

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
VILLAGES OF SHADY HOLLOW**

STATE OF TEXAS
COUNTY OF TRAVIS

§ KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, **SCOTT FELDER LIMITED PARTNERSHIP**, a Maryland limited partnership, ("Declarant") is the owner of certain real property located in Travis County, Texas, as more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Declarant desires to convey the Property subject to certain Protective covenants, conditions, restrictions, liens, and charges hereinafter set forth which shall be in addition to the restrictions set forth in that one certain Restrictive Covenant (Section 3A and 3B) (the "3A/3B Restrictions"), recorded in Volume 12618, Page 60, Real Property Records of Travis County, Texas; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development, and sale of the Property for the benefit of the present and future owners of the Property:

NOW, THEREFORE, it is hereby declared: (a) that all of the Property shall be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

ARTICLE I

DEFINITIONS

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

1.01. Architectural committee. "Architectural Committee" shall mean the committee created pursuant to these restrictions to review and approve plans for the construction of Improvements upon the Property.

1.02. Architectural Committee Rules. "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same are amended from time to time.

1.03. Articles. "Articles" shall mean the Articles of Incorporation of Villages of Shady Hollow Owners Association, Inc., which will be filed in the office of the Secretary of State of the State of Texas, as the same are from time to time amended.

1.04 Assessment. "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of this Declaration.

1.05 Association. "Association" shall mean and refer to Villages of Shady Hollow owners Association, Inc., a Texas non-profit corporation created or to be created pursuant to the Articles.

1.06. Association Rules. "Association Rules" shall mean the rules and regulations adopted by the Board as the same may be amended from time to time.

1.07. Board. "Board" shall mean the Board of Directors of the Association.

1.08. Bylaws. "Bylaws,, shall mean the Bylaws of the Association which may be adopted by the Board, as the same are from time to time amended.

1.09. Common Area and Facilities. "Common Area and Facilities" shall mean Lots and other properties designated by Declarant and conveyed to the Association for the common benefit of the Owners. Common Area and Facilities may be designated by Declarant and dedicated or otherwise conveyed to the Association from time to time and at any time. If and at the time Declarant annexes additional real property to the Property in accordance with Section 2.02 hereof, additional Common Area and Facilities may be designated.

1.10. Declarant. "Declarant" shall mean Scott Felder Limited Partnership, its duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Scott Felder Limited Partnership as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.11. Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.

1.12. Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to, buildings, outbuildings, storage sheds, playscapes, patios, tennis courts, basketball goals, swimming pools, recreational or athletic equipment, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

* Ammended: All improvements of the Declaration of Covenants, Condiditons, and Restrictions for Villages of Shady Hollow Owners Association ("Deed Restrictions") must be approved by the Architectural Committee ("ACC") before construction begins.

1.13. **Lot.** "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on the Plat of the Subdivision, together with all Improvements located thereon.

1.14. **Member.** "Member" or "Members" shall mean any person(s), entity or entities holding membership rights in the Association.

1.15. **Mortgage.** "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed (s) of trust covering any portion of the Property given to secure the payment of a debt.

1.16. **Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.17. **Owner.** "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any portion of the Property, but shall not include the Mortgagee of a Mortgage.

1.18. **Person.** "Person" or "Persons " shall I mean any individual (s) , entity or entities having the legal right to hold title to real property.

1.19. **Plans and Specifications.** "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

1.20. **Plat.** "Plat" shall mean the subdivision plats pertaining to the Property as the same may be amended from time to time.

1.21. **The Restrictions.** The "Restrictions" shall mean this Declaration, as the same may be amended from time to time, together with the Association Rules, the Architectural Committee Rules, and the Articles and Bylaws.

1.22. **Subdivision.** "Subdivision" shall mean a portion of the Property which is subdivided by virtue of a final subdivision plat which is filed of record in the Plat Records of Travis County, Texas.

1.23. **Supplemental Declaration.** "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add to the Property, or (ii) to subject any area of the Property to further covenants, conditions or restrictions.

ARTICLE 11

DEVELOPMENT OF THE PROPERTY

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2.01. Development by Declarant. Declarant may divide or subdivide the Property into several areas, develop some of the Property, and, at Declarant's option, sell any portion of the Property free of these restrictions.

2.02. Addition of Land by Declarant. Declarant may, at any time and from time to time, add land to the Property, and upon the filing of a notice of addition of land as hereinafter described, this Declaration and the covenants, conditions, restrictions, and obligations set forth herein (as modified or amended by the covenants, conditions, restrictions and obligations, if any, set forth in Supplemental Restrictions affecting such added lands) shall apply to the added land, and the rights, privileges, duties, and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Real Property Records of Travis County, Texas, a notice of addition of land containing the following provisions:

- (A) A reference to this Declaration, which reference shall state the book and page numbers of the Travis County Real Property Records wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to the added land; and
- (C) A legal description of the added land.

2.03. Addition of Land by Members. At such time as owners other than Declarant hold at least eighty percent (80%) of the total number of votes entitled to be cast pursuant to Section 6.03(A), the Board may, propose to add land to the Property, and upon W written approval of the Members entitled to cast sixty-seven percent (67%,) of the votes entitled to be cast pursuant to Section 6.03(A), and (ii) upon the filing of a notice of addition of land as hereinafter described, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as to the lands originally covered by this Declaration. In order to add lands to the Property pursuant to this Section 2.03, the notice of addition of land shall be recorded in the Real Property Records of Travis County, Texas, and contain the following

- (A) A reference to this Declaration, which reference shall state the book and page numbers of the Travis County Real Property Records wherein this Declaration is recorded;
- (B) A statement that the provisions of this Declaration shall apply to --'e added land; and
- (C) A legal description of the added land.

2.04. Withdrawal of Land. Declarant may, at any time and from time to time reduce or withdraw areas from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions, and obligations set shall no longer apply to those lands withdrawn. In order to lands from the Property hereunder, Declarant shall be required only to the Real Property Records of Travis County, Texas, a notice of of land containing the following provisions:

(A) A reference to this Declaration, which reference shall state the book and page numbers of the Travis County Real Property Records wherein this Declaration is recorded;

(B) A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and

(C) A legal description of the withdrawn land.

ARTICLE III

GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, and enjoyed subject to the following limitations and restrictions:

3.01. Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee; provided, however, that when Declarant is the owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Architectural Committee.

3.02. Hazardous Activities. No activities shall be conducted on the Property and no Improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces, or in contained barbecue units while attended and in use for cooking purposes

3.03. Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon.

3.04. Mining and Drilling. No portion of the Property shall be used for the purpose of *mining, quarrying*, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

3.05. Noise. No exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any of the

Property. No noise shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.06. Nuisance. No noxious or offensive activities shall be permitted to or operate upon any portion of the Property, nor shall anything be done upon the Property which may be offensive or detrimental to any portion of the or to its occupants.

3.07. Animals - Household Pets. No animals, including pigs, hogs, swine, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning interpretation of such words may be kept, maintained, or cared for on the Property. No Owner may keep on such Owner's Lot more than four (4) cats and dogs in the aggregate. No animal shall be allowed to make an unreasonable of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than on the Lot of its owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large, and all animals shall be within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Architectural Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be from any other portion of the Property.

3. 08. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property, and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, ,unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash shall be kept at all times in covered containers, and such containers shall be appropriately screened from view. Covered containers containing refuse, garbage, or trash may be placed in front of a single family residence located upon the Lot and next to the roadway adjacent to such Lot for waste service collection but must be removed and screened from view on or before eighteen (18) hours after such covered container has been emptied by waste service collection.

3.09. Maintenance. Each owner shall keep all shrubs, **trees, grass, and** plantings of every kind on such Owner's Lot cultivated, pruned, free of trash, and other unsightly material. All improvements upon any Lot shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of such Lot. Declarant, the Association, and the chitectural Committee shall have the right at any reasonable time to enter upon

^{or}
any Lot to replace, maintain, and cultivate shrubs, trees, grass, or other plantings as deemed necessary; to paint, repair, or otherwise maintain any improvements in need thereof; and to charge the cost thereof to the Owner of the Lot as provided in Section 6.04(E) hereof.

3.10. Towers/Antennas. No antenna, satellite dish or other device

for the transmission or reception of television signals, radio signals or any other form of electromagnetic radiation which is visible from the exterior of a residence shall be erected, used or maintained on any Lot except with the written approval of the Architectural committee. Any such device approved by the Architectural Committee shall be located to the rear of the roof ridge line, gable line or center line of the principal single family residence if attached to such residence and shall be located to the rear of the rear wall of the principal single-family residence if it is a free-standing device. Notwithstanding any provision in this Section 3. 10 to the contrary, one (1) satellite dish no greater than twenty (20) inches in diameter may be affixed to a residence located upon a Lot so long as the satellite dish is not visible from the street located adjacent to the front lot line of said Lot. No device approved by the Architectural Committee in accordance with this Section 3.10 shall be installed and maintained on any Lot so as to be visible from the street located adjacent the front lot line of said Lot.

3.11. Signs. Except for signs which are a part of Declarant's overall marketing plan for the Property, no sign of any kind shall be displayed on any Lot except:

(A) A builder who is engaged in construction of a single-family residence upon a Lot may advertise such Lot and any residential structure thereon for sale until such time as the Lot and/or any residential structure situated thereon is sold;

(B) Any owner may display one (1) sign of not more than four (4) square feet on said Owner's Lot to advertise such Lot or any residential structure located thereon for sale or rent;

(C) Signs required for legal proceedings; and

(D) No more than three (3) political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such sign shall not be erected more than ninety (90) days in advance of an election to which the signs pertain and are removed within fifteen (15) days after such election.

3.12. Tanks. The Architectural Committee shall have the right to approve the location of any tank used or proposed in connection with a single family residential structure, including tanks for storage of fuel, water, oil, or LPG, and including swimming pool filter tanks. No elevated tanks of any kind shall be erected, placed or permitted on any Lot. All tanks shall be screened so as not to be visible from any other portion of the Property.

3.13. Temporary Structures. No tent, shack, or other temporary building, improvement, or structure shall be placed upon the Property without the prior written approval of the Architectural Committee; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders, and foremen during actual construction may be maintained with the prior approval of Declarant, approval to include the nature, size, duration, and location of such structure.

3.14. Athletic and Recreational Facilities. Outdoor athletic and recreational facilities such as swing sets and sport courts of either a permanent or temporary nature shall not be placed upon any Lot between any roadway within the Property and the front of the single family residential structure located upon the Lot. Notwithstanding the foregoing provision, basketball goals shall be permitted; provided, however, the basketball goal must be (i) attached to a free standing pole, (ii) located on the principal driveway of the single-family residential structure located upon the Lot, and (iii) positioned no closer than twenty (20) feet from the nearest curb of the roadway adjacent to and intersecting the driveway.

* Amended: **ATHLETIC AND RECREATIONAL FACILITIES** - (Section 3.14)
Outdoor athletic

equipment such as swing sets and sport courts of either a temporary or permanent nature are not allowed in the front of the home and must be stored out of view when not in use. Basketball goals are permitted to remain in the front of the home as the exception, however, the basketball goal must be free standing and positioned no closer than 20 feet from the street curb. The basketball goal must be properly maintained and painted, with nets in good repair.

3.15 Window Treatment. No aluminum foil, reflective film or similar treatment shall be placed on any Improvement located upon a Lot.

3.16. Unsightly Articles; Vehicles. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times except when in actual use, in enclosed structures or screened from view from any adjacent Lot or roadway within the Property and no repair or maintenance work shall be done on an" of the foregoing, or on any automobile (other than minor emergency repairs) , except in enclosed garages or other structures. No automobiles or other vehicles may be parked overnight on any roadway within the Property. Service areas, storage areas, and compost piles shall be appropriately screened from view, and grass, plant waste, shrub or tree clippings, metals, bulk materials, or scrape or refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately Screened from view. FACILITIES FOR HANGING, DRYING OR AIRING CLOTHING OR FABRICS SHALL NOT BE PERMITTED ON ANY LOT.

3.17. Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any Lot or used as a residence, either or permanent, at any time, and no motor homes, travel trailers or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or from public or private thoroughfares at any time.

3.18. Garages. Each single-family residential structure located upon a Lot shall have sufficient garage space to accommodate at least two (2) automobiles. All garages shall be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation.

3.19. Sight Distance at Intersection. No fence, wall, hedge or shrub planting that obstructs sight-lines at elevations between two (2) and nine (9) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within the triangular area formed by the street line, a driveway or alley line and a line connecting them at points ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. All tree foliage within such distances of intersections shall be maintained to meet the sight-line requirements set forth above. Notwithstanding the foregoing or anything in this Declaration to the contrary, at a minimum, sight distances required by any applicable governmental authority shall be complied with.

3.20. Compliance with the Restrictions. Each owner shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure to comply with any of the Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association, or by an aggrieved Owner. The Southland Oaks Municipal Utility District shall be entitled to enforce the Restrictions pursuant to this Section 3.20 to the extent that the violation occurs upon Property located within the District or has been occasioned by the acts of an Owner of Property located within the District.

3.21. Liability of Owners for Damage to Common Area and Facilities. No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area and Facilities without the prior written approval of the Board. Each Owner shall be liable to the Association for any and all damages to (i) the Common Area and Facilities, or (ii) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damages were caused by the neglect, misuse or negligence of such owner or owner's family, or by any tenant or other occupant of such Owner's Lot, or any guest or invitee of such Owner. The full cost of all repairs of such damage shall be an Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided for in Section 8.06 hereof, including, but not limited to foreclosure of such lien. No trailer, grader, truck, pickup, boat, tractor, camper, wagon, bus, motorcycle, motorscooter, or any other vehicle may be driven on or parked upon any portion of the Common Area and Facilities unless said vehicle is being utilized for Common Area and Facilities maintenance.

3.22. No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms, or provisions. Any owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

3.23. Window Units. No window or wall-type air conditioner shall be permitted to be used, placed or maintained on or in any Improvement located upon the Property, without the advance written consent of the Architectural Committee.

ARTICLE IV

USE AND CONSTRUCTION RESTRICTIONS

4. 01. Approval for Construction. No improvements shall be constructed upon any Lot without the prior written approval of the Architectural Committee.

* Amended: A site plan and description of the proposed improvement must be submitted to the Architectural Committee for approval.

4.02. Residential use. All Lots shall be improved and used solely for single family residential use, inclusive of a garage', fencing and such other Improvements as are necessary or customarily incident to residential use.

4.03. Commercial or Industrial Use. No Lot or Improvement shall be used for manufacturing, industrial, business, commercial, institutional or other nonresidential purpose, other than those non-residential purposes set forth in Section 10.05. Notwithstanding any other provision in this Section 4.03 or the Declaration to the contrary, "garage sales" shall be permitted provided that no owner shall conduct more than one (1) garage sale of no more than two (2) days duration during any six (6) month period.

4.04. Rentals. Nothing in this Declaration shall prevent the rental of any Lot and the Improvements thereon by the owner thereof for residential purposes; provided that all rentals must be for terms of at least six (6) months.

4.05. Detached Buildings. No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any Lot without the prior written consent of the Architectural Committee. Every detached accessory building shall be compatible with the design of and materials utilized in the single-family residential structure located upon the Lot. Notwithstanding any other provision in the Declaration to the contrary, in no event shall any detached accessory building exceed one (1) story in height or have a total floor area in excess of ten percent

(10%) of the floor area of the single-family residential structure located upon the Lot.

* Amended: **Storage Sheds** - No detached accessory buildings, including, but not limited to, detached garages and storage buildings, shall be erected, placed or constructed upon any lot without prior written consent of the Architectural Committee. Every detached accessory building shall be compatible with the design of and the materials utilized in the single-family residential structure located upon the lot. The materials used need to be at least of the same quality of materials as that used in the construction of the home. The paint must be the same color as the paint on the home. The shingles must be either the same as those on the home or superior. The building need not be constructed of brick. in no event shall any accessory building exceed one (1) story in height or have a total floor area in excess of ten percent (10%) of the floor area of the single-family residential structure located upon the lot.

* Amended: Storage buildings, playscapes, and other improvements, must meet the set-back and height guidelines outlined in Sections 4.05, 4.06 and 4.08 of the Deed Restrictions.

4.06. Building - Height. No Improvement greater than thirty-five feet (351) in height may be constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the top of the foundation slab of the proposed improvement to the ridge line of the roof of the proposed Improvement.

4.07. Obstruction of Views. The Architectural Committee may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot. Rather, the Architectural Committee may consider the effect the Improvement will have on the Property as a whole, it being expressly understood that neither the Architectural Committee nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots.

4.08. Setback Lines. In addition to any requirements imposed by the Plat, (i) no building or other Improvement (excluding fences) shall be located nearer than twenty-five (25) feet from the front Lot line; and (ii) no building or other Improvement (except fences) shall be located nearer than five (5) feet from any Side Lot line, or ten (10) feet from any rear Lot line. For the purpose of this Section 4.08, eaves, steps, and open porches shall not be considered as part of the or Improvement; provided, however, that this sentence shall not be construed to permit any portion of the construction or building on any Lot to encroach upon any Lot or other portion of the Property.

4.09. Fences. No fences, walls or hedges shall be located nearer than thirty-five (35) feet from the front Lot line. No fence shall be erected upon any Lot which is located less than ten (10) feet from the front wall of the single family residence constructed upon said Lot. No fence located upon any corner Lot shall be located nearer than fifteen (15) feet from the side Lot line adjacent to the street. Fences located upon any interior Lot may be erected upon the side Lot line of said Lot, and any fence, whether located upon an interior or corner Lot, may be erected upon the rear Lot line of said Lot. Notwithstanding the foregoing sentence, the fence setback requirements may be increased, but not decreased, by the Architectural Committee in order to comply with the requirements of Section 3.19. All fences located upon any portion of the Property shall be six (6) feet in height and shall be constructed of wood or masonry, unless advance written approval is obtained from the Architectural Committee. No chain link, metal, cloth or agricultural fences may be constructed or maintained upon any portion of the Property. Unless the Owners agree otherwise, side and rear yard fences which separate adjacent Lots shall be owned and maintained by the Owner on whose Lot the fence is erected, or if the location of the fence is indefinite, the fence shall be jointly maintained by the owners on whose Lots the fence separates.

4.10. Landscaping. Landscaping located upon any Lot, including temporary landscaping, shall be properly maintained at all times by the Owner on whose Lot the landscaping is located. The Architectural Committee shall be entitled to make recommendations with respect to tree disease control, whereupon the Owner or Owners to whom the recommendations are directed shall be obligated to comply with such recommendations. Decorative groundcover rock in the front and side yards of each Lot may not exceed ten (10) percent of the total area of the front and side yard of such Lot.

4.11. Building Materials; Dwelling Size. All single family dwellings shall be of recognized standard construction quality and exterior walls shall be constructed of at least fifty percent (50%) masonry or other material specifically approved in writing by the Architectural Committee. For the purpose of calculating the total percentage of masonry required by this Section 4.11 (i) all gables shall be excluded from the total area of exterior walls; (ii) all windows and door openings shall be excluded from the total area of the exterior walls; and (iii) stone and masonry used on fireplaces and walls of an attached garage may be included in the computation as stone or masonry used. For any residences located on the Property, the minimum floor area of finished heated and air conditioned living space, exclusive of porches (open or covered) , decks, garages, and carports, shall be as follows:

Lot width

For residences located on fifty foot (50') to fifty-nine foot (59') wide lots:

For residences located on sixty foot (60') to sixty-nine foot (69') wide lots:

Minimum Floor Area

900

1,000

For residences located on seventy foot (70') to eighty-nine foot (89') wide lots:

For residences located on lots at least ninety feet (90') in width:

1,400

1,800

4.12. Section 3A and 3B Dwelling Size. Notwithstanding any other provision in this Declaration to the contrary, the minimum floor area of all single family dwellings constructed within Section 3A and 3B shall be governed by the provisions of the 3A/3B Restrictions.

4.13. Construction in Place. All dwellings constructed on the Property shall be built in place on the Lot and the use of prefabricated materials shall be allowed only with the prior written approval of the Architectural Committee.

4.14. New Materials. Only new materials shall be utilized in the construction of any Improvement to be located upon a Lot, unless otherwise approved in writing by the Architectural Committee.

4.15. Chimneys. All fireplace flues, smoke stacks and spark arresters shall be completely enclosed and concealed from public view and finished chimneys shall be of materials architecturally compatible with the principal finish material of the exterior walls of the single-family residential structure to be located upon the Lot, unless otherwise approved in writing by the Architectural Committee.

4.16. Alteration or Removal of Improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement shall be performed only with the prior written approval of the Architectural Committee.

4.17. Roofing Materials. All roofing materials must be approved in advance by the Architectural Committee; provided, however, that the following materials are specifically permitted: gray "weathered wood" fiberglass composition shingle with a weight of no less than 240 pounds per square.

4.18. Driveway. The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, location, and point of contact with dedicated roads, streets, or private driveways in the Subdivision. Driveways shall be constructed so that they have a sufficient rise in elevation to allow for the surface water drainage along the curb line of the street to continue without interruption or change in direction of flow.

4.19. Garbage Containers. The Architectural Committee shall have the right to require each owner to specify a specific location for trash service and the placement of garbage containers for waste collection.

4.20. Underground Utility Lines. No utility lines, including but not limited to, wires or other devices for the communication or

transmission of telephone or electric current or power, cable television, or other type of line or wire shall be erected, placed, or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under, or on buildings or other Improvements as approved in writing by the Architectural Committee; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including but not limited to, trenching method, and other aspects of installation, for both temporary and permanent utilities, shall be subject to review and approval by the Architectural Committee.

4.21. Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

4.22. Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal **construction activities** during the construction of improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the Architectural Committee in its sole good faith judgment, the Architectural Committee shall have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Architectural Committee may contract for or cause such debris to be removed, and the Owner of the Lot shall be liable for all expenses incurred in connection therewith.

ARTICLE V

COMMON AREA AND FACILITIES

5.01. Common Area and Facilities. No land within any Common Area and Facilities shall be improved, used or occupied, except in such manner as shall have been approved by Declarant, in its sole and absolute discretion. Such required approval shall extend to the nature and type of use, occupancy and improvement. Declarant may, by written instrument, delegate its right to grant such approval to the Board. Access to any Common Area and Facilities may be limited to persons currently paying Assessments, fees and other charges, or otherwise conditioned or restricted, or made available to non-owners,

all upon such terms and conditions as Declarant may determine, in its sole and absolute discretion.

5.02. Condemnation. If all or any part of the Common Area and Facilities is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary) , the Association shall be entitled to participate in the proceedings incident thereto. The expense of participation in such proceedings by the Association shall be a common expense to be paid out of Assessments. The Association is specifically authorized to obtain and to pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association, in its discretion, deems necessary or advisable to aid it in any matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association. The Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to contest or defend any such proceedings, to make any settlement with respect thereto or to convey such property to the condemning authority in lieu of condemnation.

ARTICLE VI

THE ASSOCIATION

6.01. Organization. The Declarant shall, at such time as Declarant deems appropriate, cause the formation and incorporation of the Association. The Association shall be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

6.02. Membership. Any Person upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the ownership of the Lot which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to the Lot.

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

(A) The Owner (including Declarant) of each Lot within the Property shall have one vote for each Lot owned.

(B)

In addition to the votes to which it is entitled by reason of Subparagraph (A) of this Section, for every one vote outstanding in favor of any other person or entity, Declarant shall have four (4) votes until the votes described in Subparagraph (A) of this Section which are owned by Persons other than Declarant total, in the aggregate, ninety percent (90%) of the total number of votes calculated

pursuant to Subparagraph (A) , Thereafter ter, Declarant shall have only the votes, if any, to which it is entitled under said Subparagraph (A) of this Section.

6.04. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. it shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

- (A) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact the Association Rules and Bylaws. The content of the Association Rules and Association Bylaws may be established by the Board, provided the same are not in conflict with this Declaration.
- (B) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.
- (C) Records. To keep books and records of the Association's affairs.
- (D) Assessments. To levy assessments as provided in Article VIII below. An assessment is defined as that sum which must be levied in the manner and against the property set forth in Article VIII hereof in order to raise the total amount for which the levy in question is being made.
- (E) Right Of Entry and Enforcement. To enter at any time in an emergency or in a non-emergency, after twenty-four (24) hours written notice, without being liable to any Owner, upon any Lot and into any improvement thereon, for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Restrictions, and the expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VIII hereof for regular and special assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and *enjoin*, any breach or threatened breach of the Restrictions. The Association is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors, or assigns.

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

(G) Manager. To retain and pay for the services of a person or a firm (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power, or function so delegated.

6.05. Common Area and Facilities. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

(A) To accept, own, operate and maintain all Common Area and Facilities which may be conveyed or leased to it by Declarant, together with all Improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all other property, real or personal, conveyed or leased to the Association by Declarant and to maintain in good repair and condition all lands, improvements and other Association property owned by or leased to the Association. Such maintenance shall include, but not be limited to, mowing and removal of rubbish or debris of any kind.

(B) To pay all real and personal property taxes and other taxes and Assessments levied upon or with respect to Common Area and Facilities or any other property owned by or leased to the Association to the extent that such taxes and 'A_ssessments are not levied directly upon the Members of the Association. The Association shall have all law to contest the legality of the amount of taxes Assessments.

(C) To take out and maintain current a liability insurance coverage to cover accidental injury and/or death caused by the 'use and enjoyment of the Common Area and Facilities. Such insurance shall be in an amount as the Board shall deem appropriate.

6.06. Roadway Maintenance. The Association shall be required to maintain all streets and roadways within the Property which have been completed but not accepted by the appropriate governmental entity for maintenance. In addition, the Association shall be authorized to landscape, maintain, and repair easements, access easements, rights-of-way, median strips, sidewalks, paths, trails, detention ponds, lakes, and other areas of the Property, as appropriate.

ARTICLE VII

ARCHITECTURAL COMMITTEE

7.01. Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) voting members ("Voting Members"), and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as the Voting Members deem appropriate. The following persons are hereby designated as the initial Voting Members of the Architectural Committee: David Broussard, Randy Rollo, and David Singleton.

7.02. Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Voting Members.

7.03. Advisory Members. The Voting Members may from time to time designate Advisory Members.

7.04. Term. Each Voting Member of the Architectural Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. In the event of death or resignation of any Voting Member, the remaining Voting Member or Voting Members shall have full authority to act until a replacement Voting Member or Voting Members have been designated.

7.05. Declarant's Rights of Appointment. Declarant, its successors or assigns shall have the right to appoint and remove all Voting Members of the Architectural Committee until such time as Declarant no longer owns any portion of the Property. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all voting Members of the Architectural Committee.

7.06. Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to, a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

7.07. Review of Proposed Construction. Whenever in this Declaration the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee. The Architectural committee may review Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Architectural Committee of any information or documents deemed necessary by the Architectural

Committee, it may postpone review of any Plans and Specifications submitted for approval. No Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes, and materials and similar features as to be incompatible with development within the Property and the surrounding area. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

7.08. Actions of the Architectural Committee. The Architectural Committee may, by written resolution, unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of the majority of all of the members of the Architectural Committee taken without a meeting, documented in accordance with Article 1396- of the Texas Non-Profit Corporation Act, shall constitute an act of the Architectural Committee. Notwithstanding anything to the contrary, in the event the Architectural Committee fails to respond to a request for approval of Plans and Specifications within thirty (30) days of receipt of all required information, the Architectural Committee shall be deemed to have approved such Plans and Specifications.

7.09. No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

7.10. Work in Progress. The Architectural Committee, at its option, may inspect all work in progress to insure compliance with approved Plans and Specifications.

7.11. Address. Plans and Specifications shall be submitted to the Architectural Committee at 1717 W. 6th Street, Suite 260, Austin, Texas 78703 or such other address as may be designated from time to time.

7.12. Fees. The Architectural Committee shall have the right to require a reasonable submission fee for each set of Plans and Specifications submitted for its review.

7.13. Certificate of Compliance. Upon completion of any Improvement approved by the Architectural Committee and upon written request by the Owner of the Lot, the Architectural Committee may issue a Certificate of Compliance in a form suitable for recordation. The Certificate may identify the Lot and the Improvements, the use or uses to be conducted thereon, and the Plans and Specifications on file with the Architectural Committee pursuant to which the Improvements were

made and shall specify that the Improvements comply with the approved Plans and Specifications. The Certificate shall not be construed to certify the acceptability, sufficiency, or approval by the Architectural Committee of the actual construction of the improvements or the workmanship or materials thereof. The Owner is hereby notified that the Certificate in no way warrants, except as set forth above, the sufficiency, acceptability, or approval by the Architectural Committee of the construction, workmanship, materials, or equipment of the Improvements. Preparation and recordation of such a Certificate shall be at the expense of the Owner of the improved Lot.

ARTICLE VIII

FUNDS AND ASSESSMENTS

8.01. Assessments.

- (A) The Association may from time to time levy Assessments against each Lot whether or not improved. The level of Assessments shall be equal and uniform between all Lots, except that no Assessments hereunder shall be levied against Declarant.
- (B) Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date.
- (C) Each unpaid Assessment and late charges, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Lot against which the Assessment fell due, and shall become a vendor's lien against each such Lot and all improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

8.02. Maintenance Fund. The Board shall establish a **maintenance fund into** which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

8.03. Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Restrictions, including but not limited to the cost of all roadway and right-of-way maintenance, the cost of enforcing the Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time and from time to time levy further Assessments in the same

manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

8.04. Special Assessments. in addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board.

8.05. Late Charges. If any Assessment is not paid before it is delinquent, the Owner responsible for the payment thereof may be required by the Board to pay a late charge at such rate the Board may designate from time to time, and such late charge (and any reasonable handling costs) shall be a charge upon the Lots owned by the said owner to which the Assessment relates, collectible in the same manner as herein provided for collection of Assessments, including foreclosure of the lien against such Lot (s) ; provided, however, such charge shall never exceed the maximum charge permitted under applicable law.

8.06. Owner's Personal Obligation for Payment of Assessments. The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such interest rate, then at the rate of two percent (2%) per month) , together with all costs and expenses of collection, including reasonable attorneys' fees.

8.07. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid shall, together with interest as provided in Section 8.06 hereof and the cost of collection, including attorneys' fees as herein provided, thereupon become a continuing lien and charge on the Lot covered such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens and all sums unpaid on a first mortgage lien of record, securing in either instance sums borrowed for the improvement of the Lot in question. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination must be signed by a duly authorized officer of' the Association. To evidence the aforesaid Assessment lien, the Association may prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of Travis County, Texas. Such lien for payment of Assessments shall attach with the priority above set forth from the date that such payment becomes delinquent and may be

enforced by the foreclosure on the defaulting Owner's Lot by the Association in like manner as a mortgage on real property subsequent to the recording of a notice of Assessment lien as provided above, or the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorneys, fees incurred. The Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey, or otherwise deal with the same. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due.

8.08. Exemptions. Notwithstanding any provision herein to the contrary, all Common Area and Facilities shall be exempt from the payment of any Assessment levied by the Association, regular or special, and no Assessment, regular or special, shall be levied against any Lots owned by Declarant without the prior consent of Declarant.

ARTICLE IX

EASEMENTS

9.01. Reserved Basements. All dedications, limitations, restrictions, and reservations shown on the 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. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other Person, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including without limitation, gas, water, electricity, telephone and drainage) in favor of any Person along any front, rear, or side boundary line of any Lot, which said easements shall have a maximum width of 7.5 feet.

9.02. Installation and Maintenance. There is hereby created an 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, telephones, and electricity 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 line, 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 Committee. The utility companies furnishing service shall have the right to remove all trees situated within the utility easements shown on the Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

9.03. Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of improvements approved by the Architectural Committee thereon, require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the Plat. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, except as approved in writing by the Architectural Committee.

9.04. Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, **trees, lawns, or flowers.** However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants, or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation, or repair of any facility in any such easement area.

9.05. Brodie Lane Easement. Declarant hereby reserves a seven and one-half foot (7.50') easement (the "Easement") upon, over, through, and across each Lot (the "Brodie Lots") which is adjacent to Brodie Lane, a public thoroughfare. The Easement shall be adjacent and parallel to the Brodie Lot property line which is adjacent and parallel to Brodie Lane. Declarant, its successors and assigns, shall be entitled to use the Easement for the installation and construction of landscaping, boundary fencing, and lighting facilities (the "Permitted Improvements") . The Permitted Improvements shall be maintained by Declarant, at Declarant's sole cost and expense, until such time as Declarant assigns the Permitted improvements and the easement rights granted pursuant to this Section 9.05 to the Association. In addition to the Easement, Declarant shall have the right of reasonable access, upon, over, through, and across each Brodie Lot for the purpose of maintaining, repairing, or replacing the Permitted Improvements, or to clear any brush, trees, or other vegetation located on the Easement. Declarant shall not be liable to any owner, or such Owner's tenants, invitees, or any third party for any damages to persons or property related to the construction, maintenance, or repair of the Permitted Improvements, the presence of the Permitted Improvements on the Easement, or the use of the Easement.

9.06. Common Area and Facilities. Each owner, including but not limited to the Owners of Lots within Southland Oaks, Sections 3A, 3B, and 3C, shall have an easement for use and enjoyment in and to all Common Area and Facilities which shall be appurtenant to and shall pass with title to such Owner's Lot, subject to the following provisions:

- (A) Right of Association to suspend the Owner's voting rights and right to use the Common Area and Facilities for any period during which an Assessment against such Owner's Lot remains unpaid, and

for any period during which the Owner is in violation of the rules and regulations of the Association;

- (B) The right of the Association to dedicate or transfer all or any part of the Common Area and Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by a majority vote of the Members who are entitled to vote pursuant to Section 6.03;
- (C) The right of the Association to borrow money for the purpose of improving the Common Area and Facilities and, in furtherance thereof, mortgage the Common Area and Facilities, all in accordance with the articles and bylaws;
- (D) The right of the Association to promulgate reasonable rules and regulations regarding use of the Common Area and Facilities; and
- (E) The right of the Association to contract for services with third parties on such terms as the Association may determine.

ARTICLE X

MISCELLANEOUS

10.01. Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until December 31, 2024, unless amended as herein provided. After December 31, 2024, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the owners of at least eighty percent (80%) of the Lots within the Property then subject to this Declaration.

10.02. Amendment.

- (A) By Declarant. This Declaration may be amended by the Declarant so long as Declarant holds a majority of the votes of the Association. No amendment by Declarant shall be effective until there has been recorded in the Real Property Records of Travis County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment.
- (B) By Owners. In addition to the method in Section 10.02 (A) , this Declaration may be amended by the recording in the Travis County Real Property Records of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least eighty percent (80%) of the number of votes entitled to be cast pursuant to Section 6.03(A) hereof.

Notwithstanding the amendment procedures specified in this Section 10.02, any attempt to amend or terminate Section 4.12 of this Declaration shall be of no force or effect unless joined by the Director of the City of Austin Water and Wastewater Utility Department or any successor department responsible for the duties currently performed by the water and Wastewater Utility Department.

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

10.04. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

10.05. Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct any and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales, and leasing anywhere within the Property.

10.06. Nonliability of Architectural Committee and Board Members. Neither the Architectural Committee, nor any member thereof, nor the Board, nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage, or injury arising out of their being in any way connected with the performance of the Architectural Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Architectural Committee or its member or the Board or its member, as the case may be.

10.07. Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any other Person in any of its privileges, exemptions, rights, and duties hereunder.

10.08. Enforcement and Nonwaiver. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

10.09. Construction. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

In the event of a conflict between any provision of this Declaration and any provision of the 3A/3B Restrictions, the 3A/3B Restrictions shall be controlling.

IN WITNESS WHEREOF, Declarant has executed this Declaration on this the 11th day of January 1996.

DECLARANT:

SCOTT FELDER LIMITED PARTNERSHIP,

a Maryland limited partnership

By: Ryland Homes of Texas, Inc.

General Partner,

By: *Randy Rollo*

Printed Name: Randy Rollo

Title: SW Region President

STATE OF TEXAS
COUNTY OF TRAVIS

This instrument was acknowledged before me on 1/11/96, 1996, by Randy Rollo, SW Region President of Ryland Homes of Texas, Inc., General Partner of Scott Felder Limited Partnership, a Maryland limited partnership, on behalf of said partnership.

BRETT DANIEL BEARDSLEY

Notary Public Signature

NOTARY PUBLIC

State of Texas

20382.5/SPA/JLM/1058/011096

REAL PROPERTY RECORDS
TRAVIS COUNTY TEXAS