

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR RIVERPARK WEST

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RIVERPARK WEST (this "Declaration"), is made effective as of the 23rd day of AUGUST, 2001, by Southwest 545, L. P., a Texas limited partnership (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the record fee title owner of that certain 493.675-acre tract of real property situated in the Joseph Kuykendall League, Abstract No. A-49, and the Jane H. Long League, Abstract No. A-55, all in Fort Bend County, Texas, said tract being more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (the "Restricted Property"); and-

WHEREAS, Declarant desires to impose upon the Restricted Property the covenants, conditions and restrictions set forth in this Declaration, for the benefit of the Owners (as hereinbelow defined) of each portion thereof, and thereby to establish a general plan for improvement of the Restricted Property and to establish a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Restricted Property;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS: THAT, the Restricted Property described on Exhibit A hereto, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and such Restricted Property, and any additional property which is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) as permitted by the provisions hereof, shall be held, sold, transferred, conveyed, leased, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby and hereafter made subject hereto, and shall be binding on all Persons having or acquiring any right, title, or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns, and shall inure to the benefit of each and every owner and occupant of all or any portion thereof. This Declaration does not and is not intended to create a condominium within the meaning of Texas Property Code, Section § 1. 001, et seq.

ARTICLE I

DEFINITIONS: ANNEXATION OF ADDITIONAL PROPERTY; DEANNEXATION

SECTION 1. DEFINITIONS. The following words, when used in this Declaration, shall have the following respective meanings:

- (a) "Articles of Incorporation" or "Articles" means the Articles of Incorporation of Riverpark West Property Owners Association, and any amendments thereto, as filed with the Secretary of State of the State of Texas.
- (b) "Assessments" shall mean the General Assessments, Special Assessments, and/or any other amounts or sums due by any Owner to the Association pursuant to the provisions of this Declaration, or any combination thereof, levied by the Association for purposes of obtaining funds to pay Association Expenses as provided herein.
- (c) "Association" shall mean and refer to the Riverpark West Property Owners Association, Inc., a Texas nonprofit corporation, its successors and assigns.
- (d) "Association Expenses" shall mean and include the actual and estimated expenses of operating the Association, and for owning, leasing operating, maintaining, repairing, replacing and insuring the Common Areas, and any Recreational Facilities on such Common Areas, including a reserve for working capital and other reasonable reserves, all as may be found to be necessary and appropriate from time to time by the Board of Directors of the Association pursuant to this Declaration and the Association's Bylaws and Articles of Incorporation.
- (e) "Board of Directors" or "Board" shall mean the governing body of the Association.
- (f) "Bylaws" shall mean the Bylaws of the Association, as they may be amended from time to time.
- (g) "Common Areas" shall mean and refer to any and all real and personal property, and easements and other interests therein, together with the facilities and improvements located thereon, whether located within or without the boundaries of the Restricted Property, now or hereafter owned, leased or operated by the Association for the common use and enjoyment of the Owners. The office of any property manager employed by or contracting with the Association, if located within the boundaries of the Restricted Property, and road rights-of-way or medians and scenic easement areas (if any) within or adjacent to the Restricted Property described on Exhibit A hereto, may be part of the Common Areas.
- (h) "Declarant" shall mean and refer to Southwest 545, L. P., a Texas limited partnership, and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the Restricted Property subject to this Declaration; and provided further, that in the instrument of conveyance to any such successor-in-title or assigns or by a separate written instrument placed of record in the real property

records of Fort Bend County, Texas, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; and provided, further, that upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit A attached hereto which is now or hereafter subjected to this Declaration, there shall only be one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time.

- (i) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Riverpark West, as such document may hereafter be amended.
- (j) "Exempt Property" shall have the meaning set forth in Section 9 of Article III of this Declaration.
- (k) "General Assessments" shall mean annual assessments levied for Association Expenses, as determined by the Board of Directors, to benefit all Owners.
- (l) "Member" shall refer to every Person entitled to membership in the Association, as provided herein.
- (m) "Modifications Committee" refers to the committee created by the Board of Directors pursuant to Section 3 of Article VI hereof.
- (n) "Mortgage" shall mean and refer to a deed of trust, mortgage or other similar security instrument granting, creating, or conveying a lien on or a security interest in a Unit.
- (o) "Mortgagee" shall mean a beneficiary or holder of a Mortgage.
- (p) "New Construction Committee" refers to the committee created by the Board of Directors pursuant to Section 2 of Article VI of this Declaration.
- (q) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Unit which is part of the Restricted Property, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest. If a Unit is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors, the lessee (rather than the fee owner) will be considered to be the Owner for the purpose of exercising all privileges of membership in the Association (but such recognition of the lessee shall not relieve the fee title Owner of such Unit of all or any part of its obligations and liabilities under this Declaration).

- (r) "Person" shall mean any natural person, corporation, joint venture, partnership, association, trust or other legal entity.
- (s) "Recreational Facilities" shall refer to those facilities which are owned, leased, operated and maintained on Common Areas by the Association for use and enjoyment by all of the Owners and such other individuals as the Board may permit; such facilities may include, but are not limited to, swimming pools, tennis courts, basketball courts, football and soccer fields, work-out or fitness centers, bath house and locker facilities, meeting halls, and other similar facilities.
- (t) "Restricted Property" shall mean and refer to the real property described on Exhibit A to this Declaration and (i) such additions thereto of other real property as may be brought within the jurisdiction of the Association in accordance with this Declaration, less (ii) such deannexations of property from said Exhibit A as may be made by Declarant in accordance with this Declaration.
- (u) "Street" shall refer to any street, drive, boulevard, road, alley, lane, avenue, or thoroughfare as shown on a Subdivision Plat, or as dedicated to the public or County of Fort Bend, Texas, by separate instrument.
- (v) "Subdivision" shall mean and refer to any subdivision of land within the Restricted Property heretofore or hereafter created by the filing of a map or plat thereof in the Office of the County Clerk of Fort Bend County, Texas, in the Map Records of said County.
- (w) "Subdivision Plat" shall mean and refer to the recorded map(s) or plat(s) of a Subdivision.
- (x) "Supplemental Declaration" shall refer to an amendment to this Declaration subjecting additional property to this Declaration, or deannexing property from this Declaration, in accordance with the provisions hereof.
- (y) "Unit" shall mean a portion of the Restricted Property (other than Exempt Property), whether developed or undeveloped, intended for development, use, and occupancy as a detached residence for a single family, and shall, unless otherwise specified, include, without limitation, residential patio homes and single-family detached houses on separately platted lots, as well as vacant land intended for development with any of the foregoing. Units may be developed, used, and defined as provided in this Declaration or as provided in Supplemental Declarations covering all or a part of the Restricted Property. The term shall include all portions of the Restricted Property owned as well as any structure thereon. In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the site plan

approved by Declarant until initial occupancy of a dwelling or dwellings constructed upon all or a portion of such parcel. After occupancy, the number of Units shall be the number of residences actually constructed, and the number of Units on the remaining vacant land, if any, shall continue to be determined in accordance with this paragraph.

SECTION 2. ANNEXATION INTO THE RESTRICTED PROPERTY.

Declarant may from time to time, at Declarant's sole discretion, add or annex additional land into Exhibit A to this Declaration, thereby subjecting such land to this Declaration, including the assessments, conditions, covenants, easements, reservations, and restrictions contained herein as if said land had been part of the original Restricted Property. Such additions or annexations shall be accomplished by the execution by Declarant and filing for record of a Supplemental Declaration setting forth the land being added or annexed. Upon termination and conversion of the Class B membership to Class A Membership, the Association's Board of Directors shall have the power of annexation granted to the Declarant by this Section. However, after the termination of the Class B Membership, annexation by the Board shall require an affirmative vote of the Owners having not less than thirty percent (30%) of the total votes of the Association.

The rights reserved unto Declarant to subject additional land to this Declaration shall not and shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such land to this Declaration or to the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such land (except as provided in Section 4 below) nor shall such rights in any manner limit or restrict the use to which such land may be put by Declarant or by any subsequent 244-12154.3 082201 1405C 00688848 7 owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

SECTION 3. DEANNEXATION OF RESTRICTED PROPERTY BY DECLARANT.

Declarant may, at any time and from time to time, without the consent of any other person or entity, deannex and remove from this Declaration and the jurisdiction of the Association any undeveloped portion or portions of the Restricted Property described on Exhibit A to this Declaration which Declarant has determined will be developed for commercial use (rather than single-family residential use), so long as the Owner of such portion or portions of the Restricted Property (if not then owned by Declarant) consents in writing to such deannexation. Such deannexation shall be accomplished by the execution and filing for record of a Supplemental Declaration setting forth the land being

deannexed and signed by the Declarant and by the Owner of the deannexed property, if not the Declarant.

SECTION 4. OTHER ANNEXATIONS. With the consent of the Owner thereof, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class A Membership votes present at a meeting duly called for such purpose and the affirmative vote of the Declarant, so long as the Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 2 of this Article.

Annexation shall be accomplished by filing of record in the public records of Fort Bend County, Texas, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the Owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 4 and to ascertain the presence of a quorum at such meeting.

SECTION 5. RIGHTS OF OWNERS OF ANNEXED AREA. The Owners of land in annexed properties shall be entitled to use the Common Areas in the same manner and to the same extent of the Owners of the Restricted Property subject to the jurisdiction of the Association prior to the annexation. Annexed Restricted Property shall be impressed with and subject to the Assessments imposed hereby on a uniform basis, consistent with the provisions of this Declaration, which fairly relate to the Assessment imposed by this Declaration and the other, existing Supplemental Declarations, if any, and may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the Annexed Restricted Property. Depending on the manner in which such Annexed Restricted Property is developed, the services provided by the Association which relate to the Restricted Property and to all or portions of such Annexed Restricted Property may vary in value or in kind. Therefore, the Board of Directors, in its discretion and considering such facts as it deems pertinent relative to the relationship of the Association to such Annexed Restricted Property and the Owners thereof, may approve Supplemental Declarations providing for Assessments on such Annexed Restricted Property which differ in amount, basis or method of computation from those provided for in this Declaration or other Supplemental Declarations, if any.

ARTICLE II
RIVERPARK WEST PROPERTY OWNERS ASSOCIATION

SECTION 1. ORGANIZATION. The Association has been or will be organized and formed as a nonprofit corporation under the laws of the State of Texas. The principal purposes of the Association are (1) the collection, expenditure, and management of the Assessments, (2) enforcement of the covenants, conditions and restrictions contained herein and in any Supplemental Declarations, (3) providing for the maintenance and preservation of the Common Areas and the Recreational Facilities of the Association, (4) architectural control of the Units, and (5) establishment of a method for the administration, maintenance, preservation, use and enjoyment of the Restricted Property now and hereafter subject to this Declaration.

SECTION 2. MEMBERSHIP. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any property which is subject to assessment by the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) Membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of Membership in the Association may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the Bylaws. The Membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Board, subject to the provisions of this Declaration and the Bylaws.

SECTION 3. VOTING. The Association shall have two classes of Membership, Class A Membership and Class B Membership, more particularly described as follows: 24442154.3 082201 1405C 00688848 10

- (a) CLASS A MEMBERSHIP. Class A Members shall be all Owners with the exception of the Class B Member. Class A Members shall be entitled to one (1) vote for each Unit in which they hold the interest required for Membership in the Association; however, there shall be only one (1) vote per Unit. Unless otherwise specified in this Declaration or the Bylaws, the vote for each Unit shall be exercised by the Owner of the Unit. In any situation where more than one Person holds the interest in such Unit required for Membership in the Association, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such writing, the vote for such Unit shall be suspended in the event more than one Person seeks to exercise such vote.
- (b) CLASS B. The Class B Member shall be the Declarant. The rights of the Class B Member, including the right to disapprove actions taken under this Declaration and the Bylaws, are specified elsewhere in this

Declaration and in the Bylaws. The Class B Member shall be entitled to three (3) votes for each Unit in which Declarant holds the interest required for Membership in the Association. The Class B Membership shall terminate and be converted to Class A Membership upon the earlier to occur of (i) the date on which the total number of Class A Membership votes exceeds the total number of Class B Membership votes, or (ii) the date on which the Declarant, in its discretion, so determines and records an instrument to such effect in the Real Property Records of Fort Bend County, Texas. From and after the termination of the Class B Membership, the Declarant shall be deemed to be a Class A Member.

- (c) Reinstatement of Class B Membership. Notwithstanding the prior provisions of Subsection 3(b) above, if (and each time) additional land is annexed into the Restricted Property and subjected to the jurisdiction of the Association such that the Declarant owns more than 25% of all Units (including all Units within the jurisdiction of the Association), then the provisions of Subsection 3(b) above (and the weighted voting therein provided to Declarant) shall be automatically reinstated ipso facto, and shall continue in effect until a subsequent conversion of the Class B Membership to Class A Membership as therein provided.

ARTICLE III COVENANT FOR ASSESSMENTS

SECTION 1. PURPOSE OF ASSESSMENTS. The Assessments provided for in this Declaration shall be used by the Association to maintain and keep in good repair the Common Areas and Recreational Facilities of the Association and for the general purposes of promoting the recreation, health, welfare, common benefit, and enjoyment of the Owners in the Restricted Property. Such purposes include, but are not limited to, the ownership, operation, maintenance, repair and replacement of the Recreational Facilities and all landscaping and other floral structures and improvements, including streets, medians, hiking trails, bike paths, scenic easement areas, walls, fences, street lights, entry features and signage, entry gates and gatehouses situated upon the Common Areas, as well as mosquito control, garbage and refuse collection, recreational programs," and other services, facilities and activities. The Board of Directors is specifically authorized to maintain the unpaved portions of road rights-of-way within, adjacent to and in the vicinity of the Restricted Property even though such rights-of-way may not be part of the Common Areas. The judgment of the Board of Directors of the Association as to the expenditure of Assessments shall be final and conclusive so long as its judgment is exercised in good faith.

SECTION 2. TYPE OF ASSESSMENTS. Each Owner by acceptance of a deed to any land in the Restricted Property, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association (i) General Assessments; and (ii) Special Assessments, to be established and collected as hereinafter provided in Section 5 of this Article III.

- (a) General Assessments shall be levied for Association Expenses which are determined by the Board of Directors to benefit all Members. Such expenses benefiting all Members shall be all Association Expenses. General Assessments shall be allocated equally among all Units in the Restricted Property.
- (b) The Board of Directors may permit individuals who are not Members to use the Recreational Facilities and may charge such individuals such fees as the Board determines to be reasonable and appropriate considering the facility or facilities to be used and any additional costs that may be incurred by the Association. Any fees collected from such non-Member users, as well as any user fees established by the Board of Directors for payment by the Members, may be used to pay Association Expenses so as to reduce the General Assessments levied against the Units and, if the Board of Directors determines to apply such fees or a portion thereof to the payment of such expenses, the fees may be estimated each year and include in an Association Expenses budget as user fee income.

SECTION 3. CREATION OF LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. All Assessments, together with interest commencing on the due date at a rate of interest to be set from time to time by the Board of Directors not in excess of the maximum lawful rate, costs (specifically including, but not limited to, any flat charges or percentage fees charged by any collection agencies used by the Association in the collection of Assessments), and reasonable attorneys' fees and court costs actually incurred, shall be a charge on the Unit and shall be secured by a continuing lien hereby imposed upon the Restricted Property against which each Assessment is made. Each such Assessment, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Restricted Property at the time the Assessment fell due. Each such Owner shall be personally liable for his or her portion of each Assessment coming due while he or she is the Owner of the Unit, and each Assessment thereafter coming due unless and until such Owner notifies the Association of the sale or conveyance of the land against which the Assessment is made as hereinafter provided in this Section 3, and his or her grantee shall be jointly and severally liable for such portion thereof as may be delinquent or as may be currently due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid Assessments of its

grantor shall not apply to Declarant or any Person taking title through foreclosure proceedings or deed in lieu of foreclosure.

In order for a Person to extinguish his personal liability with regard to Assessments coming due following the sale or conveyance of the Restricted Property owned by such Person, such Person shall be obligated to notify the Association of the sale or conveyance of his Unit. In that regard, each Person who at any time owned a Unit in the Restricted Property against which Assessments may be levied shall not be liable or responsible for payment of Assessments coming due after the date upon which such Person furnishes to the Association a copy of the executed instrument of conveyance by which fee title to the Restricted Property previously owned by such Person was conveyed or transferred to another Person, and the mailing address of the Person to whom such Restricted Property was conveyed or transferred. Upon receipt of such information, the Association shall cause the name and address of the new Owner to be substituted for that of the prior Owner on the records of the Association, and the prior Owner shall not be liable or responsible for Assessments subsequently coming due. Each Person owning a Unit against which Assessments may be made shall have the obligation to notify the Association of any change in its address, and notice of any such change shall become effective five (5) days after written notice thereof has been provided to the Association. With regard to mailing notices of Assessments payable by any Person to the Association, the Association shall be deemed to have satisfied any obligation that it might have to provide written notices or bills if the same are mailed or delivered to the Owner at the address of each Owner as reflected on the records of the Association, and no such Owner or other Person liable for the payment of any Assessment shall escape such liability or be entitled to any deferral or abatement of interest or any late charges or collection costs with regard to delinquent Assessments on the basis of such Person's failure to receive notice thereof if the Association did mail or deliver such notice to the most recent address of the Person according to the records of the Association.

General Assessments and Special Assessments as determined by the Board of Directors shall be annual assessments, even if they are to be paid in installments due more frequently than annually. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days written notice, of delinquent Assessments. Unless otherwise determined by the Board of Directors, Assessments shall be paid in annual installments.

SECTION 4. COMPUTATION. It shall be the duty of the Board of Directors to prepare a budget covering the estimated costs of operating the Association during each calendar year or such other fiscal year as the Board of Directors may adopt, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared and separate line items or subsidiary budgets for Association Expenses. In the event that the Board of Directors fails for any

reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year. The Association Expenses (or the portion thereof not to be paid with user fees) shall be allocated among the Owners of all of the Units and levied as General Assessments. The Board of Directors shall in good faith attempt to cause the budget and the Assessments to be levied against each Owner for the following calendar year to be delivered to each Member at least sixty (60) days prior to the end of the current calendar year.

SECTION 5. SPECIAL ASSESSMENTS. In addition to the other Assessments authorized herein, the Board of Directors may levy one or more special assessments ("Special Assessment~") in any fiscal year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement located upon the Common Areas, including fixtures and personal property related thereto; provided, however, that without first obtaining the affirmative vote or written consent of Members holding a majority of the total Class A Membership votes and the affirmative vote or written consent of the Class B Member, as long as such Class B Membership exists, the Board of Directors shall not levy total Special Assessments in a calendar year in excess of ten percent (10%) of the total General Assessments levied by the Association in such fiscal year.

If a Special Assessment is levied, it shall be paid as determined by the Board of Directors, and the Board of Directors may permit Special Assessments to be paid in installments extending beyond the calendar year in which the Special Assessment is imposed. Special Assessments shall be allocated among the Owners in the same manner as General Assessments.

SECTION 6. LIEN FOR ASSESSMENTS: SUBORDINATION OF LIEN.

- (a) As provided in Section 3 of this Declaration, all sums assessed against any Restricted Property subject to this Declaration pursuant to the terms of this Declaration, together with interest, collection and other costs, and reasonable attorneys' fees actually incurred, as provided herein, are and shall be secured by a lien on the portion of the Restricted Property owned by each Owner in favor of the Association. All Persons acquiring liens or encumbrances on any property subject to this Declaration after this Declaration shall have been recorded in the Real Property Records of Fort Bend County, Texas, shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for Assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.
- (b) The lien securing Assessments as provided for herein shall be subordinate to (i) liens of ad valorem taxes and (ii) the lien of any first

Mortgage which has been recorded in the Real Property Records of Fort Bend County, Texas. Sale or transfer of any Restricted Property subject to this Declaration shall not affect the lien hereby created. However, the sale or transfer of any Restricted Property pursuant to foreclosure of a first Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No such sale or transfer shall relieve such Restricted Property from liability for any Assessments thereafter becoming due or from the lien securing payment thereof. The Board of Directors may, upon majority vote at any regular or special meeting of the Board of Directors or by unanimous consent of the Board of Directors as provided in the Bylaws, agree to subordinate the lien securing Assessments to a Mortgagee other than first Mortgagees, subject to such limitations as the Board of Directors may determine.

SECTION 7. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any Assessments which are not paid in full by the date specified by the Board of Directors shall be delinquent. Any delinquent Assessment shall commence to bear interest on the due date at such interest rate as the Board of Directors may from time to time determine (but not greater than 18% per annum) not in excess of the maximum lawful rate of interest. If the Assessment is not paid when due, the lien herein retained against the affected Restricted Property shall secure the Assessment due, interest thereon from the date due and payable, all costs of collection, court costs, reasonable attorneys' fees actually incurred, and any other amount provided or permitted by law. In the event that the Assessment remains unpaid after sixty (60) days, the Association may, as the Board of Directors shall determine, institute suit for collection against the Owner personally obligated to pay the Assessment or proceed to foreclose its lien by judicial or non-judicial proceedings. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association and its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien by judicial proceedings, or by non-judicial proceedings in the same manner as mortgage or deed of trust liens on real property as provided for in Article 51.002 of the Texas Property Code, or any successor statute. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all Members. The Association, acting through the Board of Directors and on behalf of the Members, shall have the power to bid at any foreclosure sale or to acquire, hold, lease, mortgage, or convey foreclosed property. Neither Declarant nor any other Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein by nonuse of Common Areas or Recreational Facilities, or by abandonment of the Restricted Property owned by Declarant or such other Owner. No diminution

or abatement of assessment or setoff shall be claimed or allowed by reason of any alleged failure of the Association or Board of Directors to take some action or perform some function required to be taken or performed by the Association or Board of Directors under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of Declarant and each other Owner.

All payments shall be applied first to costs and attorneys' fees, then to interest, and then to delinquent Assessments.

SECTION 8. ASSESSMENT OBLIGATION OF DECLARANT; SUBSIDY AGREEMENTS. Subject to the further provisions hereof, Declarant on behalf of itself and its successors and assigns to whom its rights as Declarant are expressly assigned, covenants and agrees to pay an amount equal to fifty percent (50%) of the Assessments provided herein for the Units that it owns. So long as Declarant has an option unilaterally to subject additional Restricted Property to this Declaration, the Declarant may annually elect (in its sole and absolute discretion) either to pay Assessments on its Restricted Property as herein provided or to pay the Association the difference between the amount of Assessments collected on all other Restricted Property subject to assessment and the amount of the actual expenditures incurred to operate the Association during the calendar year. The Board of Directors is specifically authorized to enter into subsidy agreements with the Declarant pursuant to which the Declarant agrees to pay such difference in lieu of Assessments on its Restricted Property. The payment by Declarant of such a subsidy in any year in lieu of Assessments shall under no circumstances obligate the Declarant to pay a subsidy in a future year or years. Notwithstanding anything to the contrary herein, the Declarant may pay Assessments or a subsidy in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind payment"). The amount by which Assessments or a subsidy shall be decreased as a result of any in kind payment shall be the fair market value of the in kind payment. If the Declarant and the Board of Directors agree as to the value of any in kind payment, the value shall be as agreed. If the Board of Directors and the Declarant cannot agree as to the value of any in kind payment, the Declarant shall supply the Board of Directors with a detailed explanation of the service performed and material furnished and the Board of Directors shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Board of Directors and the Declarant are still unable to agree on the value of the in kind payment, the value shall be deemed to be the average of the bids received from the three (3) independent contractors.

SECTION 9. EXEMPT PROPERTY; REDUCED ASSESSMENT PROPERTY.

- (a) The following property ("Exempt Property") shall be exempt from General Assessments and Special Assessments:
 - (i.) all property owned by any governmental authority or public utility, including, without limitation, fire stations, police stations, public libraries, water plants, sewage treatment plants, governmental offices (city halls, court houses, etc.), public schools, public streets, and public parks; and
 - (ii.) Common Areas. The Person owning Exempt Property as defined herein shall have no right to be a Member of the Association with regard to its ownership of the Exempt Property, nor shall such Person be entitled to any votes attributable to its ownership of the Exempt Property.
- (b) Additionally, all portions of the Restricted Property owned by nonprofit organizations and restricted for use or used as private schools or churches may pay a reduced amount of Assessments for the Units such nonprofit organization owns; provided, however, the availability and amount of such reduced Assessments is contingent upon prior written approval by the Declarant and the Board of Directors.
- (c) Additionally, home builders acquiring lots in the Subdivision from Declarant shall pay Assessments on each lot owned by such home builder in an amount equal to fifty percent (50%) of the amounts provided herein, until the residence constructed on such lot is first occupied or is sold to a person or entity that is not a home builder in the Subdivision.

ARTICLE IV

PROPERTY RIGHTS OF THE COMMON AREAS AND EASEMENTS

SECTION 1. OWNER'S EASEMENT FOR ACCESS AND ENJOYMENT.

Subject to the right of the Association to adopt rules and regulations governing the use of the Common Areas and to establish user fees for the Recreational Facilities, every Member shall have an easement of access and a right and easement of enjoyment in the Common Areas and such right and easement shall be appurtenant to and shall pass with the title to each portion of the Restricted Property.

Only Owners shall have the right to use the Recreational Facilities and the Board of Directors shall have the authority to prevent use by any other Persons; provided, however, the Board of Directors may permit the use of the Recreational Facilities or of certain of such Recreational Facilities by others upon the payment to the Association of such consideration as the Board of Directors in its sole

discretion determines to be reasonable after taking into consideration the anticipated usage of the Recreational Facilities by such individuals and the amount of the present and anticipated future Recreational Facilities Assessments. Such payments shall not be Assessments but shall be in the nature of user fees and shall be in addition to any user fees that the Board of Directors may require to be paid by the Owners.

The Board of Directors may also, by agreement with other nonprofit corporations, acquire property and facilities from such other corporations which shall become a part of the Common Areas. As consideration for the acquisition of property and/or facilities, the Board of Directors may grant members of other nonprofit corporation a perpetual or limited right to use the Common Areas and/or the Recreational Facilities which are owned by the Association, with or without payment of a user fee. The Board of Directors may also enter into agreements with other nonprofit corporations pursuant to which the Members of the Association are granted the right to use the facilities owned by another non-profit corporation and the members of such other non-profit corporation are granted the right to use the Recreational Facilities owned by the Association.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his rights and easements of enjoyment to the Common Areas to the members of his family and to such guests or other persons as may be permitted by the Association. An Owner shall be deemed to have made a delegation of all such rights to the tenant of any leased Unit if so stated in the lease.

SECTION 3. EASEMENTS-GENERAL. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the Subdivision Plats and/or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

SECTION 4. EASEMENTS FOR UTILITIES AND PUBLIC SERVICES.

- (a.) There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from Fort Bend County, the City of Richmond, Texas, or any other public authority or agency, utility district, public improvement district or public or private utility company, upon, over, under, and across (i) all of the Common Areas, and (ii) those portions of the Restricted Property as are reasonably necessary, for the purpose of installing, replacing,

repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers, drainage systems and retention ponds and facilities for the Restricted Property or any portion thereof, and electrical, gas, telephone, water, and sanitary sewer lines, street lights, street signs and traffic signs; provided, however, that such easements shall not unreasonably and adversely affect the developability, marketability or value of any Unit. Such easements may be granted or accepted by Declarant or by the Board of Directors. To the extent possible, utility lines and facilities serving the Restricted Property and located therein shall be located underground. Street lights, street signs and traffic signs will be located above ground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Restricted Property encumbered: (i) to erect or install and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove the trees, bushes, or shrubbery, (iii) to excavate or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

- (b.) Declarant hereby grants to Fort Bend County, the City of Richmond, Texas, or such other governmental authority or agency as shall from time to time have jurisdiction over the Restricted Property (or any portion thereof) with respect to law enforcement and fire protection, the perpetual, nonexclusive right and easement upon, over and across all of the Common Areas and Recreational Facilities for purposes of performing such duties and activities related to law enforcement and fire protection in the Restricted Property as shall be required or appropriate from time to time by such governmental authorities under applicable law.

SECTION 5. EASEMENTS FOR ASSOCIATION. There is hereby reserved a general right and easement for the benefit of the Association, its Board of Directors (and each member of such Board), officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Unit in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner of the Unit directly affected thereby.

SECTION 6. RIGHTS OF DECLARANT DURING CONSTRUCTION AND SALE PERIOD. Notwithstanding any provisions contained in this Declaration,

until Declarant has developed and sold all of its land within the Restricted Property (including any additional land annexed into the Restricted Property by Declarant), it shall be expressly permissible for Declarant and any Owner approved by Declarant to maintain and carry on, upon such portion of the Restricted Property as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such Owner's development, construction, and sales activities related to their properties, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Restricted Property; the right to tie into any portion of the Restricted Property with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee to Declarant or such Owner, but with applicable tap-on and other fees to the company or Person providing utility services for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Restricted Property; the right to carry on sales and promotional activities in the Restricted Property; the right to place signs in the Common Areas and in road rights-of-way within the Restricted Property; and the right to construct and operate business offices, construction trailers, model residences, information and sales offices. Declarant and any such Owner may use Units owned or leased by Declarant or such Owner as model residences and sales offices.

SECTION 7. NO PARTITION. Except as is permitted in this Declaration or amendments hereto, there shall be no partition of the Common Areas or any part thereof, nor shall any Person acquiring any interest in the Restricted Property or any part thereof seek any judicial partition unless the Restricted Property have been removed from the provisions of this Declaration. This Article shall not be constructed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE V INSURANCE, CASUALTY LOSSES AND CONDEMNATION

SECTION 1. INSURANCE. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all Recreational Facilities and other insurable improvements on the Common Areas. If blanket all-risk coverage is not reasonably available, then, at a minimum, an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

If reasonably available, the Board of Directors shall also obtain a public liability policy covering the Common Areas, insuring the Association and its Members against damages or injury caused by the negligence of the Association or its agents, the Members or their family members or guests as permitted by this Declaration. If reasonably available, the public liability policy shall have at least a One Million Dollars (\$1,000,000.00) coverage per person limit as respects bodily injury and property damage, and Three Million Dollars (\$3,000,000.00) limit per occurrence, in the aggregate, if available, and a Five Hundred Thousand Dollars (\$500,000.00) property damage limit.

Premiums for all insurance on the Common Areas shall be Association Expenses and shall be included in the General Assessments. The policies may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in Subsection (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a.) All policies shall be written with a company authorized to do business in Texas which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.
- (b.) All policies on the Common Areas shall be for the benefit of the Association and its Members.
- (c.) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee of the Association (if any) having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d.) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.
- (e.) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed value endorsement with an annual review by one or more qualified persons at least one of whom must be in the real estate industry and familiar with construction in the Fort Bend County, Texas, area.

- (f.) The Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:
- (i.) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager (if any), the Owners, and their respective tenants, servants, agents, and guests;
 - (ii.) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
 - (iii.) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any one or more individual Owners;
 - (iv.) a statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;
 - (v.) a statement that any "other insurance" clause in any policy excludes individual Owners' policies from consideration; and
 - (vi.) a statement that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board of Directors shall obtain, as an Association Expense payable from General Assessments, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available. The amounts of directors' and officers' liability coverage and fidelity coverage shall be determined in the Board of Directors' best business judgment.

SECTION 2. INDIVIDUAL INSURANCE. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner acknowledges and agrees with all other Owners and the Association that each such Owner shall be responsible for obtaining and maintaining all-risk casualty insurance on his portion of the Restricted Property and the structures constructed thereon, of the types and in such amounts as such Owner shall deem prudent or such Owner's Mortgagee may require, and the Association is not obligated to carry such insurance. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total or substantially total destruction of the

structure or structures on his property, the Owner shall proceed promptly to repair or to reconstruct the damaged structure(s) in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article VI of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that a structure is totally or substantially destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear his property of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

SECTION 3. DAMAGE AND DESTRUCTION.

- (a.) Immediately after damage or destruction by fire or other casualty of all or any part of the property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition which existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.
- (b.) Any damage or destruction to the Common Areas covered by insurance written in the name of the Association shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total Class A Membership vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Areas shall be repaired or reconstructed.
- (c.) In the event that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the damaged or destroyed property shall be restored to its natural state and maintained by the Association in a neat and attractive condition.

SECTION 4. DISBURSEMENT OF PROCEEDS. If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s), as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

SECTION 5. REPAIR AND RECONSTRUCTION. If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment to meet the deficiency on the same basis as provided in Section 5 of Article III. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

SECTION 6. CONDEMNATION. Whenever all or any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board of Directors acting on the written direction of Members representing at least two-thirds (2/3rds) of the total Class A Membership vote in the Association and of the Declarant, as long as the Declarant owns any of the property described on Exhibit A) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

- (i.) If the taking involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any of the property described in Exhibit A to this Declaration, and Members representing at least seventy-five percent (75%) of the total Class A Membership vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Areas to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association; or
- (ii.) If the taking does not involve any improvements on the Common Areas, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such

restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VI ARCHITECTURAL STANDARDS

SECTION 1. PURPOSE. In order to preserve the natural setting and beauty of the Restricted Property, to establish and preserve a harmonious and aesthetically pleasing design for the Riverpark West project and to protect and promote the value of the Restricted Property, all improvements within the Restricted Property shall be subject to the restrictions set forth in this Article VI. Every grantee of any interest in a Unit, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

SECTION 2. NEW CONSTRUCTION COMMITTEE. The Declarant hereby establishes the New Construction Committee (sometimes hereinafter called the "NCC"), which shall have exclusive jurisdiction over all original construction within the Restricted Property. The NCC shall prepare and shall promulgate, on behalf of the Association, design and development guidelines and application and review procedures. The NCC shall have sole and full authority to prepare and to amend the same including the right to establish different guidelines for separate neighborhoods or guidelines with more stringent requirements for a particular neighborhood or neighborhoods. The NCC shall make the guidelines and procedures available to Owners who seek to engage in development or construction within the Restricted Property, who shall conduct their operations strictly in accordance therewith. For so long as Declarant owns fee title to any portion of the Restricted Property, the Declarant retains the right to appoint all members of the NCC (and all replacements therefor or additions thereto), which shall consist of at least three (3), but no more than five (5), individuals. The initial members of the NCC shall be Mark A. Kilkenny, Roy R. Behrens, Jr., and Walter Randall Corson. There shall be no surrender of Declarant's right to appoint the members of the NCC prior to the date on which Declarant no longer owns fee title to any portion of the Restricted Property, except in a written instrument executed by Declarant and recorded in the Real Property Records of Fort Bend County, Texas. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC and shall promulgate and administer the design and development guidelines and application and review procedures. The NCC is authorized, but not obligated, to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the NCC in performing its functions as set forth herein.

The NCC shall promulgate detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall

apply: plans and specifications showing the nature, kind, shape, color, size, materials, and location of original construction, shall be submitted to the NCC for approval as to the aesthetic nature of the design and the harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation.

SECTION 3. MODIFICATIONS COMMITTEE. The Declarant hereby establishes the Modifications Committee (hereinafter sometimes called the "MC") which shall consist of at least three (3), but no more than five (5), individuals. The initial members of the MC shall be Mark A. Kilkenny, Roy R. Behrens Jr., and Walter Randall Corson. The NCC and the MC are sometimes hereinafter collectively referred to together as the "Architectural Committees" and individually as an "Architectural Committee". Until the conversion of the Class B Membership to Class A Membership, all members of the MC shall be individuals designated by the Declarant. Thereafter, all members of the MC shall be individuals appointed by the Board of Directors of the Association. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to Units; provided, however, the MC may delegate this authority to the appropriate board or committee of any residential association subsequently created or subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction resumed at any time by written notice.

The MC shall promulgate detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall apply: plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to the aesthetic nature of the design and the harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation.

SECTION 4. ARCHITECTURAL APPROVAL. To preserve the architectural and aesthetic appearance of the Restricted Property, no construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced or maintained by any Owner with respect to any of the Units, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data (including, if required by the NCC or the MC, as applicable, a survey showing the

location of trees of six (6) inches in diameter at a height of four (4) feet above ground and other significant vegetation) showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the appropriate Architectural Committee as to the compliance of such plans and specifications with such design guidelines (the "Design Guidelines") as may be published by the Architectural Committees from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the appropriate Architectural Committee, and the other copy shall be returned to the Owner marked "approved," "approved with conditions as noted," or "disapproved." The Architectural Committees may establish a reasonable fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. Notwithstanding the foregoing, no permission or approval shall be required to repaint in accordance with an originally-approved color scheme, or to rebuild in accordance with originally-approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Unit, or to paint the interior of his Unit any color desired. The Architectural Committees shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to such Architectural Committee.

In the event the appropriate Architectural Committee fails to approve or disapprove in writing any proposed plans and specifications within sixty (60) days after the date on which such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly approved, provided the proposed improvements are generally in harmony with the scheme of the Restricted Property as set forth in this Declaration. Upon approval of plans and specifications, no further approval under this Article VI shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months of the approval of such plans and specifications (e.g., clearing and grading, pouring of footings, etc.) or unless such plans and specifications are materially altered or changed. Disapproval of plans and specifications may be based by the Architectural Committees upon any ground which is consistent with the objects and purposes of this Declaration as defined in Design Guidelines which shall be promulgated by the Architectural Committees from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

SECTION 5. LANDSCAPING APPROVAL. To preserve the aesthetic appearance of the Restricted Property, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Unit by any Owner unless and until the plans therefor have been prepared in accordance

with the Design Guidelines therefor, and have been submitted to and approved in writing by the appropriate Architectural Committee. The provisions of Section 4 hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, and so forth shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling.

SECTION 6. APPROVAL NOT A GUARANTEE. The review and approval of plans pursuant to this Article is made on the basis of aesthetic considerations only and no approval of plans and specifications and no publication of Design Guidelines shall be construed as representing or implying that such plans, specifications, or Design Guidelines will, if followed, result in properly designed improvements. Such approvals and design guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor either of the Architectural Committees shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article VI, any loss or damages to any person arising out of the approval or disapproval of any plans or specifications (or any related construction delays), any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. The purpose of such reviews primarily seeks to conform the aesthetic appearances of development within the Restricted Property.

SECTION 7. APPEAL TO THE BOARD OF DIRECTORS. In the event that plans and specifications submitted for approval in accordance with the provisions hereof are disapproved by an Architectural Committee, the Owner shall have the right to appeal the decision to the Board of Directors by written notice of appeal received by the President or Secretary of the Board of Directors within thirty (30) days after the date of disapproval. Procedures for such an appeal shall be determined by the Board of Directors. No action may be brought against the Association, its officers or directors, or the Architectural Committees or any of their respective members unless and until an appeal is made by the Owner and a decision on such an appeal is made by the Board of Directors.

SECTION 8. RIGHT TO INSPECT. Any member of the Board of Directors or the Architectural Committees and their respective representatives shall have the right, but not the obligation, during reasonable hours, to enter upon and inspect any Unit with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the appropriate Architectural Committee shall determine that such plans and specifications have not been

approved or are not being complied with, the appropriate Architectural Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In addition to any other remedies available to the Association, the Board of Directors may record in the appropriate land records a notice of violation naming the violating Owner.

SECTION 9. NO WAIVER OF FUTURE APPROVALS. The approval by the applicable Architectural Committee or the Board of Directors of any plans and specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committees or the Board of Directors, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

SECTION 10. VARIANCE. The Architectural Committees and the Board of Directors may authorize variances from compliance with any of the Architectural Committees' respective guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Architectural Committee or Board of Directors from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing, shall not be considered a hardship warranting a variance.

SECTION 11. COMPLIANCE WITH GUIDELINES. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Architectural Committees may be excluded by the Board of Directors from the Restricted Property without liability to any person, subject to any applicable notice and hearing procedures contained in the Bylaws.

SECTION 12. CONSTRUCTION OR MODIFICATION OF COMMERCIAL IMPROVEMENTS. The provisions of this Article VI requiring approval by the applicable Architectural Committee of the plans for the construction or modification of improvements on the Units shall not apply to any tract of land adjacent to or in the vicinity of the Restricted Property which is developed for commercial purposes. Declarant may hereafter establish one or more architectural review committees operating independently of the Architectural Committees and the Association to review plans for commercial improvements

on tracts of land not annexed into the Restricted Property, but no representation is made that such a review committee or committees will be created.

ARTICLE VII GENERAL RESTRICTIONS

SECTION 1. PERMITTED USE. The Restricted Property shall be used only for residential, recreational and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business, sales or real estate offices for the Declarant or the Association) as more particularly set forth in this Declaration and in any Supplemental Declarations hereto. Any Supplemental Declaration or additional covenants imposed on any portion of the Restricted Property may impose stricter standards than those contained in this Declaration. The Association, acting through its Board of Directors, shall have the power to enforce such standards.

SECTION 2. PROHIBITED USE. No use of the Restricted Property shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution, or which is hazardous by reason of excessive danger of fire or explosion. No activity or use shall be permitted on or with respect to the Restricted Property which is obnoxious to or out of harmony with a distinctive community including, but not limited to, any trailer houses and trailer parks, junk or scrap metal yard, waste material business, any dumping, disposal, incineration or reduction of garbage or refuse, and any fire, bankruptcy or auction sale or operation. No burning of rubbish or trash shall be permitted at any time within the Restricted Property.

SECTION 3. NUISANCE. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Restricted Property shall be used, in whole or in part, for the storage of any property or thing that will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Restricted Property, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Restricted Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Restricted Property. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security

purposes, shall be located, installed or maintained upon the exterior of any Unit unless required by law.

SECTION 4. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted within the Restricted Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Unit. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Unit.

SECTION 5. OWNER'S MAINTENANCE. Each Owner of a Unit shall at all times be obligated to maintain his portion of the Restricted Property and all improvements thereupon (and the area between the boundary lines of adjacent property and adjacent Streets if such area is not otherwise maintained), so as to keep same in a clean, sightly and safe condition and to conform with any specific standards which the Board of Directors may adopt by resolution for the Restricted Property. Unless expressly assumed by the Association, an Owner's maintenance obligation shall include, but not be limited to: the maintenance of all visible exterior surfaces of all buildings and other improvements; the prompt removal of all paper, debris, and refuse; the removal and replacement of dead and diseased trees and plantings (including trees located within the Street right-of-way adjacent to the Unit); the removal of all snow and ice from paved areas; the repair, replacement, cleaning and revamping of all signs and lighting fixtures; the maintenance and repair of the sidewalks within or adjacent to the Unit; the mowing, watering, fertilizing, weeding, replanting and replacing of all approved landscaping; and, during construction, the cleaning of dirt, construction debris and other construction-related refuse from Streets and storm drains and inlets. In the event an Owner fails to maintain his Unit as herein provided, the Association may, in addition to all other remedies specified herein, perform the maintenance work which such Owner has failed to perform and assess all costs incurred in connection therewith against such Owner, which costs shall be secured by the lien set forth in Section 6 of Article III of this Declaration.

ARTICLE VIII SPECIFIC USE AND ARCHITECTURAL RESTRICTIONS

SECTION 1. RESIDENTIAL USE. All Units shall be used for single-family residential purposes exclusively. For purposes of this restriction, a "single family" shall mean any number of persons related by blood, adoption, or marriage living with not more than one person who is not so related as a single household unit, or no more than two persons who are not so related living together as a single household unit, and the household employees of either such household unit; but the term "single family" expressly excludes more than one set of spouses or persons living together as husband and wife of the same generation, e.g., if spouses (with or without children) occupy the Unit, the parents of one spouse

may also occupy the Unit with them, but the parents of both spouses may not simultaneously occupy the Unit with them; or a sibling or siblings of either of the spouses may occupy the Unit with them, but no spouse of any such sibling may occupy the Unit with them; or the spouse of one child of the couple may occupy the Unit with them, but not more than one spouse of a child may occupy the Unit with them.

No business or business activity shall be carried on, in or upon any Unit at any time except with the written approval of the Board of Directors. However, the Board of Directors may permit a Unit to be used for business purposes so long as such business, in the sole discretion of the Board of Directors, does not otherwise violate the provisions of this Declaration, does not create a disturbance and does not unduly increase traffic flow or parking congestion. The Board of Directors may issue rules regarding permitted business activities. Leasing of a Unit for residential occupancy shall not be considered a business or business activity.

SECTION 2. ANTENNAS. Except as expressly permitted by applicable law, no exterior antennas of any type including, without limitation, satellite dishes shall be erected, constructed, placed, or permitted to remain on any Unit without the prior written consent of the NCC. If approved (or if expressly permitted by applicable law), the installation shall be subject to such conditions or restrictions as the NCC specifies, such as, for example, a requirement that an antenna be located to the rear of the roof ridge line, that a freestanding antenna be located behind the rear wall of a Unit and screened from view by installation of approved fencing or other screening devices, or that no antennas, either freestanding or attached, exceed a particular specified height. The right is hereby reserved to the Board of Directors to erect master antennas, satellite dishes or similar master systems for the benefit of all or a portion of the Restricted Property.

SECTION 3. ANIMALS AND PETS. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on or in any Unit, with the exception of dogs, cats or other usual and common household pets in reasonable number, as determined by the Board of Directors; provided, however, those pets which are permitted to roam free, or which in the sole discretion of the Board of Directors, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners within the Restricted Property may be removed by the Board of Directors. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Unit be on a leash or otherwise confined in a manner acceptable to the Board of Directors. Without prejudice to the Board of Directors' right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Restricted Property. Animal control authorities shall be permitted to enter the Restricted Property to patrol and

remove pets. Pets shall be registered, licensed and inoculated as required by law.

SECTION 4. WINDOW AIR CONDITIONERS. No window or wall type air conditioners shall be permitted to be used, erected, placed or maintained on or in any Unit, except that the NCC or MC may, at its discretion, permit window or wall type air conditioners to be installed if such unit, when installed, shall not be visible from a Street.

SECTION 5. RENTING OR LEASING. Units may be rented or leased only by written leases and subject to the following restrictions:

All tenants shall be subject to the terms and conditions of this Declaration and the rules and regulations promulgated by the Association as though such tenant were an Owner. Each Owner of a Unit agrees to cause his tenant and/or the persons living with such Owner to comply with this Declaration and the rules and regulations promulgated pursuant hereto, and is responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such tenants or occupants of the Unit are fully liable for any such violation. All provisions of this Declaration and of any rules and regulations promulgated pursuant hereto which govern the conduct of Owners of a Unit and which provide for sanctions against Owners shall also apply to all tenants and other occupants of Units even though such tenants and occupants are not specifically mentioned. Fines may be levied against Owners, tenants and/or occupants. If a fine is first levied against a tenant or an occupant and is not paid timely, the fine may then be levied against the Owner.

SECTION 6. VEHICLES. Each detached, single-family house constructed on a separately platted lot shall include a functional garage (attached to or detached from such residence) with space for not less than two (2) full-sized automobiles. The term "vehicles", as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. No vehicle may be left upon any Unit, except in a garage or other area designated by the Board of Directors, for a period longer than five (5) days if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. After such five (5) day period, such vehicle shall be considered a nuisance and may be removed. No boat, trailer, recreational vehicle, motor home, or mobile home shall be parked or stored on a Unit for a period longer than twenty-four (24) hours, except in a garage or other area designated by the Board of Directors. After twenty-four (24) hours any such vehicle shall be considered a nuisance and may be removed by the Board of Directors. Trucks with mounted campers which are an Owner's or occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. No motorized vehicles shall be

permitted on pathways, bike paths, or unpaved Common Areas except for public safety vehicles and vehicles authorized by the Board of Directors.

SECTION 7. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Unit, nor shall any Unit be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened from public view by planting or fencing. All rubbish, trash and garbage shall be regularly removed and not allowed to accumulate. Equipment used for the temporary storage and/or disposal of such materials prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of such Unit shall remove such prohibited matter from his Unit at regular intervals at his expense.

SECTION 8. DRAINAGE. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant of a Unit may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains.

SECTION 9. CLOTHESLINES, GARBAGE CANS, WOODPILES, ETC. All clotheslines, garbage cans, woodpiles, swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be concealed from view of neighboring Streets and property.

SECTION 10. GUNS. The use of firearms within the Restricted Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and small firearms of all types. Nothing contained herein or in the Bylaws shall be construed to require the Association to take action to enforce this Section.

SECTION 11. TEMPORARY BUILDINGS. Temporary buildings or structures shall not be permitted on any Unit; provided, however, that Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used by builders in connection with the construction and sale of residences and by contractors performing land development activities within the Restricted Property. In addition, Declarant may permit a builder to use a garage as a sales office during the period it is marketing homes within the Restricted Property. In the event Declarant permits the use of a garage as a sales office, at the time of the sale any garage so used must be reconverted to a functional garage in compliance with the plans approved by the NCC.

SECTION 12. GRASS AND SHRUBBERY. The Owner of each Unit shall solid sod with grass the area between the front of his residence and the curb line of the abutting Street and the side yard of such Unit out to the curb on all corner Units, in accordance with the Design Guidelines. Grass and weeds shall be kept mowed to prevent unsightly appearance, and all curbs, drives and walkways shall be kept edged. Dead or damaged trees, which might create a hazard to property or persons, shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damage caused by such removal. The Association may plant, install and maintain shrubbery and other screening devices around boxes, transformers and other above-ground utility equipment, and mow and maintain the grass around such areas. The Association shall have the right to enter upon the Units to plant, install, maintain and replace such shrubbery or other screening devices, and mow and maintain grass around such areas following reasonable advance notice to the Owner of such Unit.

SECTION 13. TRAFFIC SIGHT AREAS. All Units located at Street intersections shall be landscaped so as to permit safe sight across the Street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where this would create a traffic or sight problem.

SECTION 14. MAILBOXES. Mailboxes, house numbers and similar matter used in the Restricted Property must be harmonious with the overall character and aesthetics of the community.

SECTION 15. DISPOSAL UNITS. The kitchen in each Unit shall be equipped with a garbage disposal unit in a serviceable condition.

SECTION 16. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are located on a Unit and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Association.

SECTION 17. ROOF STACKS. All roof stacks and flashings on each Unit must be painted to match the color of the roof of the Unit unless otherwise approved by the NCC.

SECTION 18. DECORATIONS. On front lawns of Units and on any portion of a Unit visible from any Street, there shall be no decorative appurtenances placed, such as sculptures, birdbaths and birdhouses, fountains or other

decorative embellishments unless such specific items have been approved in writing by the MC.

SECTION 19. PLAYGROUND EQUIPMENT. All playground equipment on a Unit must be placed at the rear of the Unit and must be placed behind a fence or otherwise screened from public view from any abutting Street.

SECTION 20. SIGNS. No signs, billboards, posters, or advertising devices of any kind shall be permitted on any portion of the Restricted Property, other than: (a) with respect to a previously occupied Unit, one sign approved by the MC, advertising a particular Unit on which the sign is situated for sale or rent; or (b) with respect to a vacant lot or a Unit under construction, one sign approved by the NCC, advertising such vacant lot or the residence thereon as for sale or rent; provided, however, no sign advertising a Unit for sale shall contain the word "foreclosure" or any synonym for or derivative of such word. All such signs, billboards, posters or advertising devices (including, without limitation, all "stake signs") must comply with all applicable codes and ordinances of the City of Richmond, Texas. The right is reserved by Declarant to construct and maintain signs, billboards and advertising devices on land it owns and on the Common Areas as is customary in connection with the sale of developed tracts and newly constructed residential dwellings.

In addition, the Declarant and the Association shall have the right to erect and maintain identifying signs and monuments at each entrance to the Subdivisions. In addition to any other remedies provided for herein, the Board of Directors or its duly authorized agent shall have the power to enter upon a Unit to remove any sign which violates this Section, provided the violating Owner has been given forty-eight (48) hours written notice by the Board of Directors of its intent to exercise self-help. All costs of self-help, including reasonable attorneys' fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of Assessments.

ARTICLE IX MORTGAGEE PROVISIONS

The following provisions are for the benefit of the holders of Mortgages. To the extent applicable, necessary or proper, the provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained herein or therein.

SECTION 1. NOTICES OF ACTION. A Mortgagee who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the description of the affected portion of the Restricted Property), will be entitled to timely written notice of:

- (a.) any proposed dissolution of the Association;

- (b.) any condemnation loss or any casualty loss which affects the property on which there is a mortgage or deed of trust held, insured, or guaranteed by such Mortgagee; or
- (c.) any delinquency in the payment of Assessments or charges owed by an Owner of the property subject to the Mortgage of such Mortgagee, where such delinquency has continued for a period of sixty (60) days.

SECTION 2. NO PRIORITY. No provision of this Declaration gives or shall be construed as giving any Owner or other party priority over any rights of the Mortgagees in the case of distribution of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.

SECTION 3. NOTICE TO ASSOCIATION. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's property.

SECTION 4. FAILURE OF MORTGAGEE TO RESPOND. Any Mortgagee who receives a written request from the Board of Directors to consent to any action requiring such Mortgagee's consent shall be deemed to have approved such action if the Association does not receive a written response to its request for consent from such Mortgagee within thirty (30) days after the date of the Association's request.

ARTICLE X GENERAL PROVISIONS

SECTION 1. TERM. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect for a period of forty (40) years after the date that this Declaration is recorded in the Official Public Records of Real Property of Fort Bend County, Texas, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by the Owners of not less than a majority of the Units then subject to the provisions hereof has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period, agreeing to modify this Declaration, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration may be extended and renewed as provided in this Section.

SECTION 2. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no way affect any other provisions,

which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 3. GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 4. TITLES; CAPTIONS. The titles of this Declaration and/or the captions of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 5. AMENDMENT. Provided that there is no adverse affect on the title to any Owner's property or that any such Owner shall consent thereto, this Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser or mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; or (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration. In addition, so long as Declarant still owns any of the property described in Exhibit A hereto for development as part of the Restricted Property, the Declarant may unilaterally amend this Declaration for any other purpose, provided that the amendment has no material adverse affect upon any right of any Owner or the Owner or Owners so affected have consented thereto.

In addition to the amendments described above, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five percent (75%) of the total Class A Membership votes in the Association (50% after the initial 40-year Term of this Declaration) and the consent of the Class B Member, so long as such Class B Membership exists. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant. Any amendment to this Declaration must be recorded in the Office of the County Clerk of Fort Bend County, Texas.

SECTION 6. MERGER AND CONSOLIDATION. Upon a merger or consolidation of the Association with another non-profit corporation organized for the same or similar purposes, the Association's properties, rights, and obligations

may be transferred to the surviving or consolidated association; or alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. No merger or consolidation shall be permitted except with the consent of Members representing seventy-five percent (75%) of the total Class A Membership vote and, until the conversion of the Class B Membership to Class A Membership, the Declarant.

SECTION 7. DISSOLUTION. The Association may be dissolved with the consent of Members representing seventy-five percent (75%) of the total Class A Membership vote and, until the conversion of the Class B Membership to Class A Membership, the Declarant. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

SECTION 8. ENFORCEMENT. Each Owner and occupant shall comply strictly with the covenants, conditions, and restrictions set forth in this Declaration, as may be amended from time to time, and with the rules and regulations adopted by the Board of Directors. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of Assessments. Failure to comply with this Declaration or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or by an aggrieved Member. Failure of the Board of Directors or any other Person to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall also have the right to enforce, by any proceeding at law or in equity, any other restrictions, conditions, covenants and liens imposed upon any portion of the Restricted Property which by the terms of the instrument creating same grant the Association the power to enforce same, and failure of the Association to enforce such provisions shall in no event be deemed a waiver of the right to do so thereafter.

In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Unit to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, its rules and regulations, or the Design Guidelines. Except in the case of emergency situations, and as otherwise specified herein, the Association shall give the violating Owner ten (10) days

written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorneys' fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of Assessments.

SECTION 9. PERPETUITIES. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

SECTION 10. CUMULATIVE EFFECT; CONFLICTS. The covenants, restrictions and provisions of this Declaration shall be cumulative with those of any Supplemental Declarations; provided, however, in the event of conflict between or among such covenants, restrictions, and provisions of any article of incorporation, rules and regulations, policies, or practices carried out pursuant thereto, those of any Supplemental Declarations shall be subject and subordinate to those of this Declaration. The foregoing priorities shall apply, but not be limited to the lien for Assessments created in favor of the Association.

SECTION 11. USE OF THE WORDS "RIVERPARK WEST" OR "RIVERPARK WEST ASSOCIATION." No other Person shall use the words "Riverpark West" or "Riverpark West Property Owners Association" or any derivative thereof in a printed or promotional material without the prior written consent of the Declarant. However, Owners may use the terms "Riverpark West" or "Riverpark West Property Owners Association" in printed or promotional matter where such reference is used solely to specify that particular property is located within the Riverpark West project, and the Association shall be entitled to use the words "Riverpark West" in its name.

SECTION 12. SECURITY. The Association may, but shall not be obligated to, maintain or support certain activities within the Restricted Property designed to make the Restricted Property safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE RESTRICTED PROPERTY, HOWEVER, AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNITS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ARCHITECTURAL COMMITTEES DO

NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE ARCHITECTURAL COMMITTEES MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY UNIT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, THE BOARD OF DIRECTORS, THE ARCHITECTURAL COMMITTEES, THE DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, THE BOARD OF DIRECTORS, THE ARCHITECTURAL COMMITTEES, THE DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

SECTION 13. FHA APPROVAL. Notwithstanding anything contained in this Declaration to the contrary, if the Declarant has obtained, or should the Declarant seek and obtain, approval of the Federal Housing Administration ("FHA") for a subdivision in the Restricted Property or any subsequent addition thereto, then so long as there is a Class B Membership, the annexation of additional properties into the Restricted Property, any mergers and/or consolidations of the Association, the dedication of Common Areas, the mortgaging of Common Areas, the dissolution of the Association, and the amendment of this Declaration, shall require the prior approval of the FHA.

SECTION 14. DISCLAIMER OF WARRANTY. DECLARANT MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE RIVERPARK WEST DEVELOPMENT OR ANY IMPROVEMENT TO OR IMPROVEMENTS ON THE RIVERPARK WEST DEVELOPMENT, THE CONDITION OF THE RIVERPARK WEST DEVELOPMENT, THE SUFFICIENCY OF UTILITIES, THE

WORKMANSHIP, DESIGN OR MATERIALS USED IN EVERY IMPROVEMENT, INCLUDING WITHOUT LIMITATION COMMON AREAS AND/OR RECREATIONAL FACILITIES, AND DECLARANT EXPRESSLY DISCLAIMS AND NEGATES, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, LIABILITY, FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE OR USE OR ANY WARRANTY OF QUALITY.

IN WITNESS WHEREOF, this Declaration of Covenants, Conditions and Restrictions for Riverpark West is executed effective as of the date first set forth above.

SOUTHWEST 545, L. P., a Texas limited partnership

By: Wilshire Residential, L.L.C., its General Partner

By: _____
Mark A. Kilkenny
Vice President