

Mary Ann Stukel	08/22/94
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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION**

THIS DECLARATION is made this 22nd day of AUGUST, 1994 by WEST SUBURBAN BANK, an Illinois corporation as Trustee under Trust Agreement dated March 11, 1994 and known as Trust Number 10134, hereinafter called "Declarant."

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real estate located in the City of Lockport, Will County, Illinois, which property is known as the Broken Arrow, a Planned Mixed Use Development and is legally described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, HOMER ASSOCIATES, an Illinois Joint Venture, hereinafter referred to as "Homer Associates" is the sole owner of the beneficial interest in the land trust described above; and

WHEREAS, Declarant and Homer Associates are desirous of subjecting a portion of said real estate, which portion is legally described in Exhibit "B" attached hereto and made a part hereof (the "Property"), to the Conditions, Covenants and Restrictions hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner (as hereinafter defined) therein and shall inure to the benefit of and pass with the Property, and each and every parcel thereof;

NOW THEREFORE, Declarant hereby declares that all of the Property described in Exhibit "B" shall be held, sold and conveyed subject to these Covenants, Conditions and Restrictions which shall run with the land and be binding upon and inure to the benefit of all persons having any right, title or interest in the Property or any part thereof, their heirs, legatees, representatives, successors and assigns, in addition to any easement, covenants or restrictions as may appear on any recorded plat of subdivision of the Property.

ARTICLE I

DEFINITIONS

1. **Association** shall mean and refer to the LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION, an Illinois not-for-profit corporation, its successors and assigns.

2. **Basement** shall mean that portion of a building located underground, and having 80% or more of its clear floor-to-ceiling height below finish grade of the adjoining grounds.

Such floor-to-ceiling height shall be no less than 6 feet 8 inches. A Basement shall consist of not less than one-half the floor area of the building exclusive of any garage area. A Basement shall have a concrete floor. The remaining area shall have a four foot crawl space with concrete flooring.

3. **Beneficiary** shall mean Homer Associates, a Joint Venture, its successors or assigns.

4. **Building** shall mean any structure having a roof, supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or chattel.

5. **Building Height** shall mean the vertical distance measured from the established curb level to the highest point of the underside of the ceiling beams in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of rafters between eaves and the ridge of a gable, hip or gambrel roof. Chimneys, spires, towers and similar ornamental architectural projections shall not be included in calculating Building Height.

6. **Common Areas** shall mean and refer to any portion of the Property which is not (a) a Dwelling Lot (as hereinafter defined), (b) dedicated to the public, or (c) dedicated to or owned by a governmental or quasi-governmental body or a public or private utility (including cable television companies). Common Areas shall also include any and all improvements thereto.

7. **Declarant** shall mean West Suburban Bank, an Illinois corporation, not individually but solely as Trustee under Trust Agreement dated March 11, 1994 and known as Trust Number 10134, and its successors and assigns, whether such succession or assignment applies to all or any part of the Property.

8. **Dwelling** shall mean a residential building or portion thereof intended and used for housing a single Family (as hereinafter defined).

9. **Dwelling Lot** shall mean a parcel of land which coincides with a lot of record located on the Property, held in fee ownership and improved with or intended to be improved with one Dwelling.

10. **Family** shall mean one or more persons each related to the other by blood, marriage or legal adoption, together with their domestic help, maintaining a common household in a Dwelling.

11. **Member** shall mean any person, individual or entity who holds membership in the Association by virtue of ownership of any Dwelling Lot.

12. **Owner** shall mean the record holder of fee simple title to any Dwelling Lot, whether such Owner be one or more persons or entities, the beneficiary(ies) of a land trust,

shareholder of a corporation, partner of a partnership, but excluding those persons or entities having an interest in a Dwelling Lot merely as security for the performance of an obligation.

13. **Property** shall mean the real property described in Exhibit B (and to which this Declaration applies) and such additions thereto or deletions therefrom which may be made as provided herein and which shall be brought within the jurisdiction of the Association.

14. **Story** shall mean that portion of a Building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A Basement shall not be considered a Story.

15. **Half Story** shall mean a space under a sloping roof which has the line of intersection of roof decking and wall not more than three feet above the top floor level; and, in which space not more than 60% of the floor area is completed for principal or accessory use.

16. **Structure** shall mean anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. A sign or other advertising device, detached or projecting, shall be considered a separate Structure.

ARTICLE II

GENERAL PURPOSES

The Property is subject to the Covenants, Conditions and Restrictions hereby declared to insure proper use, appropriate development and improvement of the Property and every part thereof; to protect each Owner therein from such improper use of surrounding Dwelling Lots as may depreciate the value of such Owner's property; to guard against the erection thereon of Buildings built of improper design or unsuitable materials; to encourage original designs and attractive improvements thereon with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to insure desired high standards of maintenance for the benefit and convenience of all Owners and, in general, to provide adequately for a residential subdivision of the highest quality and character and the preservation of natural resources and environment.

ARTICLE III

GENERAL RESTRICTIONS

1. **Land Use and Building Type.** All Dwelling Lots on the Property shall be used for single Family residential purposes only and no Building shall be erected or maintained thereon except a single Family residential home designed by a licensed architect and having an attached garage containing not less than two (2) parking spaces for the sole use of the Owner of

the Dwelling Lot. Said garage may have living quarters in connection therewith for the sole use of domestic help of the Owner but shall not be used for rental purposes. Structures may be erected in such manner and upon such location as hereinafter provided, or as approved in writing by Beneficiary. Such approval right shall be assigned to the Association upon the first to occur of: (a) one year following the sale by Declarant of all of the Dwelling Lots owned by it, including any Dwelling Lots which may be added to the Property pursuant to the provisions of this Declaration; or (b) the election by Beneficiary to assign such approval right to the Association by filing of an appropriate amendment to this Declaration.

2. **Quality and Size.** It is the intention and purpose of these Covenants, Conditions and Restrictions to assure that all Dwellings and Structures shall be of a quality of design, workmanship and materials approved by Beneficiary. All Dwellings and Structures shall be constructed in accordance with the applicable governmental building, plumbing, architectural, fire prevention, subdivision control, and all other applicable codes and ordinances and with more restrictive standards that may be required by Beneficiary, as set forth herein.

- (a) The floor area of a Dwelling, exclusive of any Basement, attached garages, open terraces and breezeways, shall be:
 - (i) for one-story Dwellings -- not less than 1,550 square feet; and
 - (ii) for Dwellings of more than one-story -- not less than 1,100 square feet on the first floor and not less than 1,700 square feet in total.
- (b) All Dwellings shall have a Basement consisting of not less than one-half the floor area. The remaining area shall have a four foot crawl space with concrete flooring.
- (c) Not less than 25% of the front elevation of a Building above finished grade shall be of brick, stone, or cement stucco construction; provided, however, that common brick may not be used except with Beneficiary's prior written approval. The remaining area of each exterior side shall be constructed of exterior cedar, exterior redwood or vinyl clad aluminum siding. The use of other materials shall be subject to the approval of Beneficiary; however, the use of aluminum siding, which is not vinyl clad, asbestos and asbestos-type siding are specifically prohibited.
- (d) The Building Height shall not exceed two and one-half Stories or 35 feet, whichever is lower.
- (e) The roofing material used on all Dwellings shall be (i) 280 pound or greater multi-ply asphalt shingle, (ii) cedar shake, (iii) clay tile, or (iv) decorative concrete roof tile. The use of other materials shall be subject to the approval of Beneficiary.

3. **Driveways.** Access drives and other paved areas for vehicular uses on a Dwelling Lot shall have a base of compacted gravel, crushed stone or other approved base material and shall have a wearing surface of asphalt or concrete and shall not be located nearer to any side or rear lot line than eight feet. Except as permitted in writing by Beneficiary, no boat, trailer, truck, house trailer, motorized recreational vehicle, commercial vehicle or snowmobile shall be stored permanently in the open on any Dwelling Lot nor parked in the open between the hours of midnight and 8:00 a.m. whether on a Dwelling Lot or a street. The term "commercial vehicles" shall include all automobiles, station wagons, trucks or vehicular equipment which bear signs referring or have printed on their side reference to any commercial undertaking.

4. **Animals.** The raising, breeding or maintaining of any livestock, poultry or animals on the Property shall be prohibited, except that no more than two dogs or cats or combinations thereof may be kept in a Dwelling.

5. **Business Use.** No business, occupation or profession shall be conducted on any Dwelling Lot or within a Dwelling or Building located on any Dwelling Lot.

6. **Nuisances.** No noxious or offensive activities shall be conducted upon any portion of the Property, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood. Without limiting the foregoing, the following activities are specifically prohibited:

(a) Permitting unsightly plants or underbrush or plants breeding infectious plant diseases or noxious insects to grow.

(b) The burning of refuse outside a Dwelling.

(c) The erection of exterior television or radio antennae, earth station dishes, poles, wire, rods or other devices in connection with the reception or transmission of any television, radio or any other electrical signal.

(d) The construction, operation or maintenance on any Dwelling Lot of an above-ground swimming pool or above-ground water facility having a capacity of more than 50 gallons.

(e) The storage of garbage outside a Dwelling.

(f) The hanging of laundry or other articles, or the erection of laundry drying equipment, including clotheslines, outside a Dwelling.

7. **Fences.** No fences shall be allowed except:

(a) To enclose an in-ground swimming pool in accordance with applicable governmental codes and ordinances.

- (b) To enclose a patio located at the rear of a Dwelling for privacy purposes.

All such fencing shall be landscaped and all such fencing and landscaping shall be subject to the requirements of Articles III(10) and IV hereof. In the event Declarant or Beneficiary shall have constructed a fence inside the lot line of any Dwelling Lot, then such fence shall be repaired, maintained and replaced as necessary as closely as possible to the original appearance thereof at the cost of the Owner of such Dwelling Lot.

8. **Temporary Structures.** No trailer, tent, garage, barn or temporary Building or Structure of any kind shall be used at any time for a residence, either permanent or temporary. Temporary Structures used during the construction of a Dwelling shall be on the same Dwelling Lot as the Dwelling, and such Structures shall be removed promptly upon the completion of construction. No tents or other temporary Structures, except as provided herein, shall be allowed to remain on a Dwelling Lot for more than 48 hours.

9. **Easement for Utilities.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of subdivision for the Property. Within these easements, no Structure, planting or other material shall be placed or permitted to remain which may cause damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each Dwelling Lot and all improvements in it shall be maintained continuously by the Owner of the Dwelling Lot except for those improvements for which a public authority or utility company is responsible.

10. **Landscaping and Drainage.** Landscaping shall not be installed in a manner which may obstruct vehicular or pedestrian traffic along public ways or present visual obstruction creating safety hazards. Landscaping along lot lines shall not interfere with the use or enjoyment by neighboring Owners of their respective Dwelling Lots. No planting, growth or Structure that would have the effect of physically or visually obstructing, defining or delineating any lot line contiguous to any other Dwelling Lot shall be permitted. Each Owner hereby agrees for himself, his successors and assigns, to landscape his Dwelling Lot within three months (excluding November, December, January and February) after receiving title thereto, unless a different time is fixed by Beneficiary. No alteration of drainage patterns or grades and no removal or addition of earth on any Dwelling Lot shall be done in any manner except in accordance with the provisions of Article IV hereof.

11. **Lighting; Flagpoles; Mailboxes.** No flood or bright lights which illuminate adjoining Dwelling Lots shall be permitted. No flagpoles shall be permitted. All mailboxes shall be constructed, maintained, replaced and repaired in accordance with the standards and specifications established by Declarant or Beneficiary.

12. **Underground Wiring.** No above-ground communication, electric or television lines or cables shall be permitted to be placed anywhere on the Property other than within

Buildings or Structures. It is intended that all such necessary and approved conduits and cables will be constructed, placed and maintained underground.

13. ***Location on Dwelling Lot.*** No Building or Structure shall be located on a Dwelling Lot unless approved in advance in writing by Beneficiary.

14. ***No Further Subdivision.*** No Dwelling Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof.

15. ***Signs.*** No sign of any kind shall be displayed to the public view without the prior approval of Beneficiary.

16. ***Exterior Maintenance and Repair.*** Each Owner, at his sole cost and expense, shall maintain and repair his Dwelling Lot and the Building and Structures located thereon, keeping the same in good condition and repair.

17. ***Solar Collectors.*** Solar collectors which are visible must be carefully designed to relate to the architectural design of the Building on which they are placed. Solar collectors must be aesthetically integrated into the design forms when exposed to view and must be hidden from view wherever possible. Any solar collector placed on a Building roof must be constructed at the same pitch as the roof of the Building. All solar equipment must be screened from adjacent Dwelling Lots.

ARTICLE IV

ARCHITECTURAL AND LANDSCAPE CONTROL

1. ***Purpose.*** Architectural and landscape controls are established by this Declaration for the purpose of insuring that the Dwellings and landscaping of the Dwelling Lots harmonize with the natural beauty of the Property and with each other. It is intended that each Dwelling be attractive and pleasing in design. No Building, fence, wall or other Structure shall be commenced, erected or maintained, nor shall any addition to or change or alteration thereto be made until the construction plans and specifications shall have been submitted to Beneficiary and approved in writing. The plans and specifications shall show the nature, kind, shape, Building Height, materials, color scheme, location on the Dwelling Lot and approximate cost of such Building or Structure. In addition to the construction plans and specifications to be submitted as stated herein, there shall also be submitted for prior written approval by Beneficiary, landscaping and grading and landscaping. Beneficiary shall have the right to refuse to approve any construction plans or specifications, and any landscaping and grading plans and specifications which in its judgment do not comply with the requirements contained in this Declaration in respect of the construction or maintenance of Dwellings and other Structures, or which in Beneficiary's sole judgment for aesthetic or any other reasons are not appropriate to the

residential community developed or to be developed within the Property. Beneficiary has the right, in determining whether to give or withhold approval of plans and specifications submitted to it, to consider the desirability of the proposed construction, landscaping or grading in relation to other Dwellings and other landscaping and grading on the Property.

2. *Procedure for Approval of Plans and Specifications.* All plans, specifications, supporting and related material for which the approval of Beneficiary is required, shall be delivered to Beneficiary together with a fee of \$150.00 which is intended to defray the cost of review. This fee may be increased from time to time by Beneficiary. Beneficiary shall approve or disapprove this submitted material as soon as practicable; however, its written approval or disapproval shall in any event be given within 30 days after its receipt by Beneficiary. If Beneficiary disapproves any submitted material, or if it requires a modification of any kind, it shall, within such 30-day period, inform the Owner by whom the material was submitted of the reasons for disapproval or requirement that changes be made. Notwithstanding said obligation to state the reason for disapproval or for the required modifications, the decision of Beneficiary shall be conclusive and binding on all parties. If Beneficiary does not approve or disapprove or require modifications within the aforesaid 30-day period, then at the expiration of such period, the materials submitted to Beneficiary shall be deemed to have been fully approved, and the Owner who has submitted the materials shall have the right to proceed as if written approval has been procured.

3. *Continuing Approval.* All architectural and landscaping alterations made following approval of original plans shall continue to be subject to the requirements of the foregoing paragraphs 1 and 2 of this Article IV.

ARTICLE V

USE, MAINTENANCE AND OWNERSHIP OF COMMON AREAS

The Common Areas are hereby dedicated non-exclusively to the joint and several use, in common, of Declarant and the Owners of all Dwelling Lots that may from time to time constitute a part of the Property. The Common Areas (or appropriate portions thereof) shall, upon the later of completion of the improvements thereon or the date when the last Dwelling Lot within the Property has been conveyed to an Owner (or at any earlier time or, with respect to portions of the Property, from time to time at the sole election of Beneficiary), be conveyed by quit claim deed to the Association, which shall be deemed to have automatically accepted such conveyance. Commencing with the date this Declaration is recorded, the Association shall be responsible for the maintenance, insurance and administration of the Common Areas (whether or not then conveyed or to be conveyed to the Association). Declarant and Beneficiary shall have the following rights with respect to the Common Areas:

- (a) From time to time to enter upon the Common Areas and other portions of the Property (including, without limitation, Dwelling Lots) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas.
- (b) To adopt reasonable rules and regulations for the use of the Common Areas.
- (c) To dedicate or transfer or grant easements in all or any part of the Common Areas to any public agency, authority or utility.
- (d) To erect, maintain, repair or replace billboards, signs and other promotional and advertising displays over and across the Common Areas for so long as Declarant or Beneficiary is engaged in the sale of Dwelling Lots on any portion of the Property.

ARTICLE VI

LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION

1. **Association and Purpose.** There has been (or will be formed) an Illinois not-for-profit corporation known as "LONG BOW CREEK OF BROKEN ARROW HOMEOWNER'S ASSOCIATION" whose purpose shall be to insure high standards of maintenance and operation of the Common Areas and to insure high standards of development of the Property and to promote the character thereof. Declarant may in its sole discretion form additional associations for other portions of Broken Arrow, a Planned Mixed Use Development, and such other associations may be called ARROWHEAD OF BROKEN ARROW HOMEOWNER'S ASSOCIATION, DAKOTA GLEN OF BROKEN ARROW HOMEOWNER'S ASSOCIATION, and so forth. Declarant and Beneficiary shall also have the right to determine the relationship, rights and obligations among all such associations with regard to common elements and such other matters as Declarant or Beneficiary may deem appropriate.

2. **Membership.** Every person or entity who is a record Owner of a fee or undivided fee interest in any Dwelling Lot shall be a member of the Association. Notwithstanding anything else to the contrary set forth in this paragraph, any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member of the Association.

3. **Voting Rights.** The Association shall have two classes of voting membership:

Class A: Class A Members shall be all those Owners described in paragraph 2 of this Article VI with the exception of Beneficiary (as long as the Class B membership shall exist and thereafter Beneficiary shall be a Class A Member to the extent it would otherwise qualify). Class A Members shall be entitled to one vote for each Dwelling Lot in which they hold the interest required for membership by paragraph 2 of this Article VI. When more than one person holds such interest or interests in any Dwelling Lot, all such persons shall be Members, but the single vote for such Dwelling Lot shall be exercised as they among themselves determine and in no event shall more than one vote be cast with respect to any such Dwelling Lot.

Class B: The Class B Member shall be Beneficiary. The Class B Member shall be entitled to one vote, plus two votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. The Class B membership shall cease and terminate one year after the last Dwelling Lot within the Property has been sold and conveyed by Declarant, its successors or assigns, or sooner at the election of Beneficiary.

4. **Beneficiary's Control of the Association.** Notwithstanding any other provision in this Declaration to the contrary, the first and all subsequent boards of directors of the Association shall consist solely of those persons designated by Beneficiary. Any such director appointed by Beneficiary may be, but need not be, a Member of the Association. Beneficiary's rights under this paragraph 4 shall continue until the first to occur of:

- (a) The sale by Declarant of 80% of the Dwelling Lots owned by it, including any Dwelling Lots which may be added to the Property pursuant to the provisions of this Declaration; or
- (b) December 31, 1996 except that this date may be extended by Declarant or Beneficiary for an additional period not to exceed three years by the affirmative written approval of not less than 80% of Dwelling Lot Owners including those owned by Declarant; or
- (c) The election by Beneficiary to terminate its sole control by written notice of such election to the Owners, which notice may also be a call for the election of new directors of the Association.

In the event the Owners fail to elect a new board of directors at the meeting called for that purpose, then Beneficiary shall have the sole right to designate any five of the Owners as such directors of the Association, and if designations are so made by Beneficiary, the board of directors so designated shall be deemed possessed of all the rights, powers and obligations of Beneficiary hereunder.

5. **Governing Law.** In all other respects the Association, its directors, officers and Members shall be governed by the Illinois General Not For Profit Corporation Act of 1986 and

by the By-Laws of the Association, and shall be permitted to take all actions permitted thereby and in accordance therewith not inconsistent with this Declaration.

ARTICLE VII

ASSESSMENTS

1. *Allocation of Expenses Among Owners.* All expenses in connection with maintenance, improvement, management and operation of the Common Areas and the carrying out of the duties of the Association shall be borne in equal shares by all Owners who property is subject to this Declaration. Each such Owner agrees to become liable for and to pay all assessments herein provided for.

2. *Payment of Assessments.* Each Owner of a Dwelling Lot by acceptance of a deed therefor, and whether or not expressed in such deed, is deemed to covenant and agree to pay all assessments levied by the Association in accordance with its By-Laws. These assessments together with interest thereon as hereinafter provided and costs of collection shall be a continuing personal obligation of the person who was the Owner of each such Dwelling Lot at the time the assessment fell due.

3. *Enforcement of Assessments.* In the event of a failure of any Owner to pay any assessment on or before 30 days following notice to such Owner of such assessment or the scheduled due date thereof, if later, then such assessment shall become delinquent and shall bear interest at the lesser of (a) two percent in excess of the prime or equivalent rate of interest announced or published from time to time by The First National Bank of Chicago, or (b) the maximum legal rate of interest then in effect, from the due date thereof to the date of payment and the Association shall have a lien on each Dwelling Lot against which such assessment is levied to secure payment thereof plus interest. When an assessment becomes delinquent, payment of both principal and interest and other costs attributable to such delinquency may be enforced against the Owner personally or as a lien on such Owner's Dwelling Lot or both. The Association may, in its discretion, file certificates of non-payment of assessment in the Office of the Recorder of Deeds of Will County, Illinois whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect as an additional sum the amount required to be paid by the Association on account of the recording of such certificate of non-payment.

4. *Subordination of Liens.* The lien herein provided shall be subject and subordinate to the lien of any valid mortgage or trust deed now existing or which may hereafter be placed upon any Dwelling Lot.

ARTICLE VIII**ADDITION OF PROPERTY
SUBJECT TO THIS DECLARATION**

Declarant reserves the right at any time or from time to time to add other real estate either within or outside of Broken Arrow, a Planned Mixed Use Development, to the Property, and in such event, the additional property may be subject to this Declaration, as the same may be amended from time to time, and the Owners of Dwelling Lots in such additional property shall have the same rights and obligations as the original Owners.

ARTICLE IX**DECLARANT'S AND BENEFICIARY'S
SUCCESSORS AND ASSIGNS**

Declarant's and Beneficiary's respective successors and assigns shall have, without limitation, qualification or exception, all the rights, powers and authority of Declarant and Beneficiary, respectively.

ARTICLE X**DEVIATIONS BY AGREEMENT WITH DECLARANT,
BENEFICIARY, THEIR RESPECTIVE SUCCESSORS
OR ASSIGNS OF THE ASSOCIATION**

1. *Agreement with Declarant or Beneficiary.* Declarant and Beneficiary reserve the right to enter into agreements with the proposed grantee of any Dwelling Lot(s) or any present owner of any Dwelling Lot(s) to deviate from any or all of the Covenants, Conditions and Restrictions set forth in this Declaration provided there are practical difficulties, particular hardships or other reasons which in Declarant's or Beneficiary's sole judgment justify such deviation and any such deviation (which shall be manifested by a separate writing or approval) shall not constitute a waiver of any such Covenants, Conditions and Restrictions as to the remaining Property which is subject to this Declaration. Declarant or Beneficiary's judgment as expressed by its agreement or approval shall be conclusive.

2. *Agreement with Declarant or Beneficiary's Successors or Assigns or the Association.* Successors or assigns of either Declarant or Beneficiary or the Association at such time as Beneficiary's control of the Association terminates, shall have the right to exercise the discretion described in subparagraph 1 of this Article X.

ARTICLE XI

RIGHT OF REPURCHASE

1. Beneficiary shall have the right to repurchase any Dwelling Lot on the terms and conditions hereinafter set forth. In the event any Owner contracts to sell such Owner's Dwelling Lot within 180 days after acquiring title to such Dwelling Lot from Declarant, provided that such Owner has not theretofore constructed or commenced construction of a Dwelling thereon, such Owner shall notify Beneficiary in writing in the manner hereinafter set forth not less than 30 days prior to the closing of such sale, which notice shall contain the name and address of the purchaser and shall contain a copy of the contract of such sale including the terms and conditions of sale. Beneficiary shall have the right to repurchase such Dwelling Lot, which right shall be exercised by written notice to such Owner in the manner set forth in Article XIII(12) hereof within 30 days after receipt of such Owner's notice to Beneficiary, on the following terms; (i) the price shall be the purchase price originally paid by such Owner for such Dwelling Lot, plus interest at a rate of 6% per annum calculated from the date of the closing of the sale of such Dwelling Lot to such Owner to the date of repurchase by Beneficiary (the "Repurchase Price"); (ii) such Owner shall convey good, marketable and insurable title to such Dwelling Lot to Beneficiary or its nominee, subject only to those permitted exceptions (excluding acts of such Owner) existing at the closing of the sale of such Dwelling Lot to such Owner and any acts of Declarant or Beneficiary; (iii) closing of the repurchase shall be effected through an escrow at a title insurer selected by Beneficiary; and (iv) such Owner shall bear all costs of the title insurance in the amount of the Repurchase Price and one-half the cost of the escrow. If Beneficiary notifies such Owner within the aforesaid 30-day period of its election to repurchase, then such repurchase shall be closed within 30 days after the giving of Beneficiary's notice of such election.

2. If Beneficiary gives written notice to such Owner within said 30-day period that it does not elect to exercise such Owner, during the 30-day period, Beneficiary's right to repurchase such Dwelling Lot shall terminate and such Owner may proceed to close the proposed sale; provided, however, that if such Owner fails to close the proposed sale with the proposed purchaser on the terms and conditions contained in the aforesaid notice, the right of repurchase granted to Beneficiary herein shall remain in effect and shall be applicable to any subsequent sale by such Owner of such Dwelling Lot within the remainder of such 180-day period. If such Owner proceeds to close the sale with the proposed purchaser as aforesaid, upon such Owner's written request, Beneficiary will execute and deliver to such Owner a release of the rights under this Article XI, which delivery may be conditioned upon closing of such sale.

3. Any sale, assignment or conveyance of a Dwelling Lot in violation of the provisions of this Article XI shall be null and void and of no force and effect.

4. For purposes of this Article XI the words "sell" or "sale" mean any sale, transfer or other voluntary conveyance of a Dwelling Lot, any assignment of the Real Estate Sale Contract for a Dwelling Lot, or any assignment (except for collateral purposes only) of all or any

portion of the beneficial interest or power of direction under any trust which owns legal or beneficial title to a Dwelling Lot.

5. For purposes of this Article XI any notice required to be given by an Owner to Beneficiary shall be deemed to have been properly delivered when deposited in the United States mail, certified with return receipt requested, and postage prepaid, directed to Beneficiary at 1275 East Butterfield Road, Suite 200, Wheaton, Illinois 60187 or at such other address of which such Owner is notified in writing by Beneficiary.

ARTICLE XII

GENERAL PROVISIONS

1. ***Compliance by Owners.*** Every Owner shall comply with the Covenants, Conditions and Restrictions set forth herein and any and all rules and regulations which from time to time may be adopted by Declarant or by the Association thereafter.

2. ***Enforcement.*** Failure of an Owner to comply with such Covenants, Conditions and Restrictions or rules and regulations in connection therewith shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. The offending Owner shall be responsible for all costs of enforcement including attorney's fees actually incurred and court costs. Beneficiary, and after control of the Association has passed from Beneficiary to the other Owners, then the Association and any Owner or any of them, shall have the right to enforce this Declaration by proceeding at law or in equity.

3. ***Non-Waiver Except by Written Instrument.*** No Covenant, Condition, Restriction or other provision of this Declaration shall be deemed to have been waived by silence or inaction or failure to enforce the rights by any other manner or means whatsoever other than by a writing executed by the party against whom the waiver is asserted, which expressly states that a specified right or remedy is being waived. No waiver shall be deemed to have been effected by the failure to enforce the rights or remedies of which a party is possessed, regardless of the number of breaches or violations of said rights which have occurred.

4. ***Liberal Interpretation.*** This Declaration shall be liberally construed to facilitate and promote the objectives of this Declaration hereinabove set forth. Narrow, technical and literal construction of this instrument inconsistent with the objectives of Declarant or Beneficiary shall be avoided.

5. ***Rule Against Perpetuities.*** Should any provision of this instrument be unlawful or void for a violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rule imposing time limits, then such provision shall be deemed to be operative only until 21 years

after the death of the last survivor of the now living descendants of James Edgar, Governor of the State of Illinois, and William Clinton, President of the United States of America.

6. ***Partial Invalidity; Severability.*** The invalidity or unenforceability of any of the Covenants, Conditions or Restrictions herein contained, or of any other provision of whatever nature of this Declaration, and any such invalidity or unenforceability shall be deemed partial and separable, and all of this Declaration shall be deemed valid, effective and binding except for the invalid provision.

7. ***Conflicts Between Declaration and City Ordinance Provisions.*** In the event there is at any time a conflict between any provision of this Declaration and any provision of any then effective ordinance, rule or regulation of the City of Lockport, Illinois, the ordinance, rule or regulation of the City of Lockport then in effect shall prevail, but only to the extent it is more restrictive than this Declaration.

8. ***Reservation of Certain Rights.*** Declarant reserves to itself and grants to Beneficiary the right to erect, maintain, repair and replace any advertising and promotional displays, sales and production offices, and appurtenant structures and lighting, on any Dwelling Lot being held for sale so long as Beneficiary is engaged in the construction and/or sale of any portion of the Property. Such right may be granted by Declarant or Beneficiary to another for reasonable periods of time and from time to time.

9. ***Amendments.*** At any time and from time to time while these Covenants, Conditions and Restrictions are in effect, they may be amended or revoked by the recording in the Office of the Recorder of Deeds of Will County, Illinois, of any instrument declaring such amendment or revocation, which instrument shall be signed by Declarant or its successors and assigns, which instrument shall set forth such amendment or revocation and shall be effective from and after the date of its recording.

10. ***Beneficiary's Rights, Powers and Obligations.*** Until the first board of directors to be elected by the Owners shall have been elected and qualified, all of the rights, powers and obligations which by this Declaration are to be vested in the Association and its board of directors shall be deemed vested in and possessed by Beneficiary. Until Beneficiary's transfer and assignment of its rights, powers and obligations to the Association all of the lien rights and other rights, powers and obligations to the Association all of the lien rights and other rights herein provided for in favor of the Association and its board of directors shall be possessed by Beneficiary as fully and effectively in every respect, without diminution of any kind, as such lien rights are to be possessed by the Association and its board of directors. All rights of Declarant and Beneficiary shall be exercised without the consent of the Owners or the Association.

11. ***Waiver of Damages.*** Neither Declarant, nor Beneficiary, nor their respective representatives or designees, shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities reserved, granted or delegated to it by, or

pursuant to, this Declaration, or in Declarant's (or Beneficiary's or their respective representative's or designee's) capacity as developer, contractor, owner, manager or seller of the Property, whether or not such claim (a) shall be asserted by any Owner, the board of directors, the Association, by any person or entity claiming through any of them; or (b) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (c) shall arise out of a contract, either express or implied. Without limitation to the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or failure to act of any Owner, the board of directors, the Association, and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to function, or the disrepair of, any utility service.

12. **Notices.** Any notice required or desired to be given under the provisions of this Declaration to any Member, Owner or any other persons entitled to use the Common areas or any part thereof shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, directed to the last known address for each such person, all as shown on the books and records of the Association at the time such notice is given.

13. **Captions.** Captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text hereof.

IN WITNESS WHEREOF, West Suburban Bank, an Illinois corporation as Trustee under Trust Agreement dated March 11, 1994 and known as Trust Number 10134, has caused this instrument to be executed by its TRUST OFFICER ~~President~~ and attested to by its ASST. TRUST OFFICER ~~Secretary~~, the day and year first above written.

WEST SUBURBAN BANK, an Illinois corporation, as Trustee aforesaid

By: Teresa L. Kleishma

TRUST OFFICER

Attest:

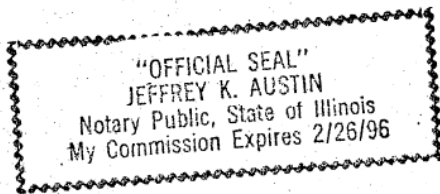
Jocelyn L. Volenka

ASST. TRUST OFFICER

STATE OF ILLINOIS)
) SS
 COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that Patricia L Fleischman and Joanne L Vokurka, as Trust Officer President and Asst Trust Officer Secretary of West Suburban Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer President and Asst Trust Officer Secretary, appeared before me this date in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth, and said Asst Trust Officer acknowledged that she as custodian of the corporate seal corporation, did affix said corporate seal to said instrument as her own free and voluntary act and as the fee and voluntary act of said corporation for said uses and purposes.

GIVEN under my hand and notarial seal this 22nd day of August, 1994.



[Signature]
 Notary Public

CONSENT OF MORTGAGEE

West Suburban Bank of Aurora, F.S.B., as Mortgagee, holder of a Mortgage on certain Property which Mortgage is dated March 23, 1994 and which was recorded March 24, 1994 as Document No. R94-31664 in the Office of Recorder of Deeds of Will County, Illinois, hereby consents to the execution and recording of the within Declaration of Covenants, Conditions and Restrictions for Long Bow Creek of Broken Arrow and agrees that said Mortgage is subject to the provisions thereof.

IN WITNESS WHEREOF, West Suburban Bank of Aurora, F.S.B. has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Lombard, Illinois on this 22nd day of August, 1994.

WEST SUBURBAN BANK OF AURORA, F.S.B.

By: [Signature]
 Its: S. V.P.

STATE OF ILLINOIS)
) SS
 COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Michael P. Brosnahan Senior VP of West Suburban Bank of Aurora, F.S.B., personally known to be the same person whose name is subscribed to the foregoing instruments such Senior VP, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Secretary, as custodian of the corporate seal of said corporation caused the corporate seal to be affixed to said instrument, as said Secretary's own free and voluntary act and as the free and voluntary act of said corporation.

Given under my hand and Notarial Seal this 2nd day of Aug, 1994.

Debbie Kolze
 Notary Public

MAIL TO:

This Instrument Prepared By:

Ronald L. Berns
 Solano & Berns, Ltd.
 1275 East Butterfield Road
 Wheaton, Illinois 60187

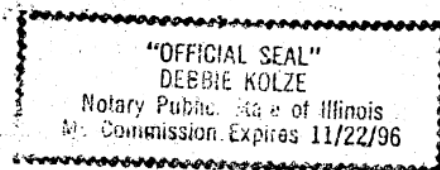


EXHIBIT A

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 in Broken Arrow, being a Subdivision of part of Section 30, Township 36 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded September 8, 1993 as Document R93-77868.

EXHIBIT B

Lots 1 through 101 inclusive in Long Bow Creek of Broken Arrow, being a Resubdivision of Lot 12 in Broken Arrow in Section 30, Township 36 North, Range 11, East of the Third Principal Meridian according to the said Plat of Long Bow Creek of Broken Arrow recorded August 22, 1994, as Document Number R-94-080781 in Will County, Illinois. J

05-30-101-001

BROKEN ARROW LOT 12

Homer Township
Part of

<u>LOT</u>	<u>ADDRESS</u>
1	16706 S. Swift Arrow Drive
2	16716 S. Swift Arrow Drive
3	16724 S. Swift Arrow Drive
	16512 W. Tuscarora Court
4	16518 W. Tuscarora Court
5	16526 W. Tuscarora Court
6	16525 W. Tuscarora Court
7	16519 W. Tuscarora Court
8	16511 W. Tuscarora Court
	16736 S. Swift Arrow Drive
9	16746 S. Swift Arrow Drive
10	16754 S. Swift Arrow Drive
11	16762 S. Swift Arrow Drive
12	16804 S. Swift Arrow Drive
13	16810 S. Swift Arrow Drive
14	16818 S. Swift Arrow Drive
15	16826 S. Swift Arrow Drive
16	16834 S. Swift Arrow Drive
17	16842 S. Swift Arrow Drive
18	16850 S. Swift Arrow Drive
19	16858 S. Swift Arrow Drive
20	16900 S. Swift Arrow Drive
21	16906 S. Swift Arrow Drive
22	16912 S. Swift Arrow Drive
23	16918 S. Swift Arrow Drive
24	16924 S. Swift Arrow Drive
	16910 S. Mohican Drive
25	16916 S. Mohican Drive
26	16930 S. Mohican Drive
27	16946 S. Mohican Drive
28	16954 S. Mohican Drive
29	16962 S. Mohican Drive
30	16967 S. Mohican Drive
31	16963 S. Mohican Drive
32	16959 S. Mohican Drive
33	16953 S. Mohican Drive
34	16947 S. Mohican Drive
35	16941 S. Mohican Drive

BROKEN ARROW LOT 12
Homer Township
Part of

<u>LOT</u>	<u>ADDRESS</u>
36	16935 S. Mohican Drive
37	16929 S. Mohican Drive
38	16923 S. Mohican Drive
39	16917 S. Mohican Drive
40	16911 S. Mohican Drive
41	16905 S. Mohican Drive
42	16863 S. Mohican Drive
43	16859 S. Mohican Drive
44	16853 S. Mohican Drive
45	16847 S. Mohican Drive
46	16837 S. Mohican Drive
47	16831 S. Mohican Drive
48	16821 S. Mohican Drive
49	16813 S. Mohican Drive
50	16805 S. Mohican Drive
51	16763 S. Mohican Drive
52	16755 S. Mohican Drive
53	16747 S. Mohican Drive
54	16449 W. Shawnee Drive
55	16441 W. Shawnee Drive
56	16427 W. Shawnee Drive
57	16411 W. Shawnee Drive
58	16405 W. Shawnee Drive
59	16361 W. Shawnee Drive
60	16353 W. Shawnee Drive
61	16345 W. Shawnee Drive
62	16335 W. Shawnee Drive
63	16326 W. Shawnee Drive
64	16336 W. Shawnee Drive
65	16346 W. Shawnee Drive
66	16354 W. Shawnee Drive
67	16362 W. Shawnee Drive
68	16404 W. Shawnee Drive
69	16412 W. Shawnee Drive
70	16420 W. Shawnee Drive
71	16428 W. Shawnee Drive
72	16434 W. Shawnee Drive
73	16440 W. Shawnee Drive
	16446 W. Shawnee Drive
	16733 S. Mohican Drive
74	16734 S. Mohican Drive
75	16746 S. Mohican Drive

BROKEN ARROW LOT 12
Homer Township
Part of

<u>LOT</u>	<u>ADDRESS</u>
76	16756 S. Mohican Drive
77	16804 S. Mohican Drive
78	16810 S. Mohican Drive
79	16816 S. Mohican Drive
80	16822 S. Mohican Drive
81	16828 S. Mohican Drive
82	16834 S. Mohican Drive
83	16840 S. Mohican Drive
84	16846 S. Mohican Drive
85	16852 S. Mohican Drive
86	16925 S. Swift Arrow Drive
87	16913 S. Swift Arrow Drive
88	16861 S. Swift Arrow Drive
89	16847 S. Swift Arrow Drive
90	16839 S. Swift Arrow Drive
91	16831 S. Swift Arrow Drive
92	16823 S. Swift Arrow Drive
93	16817 S. Swift Arrow Drive
94	16811 S. Swift Arrow Drive
95	16801 S. Swift Arrow Drive
96	16761 S. Swift Arrow Drive
97	16755 S. Swift Arrow Drive
98	16743 S. Swift Arrow Drive
	16735 S. Swift Arrow Drive
99	16728 S. Mohican Drive
	16727 S. Swift Arrow Drive
100	16727 S. Mohican Drive
101	16719 S. Swift Arrow Drive
	16709 S. Swift Arrow Drive