

DECLARATION OF COVENANTS AND RESTRICTIONS  
FOXWOOD, SECTION THREE

F046832

THIS DECLARATION, made on the date hereinafter set forth by FOXWOOD ASSOCIATES, a Texas Joint Venture composed of T. M. C. Funding, Inc., a Texas corporation, and T. C. Financial Development Corporation, a Delaware corporation, hereinafter referred to as "Foxwood Associates";

WITNESSETH:

150-03-1845

Foxwood Associates, the owner of the following described property in Houston, Harris County, Texas:

THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO, WHICH EXHIBIT "A" IS INCORPORATED HEREIN AS IF COPIED AT THIS PLACE, WORD FOR WORD, FOR ALL PURPOSES,

hereby declares that the real property in Foxwood, Section 3 (as such term is hereinafter defined), to the extent provided herein, shall be held, sold, transferred and conveyed subject to the reservations, covenants, obligations, assessments, liens, terms, and provisions set forth below, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property.

ARTICLE I

DEFINITIONS

SECTION 1.1 - DEFINITIONS. The following words, when used in this Declaration, shall have the following meanings (unless the context clearly indicates otherwise):

- (a) Foxwood Associates, the declarant herein, and to any entity which succeeds to all or subsequently all of its assets by any merger, consolidation, or conveyance of assets.
- (b) "Foxwood, Section 3" shall mean and refer to the property described in Exhibit "A" attached hereto.
- (c) "Lot" shall mean and refer initially to any of the One hundred Forty-Three (143) numbered lots in Foxwood, Section 3, being the lots described in Item One of the attached Exhibit "A".

If a Subdivision Plat is hereafter filed for record by Foxwood Associates in the office of the County Clerk of Harris County, Texas, replatting the area within any of the lots, then, with respect to the replatted area only, the term "Lot" shall thereafter mean and refer to any of the numbered lots shown on such Subdivision Plat. If building sites are created pursuant to Section 2.6 herein, the term "Lot" shall also thereafter mean and refer to any building site so created.

- (d) "Living Unit" shall mean and refer to any improvements in Foxwood, Section 3, which are designed and intended for occupancy and use as a residence by one person, by a single family, or by persons maintaining a common household.
- (e) "Detached Residence" shall mean and refer to a Living Unit no side wall of which is on a side boundary line of the Lot upon which such Living Unit is situated.
- (f) "Owner" shall mean and refer to the owner(s), whether one or more persons or entities, of the fee simple title to any lot, but shall not mean or refer to any person or entity holding only a lien, easement, mineral interest, or royalty interest burdening the title thereto.
- (g) "Association" shall mean and refer to the Foxwood Homeowners Association, a Texas non-profit corporation, and to any non-profit corporation which succeeds to all or substantially all of its assets by any merger, consolidation, or conveyance of assets.

- (h) "Member" shall mean and refer to a member of the Association during the period of such membership, and shall include the Owner (during the period of his ownership) of each lot.
- (i) "Common Areas" shall mean and refer to any properties, real or <sup>155-03-1046</sup> personal, hereafter conveyed to or otherwise acquired by the Association.
- (j) "Properties" shall mean and refer to that certain property described on Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
- (k) "Architectural Control Committee" shall mean and refer to John Scheffler, Bob Atkinson, and Jane Blalock, all of Harris County, Texas, and their successors, who shall act as the Architectural Control Committee.
- (l) "FHA" shall mean and refer to the Federal Housing Administration.
- (m) "VA" shall mean and refer to the Veterans Administration.
- (n) "Collector Street" shall mean and refer to all streets as shown on the Foxwood, Section 3 plat, irrespective of any change in the names thereof.

#### ARTICLE 11

##### SUBDIVISION PLAT; EASEMENTS; RIGHTS RESERVED; BUILDING SITES; ADJACENT PROPERTY

SECTION 2.1 - SUBDIVISION PLAT. All dedications, easements, limitations, restrictions, and reservations shown on the Foxwood, Section 3, Plat are incorporated herein for all purposes, insofar as they relate to Foxwood, Section 3.

SECTION 2.2 - EASEMENTS. Foxwood Associates hereby reserves easements and rights-of-way to construct, maintain, repair, and operate a system or systems of electric light and power, telephone, telegraph, natural gas, water, sanitary sewer, storm sewer, cable television, and other utility lines and facilities over, on, and under the Common Areas.

Further, Foxwood Associates reserves the right to dedicate or convey specific easements over, on, or under any part of the Common Areas for any or all of said systems, and the right to reserve, dedicate, or convey additional easements in any other part of Foxwood, Section 3, for streets and/or any or all of said systems at or prior to the time Foxwood Associates parts with title thereto.

SECTION 2.3 - LIABILITY. No municipal authority using any dedicated public utility easement over, on, or under the Common Areas shall ever be liable for any damages done by them to fences, trees, shrubbery, plants, landscaping, or other improvements situated on the land covered by said easement except to the extent any such municipal authority may have agreed otherwise with Foxwood Associates or has a standard practice of remedying or repairing such damage. If any such damage is occasioned by operations of a municipal authority, then, to the extent such damage is not remedied or repaired by the municipal authority in accordance with its standard practice or its agreement with Foxwood Associates, such damage shall be remedied or repaired by the Association at its expense. If any damage to fences, trees, shrubbery, plants, landscaping, or other improvements situate on the Common Areas is occasioned by operations of any party other than a municipal authority, such damage shall be remedied or repaired by the party causing same at its expense.

SECTION 2.4 - RESERVATIONS. The title conveyed by Foxwood Associates to any lot by contract, deed, or other conveyance shall never be intended, construed, or held to include the title to any of the Common Areas, any of the easements referred to in Sections 2.1 or 2.2, or any improvements at any time located over, on, or under the Common Areas or any such easement, and title to all of the same shall be considered as excluded from any such conveyance, except to the extent that any of the same are specifically referred to in the instrument of conveyance and are stated therein to be conveyed thereby. Any

system of utility lines and facilities constructed by Foxwood Associates over, on, or under any such easement may be given, sold, or leased by Foxwood Associates to any public authority, utility company, or holder of a public franchise. 155-03-1047

SECTION 2.5 - RIGHT TO SUBDIVIDE OR RESUBDIVIDE. Foxwood Associates shall have the right (but shall never be obligated) to subdivide or resubdivide into lots, by recorded plat or in any other lawful manner, all or any part of the property in Foxwood, Section 2.

SECTION 2.6 - BUILDING SITES. With the written approval of the Architectural Control Committee, a living built may be constructed on any combination of lots or portions of lots having (1) a width at the building line of not less than the narrowest width at the building line of any lot shown on the Foxwood, Section 1, Plat, and (2) an area of not less than the area of the smallest lot shown on the Foxwood, Section 1, Plat.

SECTION 2.7 - NO OBLIGATION AS TO ADJACENT PROPERTY. Foxwood, Section 1, is a part of larger tract or block of land owned by Foxwood Associates. While Foxwood Associates may subdivide other portions of its property, or may subject the same to a declaration, Foxwood Associates shall have no obligation to do so, and . . . Foxwood Associates elects to do so, any Subdivision Plat or Declaration executed by Foxwood Associates with respect to any of its other property may be the same or similar or dissimilar to any Subdivision Plat covering Foxwood, Section 3 or any part thereof, or to this Declaration.

#### ARTICLE III

##### PROPERTY RIGHTS IN THE COMMON AREAS

SECTION 3.1 - MEMBERS' EASEMENTS OF ENJOYMENT. Subject to the provisions of Section 3.2, every Member shall have a common right and easement of enjoyment in the Common Areas and such right and easement shall be appurtenant to and shall pass with the title to every lot.

SECTION 3.2 - EXTENT OF MEMBERS' EASEMENTS. The rights and easements of enjoyment created hereby in favor of the Members shall be subject to the rights and easements now existing or hereafter created in favor of Foxwood Associates or others as referred to or provided for in Article II, and shall also be subject to the following rights of the Association:

- (a) The Association shall have the right to borrow money and in aid thereof to mortgage the Common Areas provided, if the borrowed money is to be used other than to cover operating expenses, insurance premiums or Ad Valorem taxes, the borrowing of the money and any mortgaging of the Common Areas must be approved by two-thirds (2/3rds) of the votes cast by each Class of Members at a Meeting of Members. In the event of a default under or foreclosure of any such mortgage, the rights of the lender or foreclosure sale purchaser shall be subject to the easement of enjoyment of the Members, except that the lender or foreclosure sale purchaser shall have the right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members of any recreational facilities and to open the enjoyment of such recreational facilities to a reasonable wider public until the mortgage debt owed to such lender, or the purchase price paid by the foreclosure sale purchaser, and interest thereon at the rate of ten per cent (10%) per annum, shall be satisfied or recovered, whereupon the possession of such properties shall be returned to the Association and all rights hereunder of the Members shall be fully restored. Any mortgage of Common Areas must be approved by FHA and VA as long as there is Class "B" membership.
- (b) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Areas against foreclosure of any such mortgage.

- (c) The Association shall have the right to suspend the enjoyment rights of any Member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid.
- (d) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Areas and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (e) The Association shall have the right to assess and collect the assessments provided for herein and to charge reasonable admission and other fees for the use of any recreational facilities which are a part of the Common Areas.
- (f) The Association shall have the right to transfer or convey all or any part of the Common Areas or interests therein, to any public authority for such purposes and subject to such conditions as may be approved by a two-thirds (2/3rds) majority of each class cast at a Meeting of Members.
- (g) The Association shall have the right, but not the obligation, to contract, on behalf of all Lots for garbage and rubbish pickup and to charge the Owner of each Lot for his pro rata share to be determined by dividing the number of Lots being served into the total cost of providing such garbage and rubbish pickup and such cost to be in addition to, should the Association so elect, the assessments described in Article V hereof.

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SECTION 3.3 - EXTENSION OF MEMBERS' RIGHTS AND EASEMENTS. Each member shall have the right to extend the rights and easements of enjoyment vested in him hereunder to the members of his family and/or to his tenants who reside in Foxwood, Section 4, or in other property which Foxwood Associates subjects to the jurisdiction of the Association and impresses with an assessment equivalent to the assessment imposed by Article V hereinafter, as may be permitted by the Association.

#### ARTICLE IV

##### THE ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS; BOARD OF DIRECTORS

SECTION 4.1 - ORGANIZATION. Foxwood Associates has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas.

SECTION 4.2 - PURPOSE. The purpose of the Association in general shall be to provide for and promote the health, safety, and welfare of the Members, to collect the annual and special assessments, to provide for the maintenance, repair, preservation, upkeep, and protection of the Common Areas and such other purposes as are stated in the Articles of Incorporation consistent with the provisions of this Declaration.

SECTION 4.3 - BOARD OF DIRECTORS. The Association shall act through a nine-member Board of Directors, which shall manage the affairs of the Association. The initial Directors of the Association shall be selected by Foxwood Associates.

SECTION 4.4 - 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.

SECTION 4.5 - VOTING RIGHTS. The Association shall have the following class or classes of voting membership with the following rights:

CLASS "A": The owners of the Lots shall be the Class "A" Members, and by virtue of such membership, the Owner of each Lot shall be entitled to one vote in the Association. There shall be no fractional votes. When the Owner of a Lot consists of more than one person or entity, they shall designate one of their number to cast their one vote with respect to such Lot.

CLASS "B": Foxwood Associates shall be the sole Class "B" Member, and, by virtue of such membership, shall be entitled to three (3) votes for each Lot owned by Foxwood Associates. The Class "B" Membership shall cease and be converted to Class "A" Membership on the happening of either of the following events, whichever occurs first:

- (a) When the total votes outstanding in the Class "A" Membership equal the total votes outstanding in the Class "B" Membership; or
- (b) At Midnight on December 31, 1987.

provided, however, that the Class "B" Membership shall be automatically reinstated whenever additional property is subjected by Foxwood Associates to the jurisdiction of the Association and is impressed by Foxwood Associates with an assessment equivalent to the assessment imposed by Article V herein, said Class "B" Membership as reinstated being subject to further termination at Midnight of the day falling ten (10) years after the date of the reinstatement of the Class "B" Membership or at the time when, once again, the total votes outstanding in Class "A" Membership equal the total votes outstanding in Class "B" Membership, whichever event occurs earlier.

#### ARTICLE V

##### COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 5.1 - CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each Owner of a Lot which shall be or become subject to the assessments hereinafter provided for, by acceptance of a Deed or other conveyance hereof, whether or not it shall be so expressed in any such Deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (1) annual assessments, and (2) special assessments for capital improvements, as such assessments may be fixed, established, and collected from time to time as hereinafter provided, together with (3) such interest thereon and cost of collection thereof as are hereinafter provided for, all of which shall be a charge on and secured by a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided for, shall also be and remain the personal obligation of the person who is the Owner of such property at the time the assessment becomes due and payable, notwithstanding any subsequent transfer of title to such property. Such personal obligation shall not pass to such Owner's successors in title unless expressly assumed by them, but shall be secured by the continuing lien referred to above.

SECTION 5.2 - PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to improve, beautify, maintain, manage, and operate the Common Areas and to pay taxes and insurance premiums thereon, and to promote the recreation, health, safety, convenience, and welfare of the Members, such benefits to include, by way of illustration but not limitation, providing patrol or watchman service, providing and maintaining street lighting, fogging for insect control, enforcing the covenants contained in this Declaration, employing at the request of the Architectural Control Committee one or more architects, engineers, attorneys, or other consultants, for the purpose of advising such Committee in carrying out its duties and authority as set forth in this Declaration, and providing and doing all other things necessary or desirable, in the opinion of the Board of Directors of the Association, for the maintenance and/or improvement of the Common Areas or for the benefit of the Members, the foregoing uses and purposes being permissive and not mandatory, and the decisions of the Board of Directors of the Association being final as long as made in good faith and in accordance with law and the By-Laws governing the Association.

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SECTION 5.3 - MAXIMUM ANNUAL ASSESSMENTS. The Association, by action of its Board of Directors, shall levy annual assessments against the Lots to obtain funds reasonably anticipated to be needed for the purposes stated in Section 5.2, including reasonable reserves for contingencies and for capital improvements, replacements, and repairs; provided, the annual assessments shall be levied on a uniform basis as follows:

- (a) The amount of the annual assessment for a Lot with a Living Unit thereon occupied as a residence shall not exceed \$96.00, except that for any calendar year after the calendar year 1975, the Association may increase said maximum amount of the annual assessment for a Lot with a Living Unit thereon occupied as a residence, but if any such change increases the maximum amount which can be assessed against a Lot with a Living Unit thereon occupied as a residence to more than \$105.60 per year or more than 110% of the amount assessed in the preceding calendar year, whichever is greater, the change must be approved by two-thirds of the votes cast by each Class of Members at a Meeting of Members. The amount actually assessed against a Lot with a Living Unit thereon occupied as a residence for any calendar year is referred to in (b) below as the "Base Assessment Sum" for such year.
- (b) The amount assessed each year against a Lot which does not have a Living Unit thereon occupied as a residence shall be a fraction of the Base Assessment Sum for such year, such fraction to be determined by the action of the Board of Directors of the Association.

SECTION 5.4 - SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual 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.

SECTION 5.5 - NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3 or 5.4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, stating the purpose thereof. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty per cent (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 such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 5.6 - UNIFORM RATE OF ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

SECTION 5.7 - DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual 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. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

SECTION 5.8 - DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Association shall determine the amount to be levied as the annual assessment against each lot for each calendar year, subject to the criteria and limitations set out in Section 5.3. The Board of Directors of the Association shall cause to be prepared a roster of the lots showing the amount of each assessment, which roster shall be kept in the office of the Association and shall be open to inspection by any Owner. The Association shall upon demand and for a reasonable charge at any time furnish to any Owner a certificate in writing signed by an officer of the Association setting forth whether or not there are any unpaid assessments against said Owner's property. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid, as to any third party who, in good faith, relies thereon to his economic detriment.

SECTION 5.9 - EFFECT OF NONPAYMENT OF ASSESSMENT; THE LIEN; REMEDIES OF ASSOCIATION. If an assessment is not paid on the date it becomes due, such assessment shall thereupon become delinquent and, together with the interest thereon and cost of collection thereof hereinafter provided for, shall thereupon be secured by a continuing lien on the lot against which the assessment was levied, including improvements thereon, which shall bind such property in the hands of the then Owner thereof, his heirs, devisees, personal representatives, successors and assigns. If the assessment is not paid within thirty (30) days after it becomes due, the assessment shall bear interest from the date it becomes due at the rate of ten per cent (10%) per annum until it is paid, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or an action at law to foreclose the lien securing the assessment, and there shall be added to the amount of such assessment all reasonable expenses of collection, including the cost of preparing and filing the petition, reasonable attorney's fees and costs of suit. No Owner may waive or otherwise escape liability for the assessments provided for herein for non-use of the Common Areas or abandonment of his lot.

SECTION 5.10 - SUBORDINATION OF THE LIEN TO MORTGAGES. The lien securing any assessment provided for herein shall be subordinate to the lien of any mortgage(s) now or hereafter placed upon the property subject to the assessment for the purpose of securing indebtedness incurred to purchase or improve such property; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the property pursuant to a decree of foreclosure, a foreclosure by trustee's sale under a Deed of Trust, or a conveyance in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessment thereafter becoming due, nor from the lien securing any such subsequent assessment. In addition to the automatic subordination provided for above, 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.

SECTION 5.11 - EXEMPT PROPERTY. The assessments and liens created in this Article V shall apply only to the Residential Lots and the remainder of the property in Foxwood, Section Two, shall not be subject thereto nor entitled to the rights granted to Members in Article IV.

SECTION 5.12 - BOOKS. The Association shall maintain books of account reflecting all of its income and disbursements. Any Member shall have the right to inspect such books at the office of the Association at any reasonable time.

#### ARTICLE VI

#### ARCHITECTURAL CONTROL COMMITTEE

SECTION 6.1 - TENURE. The persons serving on the Architectural Control Committee, or their successors, shall serve until such time as all lots subject to the jurisdiction of the Association have Living Units thereon occupied as residences, at which time the Architectural Control Committee shall resign and thereafter its duties shall

153-03-1352

be fulfilled and its powers exercised by the Board of Directors of the Association. In the event of the death or resignation of any person serving on the Architectural Control Committee, the remaining person(s) serving on the Committee shall designate a successor, or successors, who shall have all of the authority and power of his or their predecessor(s). A majority of the Architectural Control Committee may designate someone serving on the Committee to act for it. No person serving on the Committee shall be entitled to compensation for services performed pursuant to Article VI. However, the Committee may employ one or more architects, engineers, attorneys, or other consultants to assist the Committee in carrying out its duties hereunder; and the Association shall pay such consultants for such services as they render to the Committee.

SECTION 6.2 - APPROVAL OF PLANS. No building shall be commenced, constructed, erected, placed, or maintained in Foxwood, Section 3, nor shall any exterior addition to or alteration therein be made, unless and until the building plans, specifications, and plat plan showing the location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the subdivision and as to location of the building with respect to topography and finished ground elevation by the Architectural Control Committee. In the event the Architectural Control Committee fails to approve or disapprove such design and location within ten (10) working days after such plans and specifications have been submitted to it, or in any event, if the Association enjoin the erection of such building, or the making of such alterations, has been commenced prior to the completion thereof, such approval will not be required.

ARTICLE VII  
RESTRICTIONS

SECTION 7.1. All buildings, structures, and other improvements erected, altered, or placed in Foxwood, Section 3, shall be of new construction, and no structure of a temporary character, trailer, mobile home, tent, shack, garage, barn, or out-building shall be used in Foxwood, Section 3, at any time as a residence, either temporarily or permanently. Unless the Architectural Control Committee otherwise agrees in writing, the exterior finish or construction of any living unit shall be at least fifty-one per cent (51%) brick, stone, or other masonry; in computing such percentage, roof areas shall be excluded, but attached garages, porches, and other structures constituting part of the living unit proper shall be included.

SECTION 7.2. No nuisance shall ever be erected, placed, or suffered to remain upon any property in Foxwood, Section 3, and no Owner of or resident on any property in Foxwood, Section 3, shall use the same so as to endanger the health or disturb the reasonable enjoyment of any other Owner or resident. The Association is hereby authorized to determine what constitutes a violation of this restriction.

SECTION 7.3. No sheep, goats, horses, cattle, swine, poultry, dangerous animals (the determination as to what is a dangerous animal shall be in the sole discretion of the Association), snakes or livestock of any kind shall ever be kept in Foxwood, Section 3, except that dogs, cats, or other common household pets (not to exceed a total of three adult animals) may be kept by the Owner or Tenant of any living unit, provided they are not kept for any commercial purpose.

SECTION 7.4. No trash, rubbish, garbage, manure, or debris of any kind shall be kept or allowed to remain on any lot. The Owner of each lot shall remove such prohibited matter from his lot at regular intervals at his expense, and prior to such removal all such prohibited matter shall be placed in sanitary refuse containers with tightfitting lids in an area adequately screened by planting or fencing so as not to be seen from neighboring lots or existing or planned Common Areas. Reasonable amounts of construction materials and equipment may be stored upon a lot for reasonable periods of time during the construction of improvements thereon.



153-C3-1553

SECTION 7.5. No oil or natural gas drilling, oil or natural gas development, or oil refining, quarrying, or mining operations of any kind, no oil, natural gas or water wells, tanks, tunnels, mineral excavations or shafts, and no derricks or other structures for use in boring for oil, natural gas, minerals or water shall be erected, maintained or permitted in Foxwood, Section 3 .

SECTION 7.6. No privy, cesspool or septic tank shall be placed or maintained in Foxwood, Section 3 .

SECTION 7.7. No boat, trailer, camping unit, or self-propelled or towable equipment or machinery of any sort shall be permitted to park on any lot except in an enclosed structure, or in any area adequately screened by planting or fencing so as not to be seen from other lots or existing or planned Common Areas, if any, except that, during the construction of improvements on a lot, necessary construction vehicles may be parked thereon for and during the time of necessity therefor. No boat, trailer, camping unit, or self-propelled or towable equipment or machinery of any sort shall be permitted to park on any street abutting any lot in Foxwood, Section 3 , for longer than six (6) consecutive hours.

SECTION 7.8. No clothing or other materials shall be aired or dried in Foxwood, Section 3 , except in an enclosed structure, or in an area adequately screened by planting or fencing so as not to be seen from other lots or existing or planned Greenways, if any.

SECTION 7.9. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only after 7:00 A. M. and before 9:00 P. M.

SECTION 7.10. - No television wires or antennas shall be maintained on any portion of any lot between any street adjoining same and the front of the living unit situated on such lot. No radio antennas of any sort shall be erected or permitted to remain outside a living unit situated on such lot.

SECTION 7.11. All electrical, telephone, and other utility lines and facilities which (i) are located on a lot, (ii) are not within a part of any building, and (iii) are not owned by a governmental entity, a public utility company, or the Association, shall be installed in underground conduits or other underground facilities. Lighting fixtures may be installed above ground if approved in writing by the Architectural Control Committee.

SECTION 7.12. Mailboxes, house numbers and similar matter used in Foxwood, Section 3 , must be harmonious with the overall character and aesthetics of the community and the decision of the Architectural Control Committee that any such matter is not so harmonious shall be final.

SECTION 7.13. No fence, wall, tree, hedge, or planting shall be maintained in Foxwood, Section 3 in such manner as to obstruct sight lines for vehicular traffic. No fence or hedge shall be maintained within the front building setback line as shown on the recorded plat of Foxwood, Section 3 .

SECTION 7.14. No owner of any lot in Foxwood, Section 3 , nor any visitor or guest of any owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets abutting such lots other than work of a temporary nature.

SECTION 7.15. No outbuildings may be erected on any lots in Foxwood, Section 3 , without the prior written approval of the Architectural Control Committee.

SECTION 7.16. No billboards or other signs may be erected in Foxwood, Section 3 without the prior written consent of the Architectural Control Committee. Such Committee shall furnish, upon request, a sign manual setting forth the limitations and guidelines for signs, which shall be reasonable in scope and restriction, and shall grant its written approval of signs which satisfy the requirements of such manual. In no event shall the use of flags or banners be permitted in the promotion or sale of any living unit in Foxwood, Section 3 .

SECTION 7.17. The Owner of each Lot shall maintain the same, and the Improvements, Trees, hedges, and plantings thereon, in a neat and attractive condition. The Association shall have the right, after twenty (20) days' notice to the Owner of any Lot, setting forth the action intended to be taken by the Association, provided at the end of such time such action has not already been taken by such Owner (i) to mow the grass thereon, (ii) to remove any debris therefrom, (iii) to trim or prune any tree, hedge, or planting that, in the opinion of the Association, by reason of its location or height or the manner in which it has been permitted to grow, is detrimental to the enjoyment of adjoining property or is unattractive in appearance, (iv) to repair or paint any fence thereon that is out of repair or not in harmony with respect to color, with fencing on adjacent property, and (v) to do any and all things necessary or desirable in the opinion of the Association to place such property in a neat and attractive condition consistent with the intention of this Declaration. The person who is the Owner of such property at the time such work is performed by the Association shall be personally obligated to reimburse the Association for the cost of such work within ten (10) days after it is performed by the Association, and if such amount is not paid within said period of time, such Owner shall be obligated thereafter to pay interest thereon at the rate of ten per cent (10%) per annum, and to pay any attorney's fees and court costs incurred by the Association in collecting said obligation, and all of the same shall be secured by a lien on such Owner's property, subject only to liens then existing thereon.

157-03-155A

SECTION 7.18. Except for the easement rights elsewhere recognized in this Declaration, the Lots and the Common Areas shall be used for the following purposes only:

- (a) Each Lot shall be used only for a single-family, Detached Residence, and no Lot shall be used for business or professional purposes of any kind. With each Detached Residence, there shall be an attached or detached, private, enclosed garage. Each such garage shall accommodate at least two automobiles. Bona fide domestic servants may live in the improvements on any such property.
- (b) The Greenways, if any, shall be used only for utility easements, pedestrian ways, recreation facilities, landscaping, and other purposes deemed by the Association to promote the recreation, safety, convenience and welfare of the Members. No motorized vehicles shall be permitted upon the Greenways, if any, except those that are used in the maintenance and upkeep of the Greenways, or of any utility easement over, on, or under the Greenways. By way of illustration, but not limitation, such prohibited motorized vehicles shall include automobiles, motorcycles, motor bicycles, and motor scooters.

SECTION 7.19. A Lot which fronts upon a Collector Street shall have direct driveway access from such Collector Street. The owner of each Lot shall construct and maintain at his expense the driveway from his garage to the abutting Collector Street, including the portion in the street easement, and he shall repair at his expense any damage to the street occasioned by connecting his driveway thereto.

SECTION 7.20. No building or Living Unit in Foxwood, Section J, shall exceed in height two (2) stories or twenty-four feet (24') measured from the finished grade of the building site. No detached Residence of one story shall contain less than 1200 square feet of living area and no Detached Residence of two stories shall contain less than 1600 square feet of living area (all such computations of living areas to be exclusive of open or screened porches, terraces, patios, driveways, carports, garages, and/or living quarters for bona fide domestic servants), unless the Architectural Control Committee agrees to the contrary in writing.

SECTION 7.21. The following building requirements shall apply to Detached Residences to be constructed, unless the Architectural Control Committee agrees to the contrary in writing, to-wit:

- (a) No building, fence, or other structure shall be placed or built on any such lot nearer to the front lot line or nearer to a side street line than the building lines shown on the Foxwood, Section J, Plat.
- (b) No building shall be located nearer than five feet (5') to any interior lot line, except that a garage or other permitted building located seventy feet (70') or more from the front lot line may be located within three feet (3') of an interior side lot line. No building shall be located on any such Lot nearer than eight feet (8') to the rear lot line.

153-C3-1055

(c) No roof of any structure shall be constructed or covered so that exposed material is:

1. Asphalt shingles having a weight of 200 lbs. or less per square;
2. Composition type shingles having a weight per square of less than 215 lbs;
3. Wood shingles having a grade of less than No. 2;

(d) There shall be erected and maintained such fences and/or screening walls as the Federal Housing Administration may require, except, notwithstanding the foregoing, there shall be erected and maintained along the entire length of the rear property line of Lots Eight (8) through Twenty-Three (23) in Block One (1), both inclusive, a wooden fence six (6') feet in height.

SECTION 7.22. The Owner of each Lot used for a Single Unit, as a minimum, shall spot seed or sprig with grass the area between the front of his Living Unit and the curb line of the abutting Cul-de-Sac, if any, or Collector Street. The grass shall be of a type and within standards prescribed by the Architectural Control Committee.

SECTION 7.23. The Owner of any Lot may construct at his expense and at his election a fence upon such Lot, which fence shall be six feet (6') in height and shall otherwise conform with the provisions herein contained and the specifications established by the Architectural Control Committee. All fences so constructed shall be of wood or masonry construction and shall be maintained in good and attractive condition by the respective Owners of the Lots, except that the Association at its election and at its expense may paint the side of any fence facing a Greenway, if any.

SECTION 7.24. No Owner of a Lot shall have the right, by virtue of such ownership, to make any improvement to a Collector Street, a Cul-de-Sac Street, if any, or a Greenway, if any.

SECTION 7.25. Notwithstanding the foregoing provisions of this Article VII, Foxwood Associates and its permittees shall have the exclusive right to erect, place, and maintain on their respective properties in Foxwood, Section , such facilities (including but not limited to, offices, storage areas, model units, and signs) as in Foxwood Associates' sole discretion may be necessary or convenient to improve and/or sell properties in Foxwood, Section .

ARTICLE VIII

UNDERGROUND ELECTRIC SERVICE

SECTION 8.1. An underground electric distribution system will be installed within the properties which will be designated an Underground Residential Subdivision and which underground service area shall embrace all Lots in the properties. The Owner of each Lot in the Underground Residential Subdivision shall, at his own cost, furnish, install, own, and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition, the Owner of each Lot shall, at his own cost, furnish, install, own, and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter on such electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

SECTION 8.2. The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Foxwood Associates (except for certain conduits, where applicable) upon Foxwood Associates' representation that the Underground Residential Subdivision is being developed for residential dwelling units which are designed to be permanently located where originally constructed (such

category of dwelling unit (expressly to exclude mobile homes) which are built for sale or rent. Therefore, should the plans of Lot Owners in the Underground Residential Subdivision be changed and this Declaration be amended so as to permit the erection therein of one or more mobile homes, the company shall not be obligated to provide electric service to any such mobile home unless (a) Foxwood Associates has paid to the company an amount representing the excess in cost for the entire Underground Residential Subdivision of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision, or (b) the Owner of each affected lot, or the applicant for service to any mobile home, shall pay to the company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such lot over the cost of equivalent overhead facilities to serve such lot, plus (2) the cost of rearranging and adding any electric facilities serving such lot, which rearrangement and/or addition is determined by the company to be necessary, provided that in no instance shall Foxwood Associates be obligated to pay the electric company such amount representing the excess in cost should the Lot Owners amend the Declaration to allow dwellings of a different type.

53-03-1056

SECTION 8.3. The provisions of the two preceding sections shall also apply to any future residential development in Reserve(s), if any, shown on the Plat of Foxwood Subdivision, Section 3, as such plat exists at the execution of the Agreement for Underground Electric Service between the electric company and Foxwood Associates or thereafter. Specifically, but not by way of limitation, if a Lot Owner in a former Reserve undertakes some action which would have invoked the above per front lot foot payment if such action has been undertaken in the Underground Residential Subdivision, such Owner shall pay the electric company \$1.75 per front lot foot unless the Developer has paid the electric company as above-described. The provisions of this section and the two preceding sections do not apply to any future nonresidential development in such Reserve(s), if any.

ARTICLE IX

GENERAL PROVISIONS

SECTION 9.1 - INCORPORATION. The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed, or conveyance hereafter executed by Foxwood Associates conveying all or any part of the land in Foxwood, Section 3, whether or not referred to therein, and all estates conveyed therein and warranties of title contained therein shall be subject to the terms and provisions of this Declaration.

SECTION 9.2 - ENFORCEMENT. The terms and provisions of this Declaration shall run with and bind the land in Foxwood, Section 3, and shall inure to the benefit of and be enforceable by Foxwood Associates, the Association, or the Owner of any Lot and by their respective legal representatives, heirs, successors and assigns. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any term or provision hereof, to enjoin or restrain violation or to recover damages, and against the property to enforce any lien created by this Declaration, and failure of Foxwood Associates, the Association, or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

SECTION 9.3 - SEVERABILITY. Invalidity of any term or provision of this Declaration by judgment or otherwise shall not affect any other term or provision of this Declaration, and this Declaration shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 9.4 - DURATION. This Declaration shall remain in full force and effect for a term of thirty (30) years from the date this Declaration is recorded in the Office of the County Clerk of Harris County, Texas, after which time this Declaration shall be extended automatically for successive periods of ten (10) years each unless and until an instrument signed by the holders of three-fourths (3/4ths) of the votes of each Class of Members with voting privileges has been filed for record in the Office of the County Clerk of Harris County, Texas, agreeing to terminate this Declaration. Such an instrument so filed for record shall become effective on the date stated therein or one (1) year after it is so filed for record, whichever is the later date.

SECTION 9.6 - AMENDMENT. Subject to the provision of Article X, this Declaration may be amended in whole or in part by an instrument executed by the President of the Association when approved by two-thirds (2/3rd) of the votes cast by each Class of Members at a Meeting of Members. Following any such amendment, every reference herein to this Declaration shall be held and construed to be a reference to this Declaration as so amended.

SECTION 9.6 - GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 9.7 - TITLES. The titles of this Declaration of Articles and Sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 9.8 - EXECUTION BY THE ASSOCIATION. The Association, by joining in the execution hereof, agrees to be bound by all of the terms and provisions of this Declaration.

SECTION 9.9 - SUCCESSORS IN TITLE. The terms and provisions of this Declaration shall apply to, be binding upon, and inure to the benefit of Foxwood Associates and the Association and their respective successors and assigns.

#### ARTICLE X

##### ADDITIONS TO EXISTING PROPERTY

Additional lands may become subject to this Declaration in the following manner:

SECTION 10.1 - ANNEXATIONS. Provide that additional residential property and common area may be annexed to the properties with the consent of 2/3 of each class of membership; however, upon submission and approval by FHA/VA of a general plan of the entire development, and approval of each stage of development such additional stages of development may be annexed by the Developer without such approval by the membership.

SECTION 10.2 - MERGERS. Upon a merger or consolidation of the Association with another association, the Association's properties, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions applicable to the properties of the other association as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by this Declaration. Any merger or consolidation must be approved by FHA or VA so long as there is a Class "B" membership and must also be approved by Class "A" members.

#### ARTICLE XI

##### MINERAL EXCEPTION

There is hereby excepted from the Properties, and Foxwood Associates will hereafter except from all its sales and conveyances of the Properties of any part thereof, including the Lots and Common Areas, if any, all oil, gas, and other minerals in, on, or under the Properties, but Foxwood Associates hereby waives, and will waive in each such conveyance, its right to use the surface of such land for exploration for or development of oil, gas, and other minerals.

DECLARATION

As long as there is no other Board order, the following action will require the prior approval of the Federal Housing Administration of the Veterans Administration: acquisition of additional property, dedication of common areas, and amendment of the Declaration of Covenant, conditions and restrictions.

15-03-1-58

1115001016

Texas Commerce Bank, with its business domicile located in Houston, Harris County, Texas, the owner and holder of the Trust covering the Properties, has executed this Declaration in accordance with the consent to, and ratification of the disposition of the foregoing covenants, conditions, and restrictions.

IN WITNESS WHEREOF, this Declaration is executed this 2nd day of February, 1958.

FOXWOOD ASSOCIATES

By: T. M. C. FURBER, INC.

By: Nancy Brown  
President

By: [Signature]  
Secretary

ATTEST:

By: [Signature]  
Secretary

By: T. C. FINANCIAL DEVELOPMENT CORPORATION

By: [Signature]  
President

ATTEST:

By: [Signature]  
Cashier  
Banking Office

TEXAS COMMERCE BANK

By: [Signature]  
President

ATTEST:

By: [Signature]  
Secretary

FOXWOOD HOMEOWNERS ASSOCIATION, INC.

By: [Signature]  
President

RECORDS DEPARTMENT  
This instrument is not satisfactory for photographic reproduction due to carbon or other uses, discolored paper, etc., or due to illegibility. All blanks, additions and changes were present at time instrument was filed and recorded.

THE STATE OF TEXAS        1  
COUNTY OF HARRIS        1

BEFORE ME, the undersigned authority, on this day personally appeared Henry J. Atwell, known to me to be the person whose name is subscribed to the foregoing instrument as President of F. J. C. FUNDING, INC., a Texas 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.

15-03-153

GIVEN UNDER my hand and seal of office this the 30<sup>th</sup> day of February, 1977 A. D.

Cheryl York  
Notary Public in and for Harris County,  
T E X A S

THE STATE OF TEXAS        1  
COUNTY OF HARRIS        1

BEFORE ME, the undersigned authority, on this day personally appeared Henry J. Atwell, known to me to be the person whose name is subscribed to the foregoing instrument as President of F. J. C. FINANCIAL DEVELOPMENT CORPORATION, a Delaware corporation, 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 the 30<sup>th</sup> day of February, 1977 A. D.

Cheryl York  
Notary Public in and for Harris County,  
T E X A S

THE STATE OF TEXAS        1  
COUNTY OF HARRIS        1

BEFORE ME, the undersigned authority, on this day personally appeared Paula F. Louie, known to me to be the person whose name is subscribed to the foregoing instrument as President of TEXAS COMMERCE BANK, a national banking association, 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 bank.

GIVEN UNDER my hand and seal of office this the 15<sup>th</sup> day of February, 1977 A. D.

Paula F. Louie  
Notary Public in and for Harris County,  
T E X A S

PAULA F. LOUIE  
Notary Public  
My Commission Expires June 1, 1979

NOTARY PUBLIC OF TEXAS  
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Robert D. Johnson, known to me to be the person whose name is subscribed to the foregoing instrument as President of POWELL HOMELESS ASSOCIATION, INC. a 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.

153-03-1067

GIVEN UNDER my hand and seal of office this the 16<sup>th</sup> day of February, 1977 A. D.

Robert D. Johnson  
Notary Public in and for Harris County,  
TEXAS

RECORDED BY ME IN INSTRUMENT NO. \_\_\_\_\_  
This instrument is not satisfactory for photographic reproduction due to: (1) system of photo copy; (2) discolored paper; (3) or due to illegibility; (4) No. \_\_\_\_\_ of Office and changes were present at time instrument was filed and recorded.

THE STATE OF TEXAS  
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument as \_\_\_\_\_ of \_\_\_\_\_ a Texas 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 \_\_\_\_\_ day of \_\_\_\_\_, 1977 A. D.

\_\_\_\_\_  
Notary Public in and for Harris County,  
TEXAS

FILED FOR RECORD  
9:00 A. M.  
FEB 17 1977  
Bellevue  
County Clerk, Harris County, Texas



EXHIBIT "A"

All of the One Hundred Forty-Three (143) lots described in the Plat of FOXWOOD, SECTION THREE (3), recorded in Volume 238 at Page 10 of the Map Records of Harris County, Texas.

153-03-1661

AMENDMENT TO COVENANTS AND RESTRICTIONS OF FOXWOOD, SECTION THREE

161-09-0601

That certain Declaration of Covenants and Restrictions for Foxwood Section Three (3) dated February 3, 1977, executed by the undersigned parties, being recorded under Clerk's File No. F 046832 in the Official Public Records of Real Property of Harris County, Texas, and covering all of the one hundred forty-three lots described in the plat of FOXWOOD, SECTION THREE (3) recorded in Volume 231, Page 10 of the Map Records of Harris County, Texas, is hereby amended in the following respects:

Paragraph (b) of Section 7.21 is hereby amended so that hereafter Paragraph (b) of Section 7.21 shall read as follows:

"No Detached Residence shall be located nearer than 3' to any interior lot line nor shall any Detached Residence be nearer than 10' to a Detached Residence situated upon an adjacent lot. A garage, or other permitted building, which is 70' or more from the front lot line may be located not nearer than 3' to the interior lot line. No building, whether Detached Residence, garage, or other permitted building, may be located nearer than 8' to the rear lot line."

It is expressly understood and agreed that all other covenants and provisions contained within said Covenants and Restrictions above-described, not hereby expressly amended, shall remain in full force and effect and unchanged by this instrument.

Texas Commerce Bank, with its business domicile located in Houston, Harris County, Texas, the owner and holder of the liens covering Foxwood, Section Three (3), has executed this Declaration to evidence its joinder in, consent to, and ratification of the imposition of the foregoing covenant, condition, and restriction.

DATE: this the 17th day of March, 1977.

ATTEST: [Signature] Asst. Secretary

ATTEST: Hazel T Long Asst. Secretary

FOXWOOD ASSOCIATES By: T. M. C. HENDING, INC. [Signature] President

By: I C FINANCIAL DEVELOPMENT CORPORATION [Signature] Vice President

ATTEST:

*[Signature]*  
Secretary

WOOD BROS. HOMES, INC.

By: *[Signature]*  
VICE President

ATTEST:

*[Signature]*  
Banking Officer  
VICE President

TEXAS COMMERCE BANK

By: *[Signature]*  
Senior Vice President

ATTEST:

*[Signature]*  
Secretary

FOXWOOD HOMEOWNERS ASSOCIATION, INC.

By: *[Signature]*  
VICE President

161-09-0602

RECEIVED BY THE INSTRUMENTS  
This instrument is not subject to the automatic  
recording system for certain instruments, recorded  
before and on or after 9/1/97, if it meets the  
criteria and criteria with filing of this instrument  
was filed and recorded.

FILED FOR RECORD  
9:00 A. M.

MAR 23 1977

*[Signature]*  
County Clerk, Harris County, Texas

161-09-0603

THE STATE OF TEXAS I  
COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared HARRY P. HEWELL President of T. M. C. FUNDING, INC.; 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 the 17<sup>th</sup> day of March, 1977.

[Signature]  
Notary Public in and for Harris County  
T E X A S

THE STATE OF TEXAS I  
COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared [Signature] President of I C FINANCIAL DEVELOPMENT CORPORATION, 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 the 17<sup>th</sup> day of March, 1977.

[Signature]  
Notary Public in and for Harris County  
T E X A S

RUTH C. DEAN  
Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1977

THE STATE OF TEXAS I  
COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared W. R. REINHARD, Vice President of WOOD BROS. HOMES, INC., 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 the 17<sup>th</sup> day of March, 1977.

[Signature]  
Notary Public in and for Harris County,  
T E X A S

THE STATE OF TEXAS I  
COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared Richard W. Schenke, Senior Vice President of TEXAS COMMERCE BANK, a national banking association, 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 national banking association.

GIVEN UNDER my hand and seal of office this the 21st day of March, 1977.

Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1977

Richard Schenke  
Notary Public in and for Harris County  
TEXAS

161-09-0604

THE STATE OF TEXAS I  
COUNTY OF HARRIS I

BEFORE ME, the undersigned authority, on this day personally appeared Robert W. Johnson, Vice President of FOXWOOD HOMEOWNERS ASSOCIATION, INC., 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 the 17th day of March, 1977.

Robert W. Johnson  
Notary Public in and for Harris County  
TEXAS

F156572

DECLARATION OF  
WAIVER OF SURFACE RIGHTS  
FOR MINERAL EXPLORATION AND PRODUCTION

THE STATE OF TEXAS

1

166-06-1784

COUNTY OF HARRIS

1

KNOW ALL MEN BY THESE PRESENTS:

166-06-1784

That this Declaration is made on the date hereinafter set forth by FOXWOOD ASSOCIATES, a joint venture composed of T. M. C. FUNDING, INC. and F. C. FINANCIAL DEVELOPMENT CORPORATION, both Texas Corporations, hereinafter referred to as Declarants;

W I T N E S S E T H:

WHEREAS, Declarants are the owners of that certain 39.44 acre tract of land known as FOXWOOD, SECTION THREE (3), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 238, Page 10, Map Records of Harris County, Texas; and

WHEREAS, Declarants own the majority of the mineral estate in and under the subdivision, the only exceptions being those particular outstanding mineral reservations and royalty interests which have previously been reserved by instruments recorded in the deed records of Harris County, Texas; and

WHEREAS, it is deemed to be in the best interests of Declarants and any other persons who may purchase property in the Subdivision, and pursuant to requirements of the Federal Housing Administration (FHA) for approval of the Subdivision as one in which the FHA will consider the acceptance of home mortgages, that Declarants relinquish any rights to use the surface estate of the Subdivision for the purpose of mineral exploration and/or production.

NOW, THEREFORE, Declarants, on behalf of themselves and their successors and assigns, hereby waive all rights of ingress and egress at any and all times for the purpose of mining, drilling, exploring, operating and developing the lands constituting the Subdivision for oil, gas and other minerals and removing the same therefrom.

166-06-1785

Notwithstanding anything herein to the contrary, Declarants hereby except and reserve unto themselves and their successors and assigns, the right at any time to explore, develop, mine and drill for oil, gas, and other minerals in and under the Subdivision, and remove such minerals therefrom by means of exploration, development, mining and drilling operations prosecuted on lands adjacent to the Subdivision and the employment of recovery techniques not requiring the use of the surface of any lands comprising the Subdivision.

IN WITNESS WHEREOF, this Declaration is executed on this the 20TH day of MAY, 1977.

T. M. C. FUNDING, INC.

ATTEST:

*[Signature]*  
Assistant Secretary

By: *[Signature]*  
President

I. C. FINANCIAL DEVELOPMENT CORPORATION

ATTEST:

*[Signature]*  
Secretary

By: *[Signature]*  
President

THE STATE OF TEXAS        |

COUNTY OF HARRIS        |

BEFORE ME, the undersigned authority, on this day personally appeared Harry P. Hewell, President of F. M. C. FUNDING, INC., 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 the 20<sup>th</sup> day of May, 1977.

*Karann S. Robinson*  
Notary Public in and for Harris County,  
TEXAS

THE STATE OF TEXAS        |

COUNTY OF HARRIS        |

BEFORE ME, the undersigned authority, on this day personally appeared *[Signature]* President of F. C. FINANCIAL DEVELOPMENT 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 the 22<sup>nd</sup> day of May, 1977.

*[Signature]*  
Notary Public in and for Harris County,  
TEXAS

RUTH C. BEAN  
Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1978

166-06-1736