the map or plat thereof recorded in Volume       , page        of the Map Records of Harris County, Texas.

Section 11. "Tract" shall mean and refer to any of approximately 700 tracts of land composed of all or a part of a lot or part or all of two or more lots upon which a townhouse or patio home is or will be constructed, and which will more particularly be described by metes and bounds description in the deed to each of such townhouses or patio homes.

## ARTICLE II

### Property Rights

#### Section 1. Owner's Easement of Access and Enjoyment:

Every Owner shall have an easement of access and a right and easement of enjoyment in and to the Recreational Facilities Tract and such easement shall be appurtenant to and shall pass with the title to every Tract, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any facilities situated on the Recreational Facilities Tract;
- (b) The right of the Association to suspend a Member's voting rights and right to use the recreational and other facilities owned or operated by the Association, excluding domestic water, for any period during which any assessment against his Tract or any other sum due the Association by him remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (c) The right of the Association to dedicate or transfer all or any part of the Recreational Facilities Tract to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members; and

168-87-2337

- (d) The right of the Association to limit the number of guests of Members.

Section 2. Delegation of Use: Any Owner may delegate in accordance with the By-laws of the Association, his right of enjoyment to the Recreational Facilities Tract and the facilities located thereon to members of his family, his tenants, or contract purchasers who reside on the Tract owned by him.

Section 3. Title to the Recreational Facilities Tract.

The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Recreational Facilities Tract to the Association, free and clear of all encumbrances and liens. The Recreational Facilities Tract shall remain undivided and shall at all times be owned by the Association or its successors, it being agreed that this provision is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Recreational Facilities Tract. Notwithstanding the above, the Declarant reserves the right to grant, convey, dedicate or reserve easements over, on or under the Recreational Facilities Tract for utility services.

ARTICLE III

Membership and Voting Rights

Section 1. Membership: Every person or entity who is a record owner of a fee or undivided fee interest in a Tract which is a part of the Subdivisions, including contract sellers, shall hold a membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in a Tract merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Tract. Ownership of a Tract shall be the sole qualification for membership. Any Mortgagee or Lien Holder who acquires title to any Tract which is a part of the Subdivisions through judicial or non-judicial foreclosure, shall be a Member of the Association.

Section 2. Voting Rights: There shall be two classes of membership entitled to voting rights in the Association and they shall be as follows:

- (a) Class "A" All Members in the Association, other than Declarant, shall be considered Class A Members, and for each Tract owned shall be entitled to one vote on each matter coming before the Members at any meeting or otherwise, unless their voting rights have been suspended by the Board of Directors as hereinabove provided in Article II, Section 1(b). When a particular Tract is owned by more than one individual or entity, all the individuals or entities holding an ownership interest in that Tract shall be considered Class A Members, however, for that particular Tract they shall be entitled to a total of no more than one vote on each matter coming before the Members at any meeting or otherwise. The vote for such Tract shall be exercised as they among themselves determine.

168-87-2338

- (b) Class "B" Class B Members shall be those individuals or entities who are herein defined as Declarant, and for each Tract owned they shall be entitled to five votes on each matter coming before the Members at any meeting or otherwise. When a particular Tract is owned by more than one such individual or entity, all such individuals or entities holding an ownership interest in that Tract shall be considered Class B Members, however, for that particular Tract they shall be entitled to a total of no more than five votes on each matter coming before the Members at any meeting or otherwise. The five votes for such Tract shall be exercised as they among themselves determine. Once a Tract is sold to an individual or individuals who would be classified as Class A Members, the five votes attached to that Tract shall be extinguished. All Class B Memberships shall cease and be automatically converted into Class A Memberships on the happening of either of the following events, whichever occurs earlier:

170-82-0461

- (i) When the total number of votes entitled to be cast by the Class A Members at any meeting of the Members or otherwise equals the total number of votes entitled to be cast by the Class B Members; or
- (ii) Five years from the date this Declaration of Covenants, Conditions and Restrictions is filed with the County Clerk of Harris County, Texas, for recordation in the Deed Records of Harris County, Texas.

#### ARTICLE IV

##### Cost and Expense

Commencing upon initial occupancy of the improvements located upon the Recreational Facilities Tract and continuing thereafter, the owners of each Tract within the Subdivision are hereby subjected to (by means of a maintenance assessment hereinafter described) and shall be liable for, the cost, expense and charges paid or incurred in operating (including all real estate taxes), administering, insuring, repairing and maintaining the Recreational Facilities Tract (including the equipment used in connection therewith) and the lighting of the Common Area; and, subject to the consent provision hereof, the costs, expenses and charges paid or incurred in constructing any additional, replacements, or improvements upon the Recreational Facilities Tract.

#### ARTICLE V

##### Covenant for Maintenance Assessments

###### Section 1. Creation of the Lien and Personal Obligation for Assessments:

The Declarant, for each Tract within the Subdivision which shall be or thereafter become subject to the assessments hereinafter provided for, hereby covenants, and each Owner of any Tract which shall be or thereafter become assessable by acceptance of a Deed therefor, whether or not it shall be express in the Deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

(168-87-2339)

- (a) Annual assessments or charges;
- (b) Special assessments for capital improvements;
- and

170-82-0462

(c) Any other sums to the extent they are specifically provided for elsewhere in this instrument. Such assessment charges are to be fixed, established and collected as hereinafter provided. These charges and assessments, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the land and shall be secured by a continuing Vendor's Lien upon the Tract against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs, and reasonable attorney's fees shall also be and remain the personal obligation of the individual or individuals who owned the particular Tract at the time the assessment or charge fell due notwithstanding any subsequent transfer of title to such Lot. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Subdivision. Without limiting the foregoing, the total assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of those costs and expenses set forth in Article IV hereinabove and for any and all of the following purposes: Payment of legal, accounting and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and charges in connection with the enforcement of this Declaration of Covenants, Conditions and Restrictions, providing for the planting and upkeep of trees and shrubbery on the Recreational Facilities Tract, payment of taxes and insurance premiums in connection with the operation of the Recreational Facilities Tract, and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the Recreational Facilities Tract in neat and good order, or which they consider of general benefit to the Owners or occupants of the Subdivision, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. It is understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

170-82-0463

168-87-2340

Section 3. Basis and Maximum Level of Annual Assessments: Until January 1 of the year immediately following the conveyance of the first tract to an Owner, the maximum annual assessment shall be \$102.00 per tract. From and after January 1 of the year immediately following the conveyance of the first tract to an Owner, the maximum annual assessment may be increased by the Board of Directors of the Association, effective January 1 of each year, in conformance with the rise, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the preceding month of July, without a vote of the Members of the Association. From and after January 1 of the year immediately following the conveyance of the first tract to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula only by written approval of the Owners of two-thirds (2/3) of the Lots in the Subdivision. This increase shall become effective on the date specified in the document evidencing such approval only after such document has been filed with the County Clerk of Harris County, Texas, for recordation in the Deed Records of Harris County, Texas. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum amount approved by the Owners.

Section 4. Special Assessments for Capital Improvements: In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or unexpected repair or replacement of a particular capital improvement located upon the Recreational Facilities Tract, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the written approval of the Owners of two-thirds (2/3) of the tract in the Subdivision.

Section 5. Notice of Quorum for Any Action Authorized Under Sections 3 and 4: Written notice of any meeting of the Members of the Association called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all Members and shall be posted at a public place within the Subdivision not less than thirty (30) days nor more than sixty (60) days in advance

168-87-2341

of the meeting. At the first such meeting called, the presence of the Members holding seventy-five percent (75%) of all membership votes entitled to be cast in each membership class or their proxies shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice and quorum requirements. In lieu of such a meeting and notice, a door-to-door canvas may be used to get the required written approval of the Owners as hereinafter provided.

170-82-0464

Section 6. Rates of Assessment: Both annual and special assessments on all tracts, whether or not owned by the Declarant, must be fixed at uniform rates as follows:

- (a) Occupied Tracts: Those tracts containing an occupied Living Unit shall be assessed the full assessment as set by the Board of Directors of the Association;
- (b) Vacant Tracts: Those tracts which are vacant or upon which a residence is under construction shall not be assessed.

Section 7. Date of Commencement and Determination of Annual Assessment:

The annual assessment provided for herein shall commence as to all assessable Tracts on the first day of the month following the conveyance of the Recreational Facilities Tract to the Association. As and when vacant tracts within the Sub-division are built upon and occupied, the owners of such tract shall become subject to the annual assessment on the first day of the month following the attainment of such status. The first annual assessment for any assessable tract shall be adjusted according to the number of months remaining in the calendar year in which such tract becomes assessable. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each assessable tract in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose tract is subject to the payment thereof. Assessments shall be due and payable monthly or as directed by the Board of Directors of the Association. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified tract have been paid. A properly executed certificate of the Association as to the status of assessments on a particular tract is binding upon the Association as of the date of its issuance.



158-87-2342

170-82-0465

Section 8. Effect of Nonpayment of Assessments; Remedies of the

Association: Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the due date at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien herein retained against the tract. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each such Owner, by his acceptance of a Deed to a tract hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale and non-judicial foreclosure in connection with said lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his tract.

Section 9. Subordination of the Lien to Mortgages: As hereinabove provided, the title to each tract shall be subject to the Vendor's Lien securing the payment of all assessments and charges due the Association, but this Vendor's Lien shall be subordinate to any valid purchase money lien or mortgage covering a tract. Sale or transfer of any tract shall not affect this Vendor's Lien. However, the sale or transfer of any tract which is subject to any valid purchase money lien or mortgage, pursuant to a judicial or non-judicial foreclosure under such lien or mortgage shall extinguish the Vendor's Lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such tract or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided hereinabove, the Association, in the discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage, lien or encumbrance, subject to such limitations, if any, as such Board may determine.

168-87-2343

Section 10. Exempt Property: All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no tract which is used as a residence shall be exempt from said assessments and charges.

173-82-4466

#### ARTICLE VI

##### Insurance

The Association, through the Board of Directors, or its duly authorized agent, shall have the authority to obtain the following types of insurance policies:

(a) Property insurance covering the Recreational Facilities Tract and all improvements thereon in an amount equal to the full replacement value of the improvements and facilities located upon the Recreational Facilities Tract Area and owned by the Association (including all building service equipment and the like) with an "agreed amount endorsement" or its equivalent, a "demolition endorsement" or its equivalent, and, if necessary, an "increased cost of construction endorsement" or "contingent liability from operation of building laws endorsement" or the equivalent, affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement in Texas, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, and any such other risk as shall customarily be covered with respect to projects similar in construction, location and use;

(b) A comprehensive policy of public liability insurance covering all of the Recreational Facilities Tract and insuring the Association, within such limits as it may consider acceptable (but with coverage of not less than \$1,000,000 for all claims for personal injury and/or property damage arising out of a single occurrence); such coverage to include protection against water damage liability, liability for nonowned and hired automobiles, liability for property of others, and any other coverage the Association deems prudent and which is customarily carried with respect to projects similar in construction, location, and use; and

(c) A policy of fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle, or are responsible for handling funds of the Association; such fidelity bonds shall be of the kind and in an amount the Association deems necessary for the protection of the Owners.

Premiums for all such insurance policies carried by the Association shall be a common expense payable by and included with the assessments on all of the assessable tracts. Liability and property insurance for tracts and the contents of residences shall be the responsibility of each individual Owner. All proceeds from policies held by the Association shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the proviso agreed to by said bank or

168-87-2344

institution that such funds may be withdrawn only by signature of at least two (2) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. In no event shall the insurance company or the bank or other financial institution holding proceeds on a policy issued in the name of the Association be authorized to distribute any proceeds therefrom to the Declarant. Proceeds from such policies shall be used by the Association only for the benefit of its Members and where such proceeds arise out of an occurrence in which a building or improvement owned by the Association is damaged or destroyed, they shall be used to repair, restore and rebuild such building or improvements. In the latter event, the Board of Directors shall advertise for sealed bids from licensed contractors, and upon acceptance of a bid received thereby, may negotiate with the contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed improvements or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding said improvements to their original condition, the Association shall levy a special assessment for capital improvements against all Owners to make up the deficiency. This shall be done only after compliance with all the requirements for imposition of special assessments.

170-82-0467

#### ARTICLE VII

##### Management Agreements

Each Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association for the management of the Recreational Facilities Tract and the improvements located thereon. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that the Association may cancel said management agreement by giving the other party thirty (30) days' written notice when so authorized by the vote of a majority of the membership votes in the Association entitled to be cast at a meeting of the Members or otherwise. In no event shall such management agreement be canceled prior to the time the Association or its Board of Directors negotiate and enter into a new management agreement which is to become operative immediately upon the cancellation of the preceding management agreement. It

168-87-2345

shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed one (1) year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type. The Members of the Association may terminate the professional management of the Subdivision and assume self-management by the Association upon the execution of a written agreement executed by the Members holding a majority of the membership votes entitled to be cast at a meeting of the Members or otherwise. This written agreement may be circulated by a door-to-door canvass of the Members and need not be presented for approval at any meeting of the Members or otherwise.

170-82-0463

#### ARTICLE VIII

##### Architectural Control

No structure or other improvement shall be created, placed or altered on the Recreational Facilities Tract or any portion thereof, until the construction plans and specifications, and a plan showing the location of the structure or improvement, as well as a detailed showing of the landscaping to be done in connection with such structure or improvement, has been approved by the Board of Directors of the Association.

#### ARTICLE IX

##### General Provisions

Section 1. Enforcement: The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereinafter imposed by reason of the provisions contained in this Declaration of Covenants, Conditions and Restrictions. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Duration and Amendment: The covenants, conditions, restrictions, reservations, liens and charges set forth in the Declaration of Covenants, Conditions and Restrictions shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, successors and assigns for a term of thirty (30) years

168-87-2346

170-82-0469

from the date this Declaration of Covenants, Conditions and Restrictions is filed with the County Clerk of Harris County, Texas, for recordation in the Map Records of Harris County, Texas, after which time said covenants, conditions, restrictions, reservations, liens and charges shall be automatically extended and renewed for successive periods of ten (10) years each, unless prior to said renewal date an instrument signed and acknowledged by the then Owners of not less than two-thirds (2/3rds) of the total number of Tracts in the Subdivision is filed for record with the County Clerk of Harris County, Texas, altering, rescinding or modifying said covenants and restrictions in whole or in part as of said renewal date.

Section 3. Canvassing: Where this Declaration of Covenants, Conditions and Restrictions requires that an instrument be executed by a certain percentage or number of the Members or Owners, such instrument may be circulated among the Members or Owners by a door-to-door canvass and need not be presented at any meeting of the Members or otherwise, provided the Board of Directors of the Association is notified in writing by certified mail, return receipt requested of the fact that an action is contemplated by a canvassing of the Members or Owners.

Section 4. Severability: If any provision of this Declaration of Covenants, Conditions and Restrictions or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, neither the remainder of this Declaration of Covenants, Conditions and Restrictions nor the application of such provision to other persons or circumstances shall be affected thereby, but shall be enforced to the fullest extent permitted by law.

Section 5. Gender and Number: Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Section 6. Headings: The paragraph entitlements hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such paragraphs.

Section 7. Execution by the Association. The Association, by joining in the execution hereof agrees to be bound by all the terms and provisions of this Declaration.

168-87-2347

Section 8. The failure of any owner to comply with the provisions of the Declaration, By-Laws and any Articles of Incorporation will give rise to a cause of action in the Association and any aggrieved owner for the recovery of damages, or for injunctive relief, or both.

IN WITNESS WHEREOF, this Declaration is executed on this the 29<sup>th</sup> day of

September, 1980.

LORENZO CONSTRUCTION COMPANY

BY Ira Berne

E - M ASSOCIATES, a joint venture

BY Ira Berne  
Edwards Construction Company,  
General Partner

BY Ira Berne - Pres.  
T.M.C. Funding, Inc.,  
General Partner

IRA BERNE, d/b/a COLONY

Ira Berne

170-82-0470

168-87-2348

THE STATE OF TEXAS :

COUNTY OF HARRIS :

BEFORE ME, the undersigned authority, on this day personally appeared, Ira Berne, President of Edwards Construction Company, General Partner of E-M Associates, a joint venture, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said Edwards Construction Company, a general partner of E-M Associates, a joint venture, and that he executed the same as its General Partner and as the act of such joint venture for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29 day of Sept., 1980.

Jean Kyles  
Notary Public in and for  
Harris County, Texas  
Printed Name

JAN KYLES  
Notary Public in Harris County, Texas  
My Commission Expires February 20, 1981  
Bonded by Alexander Lovett, Lawyers Surety Corp.

THE STATE OF TEXAS :

COUNTY OF HARRIS :

BEFORE ME, the undersigned authority, on this day personally appeared, Carl J. Stephens, of T.M.C. Funding, Inc., General Partner of E-M Associates, a joint venture, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said T.M.C. Funding, Inc., a general partner of E-M Associates, a joint venture, and that he executed the same as its General Partner and as the act of such joint venture for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29<sup>th</sup> day of September, 1980.

Debbie Jean Guidry  
Notary Public in and for Harris County,  
Texas  
Printed Name DEBBIE JEAN GUIDRY

My commission expires: 7-25-81

THE STATE OF TEXAS :

COUNTY OF HARRIS :

BEFORE ME, the undersigned authority, on this day personally appeared, Ira Berne, President of LORENZO CONSTRUCTION COMPANY, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 29 day of Sept, 1980.

Jean Kyles  
Notary Public in and for  
Harris County, Texas  
Printed Name

My commission expires: \_\_\_\_\_

JAN KYLES  
Notary Public in Harris County, Texas  
My Commission Expires February 20, 1981  
Bonded by Alexander Lovett, Lawyers Surety Corp.

168-87-2349

THE STATE OF TEXAS :

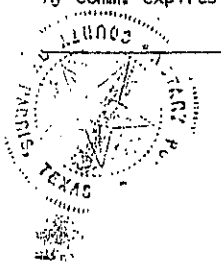
COUNTY OF HARRIS :

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29 day of Sept 1980.

170-82-0472

My comm. expires:



Jan Kyles  
Notary Public in and for  
Harris County, Texas  
Printed Name JAN KYLES  
Notary Public in Harris County, Texas  
My Commission Expires February 20, 1981  
Bonded by Alexander Lovell, Lawyers Surety Corp.



168-87-2350

JOINDER OF MORTGAGEE

The undersigned, FIRST CITY NATIONAL BANK, being the owner and holder of an existing mortgage and lien upon and against the real property described in the foregoing restrictions and defined as the "Property" in said restrictions, as such mortgagee and lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions.

170-82-0473

This consent and joinder shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the Lots and all appurtenances thereto, and all of the undivided, equitable shares and interests in the Common Area, subject to the restrictions hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers of said FIRST CITY NATIONAL BANK hereto authorized, this the 3 day of October, 1980.

FIRST CITY NATIONAL BANK

ATTEST:

BY

Richard G. Armstrong  
Richard G. Armstrong  
Vice President

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared RICHARD G. ARMSTRONG, known to me to be the person whose name is subscribed to the foregoing instrument as VICE PRESIDENT of FIRST CITY NATIONAL BANK, a banking corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 3RD day of OCTOBER, 1980.

Nancy A. Deming  
Notary Public in and for  
Harris County, Texas

My commission expires; \_\_\_\_\_

Name \_\_\_\_\_

NANCY A. DEMING  
Notary Public, State of Texas  
My Commission Expires August 7, 1984

FILED  
OCT 28 2 32 PM 1980  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

JOINDER OF MORTGAGEE

168-87-2351

The undersigned, CAPITAL NATIONAL BANK, being the owner and holder of an existing mortgage and lien upon and against the real property described in the foregoing restrictions and defined as the "Property" in said restrictions, as such mortgagee and lienholder, does hereby consent to and join in said Declaration of Covenants, Conditions and Restrictions.

170-82-0474

This consent and joinder shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the Lots and all appurtenances thereto, and all of the undivided, equitable shares and interests in the Common Area, subject to the restrictions hereby agreed to.

SIGNED AND ATTESTED by the undersigned officers of said CAPITAL NATIONAL BANK hereto authorized, this the 30 day of September, 1980.

CAPITAL NATIONAL BANK

ATTEST:

BY

G. Michael Thompson  
Vice President

THE STATE OF TEXAS

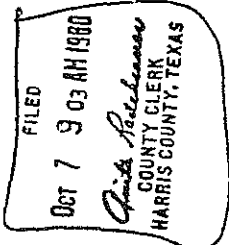
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared G. Michael Thompson, known to me to be the person whose name is subscribed to the foregoing instrument as Vice President of CAPITAL NATIONAL BANK, a banking corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 30 day of September, 1980.

My commission expires: 6-30-84

Notary Public in and for  
Harris County, Texas  
Name J. W. Baker



170-82-0476

168-87-2353

*Quinta Lohmeier*  
TRANSMERICA TITLE INSURANCE COMPANY  
TRANSAMERICA TITLE INSURANCE STATION  
JULIUS WELCHER STATION  
P. O. BOX 27996  
HOUSTON, TEXAS 77021

STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in  
File Number Sequence on the date and at the time stamped  
hereon by me and was duly RECORDED, in the Official  
Public Records of Real Property of Harris County, Texas on

OCT - 7 1980



*Quinta Lohmeier*  
COUNTY CLERK,  
HARRIS COUNTY, TEXAS

STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in  
File Number Sequence on the date and at the time stamped  
hereon by me and was duly RECORDED, in the Official  
Public Records of Real Property of Harris County, Texas on

OCT 28 1980



*Quinta Lohmeier*  
COUNTY CLERK,  
HARRIS COUNTY, TEXAS

This instrument has been recorded more  
than one time.

Anita Rodenhaver  
County Clerk, Harris County

*Quinta Lohmeier*