

2015027167 RESTRICTION Total Pages: 56

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
POMONA RESIDENTIAL COMMUNITY  
Brazoria County, Texas**

**TABLE OF CONTENTS**

ARTICLE I	DEFINITIONS .....	1
Section 1.1.	Defined Terms .....	1
ARTICLE II	SUBMISSION .....	7
Section 2.1.	Submission of the Property to this Declaration .....	7
Section 2.2.	Owner Acknowledgment .....	7
Section 2.3.	Property Not in a City .....	7
Section 2.4.	Governing Documents .....	7
Section 2.5.	Supplemental Declarations .....	8
ARTICLE III	USES, RESERVATIONS AND RESTRICTIONS .....	8
Section 3.1.	Uses .....	8
Section 3.2.	Common Areas .....	8
Section 3.3.	Signage Rights .....	8
Section 3.4.	MUD Districts .....	8
Section 3.5.	Landscaping Requirements .....	9
Section 3.6.	Environmental .....	9
Section 3.7.	Right of Board Regarding Rules and Regulations .....	9
Section 3.8.	Construction Use .....	9
ARTICLE IV	THE ASSOCIATION .....	9
Section 4.1.	General Purposes and Powers of the Association .....	9
Section 4.2.	Deemed Assent Ratification and Approval .....	9
Section 4.3.	Manager .....	10
Section 4.4.	Election of the Board of the Association .....	10
Section 4.5.	Declarant's Right to Appoint During Declarant Control Period .....	10
Section 4.6.	Duty to Accept Common Areas and Improvements Transferred by Declarant .....	10
Section 4.7.	Rights of the Board .....	10
ARTICLE V	MEMBERSHIP, VOTING AND ASSESSMENT ALLOCATIONS .....	10
Section 5.1.	Allocation of Votes in the Association .....	10
Section 5.2.	Proxies Of Owners .....	11
Section 5.3.	Advisory Committee .....	11
ARTICLE VI	ASSESSMENTS .....	11
Section 6.1.	Regular and Special Assessments .....	11
Section 6.2.	Individual Assessments .....	13
Section 6.3.	Lien and Obligation to Pay Assessments .....	13
Section 6.4.	Lien to Secure Payment of Assessments .....	13
Section 6.5.	Commencement of Obligation to Pay Regular Assessments and Alarm Monitoring Assessments .....	14
Section 6.6.	Notice of Default .....	14
Section 6.7.	Alternative Actions .....	14

Section 6.8.	Statement of Expenses and Access to Records.....	14
Section 6.9.	Subordination of Lien for Assessments.....	14
ARTICLE VII	EASEMENTS .....	15
Section 7.1.	Plat Easements, Dedications and Restrictions.....	15
Section 7.2.	Easements.....	15
Section 7.3.	Power to Grant Easements.....	16
Section 7.4.	Mineral Interests.....	16
ARTICLE VIII	MAINTENANCE RESPONSIBILITIES.....	16
Section 8.1.	Maintenance.....	16
Section 8.2.	Owner Failure to Maintain.....	17
Section 8.3.	Disputes.....	17
ARTICLE IX	INSURANCE.....	17
Section 9.1.	Requirements.....	17
Section 9.2.	Insurance by the Association.....	17
Section 9.3.	Insurance by Residence Owners.....	18
Section 9.4.	Association as Insurance Trustee for the Owners.....	18
Section 9.5.	Other.....	18
ARTICLE X	CASUALTY AND CONDEMNATION.....	18
Section 10.1.	Casualty.....	18
Section 10.2.	General Condemnation Provisions.....	19
ARTICLE XI	DEVELOPMENT RIGHTS.....	19
Section 11.1.	Development Rights.....	19
Section 11.2.	Annexation of Additional Property.....	19
Section 11.3.	Withdrawal of Real Property.....	20
Section 11.4.	No Approval Required for Exercise of Development Rights.....	20
Section 11.5.	Zoning.....	20
Section 11.6.	Rights Transferable.....	20
ARTICLE XII	DEVELOPMENT CONTROL.....	21
Section 12.1.	Required Approval.....	21
Section 12.2.	Establishment of the Architectural Control Committee.....	21
Section 12.3.	Delegation of Control.....	21
Section 12.4.	Architectural Guidelines.....	21
Section 12.5.	Reply and Communication.....	22
Section 12.6.	Variances.....	22
Section 12.7.	Appeal Rights of Owners.....	22
Section 12.8.	No Deemed Waivers.....	22
Section 12.9.	Limitation on Liability.....	22
Section 12.10.	Records.....	23
Section 12.11.	Enforcement of Article XII of this Declaration.....	23
Section 12.12.	Obtaining Governmental Approvals.....	24
Section 12.13.	Interior Improvements.....	24
Section 12.14.	Certificate of Compliance.....	24

ARTICLE XIII	PROPERTY ROADS .....	24
Section 13.1.	Property Roads.....	24
ARTICLE XIV	MATTERS FOR MEDIATION AND ARBITRATION .....	24
Section 14.1.	Mediation.....	24
Section 14.2.	Final Offer Arbitration.....	24
Section 14.3.	General.....	25
ARTICLE XV	GENERAL PROVISIONS .....	25
Section 15.1.	Remedies Cumulative.....	25
Section 15.2.	Severability.....	25
Section 15.3.	Term of Declaration.....	25
Section 15.4.	Amendment of Declaration by Declarant .....	25
Section 15.5.	Amendment of Declaration by Owners .....	26
Section 15.6.	Required Approval of Declarant to Amendment.....	26
Section 15.7.	No Public Dedication.....	26
Section 15.8.	Notices.....	26
Section 15.9.	Interpretation.....	27
Section 15.10.	No Representations or Warranties .....	27
Section 15.11.	Singular Includes the Plural.....	27
Section 15.12.	Captions .....	27
Section 15.13.	Governing Law; Venue.....	27
Section 15.14.	INDEMNIFICATION .....	27
Section 15.15.	Limitation of Liability .....	28
Section 15.16.	Liability of Owners for Damage.....	29
Section 15.17.	Reimbursement of Expenses.....	29

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
POMONA RESIDENTIAL COMMUNITY**

This Declaration of Covenants, Conditions and Restrictions for Pomona Residential Community is made as of the 17th day of June, 2015 by Declarant.

**RECITALS**

- A. Declarant is the fee simple owner of the Property described in Exhibit A attached to this Declaration.
- B. By this Declaration, Declarant desires to: (i) establish a general plan for the development of the Property; (ii) provide for the creation, maintenance, repair, improvement and replacement of the Common Areas as set forth in the Governing Documents; (iii) provide for the implementation of the powers and duties of the Declarant and the Association as set forth in the Governing Documents; (iv) preserve and enhance the Property; (v) create and grant the Easements; and (vi) implement the purposes of the Association as provided for in the Governing Documents.
- C. Declarant has caused the Association to be incorporated under the laws of the State, in accordance with the TNCL, as an owners' association, for the purpose of exercising the functions set forth in this Declaration.

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations are established and shall be deemed to run with the land in the Property and shall be a burden and benefit to Declarant, the Association, the Owners and their respective heirs, legal representatives, successors and assigns:

**ARTICLE I  
DEFINITIONS**

Section 1.1. Defined Terms. Each capitalized term used in this Declaration shall have the meaning set forth in this Section 1.1:

"Access Easement." An easement as more particularly described in Subsection 7.2(a) of this Declaration.

"Act." Chapter 209 of the Texas Property Code applicable to property owners' associations, as amended from time to time.

"Affiliates." Any Person who controls, is controlled by, or is under common control with another Person.

"Alarm Monitoring Assessment". Assessments established, imposed and levied by the Association pursuant to Section 6.1 of this Declaration.

"Annexed Property." Any real property added to the Property by a Supplemental Declaration as set forth in Section 11.2 of this Declaration.

"Architectural Control Committee." The committee established in accordance with Section 12.2 of this Declaration.

**"Architectural Guidelines."** Any procedural or substantive rules, guidelines, criteria, standards and procedures that may be adopted by Declarant, or the Board, from time to time, regarding the design, standards, development, planning and construction of Improvements and the use or occupancy of the Lots, as the same may be amended from time to time.

**"Assessment Policy."** That certain policy adopted by the Board of Directors and filed in the Real Property Records which establishes guidelines in accordance with the Act for payment of delinquent assessments and other amounts owed to the Association, as amended from time to time.

**"Assessments."** Regular Assessments, Special Assessments and Individual Assessments owing to the Association by an Owner or levied against any Lot by the Association.

**"Association."** The Pomona Residential Community Association, Inc. a Texas nonprofit corporation, and its successors and assigns, organized under the TNCL, and created for the purposes and possessing the rights, powers, authority and obligations set forth in the Governing Documents, whose address for notice purposes is c/o MC 288, LLC, 3090 Olive Street, Suite 300, Suite 300, Dallas, Texas 75219 as may be changed by the Association from time to time.

**"Board."** The board of directors of the Association.

**"Budget."** An annual budget prepared by the Association that sets forth the anticipated Common Expenses for the ensuing fiscal year.

**"Builder."** An Owner who (a) has acquired an unimproved Lot directly from the Declarant or Declarant's Affiliate, (b) is in the business of constructing residences for resale to third parties and (c) intends to construct a residence on such Lot for resale to a third party.

**"Bylaws."** The Bylaws adopted by the Association, as may be amended from time to time.

**"Certificate of Formation."** The Certificate of Formation for the Association filed with the Secretary of the State of Texas, as may be amended from time to time.

**"Charges."** Any costs, expenses, dues, interest, fees, late fees, fines, collection costs, attorneys' fees and any other sums arising under the Governing Documents owing to the Association or an Owner other than Common Expenses.

**"Claim."** Any and all demands, actions, causes of action, losses, costs, expenses (including reasonable attorneys' fees applicable thereto), damages or liability of any kind or nature.

**"Class A Members."** The Owners of each Lot who are members of the Association.

**"Class B Member."** The Declarant at all times on or before the termination of the Declarant Control Period.

**"Common Areas."** The portions of the Property and Improvements thereon (a) owned by the Association (other than any Lot acquired by the Association through a foreclosure pursuant to Section 6.3 of this Declaration); (b) owned by a Person other than the Association, but in which the Association has rights of use or possession pursuant to a lease, license, easement or other agreement; (c) that the Association is required to operate, manage,

maintain or repair pursuant to an agreement with the Association or pursuant to requirements of a Governmental Authority; or (d) any other areas designated as Common Areas by Declarant.

"Common Area Damage." Has the meaning assigned to such term in Section 15.15 of this Declaration.

"Common Expenses." Allocations to reserves and all costs, expenses and liabilities incurred by or on behalf of the Association, including: (a) expenses of administration, management, maintenance, care or operation of any Common Area and the Association; (b) expenses due and payable in accordance with this Declaration; and (c) expenses designated as Common Expenses by the Governing Documents or by the Board.

"County." Brazoria County, Texas.

"Declarant." MC 288, LLC, a Delaware limited liability company located at 3090 Olive Street, Suite 300, Dallas, Texas, 75219, and any successor or assignee designated by written notice of assignment executed by the then Declarant or any Person who acquires Declarant's (or its successor's or assign's) interest in the Property pursuant to foreclosure or deed in lieu relating to a construction or development loan; and to the extent any rights or powers reserved to Declarant are transferred or assigned to any successor or assignee, such rights and powers shall be described in the written notice of assignment, the notice of written assignment shall also be executed by such successor or assignee and the notice of assignment shall be recorded in the Real Property Records.

"Declarant's Affiliates." Any Affiliates of Declarant.

"Declarant Control Period." The period commencing on the date of this Declaration and continuing until the earliest to occur of the date which is (a) 25 years after the date on which this Declaration is recorded; or (b) when, in Declarant's sole discretion, it voluntarily relinquishes such right designated by written notice executed by the then Declarant.

"Declaration." This Declaration of Covenants, Conditions and Restrictions for Pomona Residential Community as amended and supplemented from time to time.

"Designee." A Person acting at the request of another Person, including builders, contractors, subcontractors, employees, agents, representatives and licensees.

"Development Rights." Those rights set forth in Article XI of this Declaration.

"Dispute." Any Claim, grievance or other dispute arising out of or relating to: (a) the failure of any Owner to construct or alter Improvements on any Lot or begin construction on any Lot without having obtained the prior approval of the Architectural Control Committee as required by this Declaration or the Architectural Guidelines; (b) any prohibited use within the Property; (c) the failure of any Owner to comply with requirements set forth in the Governing Documents; (d) the failure of any Owner to maintain its Lot and all Improvements thereon for which such Owner is responsible for maintaining, in accordance with the Governing Documents and in compliance with all Legal Requirements; (e) the interpretation, application or enforcement of the Governing Documents; (f) any conflict or dispute arising between or among Owners, the Association, the Architectural Control Committee, the Board or Declarant; (g) the proper party to bear a maintenance cost or expense; (h) any other rights, obligations and duties of any Owner under the Governing Documents; (i) the authority of the Association, Declarant, or the Architectural Control Committee under any Legal Requirement or under the Governing Documents to: (i) require any Owner to take any action or not to take any action involving such Owner's Lot or; (ii) alter, subtract from or add to the Common Areas or the Property; or (j) the failure of the Association, in accordance with all Legal Requirements and the Governing Documents to: (i) properly conduct elections; (ii) give adequate notice of meetings or actions; (iii) properly conduct meetings; or (iv) allow inspection

of books or records. The following shall not be considered "Disputes" unless all parties shall otherwise agree to submit the matter to arbitration pursuant to Section 14.2 of this Declaration: (1) any suit by Declarant, the Association or the Architectural Control Committee to obtain a temporary restraining order and such ancillary relief as the court may deem necessary to maintain the status quo and preserve Declarant's, the Association's or the Architectural Control Committee's ability to enforce the provisions of the Governing Documents; (2) any action permitted under Subsection 12.12(b) of this Declaration; (3) any action permitted under Article VI of this Declaration in connection with the enforcement of any Owner's obligation to pay Assessments under this Declaration or collection of any past due or unpaid Assessments; (4) any suit between Owners which does not include Declarant or the Architectural Control Committee, if such suit asserts a dispute that would constitute a cause of action independent of this Declaration; (5) any disagreement that primarily involves title to any Lot; or (6) any suit in which the applicable statute of limitations would expire within 180 days of the giving of notice as provided in this Declaration unless the Persons against who are involved in a Dispute agree to toll the statute of limitations for a period of time necessary to comply with the arbitration provisions of this Declaration.

"Drainage Easement." An easement as more particularly described in Section 7.2 of this Declaration.

"Drainage Facilities." The detention ponds, drainage channels, discharge structures, and grading, connector, and outfall pipes, and all other items and structures, whether located in Common Areas or on Lots, whether public or private, necessary for the proper drainage of surface storm water runoff within the Property.

"Easement Area." Any portion of the Property burdened by an Easement.

"Easements." Collectively, those easements described in Section 7.1 and Section 7.2 of this Declaration.

"Environmental Laws." Any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Property or the Improvements.

"Governing Documents." Those documents listed in Section 2.4 of this Declaration, as they may be amended from time to time.

"Governmental Approvals." All permits, licenses, certificates, consents and any other approvals necessary or required pursuant to any law, ordinance, resolution, order, rule or regulation of any Governmental Authority.

"Governmental Authority." Any and all applicable courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental entity (federal, State, County, district, municipal or otherwise) having jurisdiction over the Property, whether now or hereafter in existence.

"Governmental Impositions." All real property and personal property taxes, assessments, standby fees, excises and levies, and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time prior to or after the execution of this Declaration, may be assessed, levied or imposed upon the Property or any Lot therein by any Governmental Authority.

"Hazardous Substances." Any substance, product, waste, or other material which is or becomes listed, regulated, or addressed as being a toxic, hazardous, polluting, or similarly harmful substance under any Environmental Law.



**"Improvements."** Any and all physical structures, facilities, alterations or changes of any type or nature made to or on any portion of the Property, Common Areas and Lots including any buildings, residences, parking lots, parking structures, roadways, driveways, ramps, loading areas, mechanical equipment, utilities, fencing, antennae, walls, screens, landscaping, streetscapes, grading changes, park areas, walkways, bridges, recreational facilities, exterior lighting facilities, drainage structures, curbs, retaining walls and grates existing or in the future placed on any portion of the Property, including all cable television, cellular phone, internet and other utility or communication installations or equipment.

**"Indemnified Party."** Shall have the meaning assigned to such term in Subsection 15.15(a) of this Declaration.

**"Individual Assessments."** Assessments established, imposed and levied from time to time by the Association pursuant to Section 6.2 of this Declaration.

**"Initiation Assessment."** Shall have the meaning assigned to such term in Subsection 6.1(a) of this Declaration.

**"Insurance Trustee."** The Association acting in the capacity of a trustee in accordance with the provisions of Section 9.4 of this Declaration to negotiate losses under any property insurance policies required to be obtained by the Association, as applicable, in this Declaration.

**"Legal Requirements."** Any restrictive covenants and any other matters of record and any and all then-current judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to any Owner's use and enjoyment of any portion of the Property or any Lot, including Environmental Laws, zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier and health laws and regulations.

**"Lot."** Any portion of the Property designated by Declarant, or shown on a Plat, as a subdivided lot other than Common Area.

**"Maintenance Standard."** Good repair and condition for the Property necessary to maintain the Common Areas and Lots, as applicable, in a condition reasonably suitable for their intended purpose.

**"Manager."** Any professional manager or management company that is engaged by the Association to perform any of the duties, powers or functions of the Association.

**"Members."** Owners of Lots in the Property, including the Class A Members and the Class B Member.

**"Membership."** The rights and obligations associated with being a Member.

**"Mortgagee."** Any Person that is the holder, insurer or guarantor of any mortgage or deed of trust securing indebtedness on the Property or on a Lot.

**"MUD."** The utility district in which the Property is located, as further described in Section 3.4 of this Declaration.

**"Occupant."** Any Person from time to time entitled to the use and occupancy of any portion of Property and Lot and Improvements thereon pursuant to an ownership right or any lease, sublease, license, or other similar agreement.

"Owner." Any Person, including Builders and Declarant, owning record title to a Lot, but excluding any Person having an interest in a Lot solely as security for an obligation.

"Past Due Rate." The maximum lawful rate of interest allowed under Texas law or, if no maximum lawful rate exists, the rate of 18% per annum.

"Past Due Payment Plan." Shall have the meaning assigned to such term in Section 6.3 of this Declaration.

"Person." Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association and any other legal entity, including any Governmental Authority.

"Plans." The plans and specifications for the development and construction of Improvements with respect to a particular Lot, prepared by or on behalf of an Owner and approved by all applicable Governmental Authority, and which includes all applicable items set forth in the Architectural Guidelines and any other information requested by the Architectural Control Committee.

"Plat." A subdivision plat of any portion of the Property as recorded in the Real Property Records and any amendments thereto.

"Property." That certain real property located in the County and more particularly described in Exhibit A attached to this Declaration, together with all and singular the Easements, rights, and appurtenances pertaining thereto and any Annexed Property.

"Property Roads." Roads, bridges or drives now or hereinafter existing in the Property that are owned, operated and/or maintained by the Association.

"Real Property Records." The records of the office of the county clerk of the County where instruments concerning real property are recorded.

"Records Policy." That certain policy adopted by the Board of Directors and filed in the Real Property Records which establishes guidelines in accordance with the Act for the retention, inspection, production, copying and costs associated therewith for the books and records of the Association, as amended from time to time.

"Regular Assessment." Assessments established, imposed and levied by the Association pursuant to Section 6.1 of this Declaration.

"Regular Assessment Period." The period of time between the dates on which Regular Assessments become due and payable.

"Rules and Regulations." All rules, regulations, procedures, as the same may be adopted and amended from time to time by the Board, pursuant to this Declaration.

"Signage." Any signage, lettering, decorations, banners, advertising or marketing media, awnings, canopies, window covering, or any other similar type of expression on a Lot, the Improvement thereon or in the interior of the Improvement if the same is visible from the exterior.

"Special Assessments." Assessments established, imposed and levied from time to time by the Association pursuant to Subsection 6.1(d) of this Declaration.

"State." The State of Texas.

"Supplemental Declaration." A written instrument, executed by Declarant and recorded in the Real Property Records that subjects Annexed Property to this Declaration or otherwise supplements the covenants, conditions or restrictions contained in this Declaration as to such Annexed Property.

"Taking." The taking or threat of taking of all or a portion of the Property or Common Area for any public or quasi-public use, by eminent domain proceedings or otherwise, by a Governmental Authority or by an action in the nature of eminent domain (whether permanent or temporary) or the sale or other transfer of the Property or Common Area in lieu thereof.

"TNCL." The Texas Nonprofit Corporation Law, as amended from time to time.

## ARTICLE II SUBMISSION

Section 2.1. Submission of the Property to this Declaration. The real property described on Exhibit A and covered by this Declaration is the Property. Unless otherwise specifically set forth herein, all of the Property and any right, title or interest therein shall be owned, held, leased, sold, occupied and conveyed to an Owner, subject to the covenants, conditions, restrictions, Easements, Charges, liens and other provisions of the Governing Documents, including the Development Rights.

Section 2.2. Owner Acknowledgment. Each Owner is subject to this Declaration and the Governing Documents and covenants and restrictions contained therein. By acceptance of a deed, or other instrument establishing title, ownership or the right of occupancy in any portion of the Property, including any Lot or any portion of a Lot, each Owner and Occupant acknowledges that it has been given notice of this Declaration and the other Governing Documents; that use of any portion of the Property and Lot is limited and governed by the provisions of the Governing Documents; that the Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents; that the use, enjoyment and marketability of the Property and the Lots can be affected by this Declaration; that the Governing Documents may change from time to time; and that each Owner is responsible for the acts and omissions of its Occupants.

Section 2.3. Property Not in a City. The Property is located in the extraterritorial jurisdiction of the city known as Manvel, Texas (a "Municipality"). The Property located in this extraterritorial jurisdiction may be subject to annexation by the applicable Municipality. The Municipality maintains a map that depicts its boundary and extraterritorial jurisdiction.

Section 2.4. Governing Documents. The Property's Governing Documents consist of the following documents, and in the event of any conflict between the provisions of the Governing Documents, the Governing Documents shall control in the following order: (a) the Act; (b) this Declaration, as amended by any Supplemental Declaration or amendment; (c) the Bylaws; (d) the Certificate of Formation; (e) Architectural Guidelines; (f) Rules and Regulations; and (g) any other policies adopted by the board of Directors and recorded in the Real Property Records of the County, as each of documents listed in items (a)-(g) may be amended from time to time. Any conflict between the provisions of multiple Supplemental Declarations applying to the same portion of Property or Annexed Property shall be resolved by granting control to the Supplemental Declaration with the latest date of filing in the Real Property Records which shall control over any prior Supplemental Declarations filed for such portion of Property. It is Declarant's intention for the Governing Documents to be

in compliance with the Act, and Declarant may amend the Governing Documents during the Declarant Control Period in its absolute and sole discretion to bring such documents in compliance with the Act and other Legal Requirements. In some instances Legal Requirements may be more or less restrictive than the provisions of this Declaration and the Architectural Guidelines. In the event a conflict exists between any such Legal Requirements and this Declaration or the Architectural Guidelines, the most restrictive requirement shall prevail, except in circumstances where compliance with a more restrictive provision of this Declaration or the Architectural Guidelines would result in a violation of mandatory applicable Legal Requirements, in which event those Legal Requirements shall apply. Compliance with mandatory Legal Requirements will not result in the breach of this Declaration or the Architectural Guidelines even though such compliance may result in non-compliance of provisions of this Declaration or the Architectural Guidelines. Where a Legal Requirement does not clearly conflict with the provisions of this Declaration or the Architectural Guidelines but permits action that is different from that required or allowed by this Declaration or the Architectural Guidelines, the provisions of this Declaration and the Architectural Guidelines shall prevail.

Section 2.5. **Supplemental Declarations.** During the Declarant Control Period and pursuant to Article XI of this Declaration, Declarant shall file any Supplemental Declaration in the Real Property Records, which Supplemental Declaration shall include the following: (a) an adequate legal description covering the Property or any Annexed Property, as applicable, subject to a Supplemental Declaration; (b) a signature page duly executed by the owner of any Annexed Property; (c) a description of any conditions or restrictions that apply to the Annexed Property other than those set forth in this Declaration; and (d) a reference to this Declaration, stating the date of recordation and recording information of this Declaration in the Real Property Records.

### ARTICLE III USES, RESERVATIONS AND RESTRICTIONS

Section 3.1. **Uses.** Subject to applicable restrictions of record, the Architectural Guidelines and Rules and Regulations, Lots and Improvements located on the Property shall be used for single family residential purposes in accordance with the Governing Documents and Legal Requirements.

Section 3.2. **Common Areas.** No Owner shall obstruct or interfere with the use by other Owners, Declarant or the Association of the Common Areas, nor shall any Owner keep or store anything on any part of the Common Areas without the prior written approval of the Association. No Owner shall alter, construct in or on or remove anything from the Common Areas without the prior written approval of the Association. Neither the Association nor Declarant is obligated to construct any particular type or kind of Improvements on or within the Common Areas.

Section 3.3. **Signage Rights.** Declarant shall have the right to erect Signage on Improvements or on any Lot it owns during the Declarant Control Period and may grant approval to any other Person, including Builders, in its sole and absolute discretion, to erect Signage on Improvements or on any Lot; provided, however that such Signage is in compliance with the Legal Requirements and any Signage guidelines set forth in the Architectural Guidelines. Notwithstanding the foregoing, Lots designated for use as single family residential use that have been conveyed to an Owner who will occupy and/or use such Lots for residential purposes shall only be allowed to erect signage in accordance with the provisions related thereto set forth in the Rules and Regulations.

Section 3.4. **MUD Districts.** The Property is located within the Brazoria County Municipal Utility District #39 (the, "MUD") created in accordance with Chapter 54 of the Texas Water Code. The MUD possess certain powers which include but are not limited to the powers to acquire, construct and maintain a waterworks system, a sanitary sewer system, roads with related storm sewer drainage systems and other related services within the Property. The MUD has the authority to tax Owners like any other Governmental Authority and will subject Owners to certain taxes and charges. Section 49.452(d) of the Texas Water Code requires a seller of real property in a water district to give notice to purchasers containing information about the district and the

taxes and fees such district may charge. A sample of the required notice for the MUD is attached to this Declaration as Exhibit B.

Section 3.5. Landscaping Requirements. All portions of a Lot not improved by Improvements or other buildings, residences, driveways, parking areas, walkways, patios or decks (referred to as the unimproved area or landscaped areas of a Lot) shall be landscaped and maintained by the Owner thereof (other than Declarant) in a manner as set forth in the Architectural Guidelines or as otherwise approved by the Architectural Control Committee pursuant to Article XII of this Declaration. If any Owner fails to install required landscaping or fails to maintain such landscaping or its Lot in accordance with the Architectural Guidelines, the Association may, but shall not be obligated to, perform such landscaping requirements in lieu of such Owner pursuant to Section 8.2 of this Declaration or as otherwise set forth in the Architectural Guidelines.

Section 3.6. Environmental.

(a) No Hazardous Substances. No Owner, Occupant or Designee shall handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its Designees to handle, store, deposit, use, process, manufacture, dispose of or release any Hazardous Substances from, on, in, under or in the air above any part of the Property, including any surface waters or groundwater located on the Property or into public sanitary or storm sewer systems serving the Property without complying with all applicable Legal Requirements, including performing pre-treatment, obtaining permits and giving notices as required by Environmental Laws

(b) Costs and Expenses. Each Owner and its Designees shall be responsible for and shall pay all costs and expenses related to disposal, release, cleanup and remediation of any Hazardous Substances it causes, in, on, under or above the Property and as required by any Governmental Authority.

Section 3.7. Right of Board Regarding Rules and Regulations. In furtherance of the purposes of this Declaration, the Board from time to time may adopt, amend or repeal the Rules and Regulations concerning and governing the Property, Lots or any portion thereof including the establishment and enforcement of penalties for any infraction of the Rules and Regulations.

Section 3.8. Construction Use. Declarant and its Designees and Builders authorized by Declarant shall have the right to perform construction and such other reasonable activities in the Property, and to maintain upon portions of the Property it owns such facilities as deemed reasonably necessary or incidental to the construction and sale of Lots in the development of the Property, specifically including the maintenance of temporary business or construction offices, material and equipment storage areas, trash bins, construction yards and equipment, signs, models, temporary sales offices, parking areas and lighting facilities.

ARTICLE IV  
THE ASSOCIATION

Section 4.1. General Purposes and Powers of the Association. The Association has been incorporated as a nonprofit corporation under the TNCL. In addition to the powers conferred on the Association under the TNCL, the Association may take all actions authorized by the Governing Documents. Any and all actions taken by the Association pursuant to the Governing Documents are binding on all Owners. The Association shall be governed by the Act, TNCL and the Governing Documents.

Section 4.2. Deemed Assent Ratification and Approval. All Owners and Occupants of the Property shall be deemed to have assented to, ratified and approved the general purposes of this Declaration and the other Governing Documents and the power, authority and management rights of the Association, acting through the Board as permitted in and authorized by this Declaration and other Governing Documents.

Section 4.3. **Manager.** The Association may enter into contracts with a Manager for the day-to-day management and administration of either or both of the Property and the Association.

Section 4.4. **Election of the Board of the Association.** The Board shall be elected by the Owners pursuant to the provisions of the Bylaws except as otherwise set forth in Section 4.5 of this Declaration.

Section 4.5. **Declarant's Right to Appoint During Declarant Control Period.** Notwithstanding anything to the contrary in this Declaration or any of the other Governing Documents, and except as otherwise set forth in Section 5.1(d)(i) hereof, Declarant, in its sole and absolute discretion, reserves the right, at any time and from time to time, to appoint or remove any officer, director or member of the Board during the Declarant Control Period. Declarant may voluntarily surrender any or all of the foregoing rights to appoint and remove officers, directors and members of the Board before termination of the Declarant Control Period. If Declarant surrenders any or all of such rights, Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

Section 4.6. **Duty to Accept Common Areas and Improvements Transferred by Declarant.** The Association shall accept any Common Areas, including any Improvements, equipment and personal property thereon conveyed or transferred to the Association by Declarant, together with the responsibility to maintain such property and perform any and all functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Any portion of the Common Areas transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association free and clear of all liens (other than the lien of property taxes), but shall be subject to the terms of the Governing Documents applicable thereto. The Improvements located on the Common Areas may be changed or altered from time to time as determined by the Board.

Section 4.7 **Rights of the Board.** The Association acts solely through the Board or through the Architectural Control Committee as provided in the Governing Documents. Notwithstanding anything to the contrary in the Certificate of Formation or the Bylaws, whenever in the Governing Documents there is a reference to action by the Association, such reference means the Association acting through and based on decisions and direction by the Board.

#### ARTICLE V MEMBERSHIP, VOTING AND ASSESSMENT ALLOCATIONS

Section 5.1. **Allocation of Votes in the Association.**

(a) **Membership.** Each Owner shall automatically be a Member of the Association and must remain a Member for as long as that Person is an Owner. Membership is appurtenant to, and cannot be separated from, ownership of a Lot. Any transfer of title to a Lot shall operate automatically to transfer Membership appurtenant to such Lot to the new Owner. All Owners shall notify the Association in writing of any transfer of ownership of such Owner's Lot including the name of the new Owner.

(b) **Voting During the Declarant Control Period.** Until such time as the Declarant Control Period has expired or terminated, there shall be two classes of voting Members in the Association. The Class B Member shall be entitled to exercise ten votes for every one vote entitled to be cast by the Class A Members with respect to any matter on which Members shall be entitled to vote in accordance with the Governing Documents. THE CLASS A MEMBERS ACKNOWLEDGE AND AGREE, BY THEIR ACCEPTANCE OF THE DEED TO THEIR LOTS, THAT UNTIL THE TERMINATION OF THE DECLARANT CONTROL PERIOD, THE CLASS B MEMBER POSSESSES THE MAJORITY OF THE VOTING INTERESTS IN THE ASSOCIATION AND SHALL BE ABLE TO CONTROL, THROUGH THE VOTING PROCESS, ANY MATTERS COMING

BEFORE THE ASSOCIATION FOR A VOTE, SUBJECT TO THE REQUIREMENTS OF THE GOVERNING DOCUMENTS.

(c) Class Membership. Upon the expiration or termination of the Declarant Control Period, there shall be no more classes of Members, the Class B Membership shall terminate and the rights of all Members shall be identical, including the election of the Board, and the procedures for the election of the members of the Board shall be in accordance with the Act and as set forth in the Bylaws. Unless a different allocation of votes is required by any Legal Requirement or in this Declaration, all Members shall, at that time, be entitled to exercise one vote per Lot with respect to any matter of the Association on which Members shall be entitled to vote.

(d) Transition of the Board during Declarant Control Period. Notwithstanding the provisions of Section 5.1(b) above:

(i) Not later than 120 days after the 10<sup>th</sup> anniversary of the date on which this Declaration is recorded in the Real Property Records, an election of members of the Board shall be held at which one third of the members of the Board shall be elected by Class A Members without the Class B Member voting for such members of the Board.

(ii) On a date as determined by Declarant in its absolute and sole discretion, which date shall not be less than 60 days prior to the termination of the Declarant Control Period, the Association shall elect all directors from the Class A Members to serve as the Board of Directors whose terms will commence as of the date on which the Declarant Control Period terminates.

Section 5.2. Proxies Of Owners. Votes allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner in the form approved by the Association. If a Lot is owned by more than one Person, any one co-Owner of the Lot may cast the vote of that Lot or register a protest to the casting of the vote of that Lot by the other co-Owners of the Lot through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section 5.2 except by written notice of revocation to the individual presiding over a meeting of the Association.

Section 5.3 Advisory Committee. Declarant may determine in its absolute and sole discretion at any time prior to the transition of the Board set forth in Section 5.1(d) and expiration or termination of the Declarant Control Period, to appoint, but has no obligation to appoint, any number of Owners, for any length of time, to an advisory committee, each of whom is chosen by Declarant in its absolute and sole discretion ("Declarant Advisory Committee"). The Declarant Advisory Committee shall not be entitled to vote on any matter before the Board.

## ARTICLE VI ASSESSMENTS

Section 6.1. Regular and Special Assessments. The Board shall possess the right, power, authority and obligation to establish a Regular Assessment for the payment of Common Expenses and such Special Assessments and Individual Assessments as provided for in this Declaration, including those set forth in this Article VI.

(a) Initiation Assessment. Declarant herein establishes an Initiation Assessment in the amount of \$900.00 (the "Initiation Assessment") payable to the Association upon an Owner's acquisition of a Lot. Each Owner, excluding Declarant, Declarant's Affiliates and any Builder, shall, at the time such Owner acquires a Lot, pay the Initiation Assessment to the Association. Any Builder, shall, at the time such Builder acquires a Lot, pay to the Association an amount equal to one-half of the then-current Regular Assessment in cash or other current funds as a contribution toward the administrative and other expenses of the Association. Notwithstanding

anything to the contrary herein, either the Declarant or the Board shall have the right to increase, reduce or terminate the Initiation Assessment at any time and for any reason as to all Owners, including (without limitation) a determination by the Declarant or the Board (in their respective sole and absolute discretion) that the Initiation Assessment is interfering with Owners' ability to obtain financing. The Initiation Assessment shall not be considered an advance payment of any Assessments set forth herein and is not refundable. The Declarant and Declarant's Affiliates shall be exempt from paying the Initiation Assessment.

(b) Regular Assessments. The Board shall establish the amount sufficient, in the judgment of the Board, to pay all Common Expenses. The amount established to pay Common Expenses shall be assessed to Owners and against each Owner's Lot (the "Regular Assessments"), shall be allocated and assessed equally among the total number of Lots, except as otherwise set forth in this Section 6.1(b), shall be due and payable annually, or on such dates as otherwise determined by Declarant or established by the Board, and shall be applied to the payment of Common Expenses. Any Builder shall be assessed against each Builder's Lot, an amount equal to the then-current Regular Assessment.

(c) Budget for Common Expenses. Prior to the commencement of each fiscal year of the Association, the Board shall establish and adopt a Budget for the next following fiscal year, notify Owners of such Budget and make the Budget available for review by all Owners. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Regular Assessments payable pursuant to this Declaration, and the failure of the Board to timely establish and adopt a Budget or to notify and make available for review by Owners any Budget shall not excuse or relieve an Owner from the payment of the Regular Assessments contemplated thereby. In such event, the Owners shall continue paying Regular Assessments based on the Budget for the prior fiscal year, and once the Budget is established and adopted, (i) the Owners shall pay any increase in the Regular Assessment and (ii) any decrease in the Regular Assessment shall be credited towards the Regular Assessments next due and payable. The Board shall have the right to amend any Budget at any time in which event the portion of the Regular Assessments assessed against each Lot and the corresponding payment obligation of each Owner shall be adjusted accordingly, if applicable. Notwithstanding the foregoing, if any Budget for a fiscal year, or amendment thereof, may increase Regular Assessments allocated to a Lot and payable by an Owner by more than 15% from the immediately preceding fiscal year, such Budget must be approved by the affirmative vote of at least 51% of the Members entitled vote at such time.

(d) Special Assessments by Association. In addition to the Regular Assessments contemplated by Subsections 6.1(b) and (c) of this Declaration, the Board shall establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Board to pay (i) non-recurring Common Expenses relating to the maintenance, care, alteration, improvement, replacement, operation and management of the Property and the administration of the Association; (ii) capital expenditures necessary to replace Improvements on or within the Common Areas; (iii) additional Common Expenses if the Regular Assessments are not sufficient to cover all of the Common Expenses; and (iv) contractual and other liabilities of the Association that have been included in the Budget. Special Assessments so established shall be payable by and allocated among the total number of Lots and allocated to each Owner based upon the number of Lots such Owner owns within 30 days of receipt of notice of such Special Assessment, or as otherwise specified in such notice.

(e) Alarm Monitoring Assessments. In addition to the Regular Assessments contemplated by Subsections 6.1(b) and (c) of this Declaration, the Board may establish additional Assessments from time to time as may be necessary or appropriate in the judgment of the Board to pay the costs of third party alarm monitoring for each Lot ("Alarm Monitoring Assessment"). The services described above (the "Alarm Monitoring Services") shall be at the discretion of the Board and may be modified, changed or eliminated by the Board in its sole discretion. The Alarm Monitoring Services shall be a part of the Common Expenses and the Association shall commence the Alarm Monitoring Services after the conveyance of a Lot with a residence from a Builder to a third party with respect to such Lot. Accordingly, a Builder shall be exempt from the Alarm Monitoring Assessments during its ownership of a Lot. The Alarm Monitoring Assessments shall be allocated among the total number of



Lots and allocated to each Owner based upon the number of Lots such Owner owns and shall be due and payable semi-annually, or on such dates as otherwise determined by Declarant or established by the Board, and shall be applied to the payment of Alarm Monitoring Services.

Section 6.2. **Individual Assessments.** In addition to the Regular Assessments and the Special Assessments contemplated in this Article VI, the Board shall possess the right, power and authority to establish or levy the Individual Assessments in accordance with the provisions of this Declaration against an individual Owner and its Lot for Charges properly borne solely by one or more but less than all Owners, such as (without limitation) charges for additional services, damages, fines or fees, interest, collection costs, attorneys' fees, insurance deductible payments, or any other amount owed to the Association by an Owner. The Individual Assessments shall be the personal obligation of the Owner against whom the Individual Assessment is assessed, and shall constitute a lien against the Lot in the same manner and with the same consequences as the Regular Assessment and any duly authorized Special Assessment.

Section 6.3. **Lien and Personal Obligation to Pay Assessments.** Declarant, for each Lot owned by it on the Property, hereby covenants, and each Owner of a Lot on the Property is hereby deemed to covenant by acceptance of a deed to such Lot (whether or not it shall be so expressed in such deed), to pay to the Association the Assessments. Such Assessments shall be established and collected in the manner provided by this Declaration. The Assessments shall be a charge upon the land and a continuing lien on each Lot against which an Assessment is made. Each such Assessment, together with interest, costs and reasonable attorney's fees thereon, shall also be the personal obligation of the person or persons who owned the Lot at the time the Assessment fell due, but such personal obligation shall not pass to the successors in title unless expressly assumed by them. Declarant hereby reserves and assigns to the Association, without recourse, a vendor's lien on each Lot (including all improvements now or hereafter constructed, erected or developed thereon) to secure the payment of all Assessments levied on such Lot, together with interest, costs and reasonable attorney's fees thereon. Each Owner, by acceptance of a deed to a Lot, (a) accepts such Lot subject to and encumbered with the Assessment lien (with power-of sale) set forth in this Article VI, (b) grants and confirms to the Association a contractual lien upon his Lot (together with all Improvements thereon) to secure all Assessments then or thereafter made against such Lot, and (c) expressly vests in the Association or its agents the right and power to bring all actions against such defaulting Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for foreclosure and enforcement of such lien, including, without limitation, nonjudicial foreclosure. No Owner, other than Declarant and Declarant's Affiliates as set forth in Section 6.5, shall be entitled to exemption from liability for the Owner's obligation to pay Assessments for any reason, including claims of (a) waiver of the use and enjoyment of the Common Areas or the recreational facilities as to which any Assessments relate; (b) an abandonment of the Lot or Improvements thereon; (c) offsets or reductions; and (d) the Association, or the Board or any other entity is not properly exercising its duties and powers under the Governing Documents. The Board may adopt and record in the Real Property Records an Assessments Policy setting forth guidelines and establishing an alternative assessment payment schedule by which an Owner may make partial payments to the Association for delinquent Assessments pursuant to such guidelines (the "Past Due Payment Plan"). Any Assessment not paid on the date which such Assessment is due shall bear interest at the Past Due Rate as set forth in the Assessments Policy and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of administering a Past Due Payment Plan, and other collection methods, including reasonable attorneys' fees, by suit in a court of competent jurisdiction or in a mediation or arbitration in the County pursuant to the provisions of Article XIV of this Declaration. It shall be the responsibility of the Association to collect any such delinquent Assessments, the existence of which shall be made known by written notice delivered to the defaulting Owner and, if requested, the Owner's Mortgagee pursuant to and in accordance with the Assessments Policy and the Act; provided, however, if the Association is not taking the action permitted in this Section 6.3 the Declarant may exercise such rights for its own benefit and the benefit of the Association.

Section 6.4. **Lien to Secure Payment of Assessments.** Subject to Section 6.9 of this Declaration, the liens established in this Declaration shall be prior and superior to all other liens and encumbrances subsequently

created upon such Lot regardless of how created, evidenced or perfected, other than the liens for Governmental Impositions. So long as the Association satisfies the requirements set forth in the Act, and any other applicable Legal Requirement with regard to delinquent assessments and foreclosure of assessment liens, assessment liens created in this Declaration may be foreclosed on or enforced by any means available at law or in equity.

Section 6.5. **Commencement of Obligation to Pay Regular Assessments and Alarm Monitoring Assessments.** Regular Assessments as to a Lot shall commence on the date that Declarant conveys such Lot to an Owner other than Declarant or Declarant's Affiliates. On the date of such conveyance, the new Owner of such Lot shall be obligated to pay to the Association an initial Regular Assessment, which initial Regular Assessment shall be an amount equal to the then current Regular Assessment prorated over the number of days remaining in such Regular Assessment Period. Alarm Monitoring Assessments as to a Lot shall commence on the date that a Builder conveys such Lot to an Owner other than a Builder, Declarant or Declarant's Affiliates. During the Declarant Control Period, Declarant and Declarant's Affiliates are exempt from the obligation to pay Assessments on Lots or other portions of the Property it owns; however, Declarant may provide funding for shortfalls between funds necessary to fully fund the Association's required payments pursuant to the Budget and Assessments collected for a given year. Any such payments made by Declarant to the Association contemplated herein may be treated as a contribution, subsidy or a loan by Declarant in its absolute and sole discretion.

Notwithstanding the foregoing, the following Property subject to this Declaration shall be exempt from Assessments until such time as Declarant or the Board determines otherwise:

- (a) Property dedicated to a town, municipality, city or any other Governmental Authority;
- (b) Lots or other portions of the Property owned by Declarant or Declarant's Affiliates or other areas reserved by Declarant or Declarant's Affiliates as set forth on a Plat or other recorded instrument; and
- (c) All Common Areas and Lots or any parcel of Property owned by the Association.

Section 6.6. **Notice of Default.** If an Owner defaults in the Owner's monetary obligations to the Association, the Association shall notify the Owner and other lien holders in accordance with the Act and shall state the Association's intent to foreclose its lien.

Section 6.7. **Alternative Actions.** Nothing contained in this Declaration prohibits the Association from taking a deed in lieu of foreclosure from an Owner or from filing suit to recover a money judgment for sums that may be secured by the Association's lien.

Section 6.8. **Statement of Expenses and Access to Records.** Upon proper delivery of a written request from an Owner to the Board or the Manager containing the requisite information as set forth in the Act, the Association shall provide current copies of or make reasonably available for examination, the requested books, records, financial statements and any other requested information maintained by the Association in accordance with the Bylaws, any record retention policy adopted by the Board and filed of record in the Real Property Records and the Act. The costs associated with compilation, production and reproduction of information contemplated in this **Section 6.8** shall be set forth in the records retention, inspection, production and copying policy adopted by the Board.

Section 6.9. **Subordination of Lien for Assessments.** The lien for the payment of Assessments shall be subordinate to the lien of any valid mortgage or deed of trust that secures lien indebtedness from an Owner for a Lot that was recorded prior to the date any such Assessment becomes delinquent under the provisions of this Declaration. Each Mortgagee of a mortgage encumbering a Lot for which the liens of this Declaration shall be subordinate and who obtains title to such Lot pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to the Lot free and clear of any claims for unpaid Assessments or other

charges subject to lien against such Lot to the extent accruing prior to the time such holder acquired title to such Lot. No such sale or transfer shall relieve such holder from liability for any Assessments or other charges thereafter becoming due or from the lien thereof. Any other sale or transfer of a Lot shall not affect the Association's lien for Assessments or other charges.

## ARTICLE VII EASEMENTS

Section 7.1. Plat Easements, Dedications and Restrictions. 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 prior to the Property 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 shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property.

Section 7.2. Easements. Each Owner accepts a deed conveying title to a Lot, subject to the Easements granted and reserved, as applicable, in this Section 7.2, which Easements (and all rights and obligations related to such Easements arising on or after the date of any transfer) shall run with the Property.

(a) Access Easement. Declarant hereby reserves and grants to the Association, its members, licensees, invitees, lessees, contractors, successors and assigns, a perpetual, assignable and non-exclusive access easement over, on and across the Property and each portion thereof to (i) exercise any right held by the Association under this Declaration or any other Governing Document and (ii) perform any obligation imposed upon the Association by this Declaration or any other Governing Document. Notwithstanding the foregoing, no Person shall enter upon any Lot without reasonable prior written notice to the Owner of the Lot, except in cases of emergency.

(b) Common Area Easement. Subject to the provisions of this Declaration and the power of the Association to regulate the use of, and convey or encumber the Common Area as set forth in the Governing Documents, each Owner, and such Owner's Designees and Invitees shall have a nonexclusive easement over, upon, across and with respect to any Common Area as appropriate and necessary (i) for access, ingress and egress to the Lot of such Owner, Designee, or Invitee and (i) to use the Common Area for such other purposes permitted under the Governing Documents.

(c) Drainage Easement. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Control Committee thereon require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements described in this Declaration or shown on a Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as approved in writing by the Architectural Control Committee. Declarant hereby reserves and grants a perpetual, assignable and non-exclusive drainage easement over, on and across the Drainage Facilities for its own benefit and for the benefit of each Lot (that is an intended beneficiary of such Drainage Facilities), the Property, the Owners and the Association for: (i) the use of the Drainage Facilities, and the ingress and egress to a Lot to access the Drainage Facilities, provided no other reasonable means of access exists; and (ii) maintenance, repair, replacement of and removal of obstructions or other matter adversely affecting the Drainage Facilities and drainage systems (including ingress and egress therefrom). Notwithstanding the foregoing, no person shall enter upon any Lot without reasonable prior written notice to the Owner of the Lot, except in cases of emergency.

(d) Systems and Services Easement. Declarant hereby reserves and grants a perpetual, assignable and non-exclusive drainage easement upon, across, over, and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including but not limited to, water, gas, telephone, and electric lines and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines, or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this Section, no electrical lines, water lines, or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the Architectural Control Committee. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on a Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

(e) Easements Strictly Limited. The Easements are for the benefit of Declarant, the Association, the Architectural Control Committee, Owners and certain Designees only. THE EXERCISE OF ANY EASEMENT RESERVED IN THIS SECTION 7.2 SHALL NOT EXTEND TO PERMITTING ENTRY INTO ANY RESIDENCE CONSTRUCTED ON ANY LOT.

(f) Certain Exceptions. None of the Easements reserved or granted in this Section 7.2 shall be used in a manner which materially adversely affects the structural integrity of any Improvements. Use and availability of any facilities or areas covered by the Easements are subject to the Governing Documents.

Section 7.3. Power to Grant Easements. Declarant, during the Declarant Control Period, and the Association thereafter (to the extent permitted by the Act) shall have the power to grant access, utility, drainage, water facility and any other easements in, on, over or under the Common Areas for any lawful purpose, including without limitation, the provision of emergency services, utilities (including water, sanitary sewer, storm sewer, gas, and other energy services), telephone, cable television, fiber optic, and other telecommunication services, and other uses or services to one or more of the Owners. If an Owner requires an easement across any portion of the Common Areas from the Association and has obtained prior written approval from the Association for such easement, the requesting Owner shall be responsible for all costs and expenses incurred by the Association regarding the creation of such easement and shall promptly reimburse the Association such amounts.

Section 7.4. Mineral Interests. Some or all of the Property is subject to acquisition, reservation or conveyance of oil, gas and mineral rights pursuant to certain deeds (the "Mineral Interests") recorded in the Real Property Records of the County prior to the date of this Declaration, which include rights to all oil, gas or minerals lying in, on or under the Property, easements related to exploration, drilling, producing and transporting such oil, gas or minerals and certain surface rights of ingress and egress. These Mineral Interests are superior rights in the Property and are not affected by any provision to the contrary in this Declaration. Each Owner, by accepting title to or interest in a Lot, acknowledges the existence of the Mineral Interests and the attendant rights in favor of the owner of such Mineral Interests.

## ARTICLE VIII MAINTENANCE RESPONSIBILITIES

### Section 8.1. Maintenance.

(a) Maintenance of Lots. All maintenance, repairs and replacements of, in or to any Lot or Improvements thereon, ordinary or extraordinary, foreseen or unforeseen, shall be performed by the Owner of such Lot or Improvements in accordance with the Maintenance Standard and Architectural Guidelines.

(b) Maintenance of Common Areas. Except as otherwise provided in the Governing Documents or as otherwise maintained by a district described herein, the Common Areas shall be maintained by the Association, the cost and expense of which shall constitute a Common Expense and shall be payable as a Common Expense, as set forth in this Declaration. Nothing in this Declaration shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Areas caused by the negligence or misconduct of an Owner, Occupant or an Owner's Designees.

(c) Maintenance of Easements. Except as expressly provided in Section 7.2 of this Declaration, all maintenance, repairs and replacements of, in or to any Easement Area, ordinary or extraordinary, foreseen or unforeseen, shall be performed by the Owner of each Lot in which the Easement Area is located and in accordance with the Maintenance Standard. If the Easement Area is located in a Common Area, then all maintenance, repairs and replacements of, in or to any Easement Area, ordinary or extraordinary, foreseen or unforeseen, shall be performed by the Association and shall be payable as a Common Expense, as set forth in this Declaration.

Section 8.2. Owner Failure to Maintain. If any Owner fails or neglects to maintain, repair or clean any portion of its Lot or certain Improvements thereon, as required to be maintained by such Owner pursuant to the Governing Documents and by Section 8.1 of this Declaration, and such failure or neglect continues for an unreasonable time period in light of the surrounding circumstances as may be determined on a case by case basis by the Association, after Owner's receipt of written notice of such neglect or failure from the Association, then the Association may, but shall not be obligated to, enter the Lot, and take appropriate steps to perform, or cause to be performed, the maintenance obligations of the Owner required by this Declaration. The defaulting Owner shall, upon demand, reimburse the Association for performing such required maintenance and all costs and expenses incurred in the exercise of its rights pursuant to this Section 8.2 or as otherwise set forth in this Declaration.

Section 8.3. Disputes. Any Dispute arising among any or all of the Owners or the Association as to the proper Person to bear a maintenance cost or expense shall be resolved in accordance with the provisions of Article XIV of this Declaration.

## ARTICLE IX INSURANCE

Section 9.1. Requirements. Unless otherwise determined by Declarant or the Board, all insurance coverage required of the Association pursuant to this Article IX or purchased at the election of the Association shall:

(a) be in such form and issued by responsible insurance companies licensed to do business in the State and shall be rated by Best's Insurance Guide (or any successor publication of comparable standing) as "A-VI" or better;

(b) be carried in a blanket form naming Declarant, the Association, the Board, and its respective officers and directors and employees of the Association as insureds;

(c) provide that insurance trust agreements shall be recognized.

Section 9.2. Insurance by the Association. The Association shall maintain in force and pay the premium for a policy providing comprehensive public liability insurance for the benefit of the Association and its Members. The coverage limits under such policy shall be in amounts reasonably determined by the Board in

accordance with the Governing Documents. Coverage under such policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas, and legal liability arising out of lawsuits related to operation of the Association. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to homeowners associations of communities similar to the Association's community. Such policy shall, by its terms, provide for "severability of interest" or shall contain a specific endorsement to preclude the insurer's denial of an Owner's claim because of the negligent acts of the management company, Association or any Member thereof. Unless indicated otherwise, the premiums for all insurance coverages maintained by the Association pursuant to this Section 9.2 shall constitute a Common Expense, and shall be payable by the Association.

Section 9.3. Insurance by Residence Owners. An Owner shall be responsible for obtaining and maintaining at such Owner's sole cost and expense insurance policies covering: (a) 100% of replacement cost of all improvements, additions and betterments made upon such Owner's Lot or in such other amounts established by the Board in accordance with the Governing Documents and (b) any other insurance required by any Mortgagee or other lender in relation to such Owner's Lot. Nothing in this Declaration shall be deemed or construed as prohibiting an Owner, at its sole cost and expense, from obtaining and maintaining such further and supplementary insurance coverages as such Owner may deem necessary or appropriate. Nothing in this Section 9.3 shall be construed to require the Association to monitor the existence or adequacy of insurance coverages on any Lots. The Association will not be required to maintain insurance on the Improvements constructed upon any Lot.

Section 9.4. Association as Insurance Trustee for the Owners. By acceptance of a deed to a Lot, each Owner shall be deemed to have irrevocably appointed the Association as the Insurance Trustee on insurance policies obtained by the Association (whether the Association is identified as such in a policy). All property insurance policies required to be obtained by the Association as described in Section 9.2 of this Declaration may be issued in the name of the Association as Insurance Trustee for the property covered under such policies. Loss payable provisions shall be in favor of the Insurance Trustee as a trustee for the Association. The Insurance Trustee shall not be liable for the payment of premiums, nor the renewal or sufficiency of policies, except those policies required to be purchased and maintained by the Association pursuant to Section 9.2 of this Declaration and the Bylaws. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold or properly dispose of the same in trust for the benefit of the Owners and Declarant in accordance with the terms of the Governing Documents.

Section 9.5. Other. Neither the Association, Board, Declarant, any Owner nor each of their respective Affiliates shall be liable for failure to obtain any insurance coverage required by the Governing Documents or for any loss or damage resulting from such failure, if such failure is a result of such insurance coverage not being reasonably available.

#### ARTICLE X CASUALTY AND CONDEMNATION

Section 10.1. Casualty. If any Improvements located on any Lot are damaged or destroyed by fire or other casualty, the Owner of such Lot must, within a reasonable period of time, either (a) repair, restore and rebuild such Improvements (and any damage to Improvements not on the Lot caused by such fire or other casualty) in accordance with Plans approved by the Architectural Control Committee as provided in the Governing Documents; or (b) raze all of the damaged Improvements on the Lot, clear the Lot of all debris resulting from such razing, and seed or sod the Lot with grass.

Section 10.2. **General Condemnation Provisions.** If all or any part of the Common Area is subject to a Taking, the Association will be the exclusive representative of the Owners. The expense of participation in such proceedings by the Association shall be a Common Expense. The Association is specifically authorized to obtain and pay for assistance from attorneys, appraisers, architects, engineers, expert witnesses and other Persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to condemnation proceedings. The cost of any restoration or repair of the Common Area following a partial Taking shall be Common Expense. If any condemnation proceeds remain following the restoration or repair of the Common Area following a partial Taking, such condemnation proceeds shall be held by the Association and used to pay other Common Expenses.

## ARTICLE XI DEVELOPMENT RIGHTS

Section 11.1. **Development Rights.** In accordance with and only if permitted by the Act, Declarant reserves for itself during the Declarant Control Period in accordance with the Governing Documents, the following Development Rights to: (a) add real property to the Property as Annexed Property and designate or restrict uses on any portion thereof; (b) designate or create additional Lots and Common Areas, and to convert Lots owned by Declarant or Declarant's Affiliates into Common Areas; (c) subject portions of the Property owned by Declarant or Declarant's Affiliates to Supplemental Declarations, as Declarant may determine; (d) whether by Plat or otherwise, relocate boundaries between adjoining Lots owned by Declarant or Declarant's Affiliates, enlarge or reduce Lots owned by Declarant or Declarant's Affiliates, enlarge or reduce the Common Areas, reduce or diminish the size of portions of the Common Areas, split, combine, divide or subdivide Lots owned by Declarant or Declarant's Affiliates and change set back requirements; (e) establish specifications for construction of all Improvements, amend such specifications and complete or make Improvements on Lots owned by Declarant or Declarant's Affiliates or construct Improvements on Common Areas; (f) create and use and permit others to use the Easements or any other easements pursuant to the Governing Documents; (g) merge or consolidate the Association with any other owner association within the Property; (h) amend this Declaration, maps or Plats in connection with the exercise of any Development Right; (i) change the permitted use of any portion of the Property that is owned by Declarant or Declarant's Affiliates; (j) make amendments to the Governing Documents; (k) market, promote, sponsor marketing events, erect and maintain signs and advertising in the Common Areas and other portions of the Property owned by Declarant or Declarant's Affiliates or on Lots owned by Declarant, Declarant's Affiliates or Builders; (l) maintain construction, sales, and management offices, signs advertising the Property, Lots and models, and to conduct general sales from such offices; (m) establish in the Common Areas, from time to time, by dedication or otherwise, public and private streets and utilities and other easements for purposes including public access, private access, paths, walkways, drainage, recreation areas, parking areas, and to create other reservations, exceptions and exclusions; (n) construct, in a way that does not materially adversely affect the development plans of any Owner, underground utility lines, pipes, wires, ducts and conduits, storm drains, detention ponds, and other facilities for the purpose of furnishing services to the Property; (o) approve or disapprove, during the Declarant Control Period, the recordation of any declaration; (p) appoint or remove any Architectural Control Committee member during the Declarant Control Period in accordance with Section 12.2 of this Declaration and create subcommittees and appoint members to such subcommittees of the Architectural Control Committee; (q) record an instrument surrendering a Development Right, or withdraw or de-annex a portion of the Property in accordance with this Declaration from the Property by recording in the Real Property Records a document evidencing such surrender, withdrawal or de-annexation of any portion of the Property; and (r) exercise any additional reserved right created by any other provision of the Governing Documents and any other right granted to Declarant by the Governing Documents.

Section 11.2. **Annexation of Additional Property.**

(a) Manner of Annexation. At any time after the date this Declaration is recorded in the Real Property Records, until the expiration of the Declarant Control Period, Declarant may with the consent of the owner of the portion of the Annexed Property to be annexed, if applicable, add Annexed Property to the Property by way of a Supplemental Declaration and make such Annexed Property subject to the Governing Documents. Declarant may subject any Annexed Property to all or any portion of this Declaration, to replat the Property and such Annexed Property as Declarant desires, and to create additional Lots and Common Areas from or out of such Annexed Property.

(b) Effectiveness and Applicability of Provisions of Supplemental Declaration. Effective upon the recording of a Supplemental Declaration in the Real Property Records, or as otherwise stated in such Supplemental Declaration: (i) the covenants and restrictions contained in this Declaration and the Governing Documents shall automatically, and without further action by any Person, apply to Annexed Property in the same manner that such covenants and restrictions apply to all other portions of the Property; and (ii) any lien arising from ownership or construction upon Annexed Property shall affect only such Annexed Property and Improvements located thereon.

Section 11.3. Withdrawal of Real Property. Declarant may, at any time and from time to time, withdraw any portion of Property from the burden of this Declaration and the jurisdiction of the Association for any reason. Such withdrawal shall be accomplished by the execution, acknowledgment and recordation of a written notice of withdrawal (the "Withdrawal Notice") in the Real Property Records. The Withdrawal Notice shall: (a) be executed and acknowledged by Declarant and the Owner of the portion of the Property to be withdrawn without the necessity of the joinder or consent of any other Person; (b) contain an adequate legal description of the portion of the Property to be withdrawn; and (c) contain a statement and declaration that the portion of the Property withdrawn shall no longer be burdened by this this Declaration and shall no longer be subject to the jurisdiction of the Association. The withdrawal shall be effective upon recordation of the Withdrawal Notice in the Real Property Records of the County. Nothing in this Section 11.3 shall be interpreted to prohibit later annexation of any withdrawn Property.

Section 11.4. No Approval Required for Exercise of Development Rights. No approval of any Owner or its Mortgagee shall be required for the exercise of any Development Right. Declarant may exercise any Development Right on all or any portion of the Property and in whatever order determined by Declarant. Declarant shall not be obligated to exercise any Development Right or to expand the Property beyond the number of Lots initially submitted. The exercise of any Development Right as to some portion of the Property shall not obligate the Declarant to exercise any Development Right as to other portions of the Property. No provision of this Declaration shall be construed to prevent or limit Declarant's right, and Declarant expressly reserves the right, to complete the development of the Property within the boundaries of the Property and to construct or alter Improvements on any Property owned by Declarant within the Property.

Section 11.5. Zoning. No Owner other than Declarant or Declarant's Affiliates may apply for any change in the zoning of any portion of the Property without Declarant's prior written approval. Each Owner shall fully cooperate with Declarant in executing all documents, providing all information, and taking or refraining from taking any action as may be necessary or appropriate to effectuate any zoning change requested by Declarant. Any costs and expenses incurred by Declarant or the Architectural Control Committee relating to the obtainment of a zoning change on behalf of an Owner shall be reimbursed by such Owner.

Section 11.6. Rights Transferable. Rights created or reserved under Article XI of this Declaration for the benefit of Declarant may be transferred to any Person by an instrument executed by Declarant and the transferee describing the rights transferred and recorded in the Real Property Records.



**ARTICLE XII  
DEVELOPMENT CONTROL**

Section 12.1. **Required Approval.** The Plans for initial construction of any Improvements on a Lot must first be submitted to and approved in writing by the Architectural Control Committee prior to the commencement of any work on such Improvements. Changes to the exterior of any building (after initial installation or construction) on a Lot that meet the following criteria must first be submitted in writing to and approved in writing by the Architectural Control Committee: (a) any addition to the exterior of an Improvement; (b) a change or alteration to the architectural style and character of an Improvement including the exterior appearance, finish material, color or texture; (c) any addition of an accessory or additional structure on a Lot; (d) any change that results in a substantial change to the roof plane or lines of an Improvement; (e) demolition or destruction by voluntary action of any Improvement; (f) installation or modification of any landscaping or fencing; or (g) any grading, excavation, filling or similar disturbance to the surface of any portion of a Lot including change of grade, change of ground level, or change of drainage pattern. The Architectural Control Committee may require other information be submitted with applications as further described in the Architectural Guidelines. Any Owner of a Lot, excluding Declarant and Declarant's Affiliates, shall not be permitted to divide or sub-divide such Owner's Lot, nor convey any easements or other interests in the Lot less than in their entirety without the prior written approval of the Architectural Control Committee.

Section 12.2. **Establishment of the Architectural Control Committee.** The Architectural Control Committee shall be established by Declarant, and may initially consist of up to five members appointed by Declarant. Declarant shall have the continuing right to appoint and remove all members of the Architectural Control Committee during the Declarant Control Period. The Board shall have the right to appoint and remove members of the Architectural Control Committee upon the expiration or termination of the Declarant Control Period. Members of Architectural Control Committee after the expiration or termination of the Declarant Control Period shall serve for a term as may be designated by the Board or until resignation or removal by the Board. After the Declarant Control Period, the Board may, at any time and from time to time change the authorized number of members of the Architectural Control Committee, but at no time shall the number of members of the Architectural Control Committee be less than three. A majority of the Architectural Control Committee shall constitute a quorum of the Architectural Control Committee, and a vote of the majority of the Architectural Control Committee members present at any meeting where a quorum is present shall be required for the Architectural Control Committee action. Any action by the Architectural Control Committee may be taken without a meeting if the written approval of such action is signed by the number of members of the Architectural Control Committee necessary to take that action at a meeting at the required members of the Architectural Control Committee are present and voting. Declarant may, from time to time, during the Declarant Control Period, adopt, promulgate, amend or otherwise revise the Architectural Guidelines, or any other standards, rules, regulations and procedures governing development control of the Property for the purposes of (a) further enhancing, defining, or interpreting which items or Improvements are covered by Article XII of this Declaration; and (b) providing for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or Legal Requirements, or for any other reason that Declarant deems to be proper, necessary or in the best interests of the Property; provided that neither Declarant nor the Architectural Control Committee in its review or approval of any matter, shall be deemed to be giving any opinion, warranty or representation as to compliance with any of the matters set forth in this Subsection 12.2, the Declaration or any other Governing Document.

Section 12.3. **Delegation of Control.** The Architectural Control Committee shall have the right, subject to the prior written approval by Declarant during the Declarant Control Period, to delegate its rights and obligations under Article XII of this Declaration to any subcommittee of the Architectural Control Committee. Any such delegation may be revoked by the Architectural Control Committee, at any time.

Section 12.4. **Architectural Guidelines.** After the Declarant Control Period, the Board may adopt Architectural Guidelines from time to time. The Architectural Guidelines shall not be inconsistent with the

provisions of the Governing Documents, as both may be amended and if there are any inconsistencies, the provisions of the documents shall control in the order that is set forth for the Governing Documents in Section 2.4 of this Declaration.

Section 12.5. Reply and Communication. The Architectural Control Committee shall respond to applications made in accordance with this Article XII within the time periods and in the manner as set forth in the Architectural Guidelines. All communications and submittals shall be addressed to the Architectural Control Committee in writing at such address as the Architectural Control Committee may designate in the Architectural Guidelines. Any approvals granted by the Architectural Control Committee, or its designees, shall be granted solely for the benefit of the applicant only with respect to its application and shall not be construed as an approval for any other Person, Owner or Occupant planning to perform the same or similar type construction, architectural change or other improvement for which an application would be necessary pursuant to this Declaration and the Architectural Guidelines.

Section 12.6. Variances. While the Architectural Guidelines are intended as a general guide for development within the Property, the Architectural Control Committee may, in its sole judgment, grant variances or adjustments from the Architectural Guidelines or from any conditions and restrictions imposed by this Article XII pursuant to variance criteria established by the Architectural Control Committee and as may be set forth in the Architectural Guidelines; provided, however, such variances may not be used as to allow violations of this Declaration.

Section 12.7. Appeal Rights of Owners. If any request by an Owner under the provisions of this Article XII is disapproved by the Architectural Control Committee, then the applicant shall have the right of appeal to the Board. In considering the appeal, the Board can overturn the Architectural Control Committee's decision if the Board determines, in its sole discretion that the Architectural Control Committee abused its discretion or acted in an arbitrary or capricious manner. Notwithstanding the foregoing, and during the Declarant Control Period, the Board, in its sole discretion, may overturn the Architectural Control Committee's decision of disapproval for any reason whatsoever.

Section 12.8. No Deemed Waivers. No action or failure to act by Declarant, the Architectural Control Committee or by the Board shall constitute a waiver or estoppel with respect to any future action by the Architectural Control Committee or the Board, with respect to any Improvement to a Lot. Specifically, the approval by the Architectural Control Committee of any Improvement to a Lot shall not be deemed a waiver of any right or an estoppel to withholding approval for any similar Improvement to another Lot or any similar proposals, plans, specifications or other materials submitted with respect to any other improvement to another Lot.

Section 12.9. Limitation on Liability. Declarant, the Architectural Control Committee and the members thereof, as well as any designee of the Architectural Control Committee designated to act on its behalf, shall not be liable in damages to any Owner or Person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within the jurisdiction of the Architectural Control Committee under the Governing Documents. Declarant, the Architectural Control Committee and the Board shall not be responsible for structural, engineering or any other defects resulting from Plans approved or for violations of any building or zoning code or other land use regulations or Legal Requirements, and any Claim against an Indemnified Party in connection therewith shall be subject to indemnification under and pursuant to the provisions of Section 15.14 of this Declaration. The process of reviewing and approving plans and specifications is one which of necessity requires that the Architectural Control Committee is called upon from time to time to make subjective judgments on items for which specific standards or guidelines are not expressly set forth in this Declaration or the Architectural Guidelines. The Architectural Control Committee has full power and authority to make any such subjective judgments and to interpret the intent and provisions of this Declaration and the Architectural Guidelines in such manner and with such results as the Architectural Control Committee, in its sole

Section 12.12. **Obtaining Governmental Approvals.** Prior to commencement of construction of any Improvements, an Owner shall obtain all required Governmental Approvals in order for the Owner to construct, operate and maintain the Improvements.

Section 12.13. **Interior Improvements.** Notwithstanding any other provisions of this Declaration or the Architectural Guidelines, an Owner may make improvements and alterations within the interior of any Improvements on its Lot without first obtaining Architectural Control Committee approval, provided such do not change the exterior appearance of any Improvements.

Section 12.14. **Certificate of Compliance.** Upon request by an Owner who has complied with the provisions of this **Article XII**, the Association shall deliver to such Owner, a written certificate of such compliance in recordable form and such certificate shall be conclusive evidence of such compliance.

### ARTICLE XIII PROPERTY ROADS

Section 13.1 **Property Roads.** The County shall be solely responsible for the management and operation of the Property Roads. If approved by the County, the Association shall have the right to temporarily close off portions of the Property Roads for commercial uses and for events, activities and functions approved by the Association. Declarant, the Association and the Board and its members shall not be liable to any extent whatsoever to any Person or Owner for any defect in or structural issue with the Property Roads or for any failure with respect to performance of management, operations, and other duties concerning the Property Roads, and any Claim in connection therewith against an Indemnified Party shall be the subject of indemnification under **Section 15.15** of this Declaration.

### ARTICLE XIV MATTERS FOR MEDIATION AND ARBITRATION

Section 14.1. **Mediation.** All Disputes, except those relating to equitable remedies, which are not resolved within 15 days after same have arisen (unless such greater time is provided elsewhere in the Governing Documents) shall be submitted for, or determined by, non-binding mediation as a condition precedent to arbitration. Mediation of any Dispute shall be initiated by any Owner making a written demand therefore to the other Owner or Owners involved in such Dispute and the Association. With respect to such mediation, the parties shall, within ten days after delivery of such written notice to the Association, agree upon a mediator who is: (a) a reputable Person actively engaged in the commercial real estate industry for a continuous period of not less than ten years; and (b) is in no way affiliated, or has had material business dealings with any Owner. If the parties are unable to agree upon a mediator, a mediator having the qualifications set forth in this **Section 14.1** shall be appointed by the American Arbitration Association office in the County. Such mediation shall occur within 30 days after the mediator has been agreed upon or appointed and shall occur at a mutually acceptable location in as determined by the parties. The costs of such mediation services shall be shared equally (but each party shall bear the cost of their own travel and attorneys' fees); provided, however, that if the Dispute is not resolved pursuant to such mediation, the provisions of **Section 14.2** of this Declaration shall govern the payment of attorneys' fees and costs and expenses of mediation and arbitration.

Section 14.2. **Final Offer Arbitration.** If the parties reach an impasse at mediation, as determined by the mediator in the mediator's sole and absolute discretion, and are unable to resolve any Dispute, any party to the Dispute may initiate binding arbitration (as the exclusive remedy with respect to a Dispute under this Declaration) by making a written demand therefor to the other parties involved in such Dispute no later than 30 days after the mediator declares that the parties have reached an impasse at mediation. The parties agree to select a single impartial arbitrator from a list taken from the American Arbitration Association within 15 days of submitting the Dispute to arbitration, and if they cannot agree on an arbitrator, each party shall select an individual and those two

discretion, may deem appropriate. The Architectural Control Committee shall have the sole discretion to determine whether plans and specifications submitted to it for approval are acceptable.

Section 12.10. **Records.** The Architectural Control Committee shall or shall cause the Manager to maintain records, electronic or written, of all applications submitted to it and of all actions taken by it with respect thereto in accordance with the record retention, inspection, production and copying policy adopted by the Board. Such records shall be open and available for inspection by any Owner pursuant to such policy and in accordance with the Act.

Section 12.11. **Enforcement of Article XII of this Declaration.**

(a) **Inspection.** The Architectural Control Committee, or its Designees, shall have the right during reasonable business hours to enter upon and inspect any Lot or Improvements then under construction to determine whether or not the plans therefor have been approved by the Architectural Control Committee. If the Architectural Control Committee shall determine that such plans have not been approved or that the plans which have been so approved are not being substantially complied with, the Architectural Control Committee may, in its discretion, give the Owner of such Lot and Improvements written notice to such effect and, thereafter, such Owner shall immediately stop such construction and the Board or the Architectural Control Committee, on behalf of the Association, shall be entitled to enjoin further construction and to require the removal or correction of any work in place that does not comply with approved plans.

(b) **Nonconforming Improvements.** Any Improvement to a Lot made in violation of **Article XII** of this Declaration or of the Architectural Guidelines shall be deemed to be nonconforming. Should the Architectural Control Committee determine that any Improvement has been made without approval or was not made in substantial compliance with the description and materials furnished, and any conditions imposed, or was not completed with due diligence, the Architectural Control Committee, acting on behalf of the Association, shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary in a specific time period to remedy the noncompliance. Upon receipt of any such notice, the Owner of the Lot upon which such Improvement has been made shall, at such Owner's own cost and expense, remove such structure or Improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming Improvement. Should the Owner fail to take such action within the time specified in the notice of noncompliance, the Association shall have the right to record a copy of such notice of noncompliance in the Real Property Records. Further, the Association shall have the right, but not the obligation, to enter the Lot, correct or remove the Improvement that constitutes the violation, and restore the Lot to substantially the same condition as the Lot previously existed. All costs, together with interest at the Past Due Rate, may be assessed against the benefited Lot and collected as an Assessment. The provisions of this **Section 12.11** are in addition to all other legal and equitable remedies available to the Association.

(c) **Additional Remedies.** In addition to the enforcement rights of the Association otherwise set forth in of this Declaration and **Subsection 12.11(b)**, the Association shall have the right, but not the obligation, to institute, maintain and prosecute proceedings at law or in equity against any Person violating or attempting to violate any of the terms and provisions of **Article XII** of this Declaration. In any action instituted or maintained under **Article XII** of this Declaration, the Association, shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by a court. Failure of the Association or the Architectural Control Committee to enforce any covenant, condition or restriction contained in the Governing Documents shall not be deemed a waiver of the Association or the Architectural Control Committee's right to do so thereafter.

so selected shall then select the single impartial arbitrator who shall thereafter serve as arbitrator with respect to the Dispute. The issues in dispute shall be submitted as "baseball" or final-offer arbitration, whereby each party shall submit what it deems to be its most reasonable position to the arbitrator and the arbitrator shall select one of those two positions. The arbitrator shall have no discretion to select or award a position other than to select one of those submitted by the parties. To the extent rules governing arbitration are deemed necessary by the arbitrator (or by agreement of the parties), the current rules applicable to such arbitration promulgated by the American Arbitration Association shall apply. The decision of the arbitrator shall be rendered no later than ten days from the initiation of the arbitration procedure. The parties may resort to any court of competent jurisdiction for enforcement of, or any other action relating to, the arbitrator's award. The party or parties whose position is not selected or awarded shall be responsible for all attorneys' fees, costs and expenses (incurred in connection with the mediation and arbitration of a Dispute under Article XIV of this Declaration) of the party whose position is selected or awarded for the arbitration of the Dispute under Article XIV.

Section 14.3. **General.** With respect to any Dispute it is agreed that the dispute resolution provisions of Article XIV of this Declaration shall be the sole remedy of the parties involved in such Dispute. Notwithstanding any other provisions of this Declaration, the foregoing agreement to arbitrate and other agreements to arbitrate with an additional Person duly consented to by the parties shall be specifically enforceable under prevailing arbitration law in any court having jurisdiction thereof. The foregoing agreement to arbitrate shall not constitute any agreement or consent to arbitration of any dispute, Claim, controversy or matter that does not constitute a Dispute, as applicable. The foregoing agreement to arbitrate any Dispute shall not constitute any agreement or consent to arbitration with any Person not named or described in this Declaration; provided that any arbitration proceeding initiated under the terms of Section 14.2 of this Declaration may, at the request of any party, be joined or consolidated with other arbitration proceedings involving additional parties if the Dispute and the subject of such other proceedings arise out of common or interrelated factual occurrences. Any award of the arbitrator shall be final and binding upon the parties involved in the Dispute and such Mortgagees and non-appealable judgment thereon may be entered by any court having jurisdiction.

## ARTICLE XV GENERAL PROVISIONS

Section 15.1. **Remedies Cumulative.** Each remedy provided under the Governing Documents is cumulative and nonexclusive.

Section 15.2. **Severability.** Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or any other provision in the Governing Documents or the application thereof to any Person or circumstances is held invalid, unenforceable and not in compliance with the Legal Requirements, such the invalidity, unenforceability or non-compliance shall not affect other provisions in or applications of this Declaration and the Governing Documents.

Section 15.3. **Term of Declaration.** The covenants and restrictions of this Declaration shall run with the land and bind the Property in perpetuity.

Section 15.4. **Amendment of Declaration by Declarant.** Pursuant to Declarant exercising any Development Right or for any other reason whatsoever and until the termination or expiration of the Declarant Control Period, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or the other Governing Documents, may be amended by Declarant (without the necessity of the joinder or consent of any other Person) in accordance with the Act by the recordation in the Real Property Records of a written instrument executed by Declarant setting forth such amendment. Each deed, security interest, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and an approval of the reservation of and the power of Declarant to make, execute and record an amendment pursuant to Section 15.4. During the Declarant Control Period,

Declarant, without a vote of the Owners or approval by the Mortgagees or the Association, may amend the Governing Documents in any manner necessary to meet the requirements of the Federal National Mortgage Association, the Federal National Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration or the Act (as may be amended).

Section 15.5. Amendment of Declaration by Owners. After the Declarant Control Period has terminated or expired, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, repealed, added to, or changed from time to time by an amendment upon the vote of 67% of the votes entitled to be cast at a duly called meeting of the Members at which a quorum is present. Any such amendment shall be effective upon the recording thereof in the Real Property Records, which shall contain a certification that the amendment has been approved as set forth in this Section 15.5.

Section 15.6. Required Approval of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving Development Rights or for the benefit of Declarant, or its assignees, shall not be effective unless Declarant, and its assignees, if any, have given written approval to such amendment, which approval may be evidenced by the execution by Declarant or its assignees of any certificate of amendment. The foregoing requirement for approval of any amendment shall terminate upon the termination or expiration of the Declarant Control Period.

Section 15.7. No Public Dedication. Nothing in this Declaration shall be deemed to be a gift or dedication of any portion of the Property, or of any Lot to the general public or for any public use or purpose whatsoever, it being the intent that this Declaration be strictly limited to and for the purposes expressed in this Declaration for the development, maintenance and operation of a private real estate development on private property solely for the benefit of the Owners, except that certain easements, rights-of-way, streets, water facilities and similar utilities and improvements of the Property may be dedicated by Plat or by separate documents.

Section 15.8. Notices. All notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered as properly given if: (a) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested to the addressee, (b) delivered in person by to the addressee, (c) delivered by an independent third party commercial delivery service for same day or next day delivery which provides evidence of receipt of such delivery the addressee or (d) by telefacsimile to the addressee. Notice mailed shall be effective upon its deposit with the United States Postal Service; notice sent a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by telefacsimile shall be effective upon receipt of confirmation the telefacsimilie was successfully sent to the addressee. For purposes of notice, the addresses of Declarant and the Association shall be as set forth below and the address of each Owner shall be the address of the Lot unless an alternate address is provided by an Owner to the Association pursuant to this Section 15.8. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 30 days written notice to the Association in the manner set forth herein:

Declarant:	MC 288, LLC c/o Hillwood Development Company, LLC 3090 Olive Street, Suite 300 Dallas, Texas 75219 Attention: General Counsel
Association:	Pomona Residential Community Association, Inc.

c/o Hillwood Development Company, LLC  
3090 Olive Street, Suite 300  
Dallas, Texas 75219  
Attn: General Counsel

Section 15.9. **Interpretation.** Declarant shall have the right, power and authority to determine all questions arising under or in connection with the Governing Documents and to reasonably construe and interpret its provisions in accordance with the laws of the State and the laws of the United States applicable to transactions in the State. Any such determination, construction or interpretation made by Declarant shall be binding on the Owners. In all cases, the provisions set forth or provided for in the Governing Documents shall be construed together and given that interpretation or construction which, in the reasonable opinion of Declarant, shall best effect its general plan of development as reflected herein in accordance with the laws of the State and the laws of the United States applicable to Declarant. The provisions of the Governing Documents shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. Uses of the word "including" shall be deemed to be followed by the words "without limitation."

Section 15.10. **No Representations or Warranties.** No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its Affiliates, in connection with any portion of the Property, its physical condition, the Legal Requirements, fitness for intended use, or in connection with the development, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof.

Section 15.11. **Singular Includes the Plural.** Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 15.12. **Captions.** All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article of this Declaration.

Section 15.13. **Governing Law; Venue.** This Declaration shall be construed and governed under the laws of the State. Venue for any lawsuit arising out of the Governing Documents, whether directly or indirectly, shall be in the County.

Section 15.14. **INDEMNIFICATION.**

(a) **GENERAL.** EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT, THE ASSOCIATION, THE ARCHITECTURAL CONTROL COMMITTEE, THE BOARD AND EACH OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM ANY AND ALL CLAIMS OF ANY NATURE THAT ARISE AS THE RESULT OF OR ARE CAUSED BY (i) SUCH OWNER'S (OR THE OCCUPANT OF SUCH OWNER'S LOT OR IMPROVEMENTS THEREON) NON-COMPLIANCE WITH ANY OF THE PROVISIONS OF THE GOVERNING DOCUMENTS, OR (ii) ANY ACT OR OMISSION OF SUCH OWNER (OR THE OCCUPANT OF SUCH OWNER'S LOT OR IMPROVEMENTS THEREON).

(b) **PLAN REVIEW.** NO OWNER SUBMITTING PLANS TO AN INDEMNIFIED PARTY PURSUANT TO THE GOVERNING DOCUMENTS, BY DISSEMINATION OF THE SAME, AND NO OWNER, BY ACQUIRING TITLE TO A LOT, SHALL MAKE ANY CLAIMS AGAINST ANY INDEMNIFIED PARTY RELATING TO OR ARISING OUT OF ANY INDEMNIFIED PARTY'S REVIEW OF SUCH SUBMITTED PLANS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NO INDEMNIFIED PARTY REVIEWING SUCH PLANS SHALL BE RESPONSIBLE FOR OR SHALL HAVE OBLIGATIONS TO COMMENT ON OR ASSURE COMPLIANCE OF SUCH PLANS FOR STRUCTURAL

INTEGRITY AND SAFETY, SOUNDNESS, WORKMANSHIP, MATERIALS, USEFULNESS, CONFORMITY WITH BUILDING OR OTHER CODE REQUIREMENTS OR INDUSTRY STANDARDS OR COMPLIANCE WITH ANY LEGAL REQUIREMENTS. FURTHER, EACH OWNER AGREES TO INDEMNIFY, DEFEND, AND HOLD EACH INDEMNIFIED PARTY HARMLESS FROM ANY APPROVAL OF PLANS OF AN OWNER SUBMITTED UNDER THE GOVERNING DOCUMENTS OR THE CONSTRUCTION OF IMPROVEMENTS ON SUCH OWNER'S LOT.

Section 15.15. Limitation of Liability. Neither Declarant, the Association, the Architectural Control Committee, the Board nor any of their respective officers, directors, employees or agents shall be, individually or in combination, liable for Claims of: (a) any Owner or any other Person submitting Plans, proposed uses or variance for approval, by reason of mistake in judgment, negligence, gross negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any Plans, proposed use or variance submitted for approval; (b) an Owner, in connection with any design, engineering or construction defect associated with any Improvement or building constructed on the Property; (c) an Owner, in connection with the breach or violation of any provision of the Governing Documents by an Owner including the restrictive covenants in the Governing Documents covering the use of such Owner's Lot; (d) an Owner, in connection with: (i) injury or damage to any Person or property caused by the elements or by such Owner or any other Person, or resulting from any utility, rain, snow or ice which may leak or flow from or over any portion of the Common Areas or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder; (ii) loss by damage, theft or otherwise of any property that may be stored in or upon any of the Common Areas; or (iii) damage or injury caused in whole or in part by the failure of the Association or any officer, director, employee or agent of the Association to discharge its or their responsibilities under this Section 15.15 of this Declaration (collectively, "Common Area Damage"); or (e) any Claim for breach of representation or warranty, express or implied, by an Owner or any other Person in connection with any portion of the Property, its physical condition, the Legal Requirements, fitness for intended use, or in connection with the development, sale, operation; maintenance, taxes or regulation thereof ("Breach of Representation or Warranty"), unless and except specifically set forth in writing and executed by the Person against whom the Claim is asserted. No Designee of Declarant, the Association, the Architectural Control Committee or the Board shall be liable to any Owner or any of its Designees, for any Claims, except as otherwise expressly set forth in the Governing Documents and such Designee shall be indemnified in accordance with the provisions of the Governing Documents.

THE OWNERS, BY ACCEPTANCE OF A DEED TO THEIR RESPECTIVE LOTS, RELEASE AND FOREVER DISCHARGE DECLARANT, THE ASSOCIATION, THE BOARD AND THE ARCHITECTURAL CONTROL COMMITTEE, AND THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM ALL CLAIMS IN CONNECTION WITH (A) ANY DESIGN, ENGINEERING OR CONSTRUCTION DEFECT ASSOCIATED WITH ANY IMPROVEMENT CONSTRUCTED ON THE PROPERTY; (B) THE BREACH OF ANY PROVISION OF THE GOVERNING DOCUMENTS BY AN OWNER, INCLUDING THE RESTRICTIVE COVENANTS IN THIS DECLARATION COVERING THE USE OF SUCH OWNER'S LOT; (C) ANY BREACH OF REPRESENTATION OR WARRANTY; OR (D) COMMON AREA DAMAGE.

EACH OWNER BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE OF A LOT HEREBY ACKNOWLEDGES THE PROPERTY IS IN THE VICINITY OF LOCATIONS DESIGNATED FOR EXPLORING FOR, DRILLING, PRODUCING AND TRANSPORTING (THE "DRILLING ACTIVITIES") OIL, GAS AND OTHER MINERALS (THE "MINERALS"). BY ACCEPTANCE OF A DEED TO A LOT, EACH OWNER HEREBY ACKNOWLEDGES AND ACCEPTS THE CONSEQUENCES OF THAT PROXIMITY, INCLUDING THE ANNOYANCES RESULTING FROM THE NOISE, VIBRATION, FUMES, DUST, LUBRICANTS, OTHER PARTICULATE MATTER, LIGHT AND INTERFERENCE WITH SLEEP AND LIVING ASSOCIATED WITH THE DRILLING ACTIVITIES. EACH OWNER HEREBY RELEASES AND WAIVES ANY AND ALL CLAIMS THAT SUCH OWNER MAY HAVE RELATING TO THE



DRILLING ACTIVITIES AGAINST DECLARANT, THE ASSOCIATION, THE BOARD AND EACH OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS AND ANY AND ALL PERSONS AND ENTITIES (I) OWNING, LEASING, EXPLORING FOR, DEVELOPING, PRODUCING, OR TRANSPORTING THE MINERALS OR (II) OWNING, LEASING OR OPERATING PIPELINES, DRILLING FACILITIES, OR ANCILLARY OPERATIONS ON, UNDER OR IN THE VICINITY OF THE PROPERTY. OWNERS MAY NOT OWN THE MINERALS ON, IN OR UNDER THE PROPERTY. THE MINERAL OWNER MAY LEASE, SELL, EXTRACT OR USE THE MINERALS IN, ON OR UNDER THE PROPERTY WITHOUT THE CONSENT OF ANY OWNER OTHER THAN DECLARANT, AS MAY BE APPLICABLE. DRILLING ACTIVITIES WILL NOT OCCUR ON ANY LOT OWNED BY AN OWNER OTHER THAN DECLARANT BUT MINERALS LOCATED UNDER LOTS OWNED BY OWNERS MAY BE EXTRACTED THROUGH DIRECTIONAL DRILLING AND SIMILAR TECHNIQUES.

Section 15.16. **Liability of Owners for Damage.** Each Owner shall be liable to the Association, for any damage to the Common Areas or for any expense or liability incurred by the Association that may be sustained by reason of any act or omission of such Owner or its Occupants or its Designees, and for any violation by such Owner or its Occupants or its Designees, of the Governing Documents. The Association shall have the power to levy and collect an Individual Assessment against an Owner to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of the Governing Documents, including interest and reasonable attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

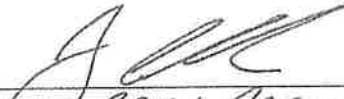
Section 15.17. **Reimbursement of Expenses.** Except as otherwise expressly stated in this Declaration or the other Governing Documents, whenever a sum is due and payable by an Owner to the Association, Architectural Control Committee or Declarant such sum shall be paid within 30 days of an Owner's receipt of notice of such payment. If an Owner fails to make such payment within such 30 day time period, such outstanding amount shall accrue interest at the Past Due Rate. Additionally, such outstanding payment is subject to the rights of the Association contained in Section 6.4 of this Declaration.

*[Remainder of Page Intentionally Left Blank – Signature Page to Follow]*

IN WITNESS WHEREOF, Declarant has duly executed this Declaration on the day and year first above written.

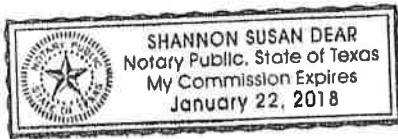
**DECLARANT:**

MC 288, LLC,  
a Delaware limited liability company

By:   
Name: BRIAN CARLOCK  
Title: SVP

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

This instrument was acknowledged before me on June 17, 2015, by Brian Carlock  
SVP of MC 288, LLC, a Delaware limited liability company, on behalf of said limited liability company.



Shannon

Notary Public, State of Texas

List of Exhibits:

Exhibit A - Legal Description of the Property

Exhibit B - MUD Notice to Purchasers

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Revised: October 15, 2014  
February 17, 2014  
Job No. 2149-4101P-310

DESCRIPTION OF  
19.155 ACRES  
POMONA SECTION 1

Being 19.155 acres of land located in the A.C.H. & B.R.R. Co. Survey, Section 89, Abstract 417, Brazoria County, Texas, being a portion of Lots 11, 21, 22, 23, 32, and 33 of said Section 89, of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 98, Plat Records of Brazoria County, Texas (B.C.P.R.), being a portion of that certain called 971.956 acre (tract described as Part One) conveyed to MC 288, LLC. by an instrument of record under File No. 2013052984, in the Official Public Records of said Brazoria County, Texas (B.C.O.P.R.), said 19.155 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone, NAD 83 (1993 adjustment));

BEGINNING at a 5/8-inch iron rod with cap stamped "LJA ENG" found for a northerly exterior corner of said 971.956 acre tract, same being on the north line of said Lot 32, and on the west line of that certain called 1.5356 acre tract conveyed to Brazoria County Texas by instrument of record under File Number 2008043735, B.C.O.R.;

Thence, with the common line of said 971.956 and 1.5356 acre tracts the following two (2) courses:

1. South 30° 32' 59" West, 236.02 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" found for corner;
2. South 42° 43' 00" East, 4.47 feet to a point for corner;

Thence, South 40° 04' 24" West, departing said common line, 176.39 feet to a point for corner, the beginning of a curve;

Thence, 1,508.32 feet along the arc of a tangent curve to the right, having a radius of 740.00 feet, a central angle of 116° 47' 05", and a chord which bears North 81° 32' 04" West, 1,260.45 feet to a point for corner;

Thence, North 23° 08' 32" West, 212.66 feet to a point for corner, the beginning of a curve;

19.155 acres

Revised: October 15, 2014  
February 17, 2014  
Job No. 2149-4101P-310

Thence, 263.99 feet along the arc of a tangent curve to the left, having a radius of 1,575.00 feet, a central angle of  $09^{\circ} 36' 13''$ , and a chord which bears North  $27^{\circ} 56' 38''$  West, 263.68 feet to a point for corner, the beginning of a reverse curve;

Thence, 38.49 feet along the arc of a tangent curve to the right, having a radius of 25.00 feet, a central angle of  $88^{\circ} 12' 33''$ , and a chord which bears North  $11^{\circ} 21' 32''$  East, 34.80 feet to a point for corner;

Thence, North  $55^{\circ} 27' 48''$  East, 44.73 feet to a point for corner, the beginning of a curve;

Thence, 150.06 feet along the arc of a tangent curve to the right, having a radius of 275.00 feet, a central angle of  $31^{\circ} 15' 56''$ , and a chord which bears North  $71^{\circ} 05' 46''$  East, 148.21 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" found for corner, and being on the northerly line of the aforementioned 971.956 acre tract;

Thence, North  $86^{\circ} 43' 45''$  East, along said northerly line, 273.41 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" previously set for corner;

Thence, South  $03^{\circ} 12' 16''$  East, departing said northerly line, 310.00 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" found for corner;

Thence, North  $86^{\circ} 43' 45''$  East, 320.00 feet to a 5/8-inch iron rod with cap stamped "LJA ENG" found for corner, and being on an easterly line of said 971.956 acre tract;

Thence with the easterly and northerly line of said 971.956 acre tract, the following (2) two courses:

1. South  $03^{\circ} 12' 16''$  East, 155.01 feet to a point for corner;
2. North  $86^{\circ} 43' 43''$  East, 883.43 feet to the POINT OF BEGINNING and containing 19.155 acres of land.

LJA Engineering, Inc.

Revised: October 15, 2014  
April 3, 2014  
Job No. 2149-4102P-401

DESCRIPTION OF  
31.819 ACRES  
POMONA SECTION 2

Being 31.819 acres of land located in the H.T. & B.R.R. Co. Survey, Section 88, a.k.a. R.B. Lyle Survey, Abstract 540, and the A.C.H. & B.R.R. Co. Survey, Section 89, Abstract 417, Brazoria County, Texas, being a portion of Lots 7, 8, 17, 18, 19, and 20 of Section 88, and Lot 11 of Section 89 of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 98, Plat Records of said Brazoria County, Texas (B.C.P.R.), being a portion of that certain called 971.956 acre tract (described as Part One) conveyed to MC 288, LLC. by an instrument of record under File No. 2013052984, in the Official Public Records of said Brazoria County, Texas (B.C.O.P.R.), said 31.819 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone, NAD 83 (1993 adjustment));

COMMENCING at a 5/8-inch iron rod with cap found for an interior corner of said 971.956 acre tract, same being on the east line of said Lot 11;

Thence, North  $03^{\circ} 12' 16''$  West, along an east line of said 971.956 acre tract, 61.51 feet to the POINT OF BEGINNING of the herein described tract;

Thence, departing said east line, 115.83 feet along the arc of a non-tangent curve to the left, having a radius of 335.00 feet, a central angle of  $19^{\circ} 48' 41''$ , and a chord which bears South  $65^{\circ} 22' 09''$  West, 115.26 feet to a point for corner;

Thence, South  $55^{\circ} 27' 48''$  West, 45.08 feet to a point for corner, the beginning of a curve;

Thence, 38.33 feet along the arc of a tangent curve to the right, having a radius of 25.00 feet, a central angle of  $87^{\circ} 51' 03''$ , and a chord which bears North  $80^{\circ} 36' 40''$  West, 34.69 feet to a point for corner, the beginning of a reverse curve;

31.819 acres

Revised: October 15, 2014  
April 3, 2014  
Job No. 2149-4102P-401

Thence, 850.12 feet along the arc of a tangent curve to the left, having a radius of 1,575.00 feet, a central angle of  $30^{\circ} 55' 34''$ , and a chord which bears North  $52^{\circ} 08' 55''$  West, 839.84 feet to a point for corner, the beginning of a curve;

Thence, 37.54 feet along the arc of a non-tangent curve to the left, having a radius of 25.00 feet, a central angle of  $86^{\circ} 02' 12''$ , and a chord which bears North  $69^{\circ} 22' 12''$  East, 34.11 feet to a point for corner;

Thence, North  $26^{\circ} 21' 05''$  East, 44.75 feet to a point for corner, the beginning of a curve;

Thence, 34.76 feet along the arc of a tangent curve to the left, having a radius of 25.00 feet, a central angle of  $79^{\circ} 39' 36''$ , and a chord which bears North  $13^{\circ} 28' 43''$  West, 32.03 feet to a point for corner;

Thence, North  $36^{\circ} 41' 29''$  East, 60.00 feet to a point for corner, the beginning of a curve;

Thence, 44.07 feet along the arc of a non-tangent curve to the left, having a radius of 305.00 feet, a central angle of  $08^{\circ} 16' 42''$ , and a chord which bears South  $57^{\circ} 26' 52''$  East, 44.03 feet to a point for corner;

Thence, North  $28^{\circ} 24' 47''$  East, 130.00 feet to a point for corner;

Thence, North  $50^{\circ} 42' 05''$  West, 66.10 feet to a point for corner;

Thence, North  $28^{\circ} 55' 49''$  West, 66.10 feet to a point for corner;

Thence, North  $07^{\circ} 09' 33''$  West, 66.10 feet to a point for corner;

Thence, North  $10^{\circ} 27' 35''$  East, 72.19 feet to a point for corner;

Thence, North  $16^{\circ} 56' 15''$  East, 149.31 feet to a point for corner;

31.819 acres

Revised: October 15, 2014  
April 3, 2014  
Job No. 2149-4102P-401

Thence, North 01° 05' 16" East, 125.91 feet to a point for corner;

Thence, North 03° 46' 07" West, 127.90 feet to a point for corner;

Thence, North 00° 53' 25" West, 75.00 feet to a point for corner;

Thence, North 00° 45' 44" East, 73.77 feet to a point for corner;

Thence, North 04° 40' 07" East, 83.22 feet to a point for corner;

Thence, North 81° 51' 19" West, 214.31 feet to a point for corner, the beginning of a curve;

Thence, 38.30 feet along the arc of a non-tangent curve to the right, having a radius of 25.00 feet, a central angle of 87° 46' 07", and a chord which bears South 37° 58' 16" East, 34.66 feet to a point for corner, the beginning of a reverse curve;

Thence, 96.26 feet along the arc of a tangent curve to the left, having a radius of 1,340.00 feet, a central angle of 04° 06' 58", and a chord which bears South 03° 51' 19" West, 96.24 feet to a point for corner;

Thence, North 81° 51' 19" West, 275.30 feet to a point for corner;

Thence, South 86° 06' 16" West, 131.73 feet to a point for corner;

Thence, South 79° 18' 29" West, 125.90 feet to a point for corner;

Thence, North 87° 32' 45" West, 59.13 feet to a point for corner;

Thence, North 41° 04' 15" West, 20.66 feet to a point for corner;

Thence, North 81° 30' 00" West, 21.21 feet to a point for corner, the beginning of a curve;



31.819 acres

Revised: October 15, 2014  
April 3, 2014  
Job No. 2149-4102P-401

Thence, 470.58 feet along the arc of a non-tangent curve to the left, having a radius of 810.00 feet, a central angle of  $33^{\circ} 17' 12''$ , and a chord which bears North  $08^{\circ} 08' 36''$  West, 463.99 feet to a point for corner, said point being on the northerly line of the aforementioned 971.956 acre tract;

Thence, along the northerly and easterly lines of said 971.956 acre tract the following two (2) courses:

1. South  $81^{\circ} 51' 19''$  East, 1497.66 feet to a point for corner;
2. South  $03^{\circ} 12' 16''$  East, 1718.52 feet to the POINT OF BEGINNING and containing 31.819 acres of land.

Corners were not set at the client's request.

LJA Engineering, Inc.

April 3, 2014  
Job No. 2149-4103P-401

DESCRIPTION OF  
19.884 ACRES  
POMONA SECTION 3

Being 19.884 acres of land located in the H.T. & B.R.R. Co. Survey, Section 88, a.k.a. R.B. Lyle Survey, Abstract 540, Brazoria County, Texas, being a portion of Lots 8, 9, 10, 18, 19, and 20 of Section 88, of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 98, Plat Records of said Brazoria County, Texas (B.C.P.R.), being a portion of that certain called 971.956 acre tract (described as Part One) conveyed to MC 288, LLC. by an instrument of record under File No. 2013052984, in the Official Public Records of said Brazoria County, Texas (B.C.O.P.R.), said 19.884 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone, NAD 83 (1993 adjustment));

COMMENCING at the most northerly northeast corner of said 971.956 acre tract, same being on the common line of Lots 18 and 28 of said Section 88;

Thence, North 81° 51' 19" West, with the northerly line of said 971.956 acre tract, 566.41 feet to a point;

Thence, South 08° 08' 41" West, departing said northerly line, 265.00 feet to the POINT OF BEGINNING of the herein described tract;

Thence, South 04° 40' 07" West, 83.22 feet to a point for corner;

Thence, South 00° 45' 44" West, 73.77 feet to a point for corner;

Thence, South 00° 53' 25" East, 75.00 feet to a point for corner;

Thence, South 03° 46' 07" East, 127.90 feet to a point for corner;

Thence, South 01° 05' 16" West, 125.91 feet to a point for corner;

19.884 Acres

April 3, 2014  
Job No. 2149-4103P-401

Thence, South 16° 56' 15" West, 149.31 feet to a point for corner;

Thence, South 10° 27' 35" West, 72.19 feet to a point for corner;

Thence, South 07° 09' 33" East, 66.10 feet to a point for corner;

Thence, South 28° 55' 49" East, 66.10 feet to a point for corner;

Thence, South 50° 42' 05" East, 66.10 feet to a point for corner;

Thence, South 28° 24' 47" West, 130.00 feet to a point for corner, the beginning of a curve;

Thence, 44.07 feet along the arc of a non-tangent curve to the right, having a radius of 305.00 feet, a central angle of 08° 16' 42", and a chord which bears North 57° 26' 52" West, 44.03 feet to a point for corner;

Thence, South 36° 41' 29" West, 60.00 feet to a point for corner, the beginning of a curve;

Thence, 34.76 feet along the arc of a non-tangent curve to the right, having a radius of 25.00 feet, a central angle of 79° 39' 36", and a chord which bears South 13° 28' 43" East, 32.03 feet to a point for corner;

Thence, South 26° 21' 05" West, 44.75 feet to a point for corner, the beginning of a curve;

Thence, 37.54 feet along the arc of a tangent curve to the right, having a radius of 25.00 feet, a central angle of 86° 02' 12", and a chord which bears South 69° 22' 12" West, 34.11 feet to a point for corner, the beginning of a reverse curve;

Thence, 452.47 feet along the arc of a tangent curve to the left, having a radius of 1,575.00 feet, a central angle of 16° 27' 37", and a chord which bears North 75° 50' 30" West, 450.92 feet to a point for corner;

Thence, North 84° 04' 19" West, 134.53 feet to a point for corner, the beginning of a curve;

19.884 Acres

April 3, 2014  
Job No. 2149-4103P-401

Thence, 315.35 feet along the arc of a tangent curve to the right, having a radius of 1,440.00 feet, a central angle of  $12^{\circ} 32' 51''$ , and a chord which bears North  $77^{\circ} 47' 54''$  West, 314.72 feet to a point for corner, the beginning of a compound curve;

Thence, 74.58 feet along the arc of a tangent curve to the right, having a radius of 45.00 feet, a central angle of  $94^{\circ} 57' 44''$ , and a chord which bears North  $24^{\circ} 02' 36''$  West, 66.33 feet to a point for corner, the beginning of a reverse curve;

Thence, 265.46 feet along the arc of a tangent curve to the left, having a radius of 2,060.00 feet, a central angle of  $07^{\circ} 23' 00''$ , and a chord which bears North  $19^{\circ} 44' 45''$  East, 265.28 feet to a point for corner;

Thence, North  $16^{\circ} 03' 15''$  East, 432.93 feet to a point for corner, the beginning of a curve;

Thence, 106.80 feet along the arc of a tangent curve to the left, having a radius of 810.00 feet, a central angle of  $07^{\circ} 33' 16''$ , and a chord which bears North  $12^{\circ} 16' 37''$  East, 106.72 feet to a point for corner;

Thence, South  $81^{\circ} 30' 00''$  East, 21.21 feet to a point for corner;

Thence, South  $41^{\circ} 04' 15''$  East, 20.66 feet to a point for corner;

Thence, South  $87^{\circ} 32' 45''$  East, 59.13 feet to a point for corner;

Thence, North  $79^{\circ} 18' 29''$  East, 125.90 feet to a point for corner;

Thence, North  $86^{\circ} 06' 16''$  East, 131.73 feet to a point for corner;

Thence, South  $81^{\circ} 51' 19''$  East, 275.30 feet to a point for corner, the beginning of a curve;

19.884 Acres

April 3, 2014  
Job No. 2149-4103P-401

Thence, 96.26 feet along the arc of a non-tangent curve to the right, having a radius of 1,340.00 feet, a central angle of  $04^{\circ} 06' 58''$ , and a chord which bears North  $03^{\circ} 51' 19''$  East, 96.24 feet to a point for corner, the beginning of a reverse curve;

Thence, 38.30 feet along the arc of a tangent curve to the left, having a radius of 25.00 feet, a central angle of  $87^{\circ} 46' 07''$ , and a chord which bears North  $37^{\circ} 58' 16''$  West, 34.66 feet to a point for corner on the northerly line of the aforementioned 971.956 acre tract;

Thence, South  $81^{\circ} 51' 19''$  East, with said northerly line, 214.31 feet to the POINT OF BEGINNING and containing 19.884 acres of land.

LJA Engineering, Inc.

Revised: October 17, 2014  
April 3, 2014  
Job No. 2149-4104P-310

DESCRIPTION OF  
34.063 ACRES  
POMONA SECTION 4

Being 34.063 acres of land located in the H.T. & B.R.R. Co. Survey, Section 79, Abstract 298, and the H.T. & B.R.R. Co. Survey, Section 88, a.k.a. R.B. Lyle Survey, Abstract 540, Brazoria County, Texas, being a portion of Lots 46, 47, 48, 49, 57, 58, and 59 of Section 79, and a portion of Lots 7, 8, and 9 of Section 88, of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 98, Plat Records of said Brazoria County, Texas (B.C.P.R.), being a portion of that certain called 971.956 acre tract (described as Part One) conveyed to MC 288, LLC. by an instrument of record under File No. 2013052984, in the Official Public Records of said Brazoria County, Texas (B.C.O.P.R.), said 34.063 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone, NAD 83 (1993 adjustment));

COMMENCING at the most northerly northeast corner of said 971.956 acre tract, same being on the common line of Lots 18 and 28 of said Section 88;

Thence, North  $81^{\circ} 51' 19''$  West, with the northerly line of said 971.956 acre tract, 1,646.29 feet to the POINT OF BEGINNING of the herein described tract;

Thence, departing said northerly line, 572.82 feet along the arc of a curve to the right, having a radius of 690.00 feet, a central angle of  $47^{\circ} 33' 57''$ , and a chord which bears South  $07^{\circ} 43' 43''$  East, 556.51 feet to a point for corner;

Thence, South  $16^{\circ} 03' 15''$  West, 364.37 feet to a point for corner, same being the northeast corner of that certain called 12.947 acre tract conveyed to Alvin Independent School District by an instrument of record under Document Number 2014042396, B.C.O.P.R.;

Thence, with the northerly and westerly lines of said 12.947 acre tract the following twelve (12) courses:

34.063 Acres

Revised: October 17, 2014  
April 3, 2014  
Job No. 2149-4104P-310

1. North  $71^{\circ} 58' 14''$  West, 80.72 feet to a point for corner;
  2. South  $81^{\circ} 43' 24''$  West, 24.84 feet to a point for corner;
  3. North  $53^{\circ} 07' 07''$  West, 107.78 feet to a point for corner;
  4. North  $34^{\circ} 27' 21''$  West, 20.00 feet to a point for corner, the beginning of a curve;
  5. 327.40 feet along the arc of a non-tangent curve to the right, having a radius of 355.00 feet, a central angle of  $52^{\circ} 50' 31''$ , and a chord which bears South  $81^{\circ} 57' 54''$  West, 315.92 feet to a point for corner;
  6. North  $71^{\circ} 36' 50''$  West, 132.95 feet to a point for corner, the beginning of a curve;
  7. 211.51 feet along the arc of a tangent curve to the left, having a radius of 1,170.00 feet, a central angle of  $10^{\circ} 21' 28''$ , and a chord which bears North  $76^{\circ} 47' 34''$  West, 211.22 feet to a point for corner;
  8. South  $07^{\circ} 51' 11''$  West, 182.04 feet to a point for corner;
  9. South  $25^{\circ} 36' 01''$  West, 180.63 feet to a point for corner;
  10. South  $50^{\circ} 26' 07''$  West, 101.83 feet to a point for corner;
  11. North  $83^{\circ} 53' 58''$  West, 20.97 feet to a point for corner;
  12. South  $72^{\circ} 08' 21''$  West, 34.08 feet to a point for corner;
- Thence, North  $22^{\circ} 37' 15''$  West, 33.72 feet to a point for corner, the beginning of a curve;

34.063 Acres

Revised: October 17, 2014  
April 3, 2014  
Job No. 2149-4104P-310

Thence, 228.17 feet along the arc of a tangent curve to the left, having a radius of 405.00 feet, a central angle of  $32^{\circ} 16' 48''$ , and a chord which bears North  $38^{\circ} 45' 39''$  West, 225.17 feet to a point for corner;

Thence, North  $54^{\circ} 54' 03''$  West, 348.96 feet to a point for corner;

Thence, North  $35^{\circ} 05' 57''$  East, 12.25 feet to a point for corner;

Thence, North  $28^{\circ} 57' 19''$  East, 100.91 feet to a point for corner;

Thence, North  $17^{\circ} 16' 17''$  East, 108.38 feet to a point for corner;

Thence, North  $07^{\circ} 51' 11''$  East, 760.71 feet to a point for corner on the northerly line of the aforementioned 971.956 acre tract;

Thence, South  $81^{\circ} 51' 19''$  East, with said northerly line, 1,365.32 feet to the POINT OF BEGINNING and containing 34.063 acres of land.

Corners were not set at the client's request.

. LJA Engineering, Inc.



August 20, 2014  
Job No. 2149-4201-310

DESCRIPTION OF  
5.789 ACRES  
POMONA RECREATION CENTER

Being 5.789 acres of land located in the H.T. & B.R.R. Co. Survey, Section 79, Abstract 298, and the H.T. & B.R.R. Co. Survey, Section 88, a.k.a. R.B. Lyle Survey, Abstract 540, Brazoria County, Texas, being a portion of Lot 60 of Section 79, a portion of Lot 10 of Section 88, of the Allison Richey Gulf Coast Home Company Part of Suburban Gardens, a subdivision of record in Volume 2, Page 98, Plat Records of said Brazoria County, Texas (B.C.P.R.), and a portion of that certain called 971.956 acre tract (described as Part One) conveyed to MC 288, LLC. by an instrument of record under File No. 2013052984, in the Official Public Records of said Brazoria County, Texas (B.C.O.P.R.), said 5.789 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas Coordinate System, South Central Zone, NAD 83 (1993 adjustment));

COMMENCING at the most northerly northeast corner of said 971.956 acre tract, same being on the common line of Lots 18 and 28 of said Section 88;

Thence, North  $81^{\circ} 51' 19''$  West, with the northerly line of said 971.956 acre tract, 793.19 feet to a point;

Thence, South  $08^{\circ} 08' 41''$  West, departing said northerly line, 1,440.29 feet to the POINT OF BEGINNING of the herein described tract;

Thence, South  $14^{\circ} 04' 31''$  West, 88.52 feet to a point for corner, the beginning of a curve;

Thence, 37.16 feet along the arc of a tangent curve to the right, having a radius of 100.00 feet, a central angle of  $21^{\circ} 17' 33''$ , and a chord which bears South  $24^{\circ} 43' 18''$  West, 36.95 feet to a point for corner, the beginning of a curve;

5.789 Acres

August 20, 2014  
Job No. 2149-4201-310

Thence, 72.67 feet along the arc of a non-tangent curve to the left, having a radius of 700.00 feet, a central angle of  $05^{\circ} 56' 54''$ , and a chord which bears South  $81^{\circ} 53' 08''$  West, 72.64 feet to a point for corner;

Thence, South  $78^{\circ} 54' 41''$  West, 381.26 feet to a point for corner, the beginning of a curve;

Thence, 463.19 feet along the arc of a tangent curve to the left, having a radius of 1,300.00 feet, a central angle of  $20^{\circ} 24' 52''$ , and a chord which bears South  $68^{\circ} 42' 15''$  West, 460.74 feet to a point for corner;

Thence, South  $58^{\circ} 29' 49''$  West, 103.99 feet to a point for corner, the beginning of a curve;

Thence, 18.68 feet along the arc of a non-tangent curve to the right, having a radius of 100.00 feet, a central angle of  $10^{\circ} 42' 04''$ , and a chord which bears North  $49^{\circ} 06' 07''$  West, 18.65 feet to a point for corner;

Thence, North  $43^{\circ} 45' 05''$  West, 80.59 feet to a point for corner, the beginning of a curve;

Thence, 547.81 feet along the arc of a non-tangent curve to the left, having a radius of 2,060.00 feet, a central angle of  $15^{\circ} 14' 11''$ , and a chord which bears North  $35^{\circ} 02' 38''$  East, 546.20 feet to a point for corner, the beginning of a reverse curve;

Thence, 92.30 feet along the arc of a tangent curve to the right, having a radius of 65.00 feet, a central angle of  $81^{\circ} 21' 25''$ , and a chord which bears North  $68^{\circ} 06' 14''$  East, 84.74 feet to a point for corner, the beginning of a reverse curve;

5.789 Acres

August 20, 2014  
Job No. 2149-4201-310

Thence, 349.99 feet along the arc of a tangent curve to the left, having a radius of 1,560.00 feet, a central angle of  $12^{\circ} 51' 16''$ , and a chord which bears South  $77^{\circ} 38' 41''$  East, 349.25 feet to a point for corner;

Thence, South  $84^{\circ} 04' 19''$  East, 134.53 feet to a point for corner, the beginning of a curve;

Thence, 206.90 feet along the arc of a tangent curve to the right, having a radius of 1,455.00 feet, a central angle of  $08^{\circ} 08' 50''$ , and a chord which bears South  $79^{\circ} 59' 54''$  East, 206.72 feet to the POINT OF BEGINNING and containing 5.789 acres of land.

Corner monuments were not set at the client's request.

LJA Engineering, Inc.

**EXHIBIT "B"**

**MUNICIPAL UTILITY DISTRICT NOTICE:  
(NOTICE PURSUANT TO TEX. WATER CODE ANN. §49.452.)  
NOTICE TO PURCHASERS**

The real property, described below, that you are about to purchase is located in the Brazoria County Municipal Utility District No. 39 (the "District"). The District has taxing authority separate from any other taxing authority and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the District has not yet levied taxes on real property located within the District. However, the most recent projected rate of tax, as of this date, is \$0.75 on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and which have been or may, at this date, be issued is \$90,800,000, and the aggregate initial principal amounts of all bonds issued for one or more of the specified facilities and roads of the District and payable in whole or in part from property taxes is \$0.

The District is located in whole or in part in the extraterritorial jurisdiction of the City of Manvel, Texas. By law, a district located in the extraterritorial jurisdiction of a municipality may be annexed without the consent of the district or the voters of the district if the municipality complies with the procedures and requirements of Chapter 43, Texas Local Government Code, as amended. When a district is annexed, the district is dissolved.

The District has entered into a strategic partnership agreement with the City of Manvel (the "Agreement"). Pursuant to the Agreement, the City of Manvel may annex for "limited purposes" certain commercial properties in the District for the limited purpose of applying certain City planning, zoning, health and safety ordinances.

The purpose of this District is to provide water sewer, drainage, or flood control and park facilities within the District through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the District.

The legal description of the property which you are acquiring is described in Exhibit "A" attached hereto and made a part hereof.

[SIGNATURE PAGES FOLLOW]

SELLER:

\_\_\_\_\_

THE STATE OF TEXAS §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, \_\_\_\_\_, by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing notice at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

PURCHASER:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS §

§

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

CONSENT AND SUBORDINATION

The undersigned, Texas Capital Bank, National Association, a national banking association ("Lienholder"), hereby consents to the filing of the Declaration of Covenants, Conditions and Restrictions for Pomona Residential Community to which this Consent and Subordination is attached to and made a part of (the "Declaration") and, subject to the terms and provisions of this Consent and Subordination, subordinates the lien and security interests of that certain Amended and Restated Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement dated as of February 11, 2015, recorded under Document No. 2015006017 of the Real Property Records of Brazoria County, Texas as may be modified from time to time (as modified, the "Deed of Trust"), to the Declaration; provided, however, this Consent and Subordination: (i) shall not be construed or operate as a consent and subordination to any amendment to or modification of the Declaration and shall not be construed or operate as a release of the lien and security interests of the Deed of Trust, but shall instead confirm that the lien and security interests of the Deed of Trust shall hereafter be upon and against all applicable portions of the Property subject to the Declaration and made part of the Deed of Trust and (ii) shall not modify or amend the terms and provisions of the Deed of Trust.

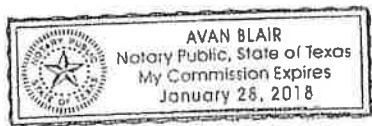
LIENHOLDER:

TEXAS CAPITAL BANK, NATIONAL ASSOCIATION,  
national banking association

By: Margaret Noles  
Name: Margaret Noles  
Title: Senior Vice President

STATE OF TEXAS §  
  §  
COUNTY OF Harris §

This instrument was acknowledged before me on this 15<sup>th</sup> day of June, 2015, by Margaret Noles Senior Vice president of Texas Capital Bank, National Association, on behalf of said bank.



Avon Blair  
Notary Public - State of Texas

## FILED and RECORDED

Instrument Number: 2015027167

Filing and Recording Date: 06/18/2015 02:24:07 PM Pages: 56 Recording Fee: \$242.00

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Brazoria County, Texas.



A handwritten signature in cursive script, appearing to read "Joyce Hudman".

---

Joyce Hudman, County Clerk  
Brazoria County, Texas

ANY PROVISION CONTAINED IN ANY DOCUMENT WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE REAL PROPERTY DESCRIBED THEREIN BECAUSE OF RACE OR COLOR IS INVALID UNDER FEDERAL LAW AND IS UNENFORCEABLE.

***DO NOT DESTROY - Warning, this document is part of the Official Public Record.***

cclerk-belinda



**BYLAWS**  
**OF**  
**POMONA RESIDENTIAL COMMUNITY ASSOCIATION, INC.**

**BYLAWS  
OF  
POMONA RESIDENTIAL COMMUNITY ASSOCIATION, INC.**

**ARTICLE I  
Name and Address**

**Section 1.1 Name.** The name of the Association shall be Pomona Residential Community Association, Inc.

**Section 1.2 Address.** The office of the Association shall be at the place to be designated by the Board of Directors, subject to change upon notice to the Members.

**Section 1.3 Registered Agent.** The Association shall have and continuously maintain in the State of Texas a registered agent whose office is identical with such registered office, as required by the TNCL. The registered office may be, but need not be, identical to the principal office in the State of Texas, and the registered office may be changed from time to time by the Board of Directors.

**Section 1.4 Declarant Control Period.** Many provisions set forth in these Bylaws do not apply to Declarant, as Class B Member during the Declarant Control Period. Those certain rights and reservations of Declarant during the Declarant Control Period not otherwise stated herein are set forth in the Declaration.

**ARTICLE II  
Applicability**

These Bylaws shall be applicable to the Association. In accordance with the terms of the Declaration, all Members and any other persons permitted to use the Common Areas and any other portion of the Property as set forth in the Declaration shall be subject to these Bylaws, the Regulations, and any other policies, rules and regulations adopted from time to time by the Board of Directors. Ownership of a Lot shall be conclusively deemed to mean that the Owner has accepted, ratified and will comply with the Governing Documents.

**ARTICLE III  
Purpose**

The purpose of the Association is to protect and enhance the value of the Property, including, without limitation, providing for the management, maintenance, repair and replacement of the Common Areas and Improvements thereon. The Association does not contemplate pecuniary gain or profit to its Members as a result of membership in the Association.

## ARTICLE IV Definitions and Interpretation

**Section 4.1 Definitions.** The following terms shall have the meanings set forth below: Any capitalized term not expressly defined herein shall have the same meaning as defined in the Declaration.

"Act." Chapter 209 of the Texas Property Code, as amended from time to time.

"Assessments." Regular Assessments, Special Assessments and Individual Assessments owing to the Association by an Owner or levied against any Lot by the Association as more particularly described in the Declaration.

"Association." Pomona Residential Community Association, Inc., a Texas nonprofit corporation.

"Board of Directors." Those individuals serving as Directors pursuant to Article VII of these Bylaws and their successors as duly appointed or elected, as applicable, and qualified from time to time.

"Certificate of Formation." The Certificate of Formation for the Association filed with the Secretary of State of Texas, as may be amended from time to time.

"Code." The Internal Revenue Code of 1986, as amended.

"Declaration." The Declaration of Covenants, Conditions and Restrictions for Pomona Residential Community filed of record as Document No. 2015027167 in the Real Property Records of the County, and all recorded amendments and supplements thereto.

"Director." A member of the Board of Directors.

"GAAP." Generally accepted accounting principles, as promulgated by the Financial Accounting Standards Board.

"Minute Book." The minute book of the Association, which shall contain the information required to be retained by the Association pursuant to the Records Policy and any other Governing Document, as may be applicable.

"President." The officer of the Association having the duties described in Section 8.4 of these Bylaws.

"Proceeding." Any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative, any appeal in such an action, suit, or proceeding and any inquiry or investigation that could lead to such an action, suit or proceeding.

"Secretary." The officer of the Association having the duties described in Section 8.6 of these Bylaws.

"TNCL." The Texas Nonprofit Corporation Law, as amended from time to time.

"Treasurer." The officer of the Association having the duties described in Section 8.7 of these Bylaws.

"Vice President." The officer of the Association having the duties described in Section 8.5 of these Bylaws.

**Section 4.2 Interpretation.** In the event of a conflict of interpretation between the provisions set forth in these Bylaws and the Declaration, the Declaration shall govern. If the Act, Code or TNCL are hereafter amended or changed, both the Declaration and these Bylaws shall be interpreted in a manner which conforms to the provisions of the Act, Code or the TNCL with respect to nonprofit entities and associations, it being the intention to preserve the status of the Association as a *bona fide* nonprofit entity.

## ARTICLE V Member

**Section 5.1 Membership.** Each Owner shall be a Member of the Association. The classes of the Members and the voting rights and procedures are set forth in the Declaration. In cases where more than one Person owns a fee interest in a Lot, all such Persons shall arrange among themselves for one of their number to exercise the voting rights attributable to such Lot. If only one of the Persons which is a fee owner of such Lot is present at a meeting of the Members of the Master Association, that Person may cast that Lot's votes. If more than one of the Persons which is a fee owner of such Lot is present and after one such Person casts such Lot's vote, another Person which is a fee owner of such Lot which is present makes prompt protest to the Person presiding over the meeting, such vote shall not be counted unless all such Persons can unanimously agree on such vote by the end of the meeting. Each Person owning a portion of the fee interest in a Lot may vote or register protest to the casting of votes by the other Persons owning portions of the fee interest in the same Lot through a proxy duly executed by such Person.

**Section 5.2 Quorum; Act of Members.** Quorum requirements with respect to any matter on which Members are entitled to vote, and affirmative votes required for Member acts, shall be at least ten percent of the aggregate votes entitled to be cast by all Members represented at a meeting of the Members in person or by a legitimate proxy in a form approved by the Board of Directors shall (a "Quorum").

**Section 5.3 Membership List.** The Secretary shall be responsible for maintaining, at the principal office of the Association, an updated list of Members and their last known addresses as provided by each Member in such form and containing such other information as required by the Act and TNCL. The list shall be open to inspection by all Members and other persons lawfully entitled to inspect the list during regular business hours up to the date of the annual or special meeting. The Secretary, or its agent who has been delegated such duties pursuant to Section 8.6 of these Bylaws, shall also keep current and retain custody of the Minute Book.

**Section 5.4 Proxies.** Votes may be cast by written proxy or by ballot. Written proxies may be submitted by United States mail, delivered to the office of the Association, delivered directly to the Secretary or delivered in such other manner as directed by the Association including but not limited to email delivery to the email address specified by the Association for submission of proxies. A proxy vote shall be defined as a written vote submitted by a Member which either states the specific vote of the Member with respect to the issues, resolutions or election being voted on by the Members at the annual or special meeting or which is written permission for the Board of Directors or a specific Director to exercise the Member's vote as the Board of Directors or the specific Director sees fit. A proxy shall be valid for the meeting specified in the proxy or any valid continuation of such meeting. Each proxy shall

be revocable unless otherwise expressly provided therein to be irrevocable. No proxy will be valid after 11 months from the date of its execution unless otherwise provided therein. A Member may not revoke a proxy except by giving actual written notice of revocation to the person presiding over the meeting.

## **ARTICLE VI**

### **Meetings of the Members of the Association**

**Section 6.1 Place of Annual and Special Meetings.** All annual and special meetings of the Members of the Association shall be held at the principal office of the Association or at another suitable and convenient place permitted by law and fixed by the Board of Directors from time to time and designated in the notices for such meetings.

**Section 6.2 Date of Annual Meetings.** The first annual meeting of the Members of the Association shall be held within one year of its formation. Thereafter, annual meetings of the Members of the Association shall be held in a month and on a date as shall be fixed by the Board of Directors by written notice to the Members. The Members may transact any business that may properly come before the meeting.

**Section 6.3 Notice of Annual Meetings.** The Secretary shall mail notices of annual meetings to each Member directed to the most recent post office address provided to the Association by such Member, as shown on the records of the Association, by regular mail, postage prepaid. This notice shall be mailed not less than ten or more than 60 days before the date of the meeting and shall state the date, time and place of the meeting, the purpose or purposes thereof and the items on the agenda, including the specific nature of any proposed amendment or change to the Governing Documents, if applicable.

**Section 6.4 Special Meeting.** A special meeting of the Members of the Association may be called by the President, a majority of the Directors, or upon presentation to the Secretary of a petition stating the specific purpose of the special meeting, which petition has been signed by Members having not less than 20% of the aggregate votes entitled to be cast at such meeting (considering the Class A Members and Class B Member as one voting class).

**Section 6.5 Notice of Special Meetings.** The Secretary shall mail notice of any special meeting of the Members of the Association to each Member in the manner provided in Section 6.3 of these Bylaws. The notice shall state the same items required by Section 6.3 of these Bylaws for notices of annual meetings. No business shall be transacted at any special meeting except as stated in the notice thereof.

**Section 6.6 Action without Meeting by Written Ballot.** Any action which may be taken by the vote of the Members at a regular or special meeting, other than the election of Directors, may be taken without a meeting if done in compliance with relevant provisions of the Act and TNCL. If an action is taken without a meeting, the Secretary shall distribute a written ballot to every Member entitled to vote on the matter. The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Association. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the Quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the proposal at a regular or special meeting authorizing the action. Votes cast

electronically (email, facsimile or website posting) pursuant to this Section 6.6 shall constitute written and signed ballots.

**Section 6.7 Record Date.** The Board may fix in advance a date, not exceeding 50 days preceding the date of any meeting of Members, as a record date for the determination of the Members entitled to notice of, and to vote at, any such meeting, and any adjournment thereof, and in such case such Members and only such Members as shall be Members of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting and any adjournment thereof, notwithstanding any change of membership on the books of the Association after any such record date fixed as set forth above.

**Section 6.8 Administration of Affairs.** Subject to the provisions of the Governing Documents, the Board of Directors shall govern the Association.

## **ARTICLE VII The Board of Directors**

**Section 7.1 Authority; Number of Directors.** The affairs of the Association shall be governed by the Board of Directors. The initial Directors shall be three in number and shall be those Directors named in the Certificate of Formation. Subject to any applicable restrictions set forth in the Act, during the Declarant Control Period, only Directors appointed by Declarant, as Class B Member, are eligible to serve on the Board of Directors until such time that the Declarant Control Period terminates or expires pursuant to the Declaration. Directors appointed by Declarant during the Declarant Control Period may serve for a term of any length of time as determined by Declarant in its absolute and sole discretion. Notwithstanding the foregoing and prior to the expiration of the Declarant Control Period as set forth in Article V of the Declaration, one-third of the Board members must be elected by Class A Members (the "Transition Director").

Upon expiration or termination of the Declarant Control Period the Board of Directors shall be comprised of up to five directors. Pursuant to those provisions set forth in Article V of the Declaration, the Class A Members shall elect persons for the open director positions to serve as the Board of Directors. The initial Board of Directors containing up to five Directors will serve staggered terms as follows: the two Directors receiving the most votes will serve for a term of two years and until a successor is elected and the remaining one to three Directors will serve for a term of one year and until a successor is elected. Thereafter, all Directors shall serve two year terms and until a successor is elected. Members are expressly prohibited from cumulating their votes in any election for Directors of the Association.

**Section 7.2 Advisory Committee.** Declarant may, in its sole discretion and without obligation, appoint a number of Class A Members to an advisory committee (the "Declarant Advisory Committee") during the Declarant Control Period. The rights, powers, duties and obligations of the Declarant Advisory Committee members are set forth in Article V of the Declaration.

**Section 7.3 Term of Directors and Compensation.** Except as otherwise set forth in Section 7.1 of these Bylaws and the Declaration, each Director will serve a term of two years and once such term has expired, the Members shall elect a successor Director. The Directors shall serve without compensation for such service.

**Section 7.4 Appointments to and Vacancies on the Board of Directors.** If the office of any Director shall become vacant by reason of death, resignation, or disability, then the Board shall

appoint a successor within 60 days of the vacancy. The successor Director shall fill the unexpired term of the directorship being vacated. At the expiration of the term of his or her position on the Board of Directors, the successor Director shall be re-elected or his or her successor shall be elected, as applicable, in accordance with these Bylaws. Notwithstanding the foregoing, Declarant shall have the sole exclusive authority to appoint Directors and fill vacancies on the Board of Directors prior to expiration or termination of the Declarant Control Period subject to transition of the Board set forth in Article V of the Declaration and with regard to the Transition Director described in Section 7.1 of these Bylaws.

**Section 7.5 Removal of Directors by Members.** Directors may be immediately ineligible to serve on the Board and considered automatically removed if the Board is presented with written documented evidence obtained through a database or record maintained by a governmental law enforcement authority that shows a Board member has been convicted of a felony or crime involving moral turpitude. Upon removal of a Director pursuant to this Section 7.5, a successor Director shall be duly appointed or elected, as applicable and in accordance with these Bylaws.

**Section 7.6 Organizational Meeting of the Board of Directors.** No later than 20 days following each of (a) the filing of the Certificate of Formation; and (b) each annual meeting of the Members of the Association, the Board of Directors shall hold a regular meeting for the purposes of organization, election of officers and transaction of other business.

**Section 7.7 Open Meetings.** Upon expiration or termination of the Declarant Control Period, regular and special meetings of the Board shall be open to Class A Members, and Class A Members shall be notified of such meetings prior to the occurrence thereof in accordance with the Act. Notwithstanding the foregoing, the Board shall have the right to adjourn any meeting and reconvene in a closed executive session to consider certain actions and matters that are confidential or sensitive in nature in accordance with the Act. Any decisions made in such executive sessions must be summarized orally and generally documented in the minutes without breaching the privacy of any individual Owners or disclosing confidential information, but including a general explanation of any expenditures approved during the executive session. The Board may also meet without providing notice to Members in certain instances where the Board is to consider routine and administrative matters or an unforeseen emergency or urgent necessity arises that requires the Board's immediate action. Any actions taken at a meeting where notice was not provided to Members must be summarized orally and documented in the minutes of the next regular or special meeting of the Board. All Board meetings contemplated by this Section 7.7 shall be called, noticed, conducted and documented in compliance with the Act.

**Section 7.8 Regular Board of Directors Meetings.** Regular meetings of the Board of Directors may be held at any time and place permitted by law as from time to time as may be determined by the Board of Directors. Notice of regular meetings of the Board of Directors shall be given to each Director personally; by telephone, electronic mail, or facsimile; or by United States mail, with postage prepaid, directed to him at his last known post office address, as the applicable notice information appears on the records of the Association, at least five but not more than 40 days before the date of such regular meeting. Notice of regular meetings of the Board of Directors shall be given to each Member, if required pursuant to Section 7.7 of these Bylaws or the Act.

**Section 7.9 Special Meetings of the Board of Directors.** Special meetings of the Board of Directors may be called by the President on his own accord or by the President or the Secretary upon the written request of any two Directors on three days prior notice to each Director personally, electronic mail, facsimile or by United States mail, with postage prepaid, directed to him at his last known post

office address, facsimile number or electronic mail address, as the same appears on the records of the Association. Notice of special meetings of the Board of Directors shall be given to each Member, if required pursuant to Section 7.7 of these Bylaws or the Act.

**Section 7.10 Waiver of Notice by Directors.** With respect to any meeting of the Board of Directors, whether regular or special, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to giving the required notice. All written waivers shall be filed in the Minute Book of the Association or made a part of the minutes of the meeting. Participation by a Director at any meeting of the Board of Directors shall likewise constitute a waiver by him of the required notice, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the grounds that the meeting has not been lawfully called or convened. If all Directors are present at any meeting of the Board of Directors, no notice of the meeting to Directors shall be required and any business may be transacted at the meeting except as prohibited by law or these Bylaws.

**Section 7.11 Place of Meetings.** All meetings of the Board of Directors shall be held at the principal office of the Association or at any other place or places designated at any time by a majority of the Directors. Any meeting of the Board of Directors may be held by any means of communication, including electronic, telephonic, videoconference or the internet if each person entitled to participate in the meeting consents to the meeting being held by such means and each Director may hear and be heard by or the Directors can communicate concurrently with every other Director, subject to those certain open meeting requirements set forth in Section 7.7 of these Bylaws. Subject to the open meeting requirements of the Board of Directors and the other applicable notice requirements set forth in the Act, meetings contemplated by this Section 7.11 may involve consideration of any action, including any action involving a vote on a fine, damage assessment, appeal from a denial of approval by the Architectural Control Committee, or suspension of a right of a particular Member before the Member has an opportunity to attend a meeting of the Board of Directors to present the Member's position on the issue.

**Section 7.12 Directors Quorum.** At all duly convened meetings of the Board of Directors, a majority of the number of Directors set by these Bylaws in Section 7.1 must be present to constitute a quorum for the transaction of business, except as otherwise expressly provided in these Bylaws. The vote of a majority of the Directors present at the meeting at which a Quorum is present shall be the act of the Board of Directors.

**Section 7.13 Consent in Writing.** Subject to those restrictions set forth in the Act and contemplated by Section 7.7 of these Bylaws, any action by the Board of Directors may be taken without a meeting if a written consent, stating the action to be taken, is signed by the number of Directors necessary to take that action at a meeting at which all of the Directors are present and voting. Such consent must state the date of each Director's signature and shall be kept with the association records as required by the Governing Documents. Prompt notice of the taking of an action by Directors without a meeting by less than unanimous written consent shall be given to each Director who did not consent in writing to the action. Actions authorized by consent shall be orally summarized in the next open regular or special meeting of the Board. Any action taken by such written consent shall have the same force and effect as a unanimous vote of the Directors.

**Section 7.14 Association Records.** The Board of Directors shall cause a complete record of all of its acts and the financial and corporate affairs of the Association to be kept in accordance with these Bylaws, the Records Policy, the TNCL and any other Governing Document as may be applicable (the "Association Records"). Pursuant to the Act, the Association Records shall be open to and reasonably



available for examination by the Members, or their agents, or shall be copied and provided to Members upon written request submitted in accordance with the Act. Additional information and procedure regarding retention, inspection and production of Association Records is set forth in the Records Policy.

**Section 7.15 Powers and Duties.** Subject to the Governing Documents, the Board of Directors shall have and exercise all powers and duties necessary for the proper administration of the affairs of the Association. In the performance of its duties as the governing body of the Association, subject to limitations set forth in the Declaration, the Board of Directors shall have all powers and duties set forth in the Act, TNCL, the Declaration and Governing Documents including, but not limited to, those powers and duties enumerated below. Each Director individually, and the Board of Directors, collectively shall perform the duties and powers of the Board of Directors in good faith as a fiduciary of the Association, in a manner which the Director believes to be in the best interest of the Association and with the care of a person of ordinary prudence under similar circumstances, including, but not limited to, reasonable inquiry, skill and diligence. The Board of Directors shall be prohibited from engaging in any act of "self-dealing" as such term is defined in Section 4941(d) of the Code.

(a) Duties:

(i) provide for the operation, maintenance, management, insurance, cleaning, sanitation, renewal, replacement, care and upkeep of the Common Areas and all property, real or personal, of the Association unless the duties and obligations of such other real or personal property owned by the Association have been expressly assumed by a third party in a written agreement between the Association and such third party;

(ii) determine Assessments and any other charges comprising the operating expenses and working capital of the Association, establish the amount of Assessments, as the same may increase or decrease, and assess the same against the Members in accordance with the provisions of the Declaration and these Bylaws;

(iii) levy and collect Assessments whenever the Board of Directors is of the opinion it is necessary to do so in order to meet increased operating or maintenance costs or additional capital expenses or because of emergencies subject to the limitations specified in the Declaration;

(iv) use and expend any sums collected from Assessments for the operation, maintenance, renewal, care and upkeep of the Common Areas and all property, real or personal, of the Association subject to the limitations specified in the Declaration and notwithstanding any operation, maintenance, renewal, care and upkeep of real or personal property owned by the Association expressly assumed by a third party in a written agreement between the Association and such third party;

(v) pay all taxes and assessments levied or assessed against any property that may be owned by the Association, exclusive of any taxes or assessments levied against any Member or otherwise properly chargeable to the Member;

(vi) collect delinquent Assessments against any Lot or Owner thereof, in accordance with the Act and to abate any nuisance and enforce the terms of the Declaration and the observance of the Regulations by injunction or other legal action or means which the Board of

Directors may deem necessary or appropriate subject to any notice and hearing requirements set forth in the Act;

(vii) establish operating, escrow and other accounts in the name of the Association as the Board of Directors may deem appropriate from time to time and as may be consistent with GAAP;

(viii) adopt a Budget for each fiscal year which shall contain estimates of the costs and expenses of the Association and the proposed Assessments which initial Budget and certain increases shall be approved by Owners if required in the Declaration;

(ix) cause a complete review of the books and accounts of the Association to be made at the end of each fiscal year and at any other time or times deemed necessary;

(x) maintain accounting records in accordance with GAAP; and

(xi) make rules and adopt policies to enforce compliance with the Governing Documents relative to the operation, use and occupancy of the Property, including, but not limited to, penalties and fines to be levied for violations of the Governing Documents which the Board of Directors shall adopt in accordance with the Governing Documents, and to amend the same from time to time which shall be binding on the Owners, their successors in title and assigns. A copy of the Governing Documents and copies of any amendments shall be made available to each Owner of a Lot promptly upon the adoption and recordation, as may be applicable, thereof.

(b) Powers:

(i) employ and dismiss personnel of the Association, and purchase or arrange for those services, machinery, equipment, tools, materials and supplies as, in the opinion of the Board of Directors, may from time to time be necessary for the proper operation and maintenance of the Common Areas and all real or personal property of the Association unless such powers for other real or personal property owned by the Association have been expressly assigned to a third party in a written agreement between the Association and such third party;

(ii) subject to Section 7.19 of these Bylaws, enter into contracts for professional management of the Property and the Association, at such prices and upon such terms as may be determined by the Board of Directors, to perform those duties and services which the Board of Directors may lawfully delegate;

(iii) employ or retain and receive advice from professional counsel and consultants, including, but not limited to, landscape architects, architects, engineers, planners, biologists, agriculturalists, lawyers and accountants, which the Board of Directors may deem necessary for any proper purposes of the Association and property owned by the Association, and fix the compensation for professional advice or services, including, but not limited to, those hereinbefore or hereinafter referred to in these Bylaws. The Board of Directors shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following: (A) one or more officers or employees of the Association whom the Board of Directors reasonably believes to be

reliable and competent in the matter presented; (B) counsel, public accountants or other persons as to the matters which the Board of Directors reasonably believes to be within the professional or expert competence of such person; and (C) a committee of the Board of Directors duly designated in accordance with law, as to matters within its designated authority, which committee the Board of Directors reasonably believes to merit confidence. The Board of Directors shall not be considered to be acting in good faith if it has knowledge concerning the matter in question that would cause this reliance to be unwarranted;

(iv) name as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with which the Association may enter into any insurance trust agreement or any successor to this trustee (each of which shall be referred to herein as the "Insurance Trustee"), to be given exclusive authority to negotiate losses under any policy providing property or liability insurance coverage. The Association or any Insurance Trustee or substitute Insurance Trustee designated by the Association shall have the exclusive power to act as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, execution of releases of liability and the execution of all documents and the performance of all other acts necessary to accomplish these purposes;

(v) establish depositories for the funds of the Association with the bank or banks as shall be designated from time to time by the Board of Directors and in which monies of the Association shall be deposited. Withdrawal of monies shall be only by check signed by those Persons who are authorized by the Board of Directors to sign checks on behalf of the Association;

(vi) invest monies of the Association in any investments which the Board of Directors deems to be reasonably prudent;

(vii) borrow and repay monies and give notes, mortgages or other security upon the terms which are deemed reasonable by the Board of Directors;

(viii) acquire by purchase, gift, annexation or lease, real or personal property, if, at any time in the future, the Board of Directors deems it to be proper and not inconsistent with the terms hereof to do so;

(ix) grant and reserve easements, leases, licenses or concessions where necessary or desirable for utilities, routes of ingress and egress, or for any other purpose the Board determines in the best interest of the Association, over the Common Areas and any other property of the Association and to amend the Governing Documents to be consistent therewith, if necessary;

(x) establish a form of estoppel certificate acceptable to the Association for delivery to prospective purchasers and lenders and an appropriate charge for furnishing such certificate; and

(xi) do all things incidental and necessary to the accomplishment of the foregoing and take any other action necessary to enforce compliance with the provisions set forth in the Governing Documents.

The duties and powers imposed on the Board of Directors by this Section 7.15 shall not be amended so as to reduce, eliminate or expand any duties or powers of the Board of Directors without the affirmative vote of 67% of the votes of the Members voting at the meeting called to consider such amendment.

**Section 7.16 Liability; Conduct of Directors and Officers.** No Member, Director, officer or representative of the Association shall be personally liable for debts or liabilities of the Association. A Director or officer is not liable to the Association, any Member or any other person for an action taken or omission made or mistake in judgment by the Director or officer in the Person's capacity as a Director or officer, whether negligent or otherwise, unless the Director or officer's conduct was not exercised: (a) in good faith, (b) with ordinary care, and (c) in a manner that the Director or officer reasonably believed to be in the best interest of the Association. The liability of officers and Directors of the Association shall, to the fullest extent permitted by law, be limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended.

**Section 7.17 Annual Budget and Assessments.** Copies of the a Budget for the upcoming fiscal year of the Association shall be prepared and made available for inspection to all Members as set forth in the Declaration. If an annual Budget is subsequently amended before the Assessments are made, a copy of the amended Budget shall also be made available for inspection. Subject to the provisions of the Declaration, nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time and in its sole discretion, to levy a Special Assessment, as set forth in Section 6.1 of the Declaration, in the event that the Budget as originally adopted shall appear to be insufficient to pay the cost of the operation or management of the Property, or as may be necessary or appropriate in the judgment of the Association or as otherwise contemplated in Section 6.1 of the Declaration.

**Section 7.18 Management Certificate.** The (a) Board of Directors or (b) if the Board of Directors determines that it is in the best interest of the Association to hire a Manager for the Property in accordance with Section 7.15 of these Bylaws, the Manager, shall record in the County a certificate, stating the information as set forth in the Act within the requisite time period as required by the Act. An amended certificate shall be recorded within 30 days after the Association receives notice of a change in any of the information set forth in the management certificate.

**Section 7.19 Manager.** To facilitate management of the Property and the administration of the Association, the Board of Directors may delegate to a Manager responsibility for matters of a routine nature, renewable by agreement of the parties thereto for successive one year periods or as otherwise determined and set forth in a written agreement of the parties, and shall be subject to termination by either party as set forth in the agreement entered into by the parties.

## ARTICLE VIII Officers

**Section 8.1 Officers.** The officers of the Association shall be President, one or more Vice Presidents, Secretary and Treasurer. Two or more offices may be held by the same person, except that the same person shall not be President and Secretary.

**Section 8.2 Election of Officer Positions.** Except as otherwise set forth herein, the officers of the Association shall be elected annually by the Board of Directors at an organizational meeting held pursuant to Section 7.6 of these Bylaws and shall hold office for a term of one year; provided that each

officer may be removed, either with or without cause, whenever in the best interest of the Association, and his successor is elected by the affirmative vote of a majority of the Directors at any annual or special meeting of the Board of Directors called for that purpose. Officers may serve an unlimited number of consecutive one year terms. The Board of Directors may, from time to time, appoint other officers who, in its judgment, are necessary. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the Association. Any resignation shall take effect as of the date of the receipt of this notice or any later time specified therein; unless specified therein, the acceptance of a written resignation shall not be necessary to make it effective.

**Section 8.3 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled by election by the affirmative vote of a majority of the Directors at any annual or special meeting of the Board of Directors called for that purpose.

**Section 8.4 President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members of the Association and the Board of Directors. The President shall have the general powers and duties usually vested in the office of the president of a community association. The President shall be an ex-officio member of all standing committees, if any. The President shall execute deeds, contracts and other instruments, in the name and on behalf of the Association and under its corporate seal when a seal is required, except when these documents are required or permitted by law to be otherwise executed, and except when the signing and execution thereof shall be delegated by the Board of Directors to another officer or agent of the Association.

**Section 8.5 Vice President.** In the absence of the President or in the event of the President's inability or refusal to act, a Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all of the restrictions upon the President. Any Vice President shall have only such powers and perform only such duties as the Board of Directors may from time to time prescribe or as the officers may from time to time delegate.

**Section 8.6 Secretary.** The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members of the Association and record all votes and the minutes of all meetings and proceedings, including resolutions, in the Minute Book. The Secretary shall perform the same duties for any committees when required. The Secretary shall have charge of the Minute Book, the records of the Association and any papers which the Board of Directors shall direct the Secretary to keep; shall perform all duties incident to the office of Secretary, including, but not limited to, the sending of notice of meetings to the Members, the Directors and members of any committees, and shall perform any other duties which may be prescribed by these Bylaws or by the Board of Directors or the President. The Secretary shall also have custody of the corporate seal and shall affix the same to any instrument requiring it when authorized by the Board of Directors and shall attest or certify the same when appropriate. The Secretary shall keep, or cause to be kept, at the principal office of the Association, a membership register showing the following: (a) the names and addresses of all Directors; (b) the names and addresses of all Members as provided by the Members; (c) the Lot that is owned by each Member and (d) the vote of each Member. The Secretary shall prepare, execute and cause the recordation of amendments to the Declaration on behalf of the Association except when the preparation, execution and recordation thereof shall be delegated by the Board of Directors to another officer or agent of the Association. Nothing shall prohibit the functions of the Secretary to be delegated to an agent of the Association provided this delegation is approved by resolution of the Board of Directors. The delegation of the duties of the Secretary shall not relieve the Secretary from any responsibility related to overseeing and reviewing any duties performed by the agent.

**Section 8.7 Treasurer.** The Treasurer shall have the responsibility for the Association's funds and securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies, checks and other valuable effects in the name of and to the credit of the Association in those depositories which may be designated from time to time by the Board of Directors. The Treasurer shall disburse the funds of the Association, as the Treasurer may be ordered to do from time to time by the Board of Directors or by the President, and shall render to the President and the Directors at the regular meetings of the Board of Directors, or whenever they or either of them shall require, an account of his transactions as Treasurer and of the financial condition of the Association. Nothing shall prohibit the functions of the Treasurer to be delegated to an agent of the Association provided this delegation is approved by resolution of the Board of Directors. The delegation of the duties of the Treasurer shall not relieve the Treasurer from any responsibility related to overseeing and reviewing any duties performed by the agent.

**Section 8.8 Compensation.** The officers of the Association shall serve without compensation except that they shall be entitled to reimbursement for all expenses reasonably incurred in the discharge of their duties.

## **ARTICLE IX Association Books and Records**

The Association shall keep or cause to be kept books and records of the Association in accordance with these Bylaws, the Records Policy, the TNCL and the Act. Books and records that may be open to and available for examination by an Owner or an Owner representative designated in writing and signed by an Owner including an attorney or public accountant include those Association Records set forth in the Records Policy and the Act. All financial books and records of the Association shall be kept in accordance with GAAP, consistently applied, and shall be audited at least once every three years by an independent certified public accountant.

## **ARTICLE X Winding Up and Termination**

Upon winding up of the Association, the real and personal property of the Association shall be distributed pursuant to the provisions of the Certificate of Formation or, if no such provisions is made, distributed to one or more organizations which are exempt from taxation under Section 501(c)(3) of the Code.

## **ARTICLE XI Miscellaneous**

**Section 11.1 Fiscal Year.** The fiscal year of the Association shall be the calendar year unless the Board of Directors shall determine otherwise.

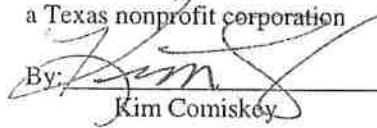
**Section 11.2 Amendments to Bylaws.** These Bylaws may be amended from time to time by the affirmative vote of a majority of the Directors present at a meeting of Directors at which a Quorum is present; provided, however, these Bylaws shall not be amended in any manner that is in conflict with the Declaration. Members must be given notice of any meeting of the Directors for the purpose of amending the Bylaws in accordance with the Act. Any such notice shall include the specific amendment or other change proposed to be made to these Bylaws. An amendment shall be effective upon the recording in the

Real Property Records of the County a document setting forth the amendment in full and certifying that the contents of the document have been approved as set forth in this Section 11.2. Notwithstanding the foregoing, and subject to any open meeting requirements applicable to the Board of Directors as set forth in the Act, Declarant and the Board of Directors may amend these Bylaws for any purpose without the vote or approval of any Member during the Declarant Control Period.

**Section 11.3 Construction.** Number and gender as used in these Bylaws shall extend to and include both singular and plural and all genders as the context and construction require.

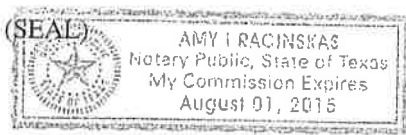
Executed on the 26<sup>th</sup> day of June 2015, as effective and adopted by the Board of Directors on January 22, 2014

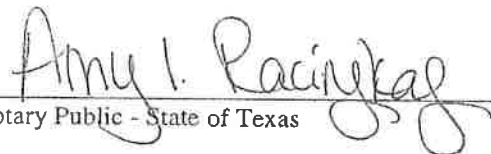
POMONA RESIDENTIAL COMMUNITY ASSOCIATION, INC.,  
a Texas nonprofit corporation

By:   
Kim Comiskey  
Secretary

THE STATE OF TEXAS     §  
  §  
COUNTY OF DALLAS     §

This instrument was acknowledged before me on the 26<sup>th</sup> day of June 2015, by Kim Comiskey, Secretary of Pomona Residential Community Association, Inc., a Texas nonprofit corporation, on behalf of said corporation.



  
Notary Public - State of Texas

**AFTER RECORDING RETURN TO:**

Hillwood Development Company, LLC  
3090 Olive Street, Suite 300  
Dallas, Texas 75219  
Attn: Michele Ringnald