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**ARTICLES OF INCORPORATION**  
**OF**  
**THE PARK AT QUAIL CREEK**  
**HOMEOWNER'S ASSOCIATION, INC.**

In compliance with the requirements of the Texas Non-Profit Corporation Act, the undersigned, all of whom are citizens of the State of Texas and all of whom are above the age of twenty-one (21) years, have this day voluntarily associated themselves together for the purpose of forming a non-profit corporation and do hereby certify:

**ARTICLE I**

The name of the corporation is THE PARK AT QUAIL CREEK HOMEOWNER'S ASSOCIATION, INC., hereafter called the "Association".

**ARTICLE II**

The initial registered office of the Association is located at 5611 Adams Avenue in the City of Austin, Travis County, Texas, and Walter R. Carrington, whose address is the same, is hereby appointed the initial registered agent of this Association.

**ARTICLE III**

The duration of the corporation shall be perpetual.

**ARTICLE IV**

**PURPOSE AND POWERS OF THE ASSOCIATION**

This Association is a non-profit corporation, and the specific purposes for which it is formed are to provide for maintenance, perseveration and architectural control of the residence Lots and Common Area within that certain tract of property described as:

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A. 37.24 acre tract out of the John Applegate Survey in Travis County, Texas, and being part of that certain tract conveyed to J. B. Rutland by deed as recorded in Volume 348, Page 210, of the Travis County Deed Records and being more particularly described as follows:

BEGINNING for reference at an iron pin in the westerly property line of Lamar Blvd.  
(Old U. S. 81);

THENCE N 61°-25' E, 824.39 feet to an iron pin and the POINT OF BEGINNING of the herein described tract;

THENCE N 29°-40' E., 696. 08 feet to an iron pipe;

THENCE N 29°-34' E., 318. 75 feet to an iron pipe in the southerly line of a tract conveyed to A. S. Neans as recorded in Volume 236, Page 297 of the Travis County Deed Records;

THENCE with the southerly line of the Neans tract the following two courses:

1. N 59°-57' W., 319.80 feet to an iron pipe;
2. N 59°-58' W., 985. 00 feet to a point;

THENCE S 30°-02' W., 600.00 feet to a point;

THENCE S 59°-58' E., 719.13 feet to a point;

THENCE S 26°-40' W., 633.34 feet to a point on an easement for a power line as recorded in Volume 1209, page 66 of the Travis County Deed Records;

THENCE S 26°-49' W., 781.00' to a point on the northerly R.O.W. line of Rutland Drive, same point being also the northwest corner of a subdivision called "The Park at Quail Creek" as recorded in Book 56, Page 55 of the Travis County Deed Records:

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THENCE along the northerly R.O.W. line of Rutland Drive, S 61°-42' ., 600.20 feet to a point:

THENCE N 26°-49' E., 772.64 feet to a point, same point being the northeasterly corner of the subdivision "The Park at Quail Creek";

THENCE along the same line past the aforesaid point, 208.95 feet to the POINT OF BEGINNING and containing 37.24 acres;

and to promote the health, safety and welfare of the residents within the above described property and .any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose.

In furtherance of said purposes, this Association shall have the power to:

(A) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the aforesaid property and recorded or to be recorded in the Deed Records of Travis County, Texas, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein by reference as if set forth verbatim;

(B) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(C) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

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(D) borrow money, and with the assent (by vote or written consent) of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(E) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(F) participate in mergers and consolidations with other non-profit corporations organized for the same purposes provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of each class of members;

(G) have and to exercise any and all powers, rights and privileges which a corporation organized under the Texas Non-Profit Corporation Act by law may now or hereafter have or exercise;

(H) annex additional residential property and common area provided that any such annexation shall have the assent of two-thirds (2/3) of each class of members.

## **ARTICLE V**

### **MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment by the Association.

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## **ARTICLE VI**

### **VOTING RIGHTS**

The Association shall have two classes of voting membership:

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

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;
- or,
- (b) on January 1, 1977.

## **ARTICLE VII**

### **BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a Board of nine (9) Directors, who need not be members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

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NAME	ADDRESS
W. Carrington	4800 Ridge Oak, Austin, Texas
B. Behrens	9009 Pointer Lane Austin, Texas
Clyde Smith	9100 Balcones, Apt. 184, Austin, Texas
B. Johnson	4400 Andalusia, Austin, Texas
R. Bowers	8013 Hillrise, Austin, Texas
J. Starnes	2211 Richcreek, Apt. 108, Austin, Texas
F. Sullivan	6610 Highpoint, Austin, Texas
B. Clark	9005 Currywood, Austin, Texas
J. Mills	2501 Diggs, Austin, Texas

At the first annual meeting the members shall elect three (3) directors for a term of one (1) year, three (3) directors for a term of two years, and three (3) directors for a term of three (3) years; and at each annual meeting thereafter the members shall elect three (3) directors for a term of three (3) years.

## **ARTICLE VIII**

### **DISSOLUTION**

The Association may be dissolved with the affirmative vote of not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and

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assigned to any non-profit corporation association, trust or other organization to be devoted to such similar purposes.

## **ARTICLE IX**

### **AMENDMENTS**

Amendment to these Articles shall require the assent (by vote or written consent) of seventy-five percent (75%) of the entire membership.

## **ARTICLE X**

### **FHA/VA APPROVAL**

As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers, and consolidations, mortgaging of Common Area, dedication of Common Area, dissolution and amendment of these Articles.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Texas, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 3<sup>rd</sup> day of December, 1971.

*Walter Carrington*

Austin, Texas

*Brady Behrens*

Austin, Texas

*Jean Starnes*

Austin, Texas



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**BY-LAWS**  
**OF**  
**THE PARK AT QUAIL CREEK**  
**HOME OWNER'S ASSOCIATION, INC.**

**ARTICLE ONE**

NAME AND LOCATION

Section 1.01. The name of the corporation is THE PARK AT QUAIL CREEK HOME OWNER'S ASSOCIATION, INC., hereinafter referred to as the "Association".

Section 1.02. The initial registered office of the corporation shall be located at 5611 Adams Avenue in the City of Austin, Travis County, Texas, but meeting of members and directors may be held at such places within the State of Texas, County of Travis, as may be designated from time to time by the Board of Directors.

**ARTICLE TWO**

DEFINITIONS

Section 2.01. "Association" shall mean and refer to THE PARK AT QUAIL CREEK HOME OWNER'S ASSOCIATION, INC., its successors and assigns.

Section 2.02. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 2.03. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

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Section 2.04. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 2.05. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.06. "Declarant" shall mean and refer to WALTER CARRINGTON/builder, INC., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 2.07. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Deed Records of Travis County, Texas.

Section 2.08. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

### **ARTICLE THREE**

#### **MEETING OF MEMBERS**

Section 3.01. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of eight o'clock P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

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Section 3.02. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-tenth (1/10) of all of the votes of the Class A membership.

Section 3.03. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days, but not more than 50 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as set out above.

Section 3.04. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 3.05. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

## **ARTICLE FOUR**

### **BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

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Section 4.01. Number. The affairs of this Association shall be managed by a Board of nine (9) directors, who need not be members of the Association.

Section 4.02. Term of Office. At the first annual meeting the members shall elect three directors for a term of one year, three directors for a term of two years and three directors for a term of three years; and at each annual meeting thereafter the members shall elect three directors for a term of three years.

Section 4.03. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4.04. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.05. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## **ARTICLE FIVE**

### **NOMINATION AND ELECTION OF DIRECTORS**

Section 5.01. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee

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shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next actual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 5.0.2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE SIX**

### **MEETINGS OF DIRECTORS**

Section 6.01. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 6.02. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 6.03. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

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## **ARTICLE SEVEN**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 7.01. Powers. The Board of Directors shall have power to:

(A) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(B) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(C) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(D) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(E) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 7.02. Duties. It shall be the duty of the Board of Directors to:

(A) cause to be kept a complete record of all its acts and corporate affairs and to present a report thereof to the members at the annual meeting of the members, or at any special meeting when such report is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

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(B) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(C) as more fully provided in the Declaration, to,

(1) fix the amount of the monthly assessment against each Lot at least thirty (30) days in advance of each January 1<sup>st</sup>;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each January 1<sup>st</sup>; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due, or to bring an action at law against the owner personally obligated to pay the same, or both.

(D) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(E) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(F) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(G) cause the Common Area to be maintained;

(H) cause the exterior of the dwellings to be maintained.

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## **ARTICLE EIGHT**

### **OFFICERS AND THEIR DUTIES**

Section 8.01. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be member of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 8.02. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 8.03. Term. Each officer of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 8.04. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.05. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board. the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.06. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the office he replaces.

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Section 8.07. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 8.04 of this Article.

Section 8.08. Duties. The duties of the officers are as follows:

President

(A) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(B) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(C) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(D) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each

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fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the members.

## **ARTICLE NINE**

### **COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out the purposes of the Association.

## **ARTICLE TEN**

### **BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE ELEVEN**

### **ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association monthly and special assessments which are secured to the full extent provided by law, by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may either (1) bring an action at law against

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the Owner personally obligated to pay the same or (2) foreclose the lien against the property, or (3) both, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. 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 Lot.

## **ARTICLE TWELVE**

### **CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: The Park at Quail Creek Home Owner's Association, Inc.

## **ARTICLE THIRTEEN**

### **AMENDMENTS**

Section 13.01. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of two-thirds (2/3) of the votes which members present in person or by proxy are entitled to cast, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 13.02. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

## **ARTICLE FOURTEEN**

### **MISCELLANEOUS**

The fiscal year of the Association shall be the calendar year.

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IN WITNESS WHEREOF, we, being all of the directors of the Park at Quail Creek Home Owner's Association, Inc., have hereunto set our hands this 3 day of *December*, 1971.

*James Mills*

*Clyde Smith*

*Walter Carrington*

*Jean Starnes*

*Bob Clark*

*Brady Behrens*

*Fred Sullivan*

*Robert Johnson*

*Ron Bowers*

THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority in and for said County and State, on this day personally appeared James Mills, Walter Carrington, Bob Clark, Fred Sullivan, Clyde Smith, Jean Starnes, Brady Behrens, Robert Johnson, Ron Bowers know to me to be the persons whose names are subscribed on the foregoing instrument, and acknowledged to that they executed the same for the purposes and consideration therein expressed and in the capacities therein stated as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 3<sup>rd</sup> day of *December*, 1971.

*Linda Pierce*

NOTARY SEAL

Notary Public in and for Travis County, Texas

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the Park at Quail Creek Home Owner's Association, Inc., a Texas non-profit corporation, and,

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THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 3<sup>rd</sup> day of *December*, 1971.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 3<sup>rd</sup> day of *December*, 1971.

*Fred Sullivan*

Seal

Secretary

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE PARK AT QUAIL CREEK, SECTION ONE, PHASE ONE

THIS DECLARATION, made this 3<sup>rd</sup> day of *December* A.D. 1971, by WALTER CARRINGTON/builder, INC., hereinafter called "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Austin, Travis County, Texas, which is described by metes and bounds as follows:

10.75 acre tract out of the John Applegate Survey in Travis County, Texas, and being part of that certain tract conveyed to J. B. Rutland by deed as recorded in Volume 348, Page 210, of the Travis County Deed Records and being more particularly described as follows:

Beginning for reference at an iron pin in the westerly property line of North Lamar (Old U.S. 81) at the northeasterly corner of the Rutland tract:

THENCE the following two courses:

1. N 61°-25' W., 824.39 feet to an iron pin;
2. S 26°-49' W., 208.95 feet to the POINT OF BEGINNING of the herein described tract;

THENCE S 26°-49' W., 772.64 feet to a point in the northerly property line of Rutland Drive;

THENCE N 61°-42' W., 600.20 feet along the northerly property line of Rutland Drive;

THENCE N 26°-49' E., 781.00 feet to a point on an easement for a power line as recorded in Volume 1209, Page 66 of the Travis County Deed Records;

THENCE S 67°-19' E., 145.40 feet to a point;

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THENCE S 49°-56' E., 133.07 feet to a point;

THENCE S 74°-45' E., 61.53 feet to a point;

THENCE S 59°-41' E., 265.67 feet to the POINT OF BEGINNING and containing 10.75 acres more or less.

WHEREAS, Declarant desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities; and to this end, desires to subject the property herein described to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to create a Home Owner's Association to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created;

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

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## **ARTICLE I**

### **DEFINITIONS**

Section 1. "Association" shall mean and refer to THE PARK AT QUAIL CREEK HOME OWNER'S ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" and "Member" are used interchangeably throughout this document.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such annexations and additions thereto as may be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

All of that land described in the first Whereas paragraph of this instrument; SAVE  
AND EXCEPT: (a) the dedicated street; and (b) all residential lots.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to WALTER CARRINGTON/builder, INC., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for \ the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

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## **ARTICLE II**

### **PROPERTY RIGHTS IN THE COMMON AREA**

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to limit the number of guests of members;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication, sale or transfer has been recorded:

(d) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said Common Properties and the rights of such mortgagee in said Common Properties shall be subordinate to the rights of the home owners hereunder. No such action shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such action has been recorded;

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(e) the right of individual owners to the exclusive use of parking spaces as provided in Section 3 of this Article.

Section 2. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Ownership of each Lot shall entitle the Owner or Owners thereof to the use of not more than one automobile parking space, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall permanently assign one automobile parking space for each residence.

### **ARTICLE III**

#### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership, which shall be:

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

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Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the A Membership equal the total votes outstanding in the Class B Membership,

or,

(b) on January 1, 1977.

#### **ARTICLE IV**

##### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, except those exempt under Section 10 of this Article, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorney's fees, shall, to the full extent permitted by law, be a charge on the land and a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the

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Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Twenty Nine and No/100 (\$29.00) Dollars, per Lot per month.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments 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, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; PROVIDED that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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Section 5. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all Lots, provided, that, the monthly rate for the uninhabited Lots owned by Declarant shall be fixed at one-third (1/3) the assessment rate for the other Lots.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 15 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessments. Due Dates. The monthly assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area, and shall continue for each of the months remaining in the calendar year. The Board of Directors shall fix the amount of the monthly assessment against each Lot at least thirty (30) days before each January 1st. Written notice of the monthly assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid on the date when due, shall be immediately delinquent and shall, together

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with such interest and cost of collection as is hereinafter provided, immediately become a continuing lien on the property which shall, to the full extent permitted by law, bind such property in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. If the assessment is not paid within thirty (30) days after the due (delinquent) date, the assessment shall bear interest from the due (delinquent) date at the rate of six percent (6%) per annum, and the Association may either (1) bring an action at law against the Owner personally obligated to pay the same, or (2) foreclose the lien against the property, or (3) both, and, in either event, there shall be added to the amount of such assessment, interest as provided and all costs of collection, including reasonable attorney's fees. No owner may waive or otherwise escape liability for the assessments provided for herein for non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No extinguishment of the lien shall relieve the delinquent Lot Owner from his personal obligation and liability therefor.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) all properties dedicated and accepted by any local governmental authority and devoted to public use;

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(b) all Common Area as defined in Article I, Section 4 hereof;

(c) all additional Common Area which may be acquired through annexation.

## **ARTICLE V**

### **ANNEXATION OF ADDITIONAL PROPERTIES**

Section 1. Annexation of additional property, except as provided in Section 2 of this Article, shall require the assent of two-thirds (2/3) of each class of members, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceeding meeting. No such subsequent meeting shall be held more than 60 days following the preceeding meeting.

Section 2. If, within five (5) years of the date of incorporation of this Association, the Declarant should develop additional lands within the area described on Exhibit "A" which is attached hereto and made a part hereof, such additional lands may be annexed to said properties by the Declarant without the consent of members provided that the FHA and VA determine that the annexation is in accord with the general plan heretofore approved by them; provided, however, that nothing herein shall be construed to require Declarant to annex additional lands.

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## **ARTICLE VI**

### **PARTY WALLS**

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or wilful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use of the wall without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Land and shall pass to such Owner's successors in title.

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Section 6. Arbitration. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and shall be binding on all parties to the dispute.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

Section 1. Review by Committee. No structure, whether residence, accessory building, tennis court, swimming pool, antennae (on a structure or on a Lot), flag poles, fences, walls, house numbers, mail boxes, exterior lighting, or other improvements, shall be constructed and maintained upon any Lot and no alteration or repainting to the exterior of a structure shall be made unless complete plans, specifications, and Lot plans therefor, showing the exterior design, height, building material and color scheme thereof, the location of the structure plotted horizontally and vertically, the location of driveways, fencing, and the grading shall have been submitted to and approved in writing by the Architectural Control Committee, and a copy of such plans, specifications, and lot plans as finally approved, deposited with the Architectural Control Committee.

Section 2. The Architectural Control Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the Properties conform to and harmonize with the existing surroundings and structures.

Section 3. Procedures. The Architectural Control Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within thirty (30) days after requests have been

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submitted, approval will be presumed, and this Article will be deemed to have been fully complied with.

Section 4. The Architectural Control Committee shall maintain written records of all applications submitted to it and of all actions taken.

Section 5. A majority vote of the Architectural Control Committee is required for approval of proposed improvements.

Section 6. The Architectural Control Committee shall not be liable in damages to any person submitting requests for approval or to any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any such requests.

Section 7. Members. The Architectural Control Committee shall consist of three (3) members designated by the Declarant until the first meeting of the Board of Directors following the first annual meeting of the Association. At such first meeting, the Board of Directors shall appoint three (3) persons who shall serve as the Architectural Control Committee.

## **ARTICLE VIII**

### **EXTERIOR MAINTENANCE**

Section 1. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

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## **ARTICLE IX**

### **COMMON SCHEME RESTRICTIONS**

Section 1. The following restrictions are imposed as a common scheme upon each Lot and all Common Areas for the benefit of each other Lot and Common Areas, and may be enforced by any Lot Owner or the Association.

Section 2. No garbage, refuse, rubbish, or cuttings shall be deposited on any Street, Road, or Common Areas, nor on any Lot unless placed in a suitable container and in a location designated therefor.

Section 3. No building material of any kind or character shall be placed upon any Lot except in connection with construction approved as herein provided. As soon as building materials are placed on any Lot in such connection, construction shall be promptly commenced and diligently prosecuted to conclusion.

Section 4. No clothes lines, drying yards, service yards, wood piles or storage areas shall be located so as to be visible from a street, road or any Common Area.

Section 5. No animals or poultry shall be kept within the Properties except for ordinary household pets belonging to the Owner or Owners; PROVIDED, HOWEVER, that such pets shall be kept within the confines of the Owner's Lot or on a leash when outside, and shall not be kept or used for commercial purposes.

Section 6. No used or previously erected or temporary house, structure, house trailer, structure designed as a mobile home, or any other non-permanent out building shall ever be placed, erected or allowed to remain on the Properties except during the construction period.

Section 7. Boats and campers shall be parked only in an area specifically designated therefor by the Association.

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Section 8. Trucks and commercial vehicles shall not be allowed to remain on the Properties; however, this restriction shall not restrict trucks or commercial vehicles making pickups or deliveries to or in the Properties, nor shall this restriction restrict trucks or commercial vehicles which are necessary for construction or maintenance of the Properties.

## **ARTICLE X**

### **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 hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the Land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. During the first thirty (30) years following recordation hereof, this Declaration may be amended by an instrument signed by eighty percent (80%) of the then owners of the lots, agreeing to such amendment, and thereafter, by an instrument signed by not less than two-thirds (2/3) of the Lot Owners. To be valid, any such amendment must be recorded.

Section 4. FHA/VA Approval. As long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans

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Administration: Annexation of additional properties, dedication of Common Area, mortgaging of the Common Area and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 3<sup>rd</sup> day of *December* 1971.

WALTER CARRINGTON/builder, INC.

By: Walter Carrington

President

THE STATE OF TEXAS                    ()

  ()

COUNTY OF TRAVIS                    ()

Before me, the undersigned authority, on this day personally appeared WALTER R. CARRINGTON, President of Walter Carrington/builder, Inc., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 3<sup>rd</sup> day of *December*, 1971.

Linda Pierce

Notary Public in and for Travis County,

Texas

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EXHIBIT "A"

A 37.24 acre tract out of the John Applegate Survey in Travis County, Texas, and being part of that certain tract conveyed to J. B. Rutland by Deed as recorded in Volume 348, Page 210 of the Travis County Deed Records and being more particularly described as follows:

BEGINNING for reference at an iron pin in the westerly property line of Lamar Blvd. (Old U.S. 81);

THENCE N 61 °-25' W., 824.39 feet to an iron pin and the POINT OF BEGINNING of the herein described tract;

THEXCE N 29 °-40' E., 696.08 feet to an iron pipe;

THENCE N 29 °-34' E., 318.75 feet to an iron pipe in the southerly line of a tract conveyed to A. S. Neans as recorded in Volume 236, Page 297 of the Travis County Deed Records;

THENCE with the southerly line of the Neans tract the following two courses:

1. N 59 °-57' W., 319.80 feet to an iron pipe;
2. N 59°-58' W., 985.00 feet to a point;

THENCE S 30°-02' W., 600.00 feet to a point;

THENCE S 59°-58' E., 719.13 feet to a point;

THENCE S 26° - 40' W., 633.34 feet to a point on an easement for a power line as recorded in Volume 1209, Page 66 of the Travis County Deed Records;

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THENCE S 26°-49' W., 781.00 feet to a point on the northerly R.O.W. line of Rutland Drive, same point being also the northwest corner of a subdivision called "The Park at Quail Creek" as recorded in Book 56, Page 55 of the Travis County Deed Records;

THENCE along the northerly R.O.W. line of Rutland Drive, S 61°-42' E., 600.20 feet to a point;

THENCE N 26°-49' E., 772.64 feet to a point, same point being the northeasterly corner of the subdivision "The Park at Quail Creek";

THENCE along the same line past the aforesaid point, 208.95 feet to the POINT OF BEGINNING and containing 37.24 acres.

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ANNEXATION OF THE PARK AT QUAIL CREEK, SECTION TWO,

AND

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE PARK AT QUAIL CREEK, SECTION TWO

WITNESS this Declaration, made this the *18* day of *August* 1972, by WALTER CARRINGTON/BUILDER, INC., hereinafter called "DECLARANT":

WHEREAS, Declarant is the owner of certain property in the City of Austin, Travis County, Texas, which is known as The Park at Quail Creek, Section Two, and is described by metes and bounds as follows:

A tract of land containing 9.13 acres out of the John Applegate Survey, Travis County, Texas, said tract being a portion of that tract conveyed to Jerry Wallace by Deed recorded in the Deed records of Travis County, Texas, Volume 3691, Pages 910-924, said tract being a proposed subdivision to be known as the Park at Quail Creek Section Two, and being more particularly described as follows:

BEGINNING for reference at an iron pin found in the north-easterly right-of-way line of Rutland Drive, said iron pin also being the southwesterly corner of The Park at Quail Creek Amended, a subdivision as recorded in the Plat Records of Travis County, Texas, Book 59, Page 41;

THENCE N 26°-49' E., 781.00 feet along the northwesterly line of said Park at Quail Creek Amended to the Point of Beginning of the herein described tract:

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THENCE through the interior of said Jerry Wallace tract the following four (4) courses:

1. N 26°-49' E., 633.76 feet to an iron pin found;
2. S 59°-45' E., 200.00 feet to a point;
3. N 74°-55' E., 65.00 feet to a point;
4. S 60°-22' E., 375.67 feet to a point in the northwesterly line of a Tract

conveyed to Arthur Pihlgren, et al, by Deed recorded in Volume 3691, Page 948 of the Travis County Deed Records;

THENCE along the northwesterly line of said Pihlgren tract S 29°-41' W., 464.50 feet to an iron pipe found;

THENCE S 26°-49' W., 206.70 feet to the most easterly corner of said Park at Quail Creek Amended;

THENCE along the northeasterly line of said Park at Quail Creek Amended the following four (4) courses:

1. N 59°-41' W., 265.67 feet to a point;
2. N 74°-45' W., 61.53 feet to a point;
3. N 49°-56' W., 133.07 feet to a point;
4. N 67°-19' W., 145.40 feet to the POINT OF BEGINNING and containing 9.13 acres.

WHEREAS, Declarant desires to create thereon a residential community with permanent parks, playgrounds, open spaces, and other common facilities for the benefit of said community;  
and

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WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said parks, playgrounds, open spaces and other common facilities; and to this end, desires to subject the property herein described to the covenants, restrictions, easements, charges and liens, hereinafter described, each of which is for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to create a Home Owner's Association to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created;

NOW, THEREFORE, Declarant hereby declares that all the properties herein described shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions as described and established by the Declaration of Covenants, Conditions and Restrictions of record in Volume 4219, Pages 1664 through 1681, inclusive, Deed Records of Travis County, Texas; which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof;

Within the provisions of Section 2, Article V, of the aforescribed Declaration of Covenants, Declarant hereby annexes the aforescribed tract to be known as The Park at Quail Creek, Section Two, containing 9.13 acres of land, being a part of the 37.24 acre tract out of the John Applegate Survey described in Exhibit "A" of the aforescribed Declarations.

Declarant further declares that all of the property in The Park at Quail Creek, Section Two, shall be held, sold, and conveyed subject to the easements, restrictions, covenants and

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conditions described in the Declaration of Covenants of record in Volume 4219, Pages 1664 through 1681, Deed Records of Travis County, Texas, and/or shown on the plat of the Section Two, all of which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

The common area in The Park at Quail Creek, Section Two, to be owned by the Association will be Block A, save and except Lots 1 through 16; Block B, save and except Lots 1 through 24; Block C, save and except Lots 1 through 16; Block D, save and except Lots 1 through 16; Block E, save and except Lots 1 through 16; and Block F. Prior to the conveyance of a lot in a particular block, the common area of such block will be conveyed to the Association. Block F will be conveyed to the Association prior to the conveyance of any lot in The Park at Quail Creek, Section Two.

All other terms and conditions contained in the Declaration of Covenants, Conditions and Restrictions for The Park at Quail Creek not in conflict with this Declaration and Annexation are hereby ratified and affirmed.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this the *18* day of *August* 1972.

WALTER CARRINGTON/BUILDER, INC.

By: Walter Carrington

Walter R. Carrington, President

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APPROVAL BY FHA AND VA

We hereby certify that the plans and specifications *for the land development and* for the improvements of The Park at Quail Creek, Section Two, a subdivision in Travis County, Texas, have been examined and are in accordance with the general plan heretofore approved.

Annexation of the Park at Quail Creek, Section Two, is hereby given approval.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Acting by and through the FEDERAL HOUSING COMMISSIONER

By: *Finnis E. Jolly*

Authorized Agent

VETERANS' ADMINISTRATION

By: *J.P. Pearson*

THE STATE OF TEXAS ()

COUNTY OF TRAVIS ()

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Walter R. Carrington, President of Walter Carrington/Builder, Inc., 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 and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the *18* day of *August*,  
1972.

*Marilyn Pruden*

Notary Public in and for Travis County,

Texas