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Robert D. Burton  
Armbrust & Brown, L.L.P.  
100 Congress Ave., Suite 1300  
Austin, Texas 78701



DECLAR 2005181058  
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MASTER DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS

**ROUGH HOLLOW SOUTH SHORE**

**NOTE: NO PORTION OF THE PROPERTY DESCRIBED ON EXHIBIT "A" IS SUBJECT TO THE TERMS OF THIS MASTER DECLARATION UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PORTION OF THE PROPERTY IS FILED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, IN ACCORDANCE WITH SECTION 10.05 BELOW.**

**Declarant: LAS VENTANAS LAND PARTNERS, LTD., a Texas limited partnership**

MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

ROUGH HOLLOW SOUTH SHORE

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MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

ROUGH HOLLOW SOUTH SHORE

This Master Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made by LAS VENTANAS LAND PARTNERS, LTD., a Texas limited partnership (the "Declarant"), and is as follows:

RECITALS:

A. Declarant is the present owner of certain real property located in Travis County, Texas, as more particularly described on Exhibit "A" attached hereto (the "Property").

B. Declarant desires to create and carry out a uniform plan for the development, improvement, and sale of the Property.

C. Portions of the Property may be made subject to this Declaration upon the filing of one or more notices of applicability pursuant to *Section 10.05* below, and once such notices of applicability have been filed pursuant to *Section 10.05*, the portions of the Property described therein will constitute the Development (as defined below) and will be governed by and fully subject to this Declaration, and the Development in turn will be comprised of separate Development Areas (as defined below) which will be governed by and subject to separate Development Area Declarations (as defined below) in addition to this Declaration.

No portion of the Property is subject to the terms and provisions of this Declaration until a Notice of Applicability (as defined in *Section 10.05*) is filed in the Official Public Records of Travis County, Texas. A Notice of Applicability may only be filed by the Declarant. If the Declarant is not the owner of any portion of the Property then being made subject to the terms and provisions of the Declaration, the owner of the Property must execute the Notice of Applicability evidencing its consent to its recordation.

Property versus Development versus Development Area	
"Property"-	Described on Exhibit A. This is the land that <u>may be made subject to this Declaration</u> , from time to time, by the filing of one or more Notices of Applicability.
"Development"-	This is the portion of the land described on Exhibit A that <u>has been made subject to this Declaration</u> through the filing of a Notice of Applicability.
"Development Area"	This is a portion of the Development. In most circumstances, a Development Area will comprise a separately platted subdivision within the Development.

D. By the filing of this Declaration, Declarant serves notice that upon the further filing of one or more notices of applicability pursuant to the requirements of *Section 10.05* below, portions of the Property identified in such notice or notices will be subjected to the terms and provisions of this Declaration.

**NOW, THEREFORE**, it is hereby declared: (i) that those portions of the Property as and when subjected to this Declaration pursuant to *Section 10.05* below will be held sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each owner thereof; and (ii) that each contract or deed conveying those portions of the Property which are subjected to this Declaration pursuant to *Section 10.05* will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

This Declaration uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Declaration, the text will control.

## **ARTICLE 1 DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration will have the meanings hereinafter specified:

**“Articles”** means the Articles of Incorporation of the Association, filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

**“Assessment”** or **“Assessments”** means assessments imposed by the Association under this Declaration.

**“Assessment Unit”** has the meaning set forth in *Section 5.07*.

**“Association”** means Lakeway Rough Hollow South Community, Inc., a Texas non-profit corporation, which will be created by Declarant to exercise the authority and assume the powers specified in *Article 3* and elsewhere in this Declaration.

**“Board”** means the Board of Directors of the Association.

**“Bulk Rate Contract”** or **“Bulk Rate Contracts”** means one or more contracts which are entered into by the Association for the provision of utility services or other services of any kind or nature to the Lots and/or Condominium Units. The services provided under Bulk Rate Contracts may include, without limitation, cable television services, telecommunications services, internet access services, “broadband” services, security services, trash pick up services,

propane service, natural gas service, lawn maintenance services and any other services of any kind or nature which are considered by the Board to be beneficial.

**"Bylaws"** means the Bylaws of the Association as adopted and as amended from time to time.

**"Common Area"** means any property and facilities that the Association owns or in which it otherwise holds rights or obligations. Common Area includes any property that the Association holds under a lease, license, or any easement in favor of the Association. Some Common Area will be solely for the common use and enjoyment of the Owners, while other portions of the Common Area will be for the use and enjoyment of the Owners and members of the public.

**"Condominium Unit"** means an individual unit, including any common element assigned thereto, within a condominium regime, if any, established within the Development.

**"Declarant"** means Las Ventanas Land Partners, Ltd., a Texas limited partnership, its successors or assigns; provided that any assignment(s) of the rights of Las Ventanas Land Partners, Ltd., as Declarant, must be expressly set forth in writing and recorded in the Official Public Records of Travis County, Texas.

**The "Declarant" is the party who causes the Property to be developed for actual residential use. The Declarant enjoys special privileges to help protect its investment in the Development. These special rights are described in this Declaration. Many of these rights do not terminate until either Declarant: (i) has sold all Lots or Condominium Units which may be created out of the Property; or (ii) voluntarily terminates these rights by a written instrument recorded in the Official Public Records of Travis County, Texas.**

**"Design Guidelines"** means the standards for design, construction, landscaping, and exterior items placed on any Lot or Condominium Unit adopted pursuant to *Section 6.02(c)*, as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Development. The Declarant may adopt the Design Guidelines applicable to the Development or any Development Area.

**"Development"** refers to any and all portions of the Property that are made subject to this Declaration pursuant to *Section 10.05* of this Declaration.

**"Development Area"** means any part of the Development (less than the whole), which Development Areas may be subject to Development Area Declarations in addition to being subject to this Declaration.

**"Development Area Association"** as to each Development Area, means any nonprofit corporation organized and established pursuant to a Development Area Declaration. Declarant will have no obligation to cause a Development Area Association to be formed nor will

Declarant be obligated to include provisions in any Development Area Declaration which would enable formation of a Development Area Association. Development Area Associations may take the form of a property owners association, condominium owners association, or a property holding trust.

**“Development Area Declaration”** means, with respect to any Development Area, the separate instruments containing covenants, restrictions, conditions, limitations and/or easements, to which the property within such Development Area is subjected.

**“Improvement”** means every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

**“Lot”** means any portion of the Development designated by Declarant or as shown as a subdivided lot on a Plat other than Common Area or Special Common Area or a Lot on which a condominium regime that has been established.

**“Manager”** has the meaning set forth in *Section 3.04(h)*.

**“Master Architectural Control Committee”** or **“MACC”** means the committee created pursuant to this Declaration to review and approve plans for the construction, placement, modification, alteration or remodeling of any Improvements on any Lot or Condominium Unit.

**“Master Restrictions”** means the restrictions, covenants, and conditions contained in this Declaration, any Development Area Declaration, the Design Guidelines, Bylaws, or in any rules and regulations promulgated by the Association pursuant to this Declaration or any Development Area Declaration, as adopted and amended from time to time. See Table 1 for a summary of the Master Restrictions.

**“Members”** means every person or entity that holds membership privileges in the Association.

**“Membership Agreement”** means an agreement in the form specified by the Board for execution by each Member, evidencing such Member’s acknowledgment of and agreement to be bound by the terms of this Declaration. As provided in *Section 3.02(b)* below, the Board must elect to require each Member to execute a Membership Agreement.

**“Mortgage”** or **“Mortgages”** means any mortgage(s) or deed(s) of trust securing indebtedness and covering any Lot or Condominium Unit.

**"Mortgagee"** or **"Mortgagees"** means the holder(s) of any Mortgage(s).

**"Owner"** means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot or a Condominium Unit, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot or Condominium Unit pursuant to foreclosure of the lien of its Mortgage.

**"Plat"** means a subdivision plat of any portion of the Development as recorded in the Official Public Records of Travis County, Texas, and any amendments thereto.

**"Property"** means all of that certain real property described on Exhibit "A", attached hereto, subject to such additions thereto and deletions therefrom as may be made pursuant to *Section 10.03* and *Section 10.04* of this Declaration.

**"Service Area"** means a group of Lots and/or Condominium Units designated as a separate Service Area pursuant to this Declaration for purpose of receiving benefits or services from the Association or a Development Area Association which are not provided to all Lots and Condominium Units. A Service Area may be comprised of more than one housing type and may include noncontiguous Lots. A Lot or Condominium Unit may be assigned to more than one Service Area. Service Area boundaries may be established and modified as provided in *Section 2.03*.

**"Service Area Assessments"** means assessments levied against the Lots and/or Condominium Units in a particular Service Area to fund Service Area Expenses, as described in *Section 5.05*.

**"Service Area Expenses"** means the actual and estimated expenses which the Master Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Master Declaration.

**"Special Common Area"** means any interest in real property or improvements which is designated by Declarant in a notice of applicability filed pursuant to *Section 10.05*, in a Development Area Declaration, or in any written instrument recorded by Declarant in the Official Public Records of Travis County, Texas (which designation will be made in the sole and absolute discretion of the Declarant) as common area which benefits one or more, but less than all of the Lots, Owners or Development Areas, and is or will be conveyed to the Association and/or a Development Area Association, or otherwise held by Declarant for the benefit of the Owners of property to which such Special Common Area benefits. The notice of applicability, Development Area Declaration, or written notice will identify the Lots, Owners or Development Areas benefited by such Special Common Area. By way of illustration and not limitation, Special Common Area might include such things as private roadways or gates, entry features, or landscaped medians which Declarant desires to dedicate for the exclusive use of certain Lots and/or Condominium Units. All costs associated with maintenance, repair, replacement, and insurance of Special Common Area will be assessed as a Special Common Area Assessment



against the Owners of the Units and/or Condominium Units to which the Special Common Area is assigned. No portion of any Common Area which is open to the public use may be designated as Special Common Area.

<b>TABLE 1: MASTER RESTRICTIONS</b>	
<b>Declaration</b> (recorded)	Creates obligations that are binding upon the Association and all present and future owners of Property made subject to the Declaration by the filing of a Notice of Applicability.
<b>Notice of Applicability</b> (recorded)	Describes the portion of the Property being made subject to the terms and provisions of the Declaration.
<b>Development Area Declaration</b> (recorded)	A recorded covenant which includes additional covenants, conditions and restrictions governing portions of the Development.
<b>Articles of Incorporation:</b> (filed with the Secretary of State)	The Articles of Incorporation of the Association, which establish the Association as a not-for-profit corporation under Texas law.
<b>By-Laws:</b> (adopted by the Association)	The By-Laws of the Association which govern the Association's internal affairs, such as elections, meetings, etc.
<b>Design Guidelines:</b> (adopted)	The design standards and architectural and aesthetics guidelines adopted pursuant to <i>Article 6</i> , which govern new construction of Improvements and modifications thereto.
<b>Rules:</b> (adopted by the Board of the Association)	The use restrictions and rules of the Association adopted pursuant to <i>Section 3.04(a)</i> , which regulate use of property, activities, and conduct within the Development.
<b>Board Resolutions:</b> (adopted by the Board of the Association)	The resolutions adopted by Board which establish rules, policies, and procedures for internal governance and activities of the Association.

**ARTICLE 2  
GENERAL RESTRICTIONS**

**2.01 General.** All Lots and Condominium Units within the Development, to which a notice of applicability has been filed in accordance with *Section 10.05*, will be owned, held, encumbered, leased, used, occupied and enjoyed subject to: (i) the applicable conditions, restrictions, reservations, and easements contained in this Declaration; (ii) any applicable conditions, restrictions, reservations, and easements contained in the Development Area Declaration covering the Development Area in which such Lot or Condominium Unit is located; (iii) the Design Guidelines, as amended or modified as to such Lots or Condominium Units; and (iv) any rules and regulations adopted by the Board. **NO PORTION OF THE PROPERTY WILL BE SUBJECT TO THE TERMS AND PROVISIONS OF THIS DECLARATION UNTIL A NOTICE OF APPLICABILITY HAS BEEN FILED FOR SUCH PROPERTY IN ACCORDANCE WITH SECTION 10.05 OF THIS DECLARATION.** In addition to the terms of this Declaration, any applicable Development Area Declaration, the Design Guidelines, and any rules and regulations adopted by the Board, the Property is also be subject to any additional covenants, conditions, restrictions, and easements filed of record in the Official Public Records of Travis County, Texas.

Ordinances and requirements imposed by the City of Lakeway are applicable to all Lots and Condominium Units within the Development. Compliance with this Declaration and the Design Guidelines is not a substitute for compliance with the City's ordinances and regulations. Please be advised that neither the Declaration nor the Design Guidelines purport to list or describe each restriction which may be applicable to a Lot or Condominium Unit located within the Development. Each Owner is advised to review all encumbrances affecting the use and improvement of their lot prior to submitting plans to the MACC for approval. Furthermore, approval by the MACC should not be construed by the Owner that any Improvement complies with the terms and provisions of all encumbrances which may affect the Owner's Lot or Condominium Unit. Certain encumbrances may benefit parties whose interests are not addressed by the MACC.

Each Owner is further advised that as of the date of this Declaration, the City of Lakeway requires that the Owner obtain from the MACC approval of all Improvements proposed to be located on a Lot or Condominium Unit prior to submitting plans for the Improvements to the City for approval. Each Owner is further advised that any approval granted by the MACC, or any notation on the plans signifying MACC approval, is conditional and no Improvements may be constructed on the Lot or Condominium Unit until the Owner has submitted to the MACC a copy of the plans and specifications approved by the City of Lakeway for such Improvements and the MACC has issued to the owner a "Notice to Proceed." In the event of a conflict between the plans and specifications approved by the MACC and the plans and specifications approved by the City, the MACC may require the Owner to resubmit the plans and specifications for re-approval by the MACC, may withdraw the approval previously granted to the Owner, or may require that the Owner apply to the

MACC for a variance. Each Owner acknowledges that the City of Lakeway does not have the authority to modify the terms and provisions of this Declaration, any Development Area Declaration, or the Design Guidelines applicable to the Development. The City of Lakeway may change or modify the requirements and procedures applicable to the City's approval of plans and specifications for the construction of Improvements, and each Owner is advised to contact the City to obtain a current version of such requirements and procedures.

**NOTICE**

**This Declaration, any Development Area Declaration, the Design Guidelines, and the rules and regulations adopted by the Board are subject to change from time to time. By owning or occupying a Lot or Condominium Unit, you agree to remain in compliance with this Declaration, any applicable Development Area Declaration, the Design Guidelines, and the rules and regulations, as they may change from time to time.**

**2.02 Incorporation of Development Area Declarations.** Upon recordation of a Development Area Declaration in the Official Public Records of Travis County, Texas, such Development Area Declaration will, automatically and without the necessity of further act, be incorporated into, and be deemed to constitute a part of this Declaration, to the extent not in conflict with this Declaration, but will apply only to the Development Area described in and covered by such Development Area Declaration.

**2.03 Conceptual Plans.** All master plans, site plans, brochures, illustrations, information and marketing materials relating to the Property (collectively, the "**Conceptual Plans**") are conceptual in nature and are intended to be used for illustrative purposes only. The land uses reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Property may include uses which are not shown on the Conceptual Plans. Neither Declarant nor any homebuilder or other developer of any portion of the Property makes any representation or warranty concerning such land uses and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans in making the decision to purchase any land or Improvements within the Property. Each Owner who acquires a Lot within the Development acknowledges that the Development is a master planned community, the development of which is likely to extend over many years, and agrees that neither the Association nor any Development Area Association will engage in, or use Association or Development Area Association funds to support, protest, challenge, or make any other form of objection to changes in the Conceptual Plans.

**The Development is a master planned community which will be developed over a number of years. Changes may be made to the plans for the Development from time to time.**

**2.04 Provision of Benefits and Services to Service Areas.**

(a) The Declarant, in a notice of applicability filed pursuant to *Section 10.05* or in any written notice recorded in the Official Public Records of Travis County, Texas, may assign Lots and/or Condominium Units to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Lots and/or Condominium Units in addition to those which the Association generally provides to the Development. Declarant may unilaterally amend any notice of applicability or any written notice recorded in the Official Public Records of Travis County, Texas, to re-designate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area will be assessed against the Lots and/or Condominium Units within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Lots and/or Condominium Units as a Service Area for the purpose of receiving from the Association: (a) special benefits or services which are not provided to all Lots and/or Condominium Units, or (b) a higher level of service than the Association otherwise provides. Upon receipt of a petition signed by Owners of a majority of the Lots and/or Condominium Units within the proposed Service Area, the Board will investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge will apply at a uniform rate per Lot and/or Condominium Unit among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least sixty-seven percent (67%) of the Lots and/or Condominium Units within the proposed Service Area, the Association will provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services will be assessed against the Lots and/or Condominium Unit within such Service Area as a Service Area Assessment.

**ARTICLE 3**

**LAKEWAY ROUGH HOLLOW SOUTH COMMUNITY, INC.**

**3.01 Organization.** The Association will be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas non-profit corporation. Neither the Articles nor Bylaws will for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**3.02 Membership.**

(a) Any person or entity, upon becoming an Owner, will automatically become a Member of the Association. Membership will be appurtenant to and will run with

the ownership of the Lot or Condominium Unit that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot or Condominium Unit, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot or Condominium Unit.

**If you acquire a Lot or Condominium Unit you automatically become a member of the Association. Membership is Mandatory!**

(b) If required by the Board, each Owner, other than the Declarant, must execute a Membership Agreement and deliver the same to the Association prior to or concurrently with the recording of a deed conveying fee title to a Lot or Condominium Unit to such Owner. Each Owner must notify the immediate transferee of his Lot or Condominium Unit of such transferee's obligation to execute and deliver a Membership Agreement, but the failure to notify a transferee will not relieve such transferee of his obligations under this *Section 3.02(b)*. The failure to execute a Membership Agreement will not prevent any person from being a Member or Owner under the terms of the Articles, Bylaws or Master Restrictions, or excuse any Member from the payment of Assessments. If a Membership Agreement is required by the Board, an Owner who has not executed and delivered a Membership Agreement will automatically forfeit his right to vote as a Member and additionally forfeit his right to the use and enjoyment of the Common Area and applicable Special Common Area. Such Owner will not be entitled to restoration of his voting privileges and rights in the Common Area or applicable Special Common Area until execution and delivery of a Membership Agreement by such Owner. However, the Board may, at the Board's sole discretion, provide that a Member will be entitled to the full privileges of membership in the Association, notwithstanding the failure to execute a Membership Agreement. In the event Members are entitled to a key, membership card or other token evidencing or facilitating the right to use any Improvements erected or placed on the Common Area or Special Common Area, the Board may require any Member who has not executed a Membership Agreement to return the same to the Board immediately.

Within 30 days after acquiring legal title to a Lot or Condominium Unit, each Owner must provide the Association with: (1) a copy of the recorded deed by which the Owner has acquired title to the Lot or Condominium Unit; (2) the Owner's address, phone number, and driver's license number, if any; (3) any Mortgagee's name and address; and (4) the name and phone number of any resident other than the Owner.

**You may be required to execute a Membership Agreement before using any of the Association's property or voting on any Association matter. Your obligation to pay assessments to the Association and comply with this Declaration, any applicable Development Area Declarant, the Design Guidelines, or the rules and regulations will not be affected by your failure to execute a Membership Agreement. Also, you must provide certain information to the Association upon acquiring a Lot or Condominium Unit.**

(c) Every Member will have a right and easement of enjoyment in and to all of the Common Area and an access easement by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot or Condominium Unit, subject to *Section 3.02(b)* above and subject to the following restrictions and reservations:

- (i) The right of the Association to suspend the Member's voting rights and right to use the Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such member is in violation of any provision of this Declaration;
- (ii) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose;
- (iii) The right of the Association to borrow money for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area;
- (iv) The right of the Association to make reasonable rules and regulations regarding the use of the Common Area and any Improvements thereon; and
- (v) The right of the Association to contract for services with any third parties on such terms as the Association may determine.

(d) Each Owner of a Lot or Condominium Unit which has been designated as a beneficiary of Special Common Area in a notice of applicability or Development Area Declaration, will have a right and easement of enjoyment in and to all of such Special Common Area, and an access easement by and through such Special Common Area, which easement will be appurtenant to and will pass with title to such Owner's Lot or Condominium Unit, subject to *Section 3.02(b)* above and subject to the following restrictions and reservations:

- (i) The right of Declarant to restrict the use of the Special Common Area to the beneficiaries designated in a notice of applicability filed pursuant to *Section 10.05* or a Development Area Declaration;
- (ii) The right of the Association to suspend the Members voting rights and right to use the Special Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Declaration;

- (iii) The right of the Association to dedicate or transfer all or any part of the Special Common Area to any public agency, authority or utility for any purpose;
- (iv) The right of the Association to borrow money for the purpose of improving the Special Common Area, and, in furtherance thereof, mortgage the Special Common Area;
- (v) The right of the Association to make reasonable rules and regulations regarding use of the Special Common Area and any Improvements thereon; and
- (vi) The right of the Association to contract for services with any third parties on such terms as the Association may determine.

**3.03 Voting Rights.** The right to cast votes and the number of votes which may be cast for election of members to the Board and on all other matters to be voted on by the Members will be calculated as follows:

(a) The Owner of each Lot will have one (1) vote for each Lot so owned. In the event of the re-subdivision of any Lot into two or more Lots: (i) the number of votes to which such Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Lot resulting from such re-subdivision, e.g., each Lot resulting from the re-subdivision will be entitled to one (1) vote; and (ii) each Lot resulting from the re-subdivision will be allocated one (1) Assessment Unit. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, voting rights and Assessments will continue to be determined according to the number of original Lots contained in such consolidated Lot. Nothing in this Declaration will be construed as authorization for any re-subdivision or consolidation of Lots, such actions being subject to the conditions and restrictions of the applicable Development Area Declaration.

(b) Each Owner of a Condominium Unit will have the number of votes for such Condominium Unit so owned as determined by Declarant at the time that a Development Area Declaration is first recorded in the Official Public Records of Travis County, Texas for the Development Area within which such Condominium Unit is located. Declarant will determine such votes in its sole discretion, taking into account, among other things, the relationship of Condominium Units to the entire Development. Declarant's determination regarding the number of votes to which such Owners will be entitled will be final, binding and conclusive. Such determination of Declarant may be set forth in the notice filed by Declarant pursuant to *Section 10.05* below for the Development Area within which such Condominium Unit(s) are located. Prior to the time any Condominium Units in a Development Area are conveyed by Declarant to any person not affiliated with Declarant, Declarant may amend or modify its allocation of votes by filing an amended notice in the Official Public Records of Travis County, Texas, setting forth the amended allocation. In

addition, the Declarant, in its sole and absolute discretion, may modify or amend (which amendment or modification may be effected after Declarant's conveyance of any Condominium Units to any person not affiliated with Declarant) the number of votes previously assigned to a Condominium Unit if the Improvements actually constructed on the Condominium Unit differ substantially from the Improvements contemplated to be constructed thereon at the time a notice allocating votes thereto was originally filed. In the event of a modification to the votes allocated to a Condominium Unit, the Declarant will file of record an amended vote determination setting forth the revised allocation of votes attributable to such Condominium Unit.

(c) In addition to the votes to which Declarant is entitled by reason of *Section 3.03(a)* and *Section 3.03(b)*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the date Declarant no longer owns any portion of the Property. Notwithstanding any provision to the contrary in this Declaration, until such time as Declarant no longer owns any portion of the Property, Declarant will be entitled to appoint and remove all members of the Board. Declarant may terminate the right granted in the previous sentence by the recordation of a termination notice executed by the Declarant and recorded in the Official Public Records of Travis County, Texas.

(d) When more than one person or entity owns a portion of the fee simple interest in any Lot or Condominium Unit, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot or Condominium Unit will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot or Condominium Unit (or in the Membership Agreement relating to such Lot if required by the Board), and in no event will the vote for such Lot or Condominium Unit exceed the total votes to which such Lot or Condominium is otherwise entitled under this *Section 3.03*.

(e) The right of any Owner to vote may be suspended by the Association, acting through the Board, for any period during which any Assessment against such Owner's Lot(s) or Condominium Unit(s) remain past due, for any period during which such Owner or such Owners' Lot(s) or Condominium Unit(s) are in violation of this Declaration, and, as provided in *Section 3.02(b)* above, for any period during which such Owner has failed to execute and deliver a Membership Agreement. In addition, the Declarant may suspend the right of any Owner to vote during the period such Owner's Lot or Condominium Unit is exempt from Assessments in accordance with *Section 5.07(f)*.

**3.04 Powers.** The Association will have the powers of a Texas nonprofit corporation. It will further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by the laws of Texas or this Declaration. Without in any way limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, will have the following powers at all times:



(a) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such rules, regulations, and Bylaws not in conflict with this Declaration, as it deems proper, covering any and all aspects of the Development (including the operation, maintenance and preservation thereof) or the Association.

**When you acquire a Lot or Condominium Unit, you will be required to comply with the terms of this Declaration, the Development Area Declaration applicable to your Lot or Condominium Unit, the Design Guidelines, and any rules and regulations adopted by the Board. Yes, there are lots of rules!**

(b) Insurance. To obtain and maintain in effect, policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.

(c) Records. To keep books and records of the Association's affairs, and to make such books and records, together with current copies of the Master Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(d) Assessments. To levy and collect assessments and to determine Assessment Units, as provided in *Article 5* below.

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon or into any Condominium Unit for the purpose of enforcing the Master Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to this Declaration, a Development Area Declaration, or the Design Guidelines. The expense incurred by the Association in connection with the entry upon any Lot or into any Condominium Unit and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot or the Condominium Unit so entered, will be deemed a special Assessment against such Lot or Condominium Unit, will be secured by a lien upon such Lot or Condominium Unit, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Master Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Master Restrictions; provided, however, that the Board will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, or their successors or assigns. The Association may not alter or demolish any Improvements on any Lot or Condominium Unit other than Common Area or Special

Common Area in enforcing this Declaration before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) or Condominium Unit(s) has been obtained. **EACH SUCH OWNER WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 3.04(e) (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(g) Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Common Area or Special Common Area for the purpose of constructing, erecting, operating or maintaining the following:

- (i) Parks, parkways or other recreational facilities or structures;
- (ii) Roads, streets, sidewalks, signs, street lights, walks, driveways, trails and paths;
- (iii) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
- (iv) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
- (v) Any similar improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Master Restrictions or by any governmental authority.

(h) Manager. To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. Each contract entered into between the

Association and the Manager will be terminable by the Association without cause upon sixty (60) days written notice to the Manager. To the extent permitted by law, the Board may delegate any other duties, powers and functions to the Manager. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, gardening and all other utilities, services, repair and maintenance for the Property and any Common Area, including but not limited to private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes.

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to applicable law (including the Texas Non-Profit Corporation Act) or under the terms of the Master Restrictions or as determined by the Board.

(k) Construction on Common Area. To construct new Improvements or additions to any property owned, leased, or licensed by the Association, subject to the approval of the Board.

(l) Contracts. To enter into Bulk Rate Contracts or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain any Common Area, Special Common Area, or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, the Association, or the Members.

(m) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise.

(n) Authority with Respect to Development Area Declaration. To do any act, thing or deed that is necessary or desirable, in the judgment of the Board, to implement, administer or enforce any Development Area Declaration. Any decision by the Association to delay or defer the exercise of the power and authority granted by this *Section 3.04(n)* will not subsequently in any way limit, impair or affect ability of the Association to exercise such power and authority.

(o) Allocation of Votes. To determine votes when permitted pursuant to *Section 3.03* above.

(p) Membership Privileges. To establish rules and regulations governing and limiting the use of the Common Area, Special Common Area, and any Improvements thereon.

**3.05 Acceptance of Common Area and Special Common Area.** The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. The Declarant and its assignees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Development, or the Development and the general public, and the Association will accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Such property will be accepted by the Association and thereafter will be maintained as Common Area or Special Common Area, as applicable, by the Association for the benefit of the Development and/or the general public subject to any restrictions set forth in the deed or other instrument transferring or assigning such property to the Association. Upon the Declarant's written request, the Association will reconvey to the Declarant any unimproved real property that the Declarant originally conveyed to the Association for no payment to the extent conveyed in error or needed to make minor adjustments in property lines.

**3.06 Indemnification.** To the fullest extent permitted by applicable law but without duplication (and subject to) any rights or benefits arising under the Articles or Bylaws of the Association, the Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is, or was, a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorneys' fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

**3.07 Insurance.** The Board may purchase and maintain, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability or otherwise.

**3.08 Control by Declarant.** Notwithstanding anything to the contrary, Declarant, or its successors or assigns, will have the absolute right to appoint members of the Board and their successors (any appointment of a successor will be a deemed removal of the Board member

being replaced by such appointment) until such time as Declarant no longer owns any portion of the Property. Declarant, at its option, may assign or delegate, in whole or in part, its rights and powers to the Association, the Board or any other entity provided such designation is in writing.

**3.09 Bulk Rate Contracts.** Without limitation on the generality of the Association powers set out in *Section 3.04* hereinabove, the Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The Association may enter into Bulk Rate Contracts with any service providers chosen by the Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may, at its option and election add the charges payable by such Owner under such Bulk Rate Contract to the Assessments against such Owner's Lot or Condominium Unit. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Declaration with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot or Condominium Unit which is reserved under the terms and provisions of this Declaration. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such 12 day period), in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid for by such Owner (or the occupant of such Owner's Lot or Condominium Unit) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or the occupant of such Owner's Lot or Condominium Unit) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

#### **ARTICLE 4 INSURANCE**

**4.01 Insurance.** Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot or Condominium Unit. The Association will not be required to maintain insurance on the Improvements constructed upon any Lot or Condominium Unit. The Association may, however, obtain such insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board, in its discretion, may deem necessary. Insurance

premiums for such policies will be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association will be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

**ARE YOU COVERED?**

The Association will not provide insurance which covers an Owners Lot, a Condominium Unit, or any Improvements or personal; property located on a Lot or contained within a Condominium Unit.

**4.02 Restoration.** In the event of any fire or other casualty, the Owner will promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures damaged or destroyed. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within one hundred and twenty (120) days after the occurrence of such damage or destruction, and thereafter prosecute same to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Owner will be personally liable to the Association for the cost of such work; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or clean-up, the rights of the Association under this provision will not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1½%) per month will be added to the Assessment chargeable to the Owner's Lot or Condominium Unit. Any such amounts added to the Assessments chargeable against a Lot or Condominium Unit will be secured by the liens reserved in the Declaration for Assessments and may be collected by any means provided in this Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot or Condominium Unit. **EACH SUCH OWNER WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 4.02, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR COST OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

**4.03 Mechanic's and Materialmen's Lien.** Each Owner whose structure is repaired, restored, replaced or cleaned up by the Association pursuant to the rights granted under this

Article 4, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Association. Upon request by the Board, and before the commencement of any reconstruction, repair, restoration or replacement, such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

## ARTICLE 5 COVENANT FOR ASSESSMENTS

### 5.01 Assessments.

(a) Assessments established by the Board pursuant to the provisions of this Article 5 will be levied against each Lot and Condominium Unit in amounts determined pursuant to Section 5.07 below. The total amount of Assessments will be determined by the Board pursuant to Section 5.03, 5.04, 5.05 and/or 5.06.

(b) Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot or Condominium Unit against which the Assessment is levied and will be secured by a lien hereby granted and conveyed by the Declarant to the Association against each such Lot and all Improvements thereon and each such Condominium Unit (such lien, with respect to any Lot or Condominium Unit not in existence on the date hereof, will be deemed granted and conveyed at the time that such Lot or Condominium Unit is created). The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

(c) Declarant may, but is not obligated, to reduce Assessments which would otherwise be levied against Lots and Condominium Units for any fiscal year by the payment of a subsidy to the Association. Any subsidy paid to the Association by the Declarant may be treated as a contribution or a loan, in the Declarant's sole and absolute discretion. Any subsidy and the characterization thereof will be disclosed as a line item in the annual budget prepared by the Board and attributable to such Assessments. The payment of a subsidy in any given year will not obligate the Declarant to continue payment of a subsidy to the Association in future years.

**5.02 Maintenance Fund.** The Board will establish a maintenance fund into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended. Nothing contained herein will limit, preclude or impair the establishment of other maintenance funds by a Development Area Association pursuant to any Development Area Declaration.

**5.03 Regular Annual Assessments.** Prior to the beginning of each fiscal year, the Board will estimate the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under this Declaration, including, but not limited to, the cost of all management, repair and maintenance, the cost of providing street and other lighting, the cost of administering and enforcing the covenants and restrictions contained herein, and will estimate the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and any surplus from the prior year's fund. The budget prepared by the Association for the purpose of determining Regular Annual Assessments will exclude the maintenance, repair and management costs and expenses associated with any Special Common Area. Assessments sufficient to pay such estimated net expenses will then be levied at the level of Assessments set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner. All such regular Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

**5.04 Special Common Area Assessments.** Prior to the beginning of each fiscal year, the Board will prepare a separate budget covering the estimated expenses to be incurred by the Association to maintain, repair, or manage any Special Common Area. The budget will be an estimate of the amount needed to maintain, repair and manage such Special Common Area including a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and surplus from the prior year's fund. The level of Special Common Area Assessments will be set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including non-payment of any individual Special Common Area Assessment, the Association may at any time, and from time to time, levy further Special Common Area Assessments in the same manner as aforesaid. All such Special Common Area Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

**5.05 Service Area Assessments.** Prior to the beginning of each fiscal year, the Board will prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses to be incurred by the Association in the coming year. The total amount of estimated Service Area Expenses for each Service Area will be allocated equally among all Lots and/or Condominium Units in the benefited Service Area and will be levied as a Service Area Assessment. All amounts that the Association collects as Service Area Assessments will be held in trust for and expended solely for the benefit of the Service Area for which they were collected and will be accounted for separately from the Association's general funds. If a Development



Area Association is created which includes all Lots and/or Condominium Units in a particular Service Area, the Board, in its sole discretion, may assign to the Development Area Association the Association's obligation to provide benefits or services to such Lots and/or Condominium Units and the right of the Association to levy Service Area Assessments for the expenses associated with such services. If the Board assigns such rights and obligations to a Development Area Association, the Development Area Association will exercise and discharge such rights and obligations exclusively until such time as the Board notifies the Development Area Association in writing that the Association has elected to assume such rights and obligations.

**5.06 Special Assessments.** In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the functions of the Association under this Declaration. The amount of any special Assessments will be at the reasonable discretion of the Board. In addition to the special Assessments authorized above, the Association may, in any fiscal year, levy a special Assessment applicable to that fiscal 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 or Special Common Area. Any special Assessment levied by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area will be levied against all Owners based on Assessment Units. Any special Assessments levied by the Association for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Special Common Area will be levied against all Owners who have been designated as a beneficiary of such Special Common Area and will be allocated among such Owners based on Assessment Units.

**5.07 Amount of Assessment.**

(a) The Board will levy Assessments against each "Assessment Unit" (as defined in *Section 5.07(b)* below). Unless otherwise provided in this Declaration, Assessments levied pursuant to *Section 5.03* and *Section 5.06* will be levied uniformly against each Assessment Unit. Special Common Area Assessments levied pursuant to *Section 5.04* will be levied uniformly against each Assessment Unit which has been designated as a beneficiary of the Special Common Area to which such Special Common Area Assessment relates. Service Area Assessments levied pursuant to *Section 5.05* will be levied uniformly against each Assessment Unit which has been included in the Service Area to which such Service Area Assessment relates.

(b) Each Lot will constitute one "Assessment Unit" unless otherwise provided in *Section 5.07(c)*. Each Condominium Unit will constitute that number of "Assessment Units" as determined by Declarant at the time that the Development Area Declaration is first recorded in the Official Public Records of Travis County, Texas for the Development Area within which such Condominium Unit is located. Declarant will

determine such Assessment Units in its sole and absolute discretion, taking into account, among other things, the relationship of such Condominium Units to the entire Development. Declarant's determination regarding the number of Assessment Units applicable to each Condominium Unit will be final, binding and conclusive. Such determination of Declarant (or the Board, as the case may be) may be set forth in the notice filed by Declarant pursuant to *Section 10.05* for the Development Area within which such Condominium Unit(s) are located. The Declarant, in its sole and absolute discretion, may modify or amend the number of Assessment Units previously assigned to a Condominium Unit if the Improvements actually constructed on the Condominium Unit differ substantially from the Improvements contemplated to be constructed thereon at the time the notice allocating Assessment Units thereto was originally filed. In the event of a modification to the Assessment Units allocated to a Condominium Unit, the Declarant will file of record an amended notice setting forth the revised Assessment Units attributable to the Condominium Unit.

(c) The Declarant, in Declarant's sole and absolute discretion, may elect to allocate more than one "Assessment Unit" to a Lot. An allocation of more than one Assessment Unit to a Lot must be made in a notice filed by Declarant pursuant to *Section 10.05* or in a Development Area Declaration for the Development in which the Lot is located. Declarant's determination regarding the number of Assessment Units applicable to a Lot pursuant to this *Section 5.07(c)* will be final, binding and conclusive.

(d) Prior to the time any Lots or Condominium Units in such Development Area are conveyed to any person not affiliated with Declarant, Declarant may modify its determination regarding the allocation of Assessment Units by filing a notice in the Official Public Records of Travis County, Texas, setting forth the amended allocation.

(e) Notwithstanding anything in this Declaration to the contrary, no Assessments will be levied upon Lots or Condominium Units owned by Declarant.

(f) The Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Development, Lot or Condominium Unit from Assessments; or (ii) delay the levy of Assessments against any un-platted, unimproved or improved portion of the Development, Lot or Condominium Unit.

**5.08 Late Charges.** If any Assessment, whether regular or special, is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's election at any time and from time to time, to pay a late charge in such amount as the Board may designate, and the late charge (and any reasonable handling costs) will be a charge upon the Lot or Condominium Unit owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot or Condominium Unit; provided, however, such charge will never exceed the maximum charge permitted under applicable law.

**5.09 Owner's Personal Obligation for Payment of Assessments.** Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot or Condominium Unit against which are levied such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot or Condominium Unit will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date therefor (or if there is no such highest rate, then at the rate of 1 and 1/2% per month), together with all costs and expenses of collection, including reasonable attorneys fees.

**5.10 Assessment Lien and Foreclosure.** The payment of all sums assessed in the manner provided in this *Article 5* is, together with late charges as provided in *Section 5.08* and interest as provided in *Section 5.09* hereof and all costs of collection, including attorney's fees as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to *Section 5.01(b)* above, and will bind each Lot or Condominium Unit in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot or Condominium Unit, except only for tax liens and all sums secured by a first mortgage lien or first deed of trust lien of record, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot or Condominium Unit in question, provided such Mortgage was recorded in the Official Public Records of Travis County, Texas before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot or Condominium Unit covered by such lien and a description of the Lot or Condominium Unit. Such notice may be signed by one of the officers of the Association and will be recorded in the Official Public Records of Travis County, Texas. Each Owner, by accepting a deed or ownership interest to a Lot or Condominium Unit subject to this Declaration will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. Such lien for payment of Assessments may be enforced by the non-judicial foreclosure of the defaulting Owner's Lot or Condominium Unit by the Association in like manner as a real property mortgage with power of sale under Tex. Pro. Code § 51.002. (For such purpose, Robert D. Burton of Travis County, Texas, is hereby designated as trustee for the benefit of the Association, with the Association retaining the power to remove any trustee with or without cause and to appoint a successor trustee without the consent or joinder of any other person.) The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have by law and under this Declaration, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, such Owner will be

required to pay the costs, expenses and reasonable attorney's fees incurred. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot or Condominium Unit; except, however, that in the event of foreclosure of any first-lien Mortgage securing indebtedness incurred to acquire such Lot or Condominium Unit, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the first lien Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 5.10*, the Association will upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release will be signed by an officer of the Association. **NOTWITHSTANDING ANY PROVISION IN THIS SECTION 5.10 TO THE CONTRARY, THE ASSOCIATION WILL NOT HAVE THE AUTHORITY TO FORECLOSE ON A CONDOMINIUM UNIT FOR NON-PAYMENT OF ASSESSMENTS IF THE ASSESSMENTS CONSIST SOLELY OF FINES.** In addition to the lien hereby retained, in the event of nonpayment by any Owner of any Assessment and after the lapse of at least twelve (12) days since such payment was due, the Association may, upon five (5) days' prior written notice (which may run concurrently with such 12 day period) to such Owner, in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility or cable service provided through the Association and not paid for directly by a Owner or occupant to the utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Owner's tenant can make arrangements for payment of the bill and for reconnection of service. Utility or cable service will not be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by applicable law, the sale or transfer of a Lot or Condominium Unit will not relieve the Owner of such Lot or Condominium Unit or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot or Condominium Unit and on the date of such conveyance Assessments against the Lot or Condominium Unit remain unpaid, or said Owner owes other sums or fees under this Declaration to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot or Condominium Unit, and such sums will be paid in preference to any other charges against the Lot or Condominium Unit other than a first lien Mortgage or Assessment Liens and charges in favor of the State of Texas or a political subdivision thereof for

taxes on the Lot or Condominium Unit which are due and unpaid. The Owner conveying such Lot or Condominium Unit will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot or Condominium Unit also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Association's records upon the transfer of a Lot or Condominium Unit to a third party; provided, however, that no administrative transfer fee will be due upon the transfer of a Lot or Condominium Unit from Declarant to a third party.

**Yes, the Association can foreclose on your Lot or Condominium Unit!**  
**If you fail to pay assessments to the Association, you may lose title to your Lot or Condominium Unit if the Association forecloses its assessment lien.**

**5.11 Exempt Property.** The following area within the Development will be exempt from the Assessments provided for in this Article:

- (a) All area dedicated and accepted by public authority, by the recordation of an appropriate document in the Official Public Records of Travis County, Texas;
- (b) The Common Area and the Special Common Area; and
- (c) Any portion of the Property or Development owned by the Declarant.

No portion of the Property will be subject to the terms and provisions of this Declaration, and no portion of the Property (or any owner thereof) will be obligated to pay assessments hereunder unless and until such Property has been made subject to the terms of this Declaration by the filing of a notice of applicability in accordance with *Section 10.05* below.

**5.12 Fines and Damages Assessment.** The Board may assess fines against an Owner for violations of any restriction set forth in this Declaration, any Development Area Declaration, the Design Guidelines, or any rules adopted by the Board which have been committed by an Owner, an occupant of the Owner's Lot or Condominium Unit, or the Owner or occupant's family, guests, employees, contractors, agents or invitees. Any fine and/or charge for damage levied in accordance with this *Section 5.12* will be considered an Assessment pursuant to this Declaration. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area or Special Common Area or any facilities located by the Owner or the Owner's family, guests, agents, occupants, or tenants. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the rules and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

The procedure for assessment of fines and damage charges will be as follows:

(a) the Association, acting through an officer, Board member or Manager, must give the Owner notice of the fine or damage charge not later than thirty (30) days after the assessment of the fine or damage charge by the Board;

(b) the notice of the fine or damage charge must describe the violation or damage;

(c) the notice of the fine or damage charge must state the amount of the fine or damage charge;

(d) the notice of a fine or damage charge must state that the Owner will have thirty (30) days from the date of the notice to request a hearing before the Board to contest the fine or damage charge; and

(e) the notice of a fine must allow the Owner a reasonable time, by a specified date, to cure the violation and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months.

Fine and/or damage charges are due immediately after the expiration of the thirty (30) day period for requesting a hearing. If a hearing is requested, such fines or damage charges will be due immediately after the Board's decision at such hearing, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot or Condominium Unit is, together with interest as provided in *Section 5.09* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 5.01(b)* of this Declaration. Unless otherwise provided in this *Section 5.12*, the fine and/or damage charge will be considered an Assessment for the purpose of this Article, and will be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to this *Article 5*.

## ARTICLE 6 MASTER ARCHITECTURAL CONTROL COMMITTEE

Declarant has a substantial interest in ensuring that improvements within the Development maintain and enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market and sell all or any portion of the Property. Until Declarant has delegated its right to appoint and remove all members of the Master Architectural Control Committees to the Board as provided in *Section 6.02(a)* below, the Master Architectural Control Committee will be acting solely in Declarant's interest and will owe no duty to any other Owner or the Association. Notwithstanding any provision in this Declaration to the contrary, Declarant may appoint a single person to exercise the rights of the Master Architectural Control Committee.

**6.01 Construction of Improvements.** No Improvement may be erected, placed, constructed, painted, altered, modified or remodeled on any Lot or Condominium Unit, and no Lot or Condominium Unit may be re-subdivided or consolidated with other Lots, Condominium Units or Property, by anyone other than the Declarant without the prior written approval of the Master Architectural Control Committee.

**6.02 Master Architectural Control Committee.**

(a) Composition. The Master Architectural Control Committee will be composed of not more than five (5) persons (who need not be Members or Owners) appointed as provided below, who will review Improvements proposed to be made by any Owner other than Declarant. Declarant will have the right to appoint and remove (with or without cause) all members of the Master Architectural Control Committee. Declarant may delegate this right to the Board by written instrument, and thereafter, the Board will have the right to appoint and remove (with or without cause) all members of the Master Architectural Control Committee. Any delegation by the Declarant of the right to appoint and remove all members of the Master Architectural Control Committee may be withdrawn until Declarant's right to appoint members of the Board, pursuant to *Section 3.08* has terminated. If Declarant withdraws its delegation to the Board of the right to appoint and remove all members of the Master Architectural Control Committee, then on the date of such withdrawal, Declarant will have the right to appoint and remove (with or without cause) all members of the Master Architectural Control Committee. Declarant, at its option, may create and assign specific duties and responsibilities to one or more sub-committees consisting of members and/or nonmembers of the Master Architectural Control Committee. In the event responsibilities and duties are assigned to a sub-committee, those responsibilities and duties will no longer be discharged by the Master Architectural Control Committee unless the sub-committee exercising such duties and responsibilities is dissolved by the Declarant. The right to create, dissolve, and appoint members of such sub-committees will reside exclusively with the Declarant until such time as Declarant has delegated its right to appoint members of the Master Architectural Control Committee to the Board. The Master Architectural Control Committee will have the right to employ consultants and advisors as it deems necessary or appropriate.

(b) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to re-subdivide or consolidate Lots or Condominium Units, a proposal for such re-subdivision or consolidation will be submitted in accordance with the Design Guidelines or any additional rules adopted by the Master Architectural Control Committee together with any review fee which is imposed by the Master Architectural Control Committee in accordance with *Section 6.02(c)* to the Master Architectural Control Committee at the offices of Declarant, at 205 Wild Basin Road, Bldg. 3, Austin, Texas 78746, Fax: (512) 306-1620, or such other address as may hereafter be designated in writing from time to time. No re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot or Condominium Unit, until the plans and specifications and the builder which the Owner intends to use to construct the proposed

structure or Improvement have been approved in writing by a majority of the members of the Master Architectural Control Committee. The Master Architectural Control Committee may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the Master Architectural Control Committee or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The Master Architectural Control Committee may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the Master Architectural Control Committee, in its sole discretion, may require. Site plans must be approved by the Master Architectural Control Committee prior to the clearing of any Lot, or the construction of any Improvements. The Master Architectural Control Committee may refuse to approve plans and specifications for proposed Improvements, or for the re-subdivision or consolidation of any Lot or Condominium Unit on any grounds that, in the sole and absolute discretion of the Master Architectural Control Committee, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(c) Design Guidelines. The Declarant will have the power to adopt the initial Design Guidelines. The Master Architectural Control Committee, or any sub-committee thereof created pursuant to *Section 6.02(a)* (but any amendment to the Design Guidelines made by a sub-committee will only apply to the Improvements under the jurisdiction of such sub-committee) will have the power, from time to time, to adopt (unless previously adopted by Declarant), amend, modify, or supplement the Design Guidelines. In the event of any conflict between the terms and provisions of the Design Guidelines and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. In addition, the Master Architectural Control Committee will have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Declaration. Such charges will be held by the Master Architectural Control Committee and used to defray the administrative expenses incurred by the Master Architectural Control Committee in performing its duties hereunder; provided, however, that any excess funds held by the Master Architectural Control Committee will be distributed to the Association at the end of each calendar year. The Master Architectural Control Committee will not be required to review any plans until a complete submittal package, as required by this Declaration and the Design Guidelines, is assembled and submitted to the Master Architectural Control Committee. The Master Architectural Control Committee will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for certificates of compliance or completion relating to any Improvement and the right to approve in advance any contractor selected for the construction of Improvements), not in conflict with this Declaration, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(d) Actions of the Master Architectural Control Committee. The Master Architectural Control Committee may, by resolution unanimously adopted in writing,



designate one or two of its members, or an agent acting on its behalf, to take any action or perform any duties for and on behalf of the Master Architectural Control Committee, except the granting of variances. In the absence of such designation, the vote of a majority of all of the members of the Master Architectural Control Committee taken at a duly constituted meeting will constitute an act of the Master Architectural Control Committee.

(e) Failure to Act. In the event that any plans and specifications are submitted to the Master Architectural Control Committee as provided herein, and the Master Architectural Control Committee fails either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, no approval by the Master Architectural Control Committee will be required, and approval of such plans and specifications will be presumed; provided, however, that such sixty (60) day period will not begin to run until all information required to be submitted by the Master Architectural Control Committee to assist in its review of any plans or specifications has been received by the Master Architectural Control Committee. Any failure of the Master Architectural Control Committee to act upon a request for a variance will not be deemed a consent to such variance, and the Master Architectural Control Committee's written approval of all requests for variances will be expressly required.

(f) Variances. The Master Architectural Control Committee may grant variances from compliance with any of the provisions of this Declaration or any Development Area Declaration, including, but not limited to, restrictions upon height, size, shape, floor areas, land area, placement of structures, set-backs, building envelopes, colors, materials, or land use, when, in the opinion of the Master Architectural Control Committee, in its sole and absolute discretion, such variance is justified due to visual or aesthetic considerations or unusual circumstances. All variances must be evidenced in writing and must be signed by at least a majority of the members of the Master Architectural Control Committee. Plans and specifications which have been approved by the Master Architectural Control Committee without conditions or exceptions and which reflect deviations from this Declaration or any Development Area Declaration will constitute a writing for the purpose of the foregoing sentence. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or any supplemental declaration will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Declaration, or any supplemental declaration, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration.

(g) Duration of Approval. The approval of the Master Architectural Control Committee of any plans and specifications, whether by action or inaction, and any variances granted by the Master Architectural Control Committee will be valid for a period of one hundred and twenty (120) days only. If construction in accordance with such plans and specifications or variance is not commenced within such one hundred and twenty (120) day

period and diligently prosecuted to completion thereafter, the Owner will be required to resubmit such plans and specifications or request for a variance to the Master Architectural Control Committee, and the Master Architectural Control Committee will have the authority to re-evaluate such plans and specifications in accordance with this *Section 6.02(g)* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(h) No Waiver of Future Approvals. The approval of the Master Architectural Control Committee to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the Master Architectural Control Committee will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the Master Architectural Control Committee.

(i) Non-Liability of Committee Members. **NEITHER THE MASTER ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER WILL BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE MASTER ARCHITECTURAL CONTROL COMMITTEE'S DUTIES UNDER THIS DECLARATION, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS DUE TO THE WILLFUL MISCONDUCT OR BAD FAITH OF THE MASTER ARCHITECTURAL CONTROL COMMITTEE OR ONE OR MORE OF ITS MEMBERS, AS THE CASE MAY BE.**

## ARTICLE 7 MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots or Condominium Units within the Development. The provisions of this Article apply to the Declaration and the Bylaws of the Association.

**7.01 Notice of Action.** An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot or Condominium Unit to which its Mortgage relates (thereby becoming an "Eligible Mortgage Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot or Condominium Unit on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Lot or Condominium Unit subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Master Restrictions relating to such Lot or Condominium Unit or the Owner or occupant which is not cured within sixty (60) days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

**7.02 Examination of Books.** The Association will permit Mortgagees to examine the books and records of the Association during normal business hours.

**7.03 Taxes, Assessments and Charges.** All taxes, assessments and charges that may become liens prior to first lien mortgages under applicable law will relate only to the individual Lots or Condominium Units and not to any other portion of the Development.

## **ARTICLE 8 GENERAL PROVISIONS**

**8.01 Term.** Upon the filing of a notice pursuant to *Section 10.05*, the terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Declaration will run with and bind the portion of the Property described in such notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded in the Official Records of Travis County, Texas, and continuing through and including January 1, 2054, after which time this Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by Members entitled to cast at least seventy percent (70%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the recording of a certified copy of such resolution in the Official Public Records of Travis County, Texas. Notwithstanding any provision in this *Section 8.01* to the contrary, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Texas law restricting the period of time that covenants on land may be enforced, such provision will expire (twenty one) 21 years after the death or the last survivor of the now living descendants of Elizabeth II, Queen of England.

**8.02 Eminent Domain.** In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or Special Common Area for any public purpose during the period this Declaration is in effect, the Board is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board need be

made a party, and in any event the proceeds received will be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area are paid to Owners, such payments will be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on the respective Lot. In the event any proceeds attributable to acquisition of Special Common Area are paid to Owners who have been designated as a beneficiary of such Special Common Area, such payment will be allocated on the basis of Assessment Units and paid jointly to such Owners and the holders of first Mortgages or deeds of trust on the respective Lot.

**8.03 Amendment.** This Declaration may be amended or terminated by the recording in the Official Public Records of Travis County, Texas, of an instrument executed and acknowledged by: (i) Declarant acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (unless Declarant has relinquished such right by written instrument recorded in the Official Public Records of Travis County, Texas) and Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast by members of the Association. No amendment will be effective without the written consent of Declarant, its successors or assigns. Specifically, and not by way of limitation, Declarant may unilaterally amend this Declaration or any Development Area Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot or Condominium Unit; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots and/or Condominium Units; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

**8.04 Roadway and Utility Easements.** Declarant reserves the right to locate, relocate, construct, erect, and maintain or cause to be located, relocated, constructed, erected, and maintained in and on any streets maintained by the Association, or areas conveyed to the Association, or areas reserved or held as Common Area or Special Common Area, roadways, sewer lines, water lines, electrical lines and conduits, and other pipelines, conduits, wires, and any public utility function beneath or above the surface of the ground with the right of access to the same at any time for the purposes of repair and maintenance.

**8.05 Enforcement.** The Association or the Declarant will have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, charges and other terms now or hereafter imposed by the provisions of this Declaration. Failure to enforce any right, provision, covenant, or condition granted by this Declaration will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future.

**8.06 Higher Authority.** The terms and provisions of this Declaration are subordinate to federal and state law, and local ordinances. Generally, the terms and provisions of this Declaration are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance.

**NOTICE**

Users of this Declaration, any Development Area Declaration, and the Design Guidelines should periodically review statutes and court rulings that may modify or nullify the terms and provisions of those documents or their enforcement, or which may create rights or duties not contemplated therein.

**8.07 Severability.** If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Declaration, or, to the extent permitted by applicable law, the validity of such provision as applied to any other person or entity.

**8.08 Conflicts.** If there is any conflict between the provisions of this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations adopted pursuant to the terms of such documents, or any Development Area Declaration, the provisions of this Declaration will govern.

**8.09 Gender.** Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

**8.10 Acceptance by Grantees.** Each grantee of Declarant of a Lot, Condominium Unit, other real property interest in the Development, by the acceptance of a deed of conveyance, or each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Declaration or to whom this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each grantee agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of the Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Development, and will bind any person having at any time any interest or estate in the Development, and will inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

**8.11 Damage and Destruction.**

(a) Promptly after damage or destruction by fire or other casualty to all or any part of the Common Area or Special Common Area covered by insurance, the Board, or its duly authorized agent, will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair of the

damage. Repair, as used in this *Section 8.11(a)*, means repairing or restoring the Common Area or Special Common Area to substantially the same condition as existed prior to the fire or other casualty.

(b) Any damage to or destruction of the Common Area or Special Common Area will be repaired unless a majority of the Board decides within sixty (60) days after the casualty not to repair. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or both, are not made available to the Association within said period, then the period will be extended until such information will be made available.

(c) In the event that it should be determined by the Board that the damage or destruction of the Common Area or Special Common Area will not be repaired and no alternative Improvements are authorized, then the affected portion of the Common Area or Special Common Area will be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

(d) If insurance proceeds are paid to restore or repair any damaged or destroyed Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a Special Assessment, as provided in *Article 5*, against all Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) If insurance proceeds are paid to restore or repair any damaged or destroyed Special Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a special Assessment, as provided in *Article 5*, against all Owners designated as a beneficiary of such Special Common Area. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(f) In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to any Common Area, such payments will be allocated based on Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

(g) In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to Special Common Area, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners who have been designated as a beneficiary of such Special Common Area and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

(h) In the event that any proceeds of insurance policies are paid to Owners, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

**8.12 No Partition.** Except as may be permitted in this Declaration or amendments thereto, no physical partition of the Common Area or Special Common Area or any part will be permitted, nor will any person acquiring any interest in the Development or any part seek any such judicial partition unless the Development in question has been removed from the provisions of this Declaration pursuant to *Section 10.04* below. This *Section 8.12* will not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Declaration, nor will this provision be constructed to prohibit or affect the creation of a condominium regime in accordance with the Texas Uniform Condominium Act.

**8.13 Notices.** Any notice permitted or required to be given to any person by this Declaration will be in writing and may be delivered either personally or by mail. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

## **ARTICLE 9 EASEMENTS**

**9.01 Right of Ingress and Egress.** Declarant, its agents, employees and designees will have a right of ingress and egress over and the right of access to the Common Area or Special Common Area to the extent necessary to use the Common Area or Special Common Area and the right to such other temporary uses of the Common Area or Special Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with the construction and development of the Development.

**9.02 Reserved Easements.** All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant prior to the Development becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of most efficiently and economically developing the Development.

**9.03 Utility Easements.** Declarant hereby reserves unto itself and Declarant's successors and assigns a perpetual non-exclusive easement over and across the Development for: (i) the installation, operation and maintenance of utilities and associated infrastructure to serve the Development and any other property owned by Declarant; (ii) the installation, operation and maintenance of cable lines and associated infrastructure for sending and receiving data and/or other electronic signals, security and similar services to serve the

Development and any other property owned by Declarant; and (iii) the installation, operation and maintenance of, walkways, pathways and trails, drainage systems, street lights and signage to serve the Development and any other property owned by Declarant. Declarant will be entitled to unilaterally assign the easements reserved hereunder to any third party who owns, operates or maintains the facilities and improvements described in (i) through (iii) of this *Section 9.03*. The exercise of the easement reserved herein will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Condominium Unit or residence or Improvement constructed thereon.

**9.04 Subdivision Perimeter Fencing Easement.** Declarant hereby reserves for itself and the Association, an easement over and across the Development for the installation, maintenance, repair or replacement of certain subdivision perimeter fencing which serves the Development. Declarant will have the right, from time to time, to record a written notice in the Official Public Records of Travis County, Texas, which identifies the subdivision perimeter fencing to which the easement reserved hereunder applies. The Declarant may designate all or any portion of the subdivision perimeter fencing as Common Area or Special Common Area by written notice recorded in the Official Public Records of Travis County, Texas. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Condominium Unit or residence or Improvement constructed thereon.

**9.05 Declarant as Attorney in Fact.** To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of this Declaration, each Owner, by accepting a deed to a Lot or Condominium Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Lot or Condominium Unit, and any other third party by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot or Condominium Unit, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of this Declaration. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party.

## ARTICLE 10 DEVELOPMENT RIGHTS

**10.01 Development by Declarant.** It is contemplated that the Development will be developed pursuant to a coordinated plan, which may, from time to time, be amended or modified. Declarant reserves the right, but will not be obligated, to designate Development Areas, to create and/or designate Lots, Special Common Areas and Common Areas and to subdivide with respect to any of the Development pursuant to the terms of this *Section 10.01*,



subject to any limitations imposed on portions of the Development by any applicable Plat. These rights may be exercised with respect to any portions of the Property in accordance with *Section 10.05*. As each area is developed or dedicated, Declarant may record one or more Development Area Declarations and designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area. Any Development Area Declaration may, but need not, provide for the establishment of a Development Area Association to be comprised of Owners within the particular area. Any Development Area Declaration may provide its own procedure for the amendment of any provisions. All lands, Improvements, and uses in each area so developed will be subject to both this Declaration and the Development Area Declaration, if any, for that Area.

**10.02 Special Declarant Rights.** Notwithstanding any provision of this Declaration to the contrary, at all times, Declarant will have the right and privilege: (i) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots or Condominium Units in the Development; (ii) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (iii) to maintain and locate construction trailers and construction tools and equipment within the Development. The construction placement or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this *Section 10.02* until two (2) years after Declarant no longer owns any portion of the Property.

**10.03 Addition of Land.** Declarant may, at any time and from time to time, add additional lands to the Property and, upon the filing of a notice of addition of land, such land will be considered part of the Property for purposes of this Declaration, and upon the further filing of a notice of applicability meeting the requirements of *Section 10.05* below, such added lands will be considered part of the Development subject to this Declaration and the terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the persons subject to this Declaration will be the same with respect to such added land as with respect to the lands originally covered by this Declaration. To add lands to the Property, Declarant will be required only to record in the Official Public Records of Travis County, Texas, a notice of addition of land (which notice may be contained within any Development Area Declaration affecting such land) containing the following provisions:

(a) A reference to this Declaration, which reference will state the volume and initial page number of the Official Public Records of Travis County wherein this Declaration is recorded;

(b) A statement that such land will be considered Property for purposes of this Declaration, and that upon the further filing of a notice of applicability meeting the requirements of *Section 10.05* of this Declaration, all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added land; and

- (c) A legal description of the added land.

**10.04 Withdrawal of Land.** Declarant may, at any time and from time to time, reduce or withdraw from the Property, including the Development, and remove and exclude from the burden of this Declaration and the jurisdiction of the Association: (i) any portions of the Development which have not been included in a Plat; (ii) any portion of the Development included in a Plat if Declarant owns all Lots described in such Plat; and (iii) any portions of the Development included in a Plat even if Declarant does not own all Lot(s) described in such Plat, provided that Declarant obtains the written consent of all other Owners of Lot(s) described in such Plat. Upon any such withdrawal and renewal this Declaration and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Development withdrawn. To withdraw lands from the Development hereunder, Declarant will be required only to record in the Official Public Records of Travis County, Texas, a notice of withdrawal of land containing the following provisions:

- (a) A reference to this Declaration, which reference will state the volume and initial page number of the Official Public Records of Travis County wherein this Declaration is recorded;

- (b) A statement that the provisions of this Declaration will no longer apply to the withdrawn land; and

- (c) A legal description of the withdrawn land.

**10.05 Notice of Applicability.** Upon the filing in the Official Public Records of Travis County, Texas, this Declaration serves to provide notice that at any time, and from time to time, all or any portion of the Property may be made subject to the terms, covenants, conditions, restrictions and obligations of this Declaration. This Declaration will apply to and burden a portion or portions of the Property upon the filing of a notice of applicability describing such Property by a legally sufficient description and expressly providing that such Property will be considered a part of the Development and will be subject to the terms, covenants conditions, restrictions and obligations of this Declaration. To be effective, a notice of applicability must be executed by the Declarant and the record title owner of the Property being made subject to this Declaration if such Property is not owned by the Declarant. Declarant may also cause a notice of applicability to be filed covering a portion of the Property for the purpose of encumbering such Property with this Declaration and any Development Area Declaration previously recorded by Declarant (which notice of applicability may amend, modify or supplement the restrictions, set forth in the Development Area Declaration, which will apply to such Property). To make the terms and provisions of this Declaration applicable to a portion of the Property, Declarant will be required only to cause a notice of applicability to be recorded containing the following provisions:

(a) A reference to this Declaration, which reference will state the volume and initial page number of the Official Public Records of Travis County, Texas wherein this Declaration is recorded;

(b) A reference, if applicable, to the Development Area Declaration which will apply to such portion of the Property (with any amendment, modification, or supplementation of the restrictions set forth in the Development Area Declaration which will apply to such portion of the Property), which reference will state the volume and initial page number of the Official Public Records of Travis County, Texas wherein the Development Area Declaration is recorded;

(c) A statement that all of the provisions of this Declaration will apply to such portion of the Property;

(d) A legal description of such portion of the Property; and

(e) If applicable, a description of any Special Common Area which benefits the Property and the beneficiaries of such Special Common Area.

**NOTICE TO TITLE COMPANY**

**NO PORTION OF THE PROPERTY IS SUBJECT TO THE TERMS AND PROVISIONS OF THIS DECLARATION AND THIS DECLARATION DOES NOT APPLY TO ANY PORTION OF THE PROPERTY UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PROPERTY AND REFERENCING THIS DECLARATION HAS BEEN RECORDED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.**

**ARTICLE 11  
DISPUTE RESOLUTION**

**11.01** Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all parties subject to this Declaration (collectively, the "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Development without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in *Section 11.02* in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" will refer to any claim, grievance or dispute arising out of or relating to:

- (i) the interpretation, application, or enforcement of the Declaration, any Development Area Declaration, the Design Guidelines, the Articles, Bylaws, and rules and regulations adopted by the Board; or
- (ii) the rights, obligations, and duties of any Bound Party under the Declaration, any Development Area Declaration, the Design Guidelines, the Articles, Bylaws, and rules and regulations adopted by the Board; or
- (iii) the design or construction of improvements within the Development, other than matters of aesthetic judgment under *Article 6*, which will not be subject to review.

The following will not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in *Section 11.02*:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner; and
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration; and
- (iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration, any Development Area Declaration, the Design Guidelines, the Articles, Bylaws, and rules and regulations adopted by the Board; and
- (iv) any suit in which any indispensable party is not a Bound Party; and
- (v) any suit as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required by *Section 11.02 (a)*, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

**11.02 Dispute Resolution Procedures.**

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") will give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in *Section 11.02(a)* (or within such other period as the parties may agree upon), the Claimant will have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Travis County, Texas.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant will be deemed to have waived the Claim, and the Respondent will be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant will thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party will bear its own costs of the mediation, including attorney's fees, and each Party will share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award will, upon prevailing, be entitled to recover from the non-complying party (or if more than one noncomplying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

**11.03 Initiation of Litigation by Association.** In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association will not initiate any judicial or administrative proceeding unless first approved by a vote of the Members entitled to cast seventy-five percent (75%) of the votes in the Association, excluding the votes held by the Declarant, except that no such approval will be required for actions or proceedings:

(a) initiated while Declarant owns any portion of the Property or the Development; or

(b) initiated to enforce the provisions of the Declaration, any Development Area Declaration, the Design Guidelines, the Articles, Bylaws, and rules and regulations adopted by the Board, including collection of assessments and foreclosure of liens; or

(c) initiated to challenge *ad valorem* taxation or condemnation proceedings; or

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section will not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings except any such amendment will also be approved by the Declarant for so long as Declarant owns any portion of the Property or the Development.

EXECUTED to be effective on the date this instrument is recorded in the Official Public Records of Travis County, Texas.

**DECLARANT:**

LAS VENTANAS LAND PARTNERS, LTD., a  
Texas limited partnership

By: JHLV GP, Inc., a Texas corporation, General  
Partner

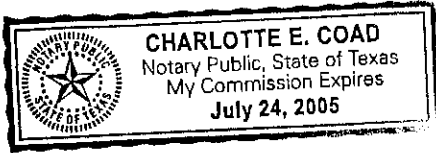
By:   
Haythem Dawlett, Vice President

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 19<sup>th</sup> day of July, 2005, by Haythem Dawlett, Vice President of JHLV GP, Inc., a Texas corporation, general partner of Las Ventanas Land Partners, Ltd, a Texas Limited Partnership, on behalf of said corporation and limited partnership..

Charlotte E. Coad  
Notary Public, State of Texas



**CONSENT OF MORTGAGEE**

The undersigned, being the sole owner and holder of deed of trust lien dated November 12, 2004, recorded as Document No. 2005012622, Official Public Records of Travis County, Texas, securing a note of even date therewith, executes this Declaration solely for the purpose of evidencing its consent to this Declaration.

**FIRST HORIZON HOME LOAN CORPORATION**, a KANSAS corporation

By: Tony Barnard  
Printed Name: **Tony Barnard**  
Title: **Senior Vice President**

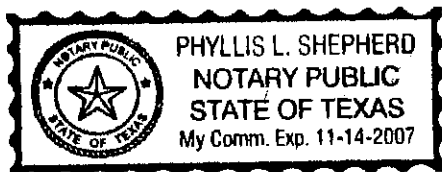
STATE OF Texas §

COUNTY OF Dallas §

This instrument was acknowledged before me on this 20<sup>th</sup> day of July, 2005 by Tony Barnard, Sr. Vice President of First Horizon Home Loan Corporation, a \_\_\_\_\_ corporation, on behalf of said corporation.

Phyllis L. Shepherd  
Notary Public Signature

(seal)



# EXHIBIT A

437.016 ACRES

## ROUGH HOLLOW

A DESCRIPTION OF 437.016 ACRES, CONSISTING OF:

A PORTION OF TRACT A-2 TRACT I, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 1232.45 ACRES, MORE OR LESS, SITUATED IN THE C.E.P.I. & M. CO. SURVEY NO. 46, THE C.E.P.I. & M. CO. SURVEY NO. 47, THE RUSK TRANSPORTATION SURVEY NO. 85, THE J.H. LOHMAN SURVEY NO. 524 AND THE G. LOHMAN SURVEY NO. 538, TRAVIS COUNTY, TEXAS; SAVE AND EXCEPT 1.378 ACRES, BEING ALL OF THOSE CERTAIN 10 TRACTS OF LAND, EACH CONTAINING 0.1377 ACRES, MORE OR LESS, AS FURTHER DESCRIBED IN DEEDS RECORDED IN VOLUME 13366, PAGE 55, VOLUME 13366, PAGE 59, VOLUME 13366, PAGE 63, VOLUME 13366, PAGE 67, VOLUME 13366, PAGE 71, VOLUME 13366, PAGE 95, VOLUME 13366, PAGE 99, VOLUME 13366, PAGE 103, VOLUME 13366, PAGE 107 AND VOLUME 13366, PAGE 111 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; AND

ALL OF TRACT A-2 TRACT II, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 0.045 ACRES, MORE OR LESS, SITUATED IN THE C.W. WALDRON SURVEY NO. 79, TRAVIS COUNTY, TEXAS; AND

ALL OF TRACT A-2 TRACT III, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 0.020 ACRES, MORE OR LESS, SITUATED IN THE C.W. WALDRON SURVEY NO. 79, TRAVIS COUNTY, TEXAS; AND

A PORTION OF TRACT A-29, BEING THAT CERTAIN TRACT OR PARCEL OF LAND SITUATED IN THE C.E.P.I. & M. CO. SURVEY NO. 46, THE C.E.P.I. & M. CO. SURVEY NO. 47, THE G. LOHMAN SURVEY NO. 538 AND THE WM. DAVENPORT SURVEY NO. 445, TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THAT 1.937 ACRE TRACT CONVEYED TO THE CITY OF LAKEWAY IN A DEED RECORDED UNDER DOCUMENT NO. 2001098241 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND

A PORTION OF TRACT A-33 TRACT I, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 19.23 ACRES, MORE OR LESS, SITUATED IN THE C.E.P.I. & M. CO. SURVEY NO. 47, TRAVIS COUNTY, TEXAS; AND

ALL OF TRACT A-33 TRACT II, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 7.39 ACRES, MORE OR LESS, SITUATED IN THE G. LOHMAN SURVEY NO. 538, TRAVIS COUNTY, TEXAS; AND



A PORTION OF TRACT A-34, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 13.118 ACRES, MORE OR LESS, SITUATED IN THE C.E.P.I. & M. CO. SURVEY NO. 47 AND THE G. LOHMAN SURVEY NO. 538, TRAVIS COUNTY, TEXAS; AND

ALL OF TRACT A-31 TRACT A, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 34.04 ACRES, MORE OR LESS, SITUATED IN THE C.E.P.I. & M. CO. SURVEY NO. 46 AND THE C.E.P.I. & M. SURVEY NO. 67, TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF LOT 1 OF LAKEWAY SECTION 19, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 58, PAGE 69 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THAT 0.321 ACRE TRACT CONVEYED TO LAKEWAY M.U.D. NO. 1 IN A DEED RECORDED UNDER VOLUME 4490, PAGE 340 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; AND

ALL OF TRACT A-31 TRACT B, BEING THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING 8.897 ACRES, MORE OR LESS, SITUATED IN THE C.E.P.I. & M. CO. SURVEY NO. 46, TRAVIS COUNTY, TEXAS, A PORTION OF WHICH IS OUT OF LOT 1 OF LAKEWAY SECTION 19, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 58, PAGE 69 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS;

ALL CONVEYED TO COMMERCIAL LAKEWAY LIMITED PARTNERSHIP IN A SPECIAL WARRANTY DEED DATED JULY 31, 1998 AND RECORDED IN VOLUME 13241, PAGE 436 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 437.016 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 5/8" rebar found for the northeast corner of the said 1232.45 acre tract, also being a southerly corner of said Tract A-29, and an angle point in the west line of a 23.109 acre tract described in Document 2002162268 of the Official Public Records of Travis County, Texas;

**THENCE** South 28°03'09" West, with the common line of the 1232.45 acre tract and the 23.109 acre tract, a distance of 106.81 feet to a 5/8" rebar found for the southwest corner of the 23.109 acre tract and the northwest corner of a 12.105 acre tract also described in Document No. 2002162268 of the Official Public Records of Travis County, Texas;

**THENCE** South 28°09'56" West, with the common line of the 1232.45 acre tract and the 12.105 acre tract, a distance of 1,246.40 feet to a 1/2" rebar found for the southwest corner of a 7.463 acre tract described in Document No. 2002162268 of the Official Public Records of Travis County, Texas, also being the northwest corner of said Tract A-2, Tract II, containing 0.045 acres and an angle point of the 1232.45 acre tract;

**THENCE** North 89°25'17" East, with the common line of Tract A-2, Tract II and the 7.463 acre tract, a distance of 5.94 feet to a 3/4" rebar found for the northwest corner of a 21.477 acre tract described in Volume 12797, Page 1822 of the Real Property Records of Travis County, Texas, also being the northeast corner of Tract A-2, Tract II;

**THENCE** South 28°33'55" West, with the common line of Tract A-2, Tract II and the 21.477 acre tract, a distance of 760.21 feet to a 1/2" iron pipe found for the south corner of Tract A-2, Tract II, also being an angle point in the common line of the 1232.45 acre tract and the 21.477 acre tract;

**THENCE** South 28°09'21" West, with the common line of the 1232.45 acre tract and the 21.477 acre tract, a distance of 239.45 feet to a 1/2" iron pipe found for the north corner of said Tract A-2, Tract III, containing 0.020 acres, also being an angle point in the west line of the 21.477 acre tract;

**THENCE** South 21°05'39" West, with the common line of Tract A-2, Tract III and the 21.477 acre tract, a distance of 955.23 feet to a 1/2" rebar found for the southeast corner of the 0.020 acre tract, also being the southwest corner of a 22.048 acre tract described in Document No. 2000009375 of the Official Public Records of Travis County, Texas and an angle point in the north line of a 24.61 acre tract described in Volume 12843, Page 310 of the Real Property Records of Travis County, Texas;

**THENCE** North 75°42'35" West, with the common line of Tract A-2, Tract III and the 24.61 acre tract, a distance of 1.88 feet to a 5/8" rebar found for the southwest corner of Tract A-2, Tract III, also being the northwest corner of the 24.61 acre tract and an angle point in the east line of the 1232.45 acre tract;

**THENCE** South 21°10'45" West, with the common line of the 1232.45 acre tract and the 24.61 acre tract, a distance of 1,286.40 feet to a 1/2" rebar found for the northwest corner of a 24.62 acre tract described in Volume 13211, Page 1777 of the Real Property Records of Travis County, Texas, also being the southwest corner of the 24.61 acre tract and an angle point in the east line of the 1232.45 acre tract;

**THENCE** South 21°15'43" West, with the common line of the 1232.45 acre tract and the 24.62 acre tract, a distance of 625.65 feet to a 3/4" iron pipe found for the northwest corner of a 41.454 acre tract described in Volume 11715, Page 82 of the Real Property Records of Travis County, Texas, also being the southwest corner of the 24.62 acre tract and an angle point in the east line of the 1232.45 acre tract;

**THENCE** South 23°51'42" West, with the common line of the 41.454 acre tract and the 1232.45 acre tract, a distance of 342.83 feet to a 1/2" rebar found for an angle point in the common line of the 41.454 acre tract and the 1232.45 acre tract;

**THENCE** South 25°12'02" West, with the common line of the 41.454 acre tract and the 1232.45 acre tract, and with the west line of a 23.262 acre tract described in Volume 11095, Page 2310 of the Real Property Records of Travis County, Texas, a distance of 1,179.80 feet to a 1/2" rebar with cap set for an angle point in the west line of a 456.630 acre tract described in Document No. 2000133661 of the Official Public Records of Travis County, Texas, also being the east line of the 1232.45 acre tract;

**THENCE** over and across the 1232.45 acre tract, the following sixty (60) courses:

1. North 27°19'29" West, a distance of 1,162.29 feet to a 1/2" rebar with cap set;
2. North 02°48'22" East, a distance of 172.74 feet to a 1/2" rebar with cap set;
3. North 16°45'30" West, a distance of 420.09 feet to a 1/2" rebar with cap set;
4. North 08°37'01" West, a distance of 321.53 feet to a 1/2" rebar with cap set;
5. North 43°09'11" East, a distance of 125.93 feet to a 1/2" rebar with cap set;
6. North 73°00'48" East, a distance of 261.13 feet to a 1/2" rebar with cap set;
7. North 08°54'02" East, a distance of 312.25 feet to a 1/2" rebar with cap set;
8. North 42°44'25" East, a distance of 154.87 feet to a 1/2" rebar with cap set;
9. North 52°09'18" East, a distance of 149.74 feet to a 1/2" rebar with cap set;
10. North 39°38'41" East, a distance of 199.51 feet to a 1/2" rebar with cap set;
11. North 64°18'06" East, a distance of 221.95 feet to a 1/2" rebar with cap set;
12. North 62°07'42" East, a distance of 168.44 feet to a 1/2" rebar with cap set;
13. North 45°42'29" East, a distance of 143.55 feet to a 1/2" rebar with cap set;
14. North 33°20'59" East, a distance of 188.54 feet to a 1/2" rebar with cap set;
15. North 20°32'23" East, a distance of 266.29 feet to a 1/2" rebar with cap set;
16. North 02°18'16" East, a distance of 110.23 feet to a 1/2" rebar with cap set;
17. North 41°07'09" West, a distance of 241.96 feet to a 1/2" rebar with cap set;
18. North 07°16'16" West, a distance of 149.95 feet to a 1/2" rebar with cap set;
19. North 25°25'58" East, a distance of 116.07 feet to a 1/2" rebar with cap set;
20. North 41°13'00" East, a distance of 170.60 feet to a 1/2" rebar with cap set;
21. North 15°49'08" East, a distance of 321.32 feet to a 1/2" rebar with cap set;
22. North 39°46'38" East, a distance of 373.14 feet to a 1/2" rebar with cap set;
23. North 55°30'51" West, a distance of 122.10 feet to a 1/2" rebar with cap set;

46. North 86°36'00" East, a distance of 218.62 feet to a 1/2" rebar with cap set;
47. North 15°30'16" East, a distance of 467.59 feet to a 1/2" rebar with cap set;
48. North 88°09'16" East, a distance of 330.81 feet to a 1/2" rebar with cap set;
49. South 24°44'35" East, a distance of 568.65 feet to a 1/2" rebar with cap set;
50. North 87°45'56" East, a distance of 287.51 feet to a 1/2" rebar with cap set;
51. North 36°53'59" East, a distance of 112.14 feet to a 1/2" rebar with cap set;
52. North 12°40'26" West, a distance of 317.12 feet to a 1/2" rebar with cap set;
53. South 79°44'17" East, a distance of 246.33 feet to a 1/2" rebar with cap set;
54. North 77°26'22" East, a distance of 356.43 feet to a 1/2" rebar with cap set;
55. South 46°11'47" East, a distance of 278.52 feet to a 1/2" rebar with cap set;
56. North 07°48'14" East, a distance of 119.94 feet to a 1/2" rebar with cap set;
57. North 75°10'52" East, a distance of 436.06 feet to a 1/2" rebar with cap set;
58. North 14°20'16" East, a distance of 198.14 feet to a 1/2" rebar with cap set;
59. North 56°49'44" East, a distance of 552.72 feet to a 1/2" rebar with cap set;
60. North 03°21'24" East, a distance of 366.40 feet to a 1/2" rebar with cap set for a southwesterly corner of said Tract A-29, being also the northeast line of the 1232.45 acre tract;

**THENCE** with the northeast line of the 1232.45 acre tract and the southwest line of Tract A-29, the following eleven (11) courses:

1. North 13°24'16" West, a distance of 323.58 feet to a 5/8" rebar found;
2. North 45°58'11" West, a distance of 143.24 feet to a 1/2" rebar found;
3. North 61°15'16" West, a distance of 39.97 feet to a 1/2" rebar found;
4. North 02°16'19" West, a distance of 352.17 feet to a 1/2" rebar found;
5. North 31°50'01" West, a distance of 292.96 feet to a 1/2" rebar found;

6. North  $21^{\circ}47'32''$  East, a distance of 492.48 feet to a 1/2" rebar found;
7. North  $21^{\circ}14'26''$  West, a distance of 239.04 feet to a 1/2" rebar found;
8. North  $50^{\circ}40'17''$  West, a distance of 279.12 feet to a 1/2" rebar found;
9. North  $43^{\circ}38'37''$  West, a distance of 379.37 feet to a 1/2" rebar found;
10. North  $46^{\circ}00'12''$  West, a distance of 664.29 feet to a calculated point;
11. North  $04^{\circ}31'55''$  East, a distance of 564.07 feet to a calculated point for the south corner of Tract A-33, Tract II, containing 7.390 acres;

**THENCE** South  $52^{\circ}41'57''$  West, over and across the 1232.45 acre tract, a distance of 182.33 feet to a calculated point on the 715 foot contour line;

**THENCE** over and across the 1232.45 acre tract and with the 715 foot contour line, the following ten (10) courses:

1. North  $51^{\circ}34'58''$  West, a distance of 137.62 feet to a calculated point;
2. South  $45^{\circ}35'42''$  West, a distance of 238.36 feet to a calculated point;
3. North  $20^{\circ}59'36''$  West, a distance of 58.70 feet to a calculated point;
4. North  $17^{\circ}51'53''$  East, a distance of 194.29 feet to a calculated point;
5. North  $39^{\circ}35'50''$  West, a distance of 245.35 feet to a calculated point;
6. North  $12^{\circ}40'14''$  West, a distance of 174.11 feet to a calculated point;
7. North  $21^{\circ}02'43''$  East, a distance of 67.83 feet to a calculated point;
8. North  $17^{\circ}44'36''$  West, a distance of 84.63 feet to a calculated point;
9. North  $67^{\circ}42'25''$  West, a distance of 160.96 feet to a calculated point;
10. North  $36^{\circ}08'23''$  West, a distance of 206.91 feet to a calculated point;

**THENCE** over and across said Tract A-2 Tract I, Tract A-33 Tract I and Tract A-34 the following two (2) courses:

1. North  $28^{\circ}07'30''$  East, a distance of 572.93 feet to a calculated point;

2. North  $07^{\circ}40'16''$  East, a distance of 172.26 feet to a 1/2" rebar with cap set on the 715 foot contour line;

**THENCE** over and across said Tract A-34 and with the 715 foot contour line the following nine (9) courses:

1. North  $64^{\circ}04'21''$  West, a distance of 28.93 feet to a 1/2" rebar with cap set;
2. North  $21^{\circ}35'17''$  West, a distance of 27.94 feet to a 1/2" rebar with cap set;
3. North  $39^{\circ}46'04''$  West, a distance of 42.80 feet to a 1/2" rebar with cap set;
4. North  $34^{\circ}26'55''$  West, a distance of 103.72 feet to a 1/2" rebar with cap set;
5. North  $13^{\circ}07'46''$  East, a distance of 52.87 feet to a 1/2" rebar with cap set;
6. North  $23^{\circ}09'56''$  East, a distance of 29.49 feet to a 1/2" rebar with cap set;
7. North  $07^{\circ}20'22''$  East, a distance of 46.42 feet to a 1/2" rebar with cap set;
8. North  $05^{\circ}10'50''$  West, a distance of 52.16 feet to a 1/2" rebar with cap set;
9. North  $18^{\circ}31'38''$  West, a distance of 49.01 feet to a 1/2" rebar with cap set;

**THENCE** leaving the 715 foot contour line, over and across said Tract A-34 and said Tract A-29 the following twenty-six (26) courses:

1. North  $85^{\circ}16'58''$  East, a distance of 193.40 feet to a 1/2" rebar with cap set;
2. South  $34^{\circ}47'17''$  East, a distance of 129.34 feet to a 1/2" rebar with cap set;
3. North  $76^{\circ}45'00''$  East, a distance of 196.58 feet to a 1/2" rebar with cap set;
4. South  $48^{\circ}06'28''$  East, a distance of 206.13 feet to a 1/2" rebar with cap set;
5. North  $84^{\circ}16'15''$  East, a distance of 373.10 feet to a 1/2" rebar with cap set;
6. South  $66^{\circ}28'38''$  East, a distance of 322.35 feet to a 1/2" rebar with cap set;
7. South  $46^{\circ}30'31''$  East, a distance of 457.76 feet to a 1/2" rebar with cap set;
8. South  $54^{\circ}02'09''$  East, a distance of 135.22 feet to a 1/2" rebar with cap set;
9. Along a curve to the left, an arc length of 3.70 feet, having a radius of 270.00 feet and a chord which bears North  $45^{\circ}25'39''$  East, a distance of 3.70 feet to a 1/2" rebar with cap set;

10. North 45°02'07" East, a distance of 84.08 feet to a 1/2" rebar with cap set;
11. Along a curve to the left, an arc length of 23.70, having a radius of 1070.00 feet and a chord which bears North 44°24'02" East, a distance of 23.70 feet to a 1/2" rebar with cap set;
12. North 71°46'12" West, a distance of 159.80 feet to a 1/2" rebar with cap set;
13. North 46°26'33" West, a distance of 77.21 feet to a 1/2" rebar with cap set;
14. North 27°43'25" West, a distance of 321.89 feet to a 1/2" rebar with cap set;
15. North 60°44'00" West, a distance of 41.29 feet to a 1/2" rebar with cap set;
16. North 67°35'36" West, a distance of 213.31 feet to a 1/2" rebar with cap set;
17. North 68°05'41" West, a distance of 286.32 feet to a 1/2" rebar with cap set;
18. South 75°50'46" West, a distance of 77.58 feet to a 1/2" rebar with cap set;
19. South 69°23'01" West, a distance of 94.88 feet to a 1/2" rebar with cap set;
20. South 86°07'22" West, a distance of 179.49 feet to a 1/2" rebar with cap set;
21. North 42°09'46" West, a distance of 127.85 feet to a 1/2" rebar with cap set;
22. North 09°31'23" West, a distance of 122.65 feet to a 1/2" rebar with cap set;
23. North 11°00'38" East, a distance of 114.00 feet to a 1/2" rebar with cap set;
24. North 36°43'57" East, a distance of 158.07 feet to a 1/2" rebar with cap set;
25. North 22°04'11" East, a distance of 282.05 feet to a 1/2" rebar with cap set;
26. North 50°47'54" West, a distance of 317.17 feet to a 1/2" rebar with cap set for the southeast corner of Lot 39, Block A, Lakeway Section 37, a subdivision of record in Volume 99, Page 315 of the Plat Records of Travis County, Texas, being also the southwest corner of Lot 40, Block A, of said Lakeway Section 37;

**THENCE** with the south line of said Lakeway Section 37, crossing Tract A-29, the following six (6) courses:

1. North 63°15'52" East, a distance of 551.71 feet to a 1/2" rebar found;
2. South 77°56'35" East, a distance of 577.40 feet to a 1/2" rebar found;

3. South 87°58'00" East, a distance of 342.44 feet to a 1/2" rebar found;
4. South 74°42'46" East, a distance of 164.76 feet to a 1/2" rebar found;
5. South 25°17'08" East, a distance of 325.05 feet to a 1/2" rebar found;
6. South 79°45'55" East, a distance of 177.57 feet to a 1/2" rebar found in the east line of the termination of Lake Estates Drive (60 foot right-of-way width), also being a southerly corner of Lakeway Section 37;

**THENCE** with the east right-of-way line of Lake Estates Drive, along a curve to the left, an arc length of 30.52 feet, having a radius of 495.00 feet and a chord which bears North 06°18'10" East, a distance of 30.51 feet to a 1/2" rebar found at the southwest corner of Lot 1, Block B of Lakeway Section 37;

**THENCE** South 87°45'56" East, with the south line of Lot 1, Block B of Lakeway Section 37 a distance of 169.52 feet to a 1/2" rebar found in the west line of Lot 3290 of Lakeway Section 30, a subdivision of record in Volume 72, Page 46, of the Plat Records of Travis County, Texas, also being in the east line of Tract A-29;

**THENCE** South 01°48'33" East, with the west line of Lot 3290, being also the east line of Tract A-29, a distance of 72.30 feet to a 1/2" rebar found for the southwest corner of Lot 3290, being also the northwest corner of Lot 1314 of Lakeway Section 12, a subdivision of record in Volume 46, Page 1, of the Plat Records of Travis County, Texas;

**THENCE**, with the west line of Lakeway Section 12, also being the east line of the Tract A-29, the following two (2) courses:

1. South 00°29'24" East, with the west line of Lot 1314, a distance of 53.78 feet to a 1/2" rebar found;
2. South 20°16'43" West, with the west line of Lot 1313, a distance of 124.93 feet to a 1/2" rebar found in the north line of the termination of Seafarer (50' right-of-way);

**THENCE** South 45°31'52" West, with the termination of Seafarer, a distance of 57.20 feet to a 1/2" rebar found in the south line of Seafarer, for the northeast corner of Lot 51A, the Amended Plat of Lots 51 and 52 of the Estates of Lakeway Hills, Section 3, a subdivision of record in Volume 102, Page 69 of the Plat Records of Travis County, Texas, for the northwest corner of Lot 1311A of the Plat Amendment of Lots 1311 and 1312, Lakeway Section 12, a subdivision of record in Volume 93, Page 137, of the Plat Records of Travis County, Texas, and an angle point in the east line of Tract A-29;

**THENCE** with common line of Tract A-29 and Lot 51A, the following four (4) courses:



1. North  $72^{\circ}42'27''$  West, a distance of 121.95 feet to a 1/2" rebar found;
2. Along a curve to the left, an arc length of 25.67 feet, having a radius of 15.00 feet and a chord which bears South  $58^{\circ}11'25''$  West, a distance of 22.65 feet to a 1/2" rebar found
3. Along a curve to the right, an arc length of 85.72 feet, having a radius of 535.00 feet and a chord which bears South  $13^{\circ}38'18''$  West, a distance of 85.63 feet to a "X" in concrete found;
4. South  $18^{\circ}12'08''$  West, a distance of 529.98 feet to a 1/2" rebar found for the point of curvature in the west line of the Estates of Lakeway Hills, Section 3, a subdivision of record in Volume 99, Page 86 of the Plat Records of Travis County, Texas;

**THENCE** with the east line of Tract A-29, also being the west line of the Estates of Lakeway Hills, Section 3, 355.90 feet along the arc of said curve to the right, having a radius of 986.80 feet, and through a central angle of  $20^{\circ}39'52''$ , the chord of which bears South  $28^{\circ}32'51''$  West, a distance of 353.98 feet to a 1/2" rebar found in the west line of the Estates of Lakeway Hills Subdivision Section 2, a subdivision of record in Volume 96, Page 167 of the Plat Records of Travis County, Texas;

**THENCE** with the east line of Tract A-29, also being the west line of the Estates of Lakeway Hills Subdivision Section 2, the following seven (7) courses:

1. South  $38^{\circ}54'22''$  West, a distance of 241.59 feet to a 1/2" rebar found;
2. Along a curve to the right, an arc length of 153.53 feet, having a radius of 335.00 feet and a chord which bears South  $52^{\circ}00'14''$  West, a distance of 152.19 feet to a 1/2" rebar with cap set;
3. South  $65^{\circ}07'59''$  West, a distance of 189.96 feet to a 1/2" rebar found;
4. Along a curve to the left, an arc length of 355.19 feet, having a radius of 265.00 feet and a chord which bears South  $26^{\circ}44'05''$  West, a distance of 329.19 feet to a 1/2" rebar found;
5. South  $11^{\circ}39'44''$  East, a distance of 243.10 feet to a 1/2" rebar found;
6. Along a curve to the left, an arc length of 335.84 feet, having a radius of 699.73 feet and a chord which bears South  $25^{\circ}23'22''$  East, a distance of 332.63 feet to a 1/2" rebar found;
7. South  $39^{\circ}02'33''$  East, a distance of 369.32 feet to a 1/2" rebar found for the south corner of Lot 21A, Block B of the Amended Plat of Lot 21 and Lot 22, Estates of Lakeway Hills, Section Two, a subdivision of record in Volume 101, Page 374 of the Plat Records of Travis County, Texas;

**THENCE** North  $36^{\circ}36'28''$  East, with the east line of Tract A-29, also being the southeast line of Lot 21A, a distance of 198.40 feet to a 1/2" rebar found for the west corner of a 19.827 acre tract described in Volume 5081, Page 1409, of the Deed Records of Travis County, Texas;

**THENCE** South  $39^{\circ}08'21''$  East, with the east line of Tract A-29, also being the west line of the 19.827 acre tract, a distance of 749.35 feet to a 1/2" rebar with cap set for the west corner of Lot 2570 of Lakeway Section 23, a subdivision of record in Volume 64, Page 37 of the Plat Records of Travis County, Texas;

**THENCE** with the east line of Tract A-29, also being the west line of Lakeway Section 23, the following three (3) courses:

1. South  $74^{\circ}44'21''$  East, a distance of 53.57 feet to a 1/2" rebar found;
2. South  $33^{\circ}26'45''$  East, a distance of 155.48 feet to a 1/2" rebar found;
3. South  $50^{\circ}10'07''$  East, a distance of 279.27 feet to a 1/2" rebar found for the southwest corner of Lot 2572A of the Amended Plat of Lots 2572 and 2573, Lakeway Subdivision, Section 23, a subdivision of record in Volume 93, Page 359, of the Plat Records of Travis County, Texas, also being the northwest corner of Lot 2575 of Lakeway Section 23, a subdivision of record in Volume 64, Page 37 of the Plat Records of Travis County, Texas;

**THENCE** with the east line of Tract A-29, being also the west line of Lakeway Section 23, the following five (5) courses:

1. South  $24^{\circ}38'19''$  West, a distance of 43.37 feet to a 1/2" rebar found;
2. South  $27^{\circ}30'18''$  East, a distance of 89.69 feet to a 1/2" rebar found;
3. South  $00^{\circ}39'59''$  West, a distance of 109.22 feet to a 1/2" rebar found;
4. South  $35^{\circ}49'08''$  East, a distance of 302.16 feet to a 1/2" rebar found;
5. South  $17^{\circ}29'08''$  East, a distance of 144.12 feet to a 1/2" rebar with cap set in the north line of said Tract A-31, Tract A, containing 34.04 acres, also being the southwest corner of Lakeway Section 23, for an angle point in the east line of the Tract A-29;

**THENCE** North  $87^{\circ}18'56''$  East, with the north line of Tract A-31, Tract A, also being the south line of Lakeway Section 23, a distance of 653.71 feet to a 1/2" rebar with cap set for the northwest corner of the Lakeway World of Tennis Condominiums, described in Volume 2, Page 110, of the Condominium Records of Travis County, Texas, also being the northeast corner of Tract A-31, Tract A;

**THENCE** with the west line of the Lakeway World of Tennis Condominiums and the east line of Tract A-31, Tract A, the following six (6) courses:

1. South 23°54'17" East, a distance of 308.56 feet to a 1/2" rebar found;
2. Along a curve to the left, an arc length of 215.74 feet, having a radius of 515.00 feet and a chord which bears South 35°53'26" East, a distance of 214.16 feet to a 1/2" rebar found;
3. South 47°55'20" East, a distance of 156.46 feet to a 1/2" rebar found;
4. Along a curve to the right, an arc length of 202.90 feet, having a radius of 485.00 feet and a chord which bears South 35°53'53" East, a distance of 201.42 feet to a 1/2" rebar with cap set;
5. South 23°53'55" East, a distance of 175.55 feet to a P.K. nail found;
6. South 66°07'53" West, a distance of 132.71 feet to a 1/2" rebar found for the northeast corner of a 14.710 acre tract described in Document No. 1999005106 of the Official Public Records of Travis County, Texas;

**THENCE** with common line of Tract A-31, Tract A, and the 14.71 acre tract, the following two (2) courses:

1. South 66°06'19" West, a distance of 399.07 feet to a 1/2" rebar found;
2. South 25°03'41" West, a distance of 665.07 feet to a 1/2" rebar found for the south corner of Tract A-31, Tract A, being in the east line of Tract A-29, and also being the southwest corner of the 14.71 acre tract;

**THENCE** with the east line of Tract A-29 and the south line of the 14.710 acre tract, the following two (2) courses:

1. South 64°56'17" East, a distance of 675.05 feet to a nail set for;
2. Along a curve to the left, an arc length of 78.92 feet, having a radius of 315.00 feet and a chord which bears South 72°06'47" East, a distance of 78.71 feet to a 1/2" rebar found in the south line of a 3.052 acre tract described in Document No. 2002036415 in the Official Public Records of Travis County, Texas;

**THENCE** with the common line of Tract A-29 and the 3.052 acre tract, following two (2) courses:

1. South 79°16'39" East, a distance of 100.06 feet to a concrete nail found;
2. Along a curve to the right, an arc length of 107.72 feet, having a radius of 440.00 feet and a chord which bears South 74°36'21" East, a distance of 107.45 feet to a 1/2" rebar with cap set for the northwest corner of a 1.937 acre tract described in Document No. 2001098241 of the Official Public Records of Travis County, Texas;

**THENCE** over and across Tract A-29, with the west line of the 1.937 acre tract, the following two (2) courses:

1. South  $51^{\circ}20'29''$  West, a distance of 88.57 feet to a 1/2" rebar with cap set;
2. Along a curve to the right, an arc length of 58.06 feet, having a radius of 360.00 feet and a chord which bears South  $63^{\circ}56'22''$  East, a distance of 58.00 feet to a 1/2" rebar found for the northwest corner of a 0.325 acre tract described in Volume 10846, Page 3205, of the Official Public Records of Travis County, Texas, being in the south line of Tract A-29;

**THENCE** South  $23^{\circ}58'40''$  West, with the west line of the 0.325 acre tract, a distance of 12.43 feet to a 1/2" rebar found for the northeast corner of a 0.129 acre tract described as Tract 7 in Volume 4490, Page 340, of the Deed Records of Travis County, Texas, also being an angle point in the west line of the 0.325 acre tract;

**THENCE** with the common line of Tract A-29 and the 0.129 acre tract, the following two (2) courses:

1. North  $64^{\circ}56'19''$  West, a distance of 75.01 feet to a 1/2" rebar found;
2. South  $25^{\circ}03'55''$  West, a distance of 75.04 feet to a 1/2" rebar found for an angle point in the north line of a 7.866 acre tract described in Document No. 2001098242, of the Official Public Records of Travis County, Texas, for the southwest corner of the 0.129 acre tract, and an angle point in the south line of Tract A-29;

**THENCE** North  $64^{\circ}56'16''$  West, with the south line of Tract A-29, also being the north line of the 7.866 acre tract, a distance of 988.09 feet to a 1/2" rebar with cap set in the north line of the said 23.109 acre tract (Document No. 2002162268);

**THENCE** with the south line of Tract A-29, also being the north line of the 23.109 acre tract, the following two (2) courses:

1. North  $65^{\circ}13'12''$  West, a distance of 677.54 feet to an iron pipe found;
2. South  $28^{\circ}06'37''$  West, a distance of 555.89 feet to the **POINT OF BEGINNING**, containing 437.016 acres of land, more or less.

Surveyed on the ground in October, 2004. Bearing basis is Grid Azimuth for Texas Central Zone, 1983/93 HARN values from LCRA control network. Attachments: Survey Drawing No. 014-120-T2

Robert C. Watts, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 4995

TRACT 3

# EXHIBIT A

TRAVIS COUNTY MUD NO. 11  
Director Lot 3

METES AND BOUNDS DESCRIPTION OF 0.1377 ACRES  
(6,000 SQUARE FEET) OF LAND, OUT OF THE  
369.714 ACRE TRACT OF LAND  
OUT OF THE C.E.P.I. AND M COMPANY SURVEYS 46 AND 47,  
THE RUSK TRANSPORTATION SURVEY No. 85  
AND THE J.H. LOHMAN SURVEYS 527 AND 538  
TRAVIS COUNTY, TEXAS

Being 0.1377 acres (6,000 square feet) of land out of the C.E.P.I. and M Company Surveys Nos. 46 and 47, the Rusk Transportation Survey No. 85, and the J. H. Lohman Survey Nos. 527 and 538 of Travis County, said 0.1377 acres tract being more particularly described by metes and bounds as follows:

Beginning at a 5/8 inch iron pipe on the Southeast line of a called 1232.450 acre tract of land out of the G. Lohmans Survey No. 538 and 527, the C.E.P.I. and M Co. Surveys Nos. 46 and 47, the Rusk Transportation Survey No. 85, the L. W. Waldron Survey No. 79, and the J.H. Lohmans Survey No. 524 and in Travis County recorded in Volume 12364, Page 2021 of the Travis County Deed of Record as shown on Survey Resources, Inc. Drawing No. N010-1489-01R2; said corner also being the most Westerly corner of a called 21.57 acre tract of land and the North corner of a called 21.03 acre tract of land, both tracts as conveyed to Stephen S. Thomas & Terri M. Thomas in Volume 12026, Page 293 of the Travis County Deed Records;

THENCE South 30° 01' 42" West, a distance of 1421.18 feet to the Southeast corner of said Lower Colorado River Authority Easement recorded in Volume 579, Page 592 of the Deed Records of Travis County, Texas

THENCE South 89° 45' 09" West, a distance of 1,129.58 feet to a point for the Southeast corner and the POINT OF BEGINNING of the herein described tract;

THENCE South 89° 45' 09" West a distance of 60.00 feet to a point for the Southwest corner of the herein described tract;

THENCE North 0° 14' 51" West a distance of 100.00 feet to a point for the Northwest corner of the herein described tract;

THENCE North 89° 45' 09" East a distance of 60.00 feet to a point for the Northeast corner of the herein described tract;

THENCE South 0°14' 51" East a distance of 100.00 feet to a point for the Southeast corner and POINT OF BEGINNING of the herein described tract containing 0.1377 acres (6,000 square feet) of land, more or less.

I, Hal B. Lane III, a Registered Professional Land Surveyor, do hereby certify that the above description is true and to the best of my knowledge this field note description is based on the record information referenced herein, and does not represent an on the ground staked survey.

Witness my hand and seal this the 28<sup>th</sup> day of December, 1998.



Hal B. Lane III  
Hal B. Lane III  
Registered Professional Land Surveyor  
Texas Registration Number 4690

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

2005 Sep 29 02:22 PM 2005181058

CRIDERL \$260.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS