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DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS

FOR SHADOW CREEK RANCH COMMERCIAL PROPERTY

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR SHADOW CREEK RANCH COMMERCIAL PROPERTY

STATE OF TEXAS §

COUNTIES OF BRAZORIA and FORT BEND §

THIS DECLARATION, is made on the date hereinafter set forth by SHADOW CREEK RANCH DEVELOPMENT COMPANY LIMITED PARTNERSHIP, a Nevada limited partnership (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant presently is the owner of the real property described on Exhibit "A" hereof. All of the real property described on Exhibit "A" attached hereto (and any real property later annexed in) is the "Property" herein; and

WHEREAS, Declarant desires to develop the Property as an office, retail, residential multi-unit senior housing (but not other multi-unit residential), hotel/motel, charitable/non-profit and general commercial subdivision, together with any other land which Declarant at its sole discretion may hereinafter add thereto, and to provide and adopt a uniform plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control and preserve the values and amenities of the Property for the development, improvement, sale, use and enjoyment of the Property as an office, retail, residential multi-unit senior housing, hotel/motel, charitable/non-profit and general commercial subdivision; and

WHEREAS, Declarant desires to subject the Property, together with additional land as may hereinafter be made subject hereto, to the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said subdivision, to create an Association (hereinafter defined) to which shall be delegated and assigned the power of administering and enforcing these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the assessments; and

WHEREAS, there has been incorporated the Shadow Creek Ranch Commercial Owners Association, Inc., a non-profit corporation created under the laws of the State of Texas, whose directors have established By-Laws by which said Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid; and

WHEREAS, the real property described on Exhibit "A" is also subject to a Master Declaration of Covenants, Restrictions, Easements, Charges and Liens for Shadow Creek Ranch

Maintenance Association (as more particularly described in Article I, the "Master CCR's");

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and shall run with the Property and be binding on all parties, now and at anytime hereinafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired and shall inure to the benefit of each Owner of any part of the Property.

ARTICLE I. DEFINITIONS

"ARC" shall mean and refer to the Architectural Review Committee established for the Property as hereinafter set forth in Article V, Section 21.

"Association" shall mean and refer to the Shadow Creek Ranch Commercial Owners Association, Inc. ("SCRCOA"), a non-profit corporation, incorporated under the laws of the State of Texas, its successors and assigns.

"Board" shall mean and refer to the duly elected Board of Directors of the Association.

"By-Laws" shall mean and refer to the By-Laws of Shadow Creek Ranch Commercial Owners Association, Inc., that have been or will be adopted by the Board of Directors of the Association, as amended from time to time.

"Charitable/Non-Profit Use" shall mean use of the Property by charitable or non-profit organizations or entities that are exempt from taxation by federal laws or the laws of the State of Texas.

"Commencement of Construction" shall mean the beginning of the construction of Improvements pursuant to Plans approved by the ARC.

"Commercial Property" means Shadow Creek Ranch Commercial Property, being mixed-use office, retail, residential multi-unit senior housing (but not other multi-unit residential), hotel/motel, charitable/non-profit and general commercial, located in various locations in the 3300± Shadow Creek Ranch development located in Brazoria, Fort Bend and Harris Counties, Texas.

"Common Area" shall mean all real property owned in fee or held in easement by the Association for the common use and enjoyment of the Owners and shall include areas designated by Declarant to be conveyed by deed or easement to the Association, and shall also include any real property maintained by the Association pursuant to a determination by the Board that it is in the best interests of the Association to do so.

"Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property, which may be more specifically determined by the Board of Directors and the Architectural Review Committee.

"Condominium Owners Association" shall mean a community association for a senior housing project established as a non-profit corporation and comprised of owners of individual Dwelling Units within such senior housing condominium project for seniors.

"Condominium Unit Owner" shall mean the owner of an individual Dwelling Unit within a condominium project for seniors.

"Declarant" means Shadow Creek Ranch Development Company Limited Partnership, a Nevada limited partnership, its successors and assigns.

"Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Shadow Creek Ranch Commercial Property.

"Dwelling Unit" shall mean an apartment or condominium unit for senior housing or a guest room in a hotel/motel as submitted to and approved by the ARC, and subsequently constructed by Owner; provided however, that a Dwelling Unit as defined herein shall not include a single-family residence constructed on a platted lot, nor any other apartment or condominium not part of a senior housing project.

"G.S.F." (Gross Square Foot/Feet) shall mean the total number of square feet in a Tract of land.

"General Commercial Use" shall mean a use for the transaction of business that is not herein prohibited and that is not an Office Use, Retail Use, Hotel/Motel Use or a Charitable/Non-Profit Use.

"Hotel/Motel Use" shall mean use as an inn or public house held out to the traveling public as a place of temporary accommodation.

"Improvements" shall mean all structures or other improvements to any portion of the properties of any kind whatsoever, whether above or below grade, including, but not limited to, structures, buildings, utility installations, storage, loading and parking facilities, walkways, driveways, landscaping, fencing, signs, site lighting, site grading and earth movement and any exterior additions, changes or alterations thereto.

"Landscape" shall mean the planting of trees, shrubs, small-scale foliage, and grass in open space areas, and the installation of irrigation as necessary to support such plants.

"Master Association" shall mean and refer to the Shadow Creek Ranch Maintenance Association, which Master Association was formed pursuant to the Master CCR's.

"Master CCR's" shall mean and refer to the Declaration of Covenants, Restrictions, Easements, Charges and Liens for Shadow Creek Ranch Maintenance Association, which was recorded under Brazoria County Clerk's File No. 01042985, Harris County Clerk's File No. V361959, and Fort Bend County Clerk's File No. 2001095077, and re-recorded under Brazoria County Clerk's File No. 01051825, Harris County Clerk's File No. V472436 and Fort Bend County Clerk's File No. 2001111335, and which encumbers the entire 3,300 ± acres of the Shadow Creek Ranch development, of which the Property is a part. The Property is a Commercial Village and the Association created for the Property (i.e. the SCRCOA) is a "Village Association" under the Master CCR's, as those terms are defined therein.

"Member" shall mean and refer to those persons entitled to membership as provided in Article III, Section 1 of this Declaration.

"Office Use" shall mean and refer to a use of the Property for the conducting of business, clerical or professional activities from a building or buildings.

"Open Space" shall mean and refer to an unpaved area within a Tract not used for vehicular access, parking, or building slabs/foundations.

"Owner" means an owner of Property, including Declarant, who holds record title to any portion of the Property. Any person or entity obtaining title to an Owner's property subject to this Declaration shall also be deemed an Owner. Persons or entities obtaining property annexed into the Association shall also be deemed Owners. Those having such interest merely as security for the performance of an obligation are not included as Owners.

"Plans" shall mean and refer to all of the following (collectively as submitted, revised, and resubmitted):

A. The "Design Development Plan," which shall include:

1. a site plan (the "Site Plan") showing the location, dimensions, and orientations to boundary lines and the set back lines of proposed buildings, parking garages, other structures, means of ingress and egress, driveway, traffic patterns, sidewalks, fencing and other Improvements;
2. a design elevation of, a core plan for, and a description of the foundation, height and size of each structure, including the Gross Building Area of each structure.
3. a description and sample of the exterior materials for each structure;
4. the number and location of parking spaces to be contained in parking garage structures, and the number and location of surface parking spaces;

5. a general description of the type, number, size, and location of exterior signs;
 6. a description (the "Proposed Use Plan") of the proposed use of Improvements and the Tract;
 7. grading and drainage plans including the elevation of all sanitary and storm sewer connections and the location of all utility connections; and
 8. a calculation of the Open Space in square feet.
- B. "Exterior Plan" shall mean drawings and details of all exterior surfaces, including the roof, showing elevations, and including the color, quality and type of exterior construction materials.
- C. "Landscaping Plan" shall mean a drawing showing the type, quantity, size, and placement of all exterior plant materials, including irrigation as necessary to support such plant materials.
- D. "Lighting Plan" shall mean the type, style, size and candle power of all outdoor lighting fixtures.
- E. "Signage Plan" shall mean drawings and design specifications of all proposed exterior signs or graphics, including the colors thereof, the quality and type of materials to be used and the manner of illumination.

"Property" shall mean and refer to that certain real property, a description of which is attached hereto as Exhibit "A," and any other lands that may hereafter be made subject to this Declaration.

"Residential Use" shall mean predominant use of any building area, other than hotels or motels, as senior multi-unit Dwelling Units.

"Restrictions" shall mean and refer to those certain covenants, conditions, reservations and restrictions hereinafter set forth.

"Retail Use" shall mean the practice of selling goods, other than in bulk, directly to the consumer.

"Sub-developer" shall mean and refer to any and every person or entity who purchases a Tract from Declarant for the purposes of constructing and/or selling a building or buildings or other Improvements for commercial use thereon and using and/or selling such Tract or a developer who purchases a Tract from Declarant for the purpose of developing the Tract into multiple Tracts and selling such Tracts to another Sub-developer.

"Supplemental Declaration" shall mean an amendment to this Declaration that may, but is not required to, add additional property to that covered by this Declaration and that may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Supplemental Declaration to the provisions of this Declaration.

"Tract" shall mean and refer to each parcel of land which is a part of the Property herein and which is separately described in a deed of conveyance from Declarant to an Owner or by recorded plat or as further divided and conveyed from one Owner to another.

"Voting Unit" shall mean a portion of the Property containing one acre of land area and shall be the basis for voting rights in and by the Association, as further stipulated and qualified in Article III, Section 2 hereof. In the case of fractional votes for Tracts which include or consist of a portion of an acre, the Voting Units shall be rounded down to the nearest whole number if the portion is .49 or below, or rounded up to the nearest whole number if the portion is .5 or over. Notwithstanding the above, no Tract shall have less than 1 Voting Unit, even if the Tract is smaller than .49 of an acre.

ARTICLE II. PROPERTY RIGHTS

Section 1. The Association. The Association is hereby granted an easement and right-of-way in and to the Common Area for the maintenance, upkeep, and repair of the Common Area, subject to the provisions of this Declaration and/or any Supplemental Declarations, and as necessary to comply with local, state, or federal requirements. The Association is also hereby granted an easement and right-of-way over all of the Property as needed to perform all of its obligations and to exercise all of its rights and privileges hereunder.

Section 2. Owners' Easements of Enjoyment. Every Owner shall have the right to an easement of enjoyment in and to any Common Area, which right shall be appurtenant to and shall pass with the title of every Tract, subject to the following provisions:

A. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes and subject to such conditions as may be approved by two-thirds (2/3) vote of the total eligible Voting Units of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Dedication of easements for public utility purposes or for purposes required by law may be approved by the Board and does not require the approval of the Members.

B. An Owner shall not plant, place, fix, install or construct or remove any vegetation, hedge, tree, shrub, fence, wall, structure, or Improvement on the Common Area or alter the land form, vegetation or irrigation system, either in whole or in part without first obtaining the written consent of the Association. The Association may, without liability to the Owner or Owners, remove anything placed on the Common Area in violation of the provisions of this subsection and recover the cost of such removal from the Owners responsible.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his/hers/its right of enjoyment to the Common Area and facilities to contract purchasers or

employees working upon or residing on the Property, the members of the Owner's family, or the Owner's tenants.

Section 4. Use of Residential Village Recreational Facilities. Neither ownership of Commercial Property, membership in the Association, nor payment of any assessment provided for in this Declaration shall authorize the use of any recreational facility or amenities or common areas of the any Residential Village (as that term is defined in the Master CCR's) in the Shadow Creek Ranch development, by an Owner, tenant, contract purchaser, or employee working upon or residing on the Property, however any common areas or amenities of the Master Association are for the benefit of all of the Shadow Creek Ranch development, including the Commercial Property. Nothing in this section shall be deemed to preclude a Condominium Unit Owner from utilizing the recreational facilities provided at his or her place of residence and designated for use by such Condominium Unit Owners.

Section 5. Rights and Obligations of Condominium Unit Owners. The rights and obligations set forth in this Article shall apply where applicable to Condominium Unit Owners, subject to the provisions of this Declaration, any supplements or amendments, and the By-Laws of the Association.

Section 6. Conveyance to the Association. Declarant may retain, for as long as it deems necessary or convenient, the legal title to easements or fee simple parcels designated or to be designated as Common Area. Declarant may, at any time after the date hereof, convey legal title to all or a portion of such Common Area to the Association, which conveyance shall be on an "AS IS, WHERE IS" basis. The Association shall be obligated to accept title to, operate and maintain the Common Area conveyed to the Association as elsewhere provided in this Declaration. Even if legal title has not yet been conveyed, the Association shall pay all operating expenses for any easement and/or fee simple parcels designated as Common Areas, including but not limited to maintenance, taxes, insurances and every other cost or expense related to the operation of such Common Areas.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS, MANAGEMENT

Section 1. Membership. Every person or entity that is a record Owner of a Tract other than an owner of a Dwelling Unit shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Individual Dwelling Unit owners are not Members. Any one Owner shall have no more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land. In addition, every Condominium Owners Association shall be a Member of the Association.

All Owners hereby agree and acknowledge that all duties and obligations, mandatory or prohibitory in nature, are hereby made incumbent upon Owners, as a personal act or as an act of the respective corporation they represent, and that no waiver of use of rights of enjoyment created by this Declaration shall relieve Owners or their successors or assigns of such duties or obligations. The mandatory membership shall begin with execution and recordation of this

Declaration and pass along with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of any of the Property described on Exhibit "A", whether initially described on Exhibit A or later annexed thereto. Prior to changing the name of the Owner of any Tract on the membership rolls of the Association, the Association or its managing agent (if authorized by the Board of Directors) may charge a transfer fee or processing fee when ownership to any Tract changes, however, there shall be no charge when Declarant conveys a Tract to a Sub-developer. There will be a charge when a Sub-developer conveys a Tract to another Sub-developer or to an end user. Each Owner is required to provide and maintain at all times with the Association, or its designated management agent, current information regarding such Owner's address and phone number and the name, address and phone number of any property manager or tenant of the Tract.

Section 2. Voting Rights. The Association shall have two classes of membership, Class A and Class B as follows:

A. Class A. Class A Members shall be all Owners of Voting Units with the exception of Class B Member, if any. Each Voting Unit shall be allocated one (1) vote.

Where more than one person or entity is an Owner of a Tract that comprises a Voting Unit, such Owners must determine among themselves how their vote shall be exercised. However, the number of votes allotted to each Tract comprising a Voting Unit shall be exercised in concert. The Association may rely on any indicia of authority exhibited by an Owner when such Owner is casting the vote allotted to a particular Tract. No partial votes may be cast and voting privileges shall be suspended with respect to any Voting Unit for which any assessment, either regular or special or reimbursement, or any capitalization fee or conveyance fee, has not been paid by the due date set forth herein.

In its capacity as a Member, a Condominium Owners Association shall be entitled to one vote for each Voting Unit within its jurisdiction notwithstanding the fact that the individual units comprising the condominium project are owned by individual Condominium Unit Owners. Such Condominium Unit Owners are not Members and shall not be entitled to vote individually but shall be represented by their Condominium Owners Association.

B. Class B. Class B Member shall be the Declarant. For all Declarant-owned property, Declarant shall be entitled to fifteen thousand (15,000) Voting Units, regardless of the amount of acreage owned by Declarant. This number shall never decrease for as long as the Class B membership exists. The Declarant's Class B membership shall terminate upon the happening of the earlier of the following:

1) When one hundred percent (100 %) of the Property (including portions annexed in) planned for development is sold to and occupied by Class A Members that are not Sub-developers; or

2) December 31, 2030.

From and after the termination of Class B membership, Declarant shall be deemed to be a Class A Member entitled to one (1) vote for each Voting Unit.

The Declarant, in its sole discretion, may declare the termination of its Class B membership at any time in a recorded instrument.

C. Reinstatement of Class "B" Votes. Notwithstanding the prior provisions of Section 2.B. above, if additional property is made subject to the jurisdiction of the Association pursuant to a Supplemental Declaration, or if Declarant repurchases any Tracts, such that Declarant again owns any Tracts in the Property, then the provisions regarding Class "B" votes in this Section 2, shall be automatically reinstated ipso facto.

D. Voting. Unless otherwise stated herein, in the Articles, in the By-Laws, or required by law, any action which requires the approval of the Members of the Association shall require the approval of a majority of the total eligible votes of Members represented in person or by proxy at any duly called meeting, i.e. a majority of votes present. Any action of the Board shall require the approval of a majority of the total number of members thereon.

Section 3. Management by Association.

(i) Generally. The affairs of the Property shall be administered and managed by the Association, subject, however, to the authority of the Master Association pursuant to the Master CCR's. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Property as herein provided for and as provided for in the Articles of Incorporation, Bylaws, and any rules and regulations. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the event of a conflict between the Articles of Incorporation or the Bylaws and the provisions of the Declaration, the provisions of the Declaration shall control. The principal purposes of the Association are the collection, expenditure, and management of assessments, enforcement of the restrictions contained herein and in Supplemental Declarations, providing for the maintenance and presentation of the Common Area and the facilities of the Association, ensuring architectural control of the Tracts, and establishing a method for the administration, maintenance, preservation, use and enjoyment of the Property.

(ii) Additional Powers of the Association. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Property and Common Area as the Board deems reasonably necessary or appropriate to maintain and operate the Property in accordance with the Declaration, including without limitation, the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, or other matters of mutual interest. The Association, acting through its Board of Directors, shall also have the power to make and to enforce rules and regulations governing the use of the Property and Common Area,

including but not limited to rules concerning traffic and parking matters, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. The rules and regulations shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, canceled or modified in a regular or special meeting of the Association by two-thirds of the total eligible Class "A" and Class "B" votes of the Association.

(iii) Common Area. The Association, subject to the rights of Declarant and the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all Improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

(iv) Personal Properties and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by Declarant pursuant to the terms of this Declaration.

(v) Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the By-Laws or by statute, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 4. Board of Directors. The business and affairs of the Association shall be managed by and the decisions and actions of the Association shall be made or taken by the Board of Directors, unless otherwise reserved to the Members of the Association by law, the terms of the Declaration, Articles of Incorporation, or the Bylaws. During the existence of the Class B Membership, the Declarant shall be entitled to appoint and remove the Directors, at any time and from time to time, with or without cause.

ARTICLE IV. COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Tract owned within the Property, hereby covenants, and the Owner of any Tract by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- A. annual assessments,
- B. special assessments,
- C. reimbursement assessments, and
- D. any other costs, expenses, fines, late charges and/or interest assessed hereunder.

The annual, special and reimbursement assessments, together with late charges, interest (at the lower of 18% or the maximum rate allowed by law), costs, expenses, fines and reasonable attorneys' fees as necessary for collection, shall be a charge on and a continuing vendor's lien upon the land against which each such assessment is made. Each such assessment, together with late charges, fines, interest, costs, expenses and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the land at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. Annual and special assessments levied by the Association shall be used for the purpose of promoting the benefit, health and welfare of the Members of the Association and, in particular, may be used for maintenance, repair or improvement of any Common Area, street, roadway, esplanade, setback and/or entryway, police and patrol service, fire protection, emergency medical service, street cleaning, street lighting, mosquito control and other services as may be in the Property's interest. Streets, roadways, esplanades, setbacks and entryways and/or other property that are not contained in any Common Area may be included in the Association's maintenance if, in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members.

Additionally, assessments levied by the Association shall be used to pay the Association's fair allocation of maintenance costs for its participation in any agreement among other property owner associations in the area, for consolidated programs that provide consistency and economies of scale. Approval to enter such agreements shall require a majority vote of the Board.

Each Owner is also subject to assessment pursuant to the Master CCR's. The assessments pursuant to the Master CCR's may be billed and collected by the Association (at the election of the Master Association), along with the Association's billing and collecting of assessments hereunder. Any assessments collected for the Master Association shall be paid to the Master Association out of the first funds available.

Section 3. Rates of Annual Assessments. The annual assessments for any Tract are based on total land in the Tract. The current annual assessments shall be as follows:

Land Area: \$00.02 per G.S.F. contained in the Tract:

The annual assessment provided for herein shall commence on the conveyance of a Tract from Declarant to Owner and such Owner will be assessed at ½ the annual assessment rate until such Owner records a plat of the Tract, however if Declarant or a predecessor of Declarant has platted the Tract, then the Owner will be assessed at the full rate upon conveyance to such Owner. Full assessments for Owners other than Declarant will start when the Tract is platted by an Owner other than Declarant, unless already platted.

The first annual assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable at the closing when the land is purchased. The assessments for any year, after the first year, shall become due and payable in

advance on the first day of January. Any party that takes title to any Tract after the first day of January in any year is responsible for the pro-rata portion of that year's annual assessment and such pro-rata share shall be due and payable when title passes. Should any plat be recorded by an Owner other than Declarant, such Owner shall immediately notify the Association and shall pay the additional annual assessment then due by reason of the recorded plat, within 30 calendar days of receiving a statement for such amount. The due date of any special assessment under Section 6 hereof shall be fixed in the resolution authorizing such assessment.

For purposes of this section, a "plat" shall mean a recorded final plat, not a preliminary plat.

Section 4. Declarant's Obligations. So long as the Declarant owns any Tracts, even though annual assessments shall not have commenced as to such Tracts, the Declarant shall have three (3) options with respect to funding the Association, which may be exercised singly or in combination: (1) the Declarant may annually elect either to pay annual assessments on the Tracts it owns at 1/10 rate or (2) the Declarant may elect to pay to the Association the difference between the amount of assessments collected on all other Tracts subject to assessment and the amount of expenditures required to operate the Association during the fiscal year, or (3) Declarant may require the Board (whether the Board is the same as Declarant, his agents, servants, or employees and without being liable for any claim made by any Member of the Association that the Board's fiduciary duty to the other Members of the Association has been breached due to a conflict of interest) to execute promissory notes and/or other instruments evidencing any debt the Association owes the Declarant for monies expended by the Declarant or loaned to the Association by Declarant for and on behalf of the Association for obligations of the Association; provided, however, such promissory notes shall not be secured by a lien on any of the Common Area conveyed by Declarant to the Association.

The Declarant shall be given preliminary budget numbers for the next fiscal year no later than August 1st of each year, so that it may evaluate its decisions under this paragraph. Upon Declarant's sale of all Tracts owned by it, Declarant shall have no further obligation to pay Assessments to, or fund any deficits of, or make any contributions to, the Association.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the common expenses.

So long as the Declarant owns any Tracts, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting annual assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant above); provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the common expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in any future year.

Section 5. Increases in Annual Assessments. The Board may determine and certify that the then current annual assessments for Tracts are sufficient, insufficient, or excessive to reasonably meet the expenses of the Association and, at a meeting called for such purpose at least thirty (30) days in advance of the assessment period, by majority vote of the Board, may increase or decrease the annual assessment rates set forth above by an amount not to exceed twenty-five percent (25%) of the previous annual assessment rate. An annual assessment shall not be increased or decreased more than once in any calendar year, and any increases or decreases shall not take effect retroactively.

Should the Board determine that an increase or decrease exceeding twenty-five percent (25%) is necessary such assessment rate changes shall require the approval of two-thirds of the total eligible Voting Units of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6A. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Common Area or any unusual infrequent expense benefiting the Association, provided that any such assessment shall have the approval of the majority of the total eligible Voting Units of the Members who are voting in person or by proxy at a meeting duly called for this purpose, i.e. a majority of votes present. Such special assessments will be due and payable as set forth in the resolution authorizing such assessment and shall be levied only against those Owners subject to the annual assessment (regardless of whether such Owner is paying $\frac{1}{2}$ or full annual assessments) as set forth in Section 4 hereof and shall be pro-rated in accordance therewith for the length of time during such year that the Tract has been owned by an Owner other than Declarant. All Owners assessed will be assessed the same amount, i.e. there will be no difference in the amount of special assessments regardless of whether such Owner is being assessed full or $\frac{1}{2}$ rate on annual assessments.

Section 6B. Capitalization Fee. Each Owner of a Tract other than Declarant (whether one or more Persons) at the time it purchases a Tract, shall be obligated to pay to the Association a fee of \$400.00 per acre in such Tract, at the time of sale, as a Capitalization Fee. Such funds from the Capitalization Fee collected at each sale shall initially be used to defray initial operating costs and other expenses of the Association, and later used to ensure that the Association shall have adequate funds to meet its expenses and otherwise, as the Declarant (and later the Association) shall determine in its sole discretion (hereinafter "Capitalization Fee"). Such Capitalization Fee shall be non-refundable and shall not be considered an advance payment of any assessments levied by the Association pursuant to the Declaration. The amount of the Capitalization Fee may be changed prospectively (but not retrospectively) by the Association from time to time in its discretion. Such Capitalization Fee will be collected from the Owner directly at the purchase of the Tract. If any Tract is subdivided and/or platted into multiple Tracts, then the multiple Tracts will thereafter be subject to the Capitalization Fee at the time of each sale. Such Capitalization Fee shall be deemed an assessment hereunder, and may be collected in the same fashion. If the acreage of the Tract contains a portion of an acre, then the acreage shall be rounded up or down in the same fashion as for voting, including that no Tract

shall be exempt from paying this Capitalization Fee (i.e. any Tract smaller than .49 of an acre shall pay as if 1 acre in size).

Section 6C. Conveyance Fee. In connection with the creation of the Association and the development of the Commercial Village of Shadow Creek Ranch and the construction of the Common Area, the Declarant has expended substantial sums in connection with developing the master plan, helping finance and plan the development, the credit enhancement necessary to obtain the necessary construction financing and financially subsidizing the maintenance and operations of the Association and its Common Areas. In particular, the Declarant has personally guaranteed the construction financing obtained to construct all of the Common Area improvements and other infrastructure in this Commercial Village. Therefore, each Owner of a Tract other than Declarant (whether one or more Persons) at the time it purchases a Tract, shall be obligated to pay to the Declarant a fee of \$100.00 per acre in such Tract as a Conveyance Fee, regardless of the projected usage of such a Tract at the time of sale. This Conveyance Fee shall be collected on every sale of a Tract for twenty (20) years from the date of recording of this Declaration, at which time this Conveyance Fee shall expire and shall no longer be collected. Such Conveyance Fees from each sale shall reimburse the Declarant for expenses involved in the creation of the Association, funds expended by Declarant to subsidize the operations of the Association and unreimbursed construction and other expenses involving the Association. Such Conveyance Fee shall also compensate the Declarant for the financial obligations and risks it undertook in its development activities and guarantees of financial obligations. Such Conveyance Fee shall be non-refundable and shall not be considered an advance payment or offset of any past or future assessments levied by the Association nor shall the Conveyance Fee be considered partial payment of the Capitalization Fee. Such Conveyance Fee will be billed to the Owner directly at the time of the purchase of the Tract, and shall be deemed an assessment hereunder collectible in the same manner as assessments. If any Tract is subdivided and/or platted into multiple Tracts, then each of the multiple Tracts will thereafter be subject to the Conveyance Fee at the time of each sale of each of the multiple Tracts. If the acreage of the Tract contains a portion of an acre, then the acreage shall be rounded up or down in the same fashion as for voting, before multiplying by \$100.00 per acre, including that no Tract shall be exempt from paying this Conveyance Fee (i.e. any Tract smaller than .49 of an acre shall pay as if 1 acre in size, i.e. 1 acre x \$100.00).

Notwithstanding anything to the contrary contained herein the provisions of this Declaration regarding this Conveyance Fee may not be amended, modified, repealed, terminated or waived without the prior written agreement of the Declarant.

Section 7. Notice and Quorum for Any Action Authorized Under Section 5 or 6. Written notice of any meeting called for the purpose of taking action requiring Members to vote under Sections 5 and/or 6 of this Article shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such called meeting, the presence of Owners or proxies entitled to cast thirty percent (30%) of the votes of all the combined total eligible Voting Units shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that the subsequent meeting shall not be held more than sixty (60) days following the

preceding meeting. The quorum requirement will continue to reduce by half in this manner until a quorum is achieved or the Board elects to table the action.

Section 8. Notice of Annual Assessments. The Board shall fix the amount of the annual assessment and the late charge rate at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment including the due date shall be sent to every Owner.

Section 9. Reimbursement Assessments. The Board of Directors, subject to the provisions hereof, may levy a reimbursement assessment against any Member if the failure of the Member or the Member's licensees, invitees or tenants to comply with this Declaration, the Articles of Incorporation, the Bylaws, architectural and design guidelines, or any rules and regulations shall have resulted in the expenditure of funds or the determination that funds will be expended by the Association to cause such compliance. Further, any fines and/or penalties levied pursuant to this Declaration or pursuant to the rules and regulations shall be deemed reimbursement assessments to be collected in the same manner as other reimbursement assessments. The amount of the reimbursement assessment shall be due and payable to the Association ten (10) days after notice to the Member of the decision of the Board of Directors that the reimbursement assessment is owing.

Section 10. Estoppel/Resale Certificates. The Association or its agent shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association or its agent setting forth whether the Assessments on a specified Tract have been paid, however the Declarant shall not be charged for any such certificate when selling to a Sub-developer or an Owner. A properly executed certificate of the Association as to the status of assessments on a Tract is binding upon the Association as of the date of its issuance.

Section 11. Attribution of Payments. If any Owner's assessment payment is less than the amount assessed, the payment received by the Association from the Owner shall be credited in the order of priority determined by the Board in its sole discretion. Should the Board not determine the order of priority, then the payment shall be applied in the following order of priority: (a) reimbursement assessment until the reimbursement assessment has been satisfied; (b) special assessment until the special assessment has been satisfied; and (c) annual assessment until the annual assessment has been satisfied. In each of the foregoing cases, payments received shall be credited first to interest, attorney's fees, and other costs of collection, and then to assessment reduction, satisfying the oldest obligations first, followed by more current obligations, in accordance with the foregoing order of priority.

Section 12. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) eighteen percent (18%) or (ii) the maximum rate of interest permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by reason of non-use or abandonment. In any action or proceeding under this Declaration, the Association shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

In order to secure the payment of the assessments hereby levied, an assessment lien is hereby reserved in each deed from the Declarant to the Owner of each Tract, whether mentioned therein or not, which lien may be enforceable through appropriate judicial or non-judicial proceedings by the Association. Each Owner of a Tract, by such party's acceptance of a deed thereto or joinder in this Declaration, hereby grants the Association a power of sale to enforce the assessment lien retained herein. The assessment lien may be foreclosed on by judicial or non-judicial foreclosure pursuant to Texas Property Code, Section 51.002, or any successor statute.

The President of the Association or his designee is hereby appointed trustee to exercise the Association's power of sale. At any foreclosure sale, the Association is authorized to bid and purchase any Tract if it is the successful bidder.

In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002, or any successor statute, and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale no less than twenty-one (21) days prior to the date on which said sale is scheduled by posting such notice through the United States Postal Service, postage prepaid, registered or certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association or by hand delivery. Out of the proceeds of such sale, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorneys' fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount of assessments in default inclusive of interest, late charges and attorneys' fees; and, third, the remaining balance shall be paid to such Owner or party otherwise lawfully entitled thereto. Following any such foreclosure, each Owner and/or occupant of any such Tract foreclosed on and each occupant of any Improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means, including a judgment for possession and any action of forcible detainer and the issuance of writ of restitution thereunder.

In the alternative, the Association may bring a suit at law to enforce any assessment or other financial obligation. Any judgment rendered in such action shall include any late charges, interest and other costs of enforcement including reasonable attorneys' fees in the amount as the court may adjudge against the defaulting Owner or Member.

Section 13. Subordination of the Lien to Mortgages. The assessment lien shall be subordinate to the lien of any first mortgage. Sale or transfer of any Tract shall not affect the assessment lien. However, the sale or transfer of any Tract pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of any assessments which became due prior to such sale or transfer, but otherwise the lien shall survive such foreclosure or proceedings. The Owner of such Tract prior to such sale or foreclosure shall remain personally liable, for the assessments due prior to such sale or foreclosure. Sale or transfer or foreclosure shall not relieve any Tract from the liability of any subsequent assessments or from the lien thereof.

Section 14. Annexation to the Property. Declarant may from time to time, at Declarant's sole discretion, unilaterally add or annex additional land into Exhibit "A", 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 Property. Such addition or annexation shall be accomplished by the execution by Declarant and filing for record of an instrument setting forth the land being added or annexed in a Supplemental Declaration. Upon termination and conversion of 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 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. **SHOULD ANY TRACT EVER BE ANNEXED AFTER BEING CONVEYED BY DECLARANT TO AN OWNER OTHER THAN DECLARANT, BY REASON OF AN INADVERTENT ORDER OF RECORDING ERROR, OR AS THE RESULT OF SOME OTHER INADVERTENT CHAIN OF EVENTS, THEN SUCH OWNER AGREES TO IMMEDIATELY UPON REQUEST, EXECUTE A JOINDER SUBMITTING SUCH TRACT TO THIS DECLARATION AS PART OF THE PROPERTY.**

Section 15. De-annexation of the Property. Declarant may, without the consent of any other person or entity, deannex and remove property from Exhibit "A", for as long as it has the unilateral right to annex additional property pursuant to Article IV, Section 11 above, for the purpose of removing unimproved portions of the Property from the coverage of this Declaration. Declarant may also deannex and remove any other property from Exhibit "A," so long as the Owner of such Property consents in writing to such deannexation. Such deannexation shall be accomplished by the execution and filing for record of an instrument setting forth the land being deannexed and signed by the Declarant and Owner, if not the Declarant. If the Property is Common Area, the Association shall consent to such withdrawal as evidenced by the majority vote of the Board. For purposes of this Section 15, the Term "unimproved" means no above ground, vertical improvements located on such Property.

ARTICLE V. RESTRICTIONS OF USE

Section 1. Permitted Uses. The Property shall be used only for office, retail, senior multi-unit residential (no other residential), hotel/motel, charitable/non-profit and general commercial subdivision purposes more particularly set forth in this Declaration, any amendments hereto, or subsequently recorded Supplemental Declarations creating condominium associations or commercial associations for specific Tracts or groups of Tracts subject to this Declaration, or by any Brazoria, Fort Bend or Harris County ordinance. Declarant may further clarify or specifically

restrict certain uses, in its sole discretion, through provisions in Supplemental Declarations filed on the Property.

Section 2. ARC Approval Required. No buildings, additions or Improvements shall be erected or placed on any Tract until the construction plans and specifications including, but not limited to, the Site Plan, Design Development Plan, Exterior Plan, Signage Plan, Landscaping Plan, and Lighting Plan have been submitted in triplicate to and approved in writing by the ARC as hereinafter provided. The ARC may, in its guidelines, rules or otherwise provide for the payment of a fee to accompany each request for approval of any proposed Improvement. The ARC may provide that the amount of such fee shall be uniform for similar types of proposed Improvements or that the fee shall be determined in any other reasonable manner, such as based upon the reasonable cost of the proposed Improvement.

Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the design of the Improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specifications within sixty (60) days after the receipt thereof, they shall be deemed to be disapproved. The ARC or its assignee, at its sole discretion, is hereby permitted to approve in writing deviations in the general use restrictions set forth in Article V in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The granting of a deviation by the ARC in one instance shall not be deemed a waiver on any right to withhold authorization; of any similar deviation for any party in the future.

After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed Improvement and any materials submitted to the ARC. Failure to complete the proposed Improvement within one (1) year after the date of approval (or such later date as may be permitted in writing by the ARC or set forth in any deed of the Tract from Declarant to the Owner), subject to delays for causes beyond the reasonable control of the Owner, or to complete the Improvements in strict conformity with the description and materials furnished to the ARC, shall operate automatically to revoke the approval of the proposed Improvement. In this event of such automatic revocation of approval, construction plans and specifications must be resubmitted to the ARC for approval, along with any required fee.

The ARC shall have the authority hereunder to require an Owner and Owner's agents or contractors to cease and desist in constructing or altering any Improvements or sitework on any Property, where such actions constitute a violation of the Declaration, the development guidelines or any other documents promulgated by the ARC. The violating Owner shall remove such violating improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the building site into compliance with the Declaration, ARC documents and any plans and specifications approved by the ARC for the construction on the Tract. If an Owner proceeds with construction that is not approved by the ARC or that is a variance of the approved plans, the Association may assess fines as provided in Article X, Section 5, and may continue to assess such fines until ARC approval is granted or the violation is removed. Such ARC approval may not be unreasonably withheld. This Declaration is notice of

such liability for violation, and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved, and to pay all reasonable costs incurred by the Association in seeking and enforcing compliance. The fines set out herein shall be secured by the assessment lien set out in this Declaration.

Notwithstanding any other provision contained herein, any buildings, additions, or Improvements erected or placed on any Tract shall be deemed to comply with the building requirements of the ARC and related covenants contained in the declaration unless the ARC so notifies the Owner in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the ARC or Declarant to enforce the continuing restriction of use contained herein.

All Owners are hereby advised that there are architectural review procedures also in the Master CCR's, which must also be complied with prior to construction or modification of any Improvements located or to be located on the Property.

Section 3. Prohibited Uses. The following operations and uses shall not be permitted on the Property:

A. Any use that is illegal or offensive in the opinion of Declarant by reason of odor, fumes, light, dust, smoke, chemicals, noise or pollution, or which is hazardous by reason of excessive danger of fire or explosion;

B. Any use that is obnoxious to or out of harmony with the development of a distinctive office, retail, senior multi-unit residential, hotel/motel, charitable/non-profit and general commercial subdivision, including, but not limited to, any trailer court, junk yard, scrap metal yard or waste material business; any dumping, disposal, incineration or reduction of garbage or refuse, not including compacting devices that temporarily hold refuse for disposal off site; and any fire or bankruptcy sale or auction house operation;

C. Refining of petroleum or its products; smelting of iron, tin, zinc, or other ores; drilling for and/or removal of oil, gas, or other hydrocarbon substances;

D. Any establishment whose premises offers or sells a product or service that is intended to provide sexual gratification to its users, including, but not limited to, the dissemination or exhibition of obscene materials; any establishment featuring topless, bottomless, or totally nude performances or personnel, or that provides visually recorded entertainment featuring nude or partially nude persons performing or simulating sexual acts; or any establishment that regularly shows X-rated or NC-17 rated movies or pornographic movies, or sells or rents pornographic materials; or any establishment, the primary purpose of which is to offer or sell prophylactic devices;

E. Any massage parlor, modeling studio, or establishment where men and/or women are engaged in salacious activities;

F. Any excavations, removal of sand, gravel or soil except in connection with a grading and/or building construction plan approved as provided herein;

G. Storage of rubbish or trash outside any building, except in dumpsters appropriately screened from view;

H. Any carnival or fair;

I. Any use devoted primarily to entertainment, such as an amusement park, amusement arcade, "bingo" parlor, or game center;

J. Any establishment that offers or sells paraphernalia associated with or related to illegal drug usage; or

K. Any manufacture of chemicals and/or chemical products and/or manufacture, distribution and/or sale of illegal narcotics and/or controlled substances.

Section 4. Other Uses. Uses that are neither specifically prohibited nor specifically authorized by the Declaration may be permitted only if a description of such proposed use, in such detail as the ARC may reasonably request, is submitted to and approved in writing by the ARC. Approval or disapproval of any such proposed use shall be based upon the effect of such use on other portions of the Property and upon the Owners or occupants thereof or upon the effect of such use on surrounding properties and upon the owners or occupants thereof.

Section 5. Open Space. Building and parking area coverage shall allow for minimum Open Space areas in accordance with the Supplemental Declaration filed on the Tract; or if no Supplemental Declaration is filed, as required by the ARC in its guidelines.

Open Space areas must be landscaped by the Owner; provided, however, that the Association may landscape and maintain Open Space areas held in fee or easement by the Association. Designated landscape easements within Tract boundaries may be included in Open Space calculations.

Section 6. Setbacks. Minimum building and parking setbacks shall be set forth in the development guidelines or on the plat unless otherwise indicated in the deed of conveyance from Declarant to Owner, or otherwise required by the ARC.

Section 7. Loading/Unloading. Delivery vehicle loading and unloading shall occur on-site only; on-street delivery vehicle loading and unloading shall not be permitted. Loading/unloading facilities shall be separated from employee, customer and visitor circulation and parking area and shall be screened from public view in a manner approved in writing by the ARC prior to construction.

Section 8. Outside Storage or Operations. No outside storage or operations of any kind shall be permitted unless such activity is visually screened from public view in a manner that is

architecturally compatible and approved in writing by the ARC. No boats, trailers, campers, horse trailers, buses, inoperative vehicles of any kind, camping rigs off truck, boat rigging, or other vehicles or associated equipment of a recreational or commercial nature shall be parked or stored permanently or semi-permanently on any Tract unless properly screened from public view in a manner approved in writing by the ARC. All retail sales equipment, fixtures and merchandise shall be displayed only in the interior of a building, unless done in a manner acceptable to the ARC. Water towers, cooling towers, communication towers, storage tanks, and other structures or equipment shall be architecturally compatible with the aesthetics of the project or effectively shielded from public view in a manner approved in writing by the ARC. All utility/service system components and trash pick-up stations shall be integrated with the building or screened by a fence or wall of compatible materials and shall not be visible above such screening.

Section 9. Mechanical Equipment. All roof-top mechanical equipment shall be screened from the view of adjacent streets and buildings with material compatible with the building architecture or by the use of a parapet wall. Ground-mounted equipment such as power transformers and air conditioning equipment shall be screened from public view by fencing or landscaping, all of which must be approved in writing by the ARC.

Section 10. Grading and Drainage. Surface drainage shall be collected on-site and connected to underground or surface storm drain structures as long as such action is not in violation of any local or state ordinance or statute. Care shall be taken not to cause damage to adjacent properties during construction or after completion of the project. In the event such damage occurs and is not repaired, the reasonable costs of remedying the damage may be collected from the Owner of the property where the construction activity occurred.

Section 11. Existing Trees. Specific precautions to protect existing trees in planned Open Spaces shall include encircling trees with protective fence/screen materials to minimize disturbance or compaction of soils within the drip lines of the trees. The ARC reserves the right to require the Owner of any Tract to replace at the Owner's cost any existing trees in Open Spaces that are damaged by any construction activity.

Section 12. Underground Utilities. No pipe, conduit, cable, or line for water, gas, sewage, drainage, electricity, telephone or steam shall be installed or maintained (outside of any building) above the surface of the ground within any Tract, unless otherwise approved in writing by the ARC.

Section 13. Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plats and as provided for in the deeds of conveyance to particular Tracts. No structure shall be erected on any of said easements, and no Improvements may be placed within said easements without the prior written approval of the ARC and any utility company using such easements. Easements may be crossed by driveways and walkways provided that the Owner secures the necessary prior approval of the utility companies furnishing services and provides and installs any special conduit and other equipment of approved type and size under such driveways and walkways prior to construction thereof. Neither Declarant nor any

utility company using the easements shall be liable for any damage done by either of them or their assigns, agents, employees or contractors to shrubbery, trees, flowers or other Improvements (except the aforementioned special conduit) located on the land covered by said easements.

Declarant hereby reserves, for itself and its successors and assigns, a six foot (6') wide maintenance easement adjacent and, as applicable, parallel to each of the property lines of all Tracts that abut a landscape reserve in cases where Declarant has constructed or intends to construct a fence or entry treatment within the landscape reserve, together with the right of ingress and egress, without liability to Owner, for the purposes of constructing, repairing, and/or reconstructing said fence or entry treatment. The easement area shall remain unobstructed of any structures or plantings that would prohibit access to the fence or entry treatment for the purposes set forth herein.

Section 14. Exterior Illumination. Exterior illumination, if such is to be provided, shall be designed to light only buildings, parking areas and walkways and shall not produce glare on adjacent streets, Tracts, or adjoining properties. All ground level floodlighting fixtures shall be depressed or screened from public view in a manner approved in writing by the ARC. Parking area lighting, arcade lighting and all other illumination shall be in a style in accordance with the Supplemental Declaration on the Tract and the ARC development guidelines.

Section 15. Signage. Temporary and/or portable signs are prohibited. All permanent signs and their locations must be approved by the ARC in writing prior to installation. No sign of a flashing or moving character shall be installed and no sign shall project above the roof line of a building unless approved in writing by the ARC. Any sign installed without ARC approval may be removed by the ARC, without liability for trespass or other legal wrong in the ARC. For the purposes of this provision, signage shall include flags/flagpoles, awnings, and canopies. All signs must comply with any Supplemental Declaration on the Tract and the ARC development guidelines.

Section 16. Temporary Structures. No temporary building or structure other than construction offices and structures for related purposes during the construction period shall be installed or maintained on any Tract without the prior written approval of the ARC. All temporary structures used for construction purposes must receive approval by the ARC with regard to location and appearance and must be removed promptly upon completion of construction.

Section 17. Tract Consolidation. If the Owner of any Tract becomes the Owner of one or more contiguous and adjoining Tracts, side yard line building and parking setbacks common to the contiguous Tracts may be waived by the ARC at its discretion.

Section 18. Landscaping. All sites shall be landscaped in accordance with plans submitted to and approved by the ARC. All plant material shall be installed prior to occupancy of a building. This period may be extended in writing by the ARC in the event of delays caused by adverse weather conditions or other causes beyond reasonable control. In the event of any modification to landscaping and/or irrigation systems and/or fencing on Common Areas which is the direct or indirect result of the development of Improvements on a Tract or ingress/egress to a

Tract, the Owner will bear the entire cost of such modifications. If such cost has been paid by the Association, then such cost will be reimbursed to the Association by such Owner and shall be deemed an assessment hereunder, secured by the lien herein reserved and collected as herein provided.

Section 19. Balloons, Flag, Banners. No balloons, flags, banners, or similar devices shall be attached to or displayed on the exterior of any structure on or on any portion of the Property or adjacent easements, except those used for grand openings and/or special events which have received the prior written approval of the ARC.

Section 20. Devices for Reception of Audio/Video Signals. No exterior antennas, aerials, satellite dishes, or other apparatus for the reception or transmission of audio/video signals of any kind shall be placed on the exterior portions of any Tract unless such device is not visible from the street or from any adjacent Property and has received ARC approval.

Section 21. Architectural Review Committee. The initial ARC shall be composed of three individuals designated by the Declarant. The Declarant reserves the right to remove ARC committee members with or without cause and to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment and removal until the earlier of 1) termination and conversion of Class B membership under Article III, Section 2; or 2) when the Declarant so desires to relinquish its authority over ARC appointment. At such time, the Board of Directors of the Association shall have the right to replace such ARC members by duly electing three Owners in good standing with the Association or agents of Owners. The Board of Directors reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity, after the rights of Declarant to do so have expired.

Section 22. Standards and Procedures. The ARC shall establish and promulgate rules, standards and procedures that it deems necessary and appropriate for the orderly development of the Property including, but not limited to, those with respect to workmanship, materials, building methods, observance of requirements concerning installation and maintenance of public utility facilities and services and compliance with governmental regulations. The ARC shall be guided by industry standards and may amend such rules, standards and procedures when deemed necessary and appropriate. Such rules, standards and procedures shall be binding and enforceable against each Owner in the same manner as any other restriction set forth herein, but nothing contained herein shall be deemed to affect any approval granted by the ARC in accordance with the terms of this Declaration prior to the amendment of such rules, standards or procedures.

Section 23. Modifications and Changes. Declarant reserves the right, in its sole and absolute discretion, to modify and change the conditions contained in Article V for any additional land made subject to the Declaration by Supplemental Declaration, but nothing contained herein shall permit Declarant to modify or change conditions applicable to the Property or any additional land made subject except as hereinafter provided in Article IX of this Declaration.

ARTICLE VI. MAINTENANCE

Owner and any lessee of any portion of the Property shall have the duty and responsibility for keeping such portion of the Property (and Improvements located thereon) in a well-maintained, safe, clean, and attractive condition at all times, consistent with the Community-Wide Standard. If, in the opinion of the Association, an Owner or lessee is failing in this duty and responsibility, then the Association may give Owner or lessee, or both, notice of such fact, and Owner or lessee must, within ten (10) days of such written notice, undertake the care, maintenance or repair required to restore the Property to a well-maintained, safe, clean, and attractive condition. Should Owner or lessee fail to fulfill his or her duty and responsibility after such notice, then the Association shall have the right and power to enter onto the premises and to perform such care, maintenance or repair, and the Owner or lessee or both of the Property on which the work is performed shall be liable for the cost of any such work and materials and shall promptly reimburse the Association for the cost thereof. If Owner or lessee shall fail to so reimburse the Association within thirty (30) days after being billed therefore by the Association, any and all related costs, including but not limited to legal fees, plus interest thereon at the lesser of 18% per annum or the maximum rate allowed by law, shall be deemed a reimbursement assessment and shall constitute a lien on the Owner's Property upon which such maintenance was performed and shall be enforceable in the same manner as the assessment lien provided for in this Declaration.

ARTICLE VII. VARIANCES

Declarant shall have the continuing right, at any time prior to the termination of Declarant's Class B membership and without the joinder or consent of any Owner, entity, lender or other person, to authorize variance from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. After the termination of Declarant's Class B membership, the Board, upon the recommendation of the ARC or on the Board's own motion, may authorize such variances. Variances must be evidenced in writing, must be signed by at least a majority of the Board, and shall become effective upon their execution. If such variances are granted, no violation of the covenants, conditions, and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations. The granting of any variance shall not be deemed a waiver of any right to withhold authorization for any similar variance from any party in the future.

ARTICLE VIII. LIMITATION OF LIABILITY

Neither Declarant, the Association, the ARC, the Board, nor any of the respective officers, partners, directors, members, successors or assigns of the above shall be liable in damages or otherwise to anyone who submits matters for approval to any of the abovementioned

parties, or to any Owner affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any matters requiring approval hereunder. Every Owner who submits plans or specifications or allows plans or specifications to be submitted to the ARC for approval agrees by such submission that the Owner shall not bring any action or suit for damages against the Declarant, the Association, the ARC, the Board, or any of the respective officers, partners, directors, members, successors or assigns of the above.

ARTICLE IX. AMENDMENT AND TERMINATION OF COVENANTS

Section 1. Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property until December 31, 2068, after which time they shall be automatically extended for successive periods of ten (10) years. Subject to any provisions elsewhere contained in this Declaration, if any, requiring the consent of Declarant or others, any provision, covenants, condition, restriction or equitable servitude contained in this Declaration may be amended or terminated, at any time and from time to time, during such time as Declarant is an Owner, upon approval of the amendment or termination (i) by the Members, exclusive of the Declarant, holding at least seventy-five percent (75%) of the Voting Units and (ii) by Declarant. At such time that Declarant is no longer an Owner, such amendment or termination shall occur upon approval by a majority vote of the Voting Units. In addition, Declarant shall have the right at any time and from time to time, without the joinder or consent of any party to amend this Declaration by an instrument in writing, duly signed, acknowledged and filed for record in Brazoria, Fort Bend and Harris Counties, for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, or for any other purpose deemed to be in the best interests of the Property (in Declarant's sole discretion); provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and any Supplemental Declarations, taken collectively, and shall not materially impair or materially adversely affect the vested rights of any Owner or mortgagee. Any amendment or termination shall be effective upon recording in the office of the Clerk of Brazoria, Fort Bend and Harris Counties, Texas, an instrument to that effect executed by the Declarant or the President and the Secretary of the Association or by a Vice President and the Secretary of the Association, as applicable, setting forth the amendment or termination in full and certifying that the amendment or termination has been approved in the manner set forth above.

Section 2. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Property submitted to this Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the Owner(s) of such property, if other than the Declarant.

ARTICLE X. GENERAL PROVISIONS

Section 1. Restrictions for Senior Housing Condominiums. Each Owner of any Tract that is designated for senior housing Condominium Use and upon which is constructed condominium units shall promulgate a declaration of covenants, conditions and restrictions for such condominium units and shall submit such declaration to the Association for approval prior to its recordation.

Section 2. Compliance. It shall be the responsibility of each Owner or tenant or occupant of a Tract to obtain copies of and become familiar with the terms of the Master CCR's, this Declaration, Articles of Incorporation, Bylaws, rules and regulations of the Master Association and of this Association. Every Owner of any Tract shall comply with all lawful provisions of the Master CCR's, this Declaration, the By-Laws, and rules and regulations of the Master Association and of this Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Tract Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the By-Laws, including, but not limited to, the right to assess fines for failure to comply.

Section 3. Enforcement. The Master Association, Association, Declarant, any Owner, or any Condominium Owners Association shall have the right to enforce, by any proceedings at law or in equity, all assessments (including liens or charges), conditions, covenants, easements, reservations, and restrictions now or hereafter imposed by the provisions of this Declaration, any additional restrictions imposed by Declarant on any Tract, and any Supplemental Declaration filed on the Property. Failure by the Master Association, by the Association, by the Declarant, by the Condominium Owners Association, or by any Owner to enforce any provision of this Declaration does not constitute a waiver of the right to do so thereafter.

The Association and/or Master Association shall have the right, but not the obligation, in addition to and not in limitation of all the rights it may have under this Declaration, to enter upon any unoccupied, vacant or abandoned Tract, including any Improvements located thereon, if deemed reasonably necessary by the Board of Directors of the Association for emergency, health, safety and/or security purposes to make repairs to Improvements, secure the Property or abate or remove things or conditions which are potentially hazardous or which violate any provisions of this Declaration. Such right may be exercised by the Association's and/or Master Association's Board, officers, agents, employees, managers, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, the Association shall first attempt to provide reasonable notice to the last known Owner of the Tract. All costs of such efforts, including reasonable attorneys' fees actually incurred, shall be assessed against the Owner of the Tract and shall be collected as provided for herein for the collection of the assessments.

The Association does not warrant hereby to any Owner that any building site located adjacent to the Property or anywhere within the Shadow Creek Ranch development is currently subject or in the future will be made subject to this Declaration or to the jurisdiction of the

Association.

Section 4. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer, director, or committee member in connection with any action, suit or other proceeding, including but not limited to settlement of any suit or proceeding, to which an officer, director, or committee member may be a party by reason of holding or having held such position or office. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them in good faith on behalf of the Association, and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 5. Fines for Violations. The Board of Directors may to the extent allowed by law, promulgate fines for violation in accordance with provision of the Articles of Incorporation and the By-Laws. Any fine unpaid thirty (30) days after demand shall be collectable as any assessment in this Declaration and secured by the assessment lien.

Section 6. Severability. Invalidation of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect. A court may reform the restrictions contained in this Declaration to be the most restrictive allowable under current law, statute or ordinance.

Section 7. Books and Records. The books, records and papers of the Association shall, during reasonable business hours, be subject to inspection by any Member. The Articles of Incorporation, By-Laws, and this Declaration shall likewise be available for inspection by any Member at the office of the Association by appointment during regular business hours.

Section 8. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. If the records of the Association do not contain an address for the Owner, the address of the Tract shall be presumed to be the Owner's address.

Section 9. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association, or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this

Declaration.

Section 10. Conflict with Deeds of Conveyance. If any part of this Declaration shall be in conflict with any covenant, condition or restriction within a previously recorded deed of conveyance to any portion of the Property, the covenants, conditions or restrictions within the prior deed of conveyance shall govern but only to the extent of such conflict. Where certain rights are reserved by Declarant in these restrictions, Declarant reserves the right to make certain modifications therein as necessary in deeds of conveyance, in which case the terms of the deeds of conveyance shall prevail. Where commencement and timing of construction periods are specified herein, Declarant shall have the right to extend such time periods by an instrument in writing.

Section 11. Reservation of Minerals. The Property and any future land made subject to this Declaration, are hereby subjected to the following reservation and exception: Declarant hereby reserves unto itself and its successors, assigns and predecessors in title in accordance with their respective interests of record all oil, gas and other minerals in, on and under said land, but Declarant on behalf of itself and its successors, assigns and predecessors in title hereby waives any and all rights to enter upon or use the surface of the Property, other than that land or easements owned by Declarant or other owners of oil, gas or other minerals, for exploring, drilling for, producing, mining, transporting and marketing of oil, gas and other minerals, provided that Declarant hereby retains and reserves the right on behalf of itself and its successors, assigns and predecessors in title to explore, develop or produce such oil, gas and other minerals by means that do not include the entry upon or use of the surface of the Property, such as pooling the land with other lands for development of oil, gas and other minerals and drilling under and through the subsurface of the land below the depth of one hundred feet (100') by means of wells located off the Property on the surface of land or easements owned by Declarant or other owners of oil, gas or other minerals. Such exceptions, retained rights and reservations shall inure to the benefit of Declarant, its predecessors in title and their respective successors and assigns in accordance with their respective interest of record.

Section 12. Construction. Unless the context requires otherwise, the use in this Declaration of the singular shall include the plural and the plural the singular. Unless the context requires otherwise, the use in this Declaration of the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter.

Section 13. No Partition. Except as is permitted in the Declaration or any Supplemental Declaration, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition unless the Property has been removed from the provisions of this Declaration. This Article shall not be construed 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.

Section 14. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Property safer than they otherwise might be. NEITHER THE MASTER ASSOCIATION, ASSOCIATION, ITS

DIRECTORS, OFFICERS, AND AGENTS, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY. NEITHER THE MASTER ASSOCIATION, ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY TRACT, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE MASTER ASSOCIATION, ASSOCIATION, AND ITS BOARD OF DIRECTORS, ITS AGENTS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ARCHITECTURAL REVIEW COMMITTEE 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 DECLARANT OR THE ARCHITECTURAL REVIEW COMMITTEE 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 BURGLARS 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 TRACT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE MASTER ASSOCIATION, ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY TRACT AND EACH TENANT, GUEST, AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO TRACTS, AND TO THE CONTENTS OF TRACTS, AND FURTHER ACKNOWLEDGES THAT THE MASTER ASSOCIATION, ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, 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 PROPERTY.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this the 26th day of June, 2002.

SHADOW CREEK RANCH DEVELOPMENT
COMPANY LIMITED PARTNERSHIP, a
Nevada limited partnership

By: Shadow Creek Ranch, Inc.,
a Nevada corporation, its general partner

By: Gary W. Cook
Name: GARY W. COOK
Title: President

STATE OF TEXAS §
COUNTY OF HARRIS §

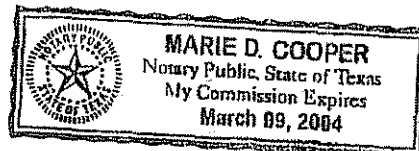
This instrument was acknowledged before me on June 26, 2002, by Gary W. Cook, President of Shadow Creek Ranch, Inc., general partner of Shadow Creek Ranch Development company Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL this 26th day of June, 2002

Marie D. Cooper
NOTARY PUBLIC, State of Texas

AFTER RECORDING, RETURN TO:

Sarah Ann Powers
HOOVER SLOVACEK LLP
5847 San Felipe, Suite 2200
Houston, Texas 77057



January 11, 2002
Job No. 1545-1900-006

EXHIBIT "A"
DESCRIPTION OF
2.730 ACRES
SHADOW CREEK RANCH COMMERCIAL SITE

Being 2.730 acres of land located in the T.C.R.R. Co. Survey, Section 3, Abstract 678, Brazoria County, Texas, more particularly a portion of that certain called 35.3690 acre tract (described as Tract 1) conveyed to Pearland Investments Limited Partnership by instrument of record under File No. 98-033800, Official Records, Brazoria County, Texas (B.C.O.R.), said 2.730 acres being more particularly described by metes and bounds as follows (all bearing referenced to the Texas State Plane Coordinate System, South Central Zone);

BEGINNING at the southwest corner of Restricted Reserve "A" of Shadow Creek Ranch, Village One Phase One-A, a subdivision of record in Volume 22, Pages 95 and 96, Plat Records, Brazoria County, Texas (B.C.P.R.), same being on the arc of a curve on the northerly right-of-way line of F.M. 2234 (160 feet wide) and being on the southerly line of aforementioned 35.3690 acres;

Thence, with the common line of said 35.3690 acres and F.M. 2234, 79.48 feet along the arc of a curve to the left having a radius of 1989.86 feet, central angle of 02° 17' 19" and a chord that bears South 62° 12' 17" West, 79.48 feet to a point for corner;

Thence, continuing along said common line, South 61° 03' 38" West, 196.50 feet to a point for corner, same being the southeast corner of that certain 0.753 acre easement tract (described as Tract Two) conveyed to Brazoria Drainage District No. 4 by instrument of record under File No. 01-024865 of said B.C.O.R.;

Thence, leaving said common line, with the east line of said 0.753 acre easement tract, North 03° 09' 36" West, 511.99 feet to a point for corner on the south line of that certain called 3.31 acre tract conveyed to United Gas Pipeline Company by instrument of record in Volume 553, Page 315 and assigned to Pennzoil Pipeline Company by instrument of record in Volume 1051, Page 702, both Deed Records, Brazoria County, Texas (B.C.D.R.), also being the northeast corner of said 0.753 acre easement tract and being on an interior line of aforementioned 35.3690 acres;

Thence, with a common line of said 3.31 acres and said 35.3690 acres, North 86° 39' 20" East, 245.71 feet to a point for corner on the westerly right-of-way line of Kirby Drive (100 feet wide) as shown on aforementioned Shadow Creek Ranch, Village One Phase One-A;

2.730 Acres

January 11, 2002
Job No. 1545-1900-006

Thence, with said westerly right-of-way line, 274.82 feet along the arc of a non-tangent curve to the left having a radius of 2050.00 feet, a central angel of $07^{\circ} 40' 51''$ and a chord that bears South $15^{\circ} 26' 26''$ East, 274.61 feet to a point for corner, same being the northeast corner of aforementioned Restricted Reserve "A";

Thence, leaving said westerly right-of-way line, with the northerly and westerly lines of said Restricted Reserve "A", the following three (3) courses;

- 1) South $70^{\circ} 43' 10''$ West, 6.02 feet to a point for corner;
- 2) 142.46 feet along the arc of a curve to the left having a radius of 83.83 feet, a central angle of $97^{\circ} 22' 11''$ and a chord that bears South $22^{\circ} 02' 03''$ West, 125.93 feet to a point for corner;
- 3) South $26^{\circ} 39' 01''$ East, 11.17 feet to the POINT OF BEGINNING and containing 2.730 acres of land.

LJA Engineering & Surveying, Inc.

FILED FOR RECORD
2002 JUN 28 PM 1:52

STATE OF TEXAS
COUNTY OF BRAZORIA

I, JOYCE HUDMAN, Clerk of the County Court In and for Brazoria County, Texas do hereby certify that this Instrument was FILED FOR RECORD and RECORDED in the OFFICIAL RECORD at the time and date as stamped hereon by me.



Joyce Hudman

EXHIBIT "B"

FORT BEND COUNTY, TEXAS

REAL PROPERTY DESCRIPTION

May 2, 2006
Job No. 1545-2005-101

DESCRIPTION OF
2.982 ACRES
SHADOW CREEK RANCH
DC-3

Being 2.982 acres of land located in the S.G. Haynie Survey, Abstract 620, Fort Bend County, Texas, and the S. G. Haynie Survey, Abstract 212, Brazoria County, Texas, more particularly being ALL of that certain 2.982 acre tract (described as Tract No. 7, Land Acquisition 6B) conveyed to Shadow Creek Ranch Development Company Limited Partnership by instrument of record under File No. 2005068215, and re-recorded under File No. 2005072254, Official Records of Brazoria County, Texas (B.C.O.R.), and File No. 2006007664, Official Public Records of Fort Bend County, Texas (F.B.C.O.P.R.), said 2.982 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas State Plane Coordinate System, South Central Zone, NAD27);

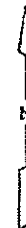
BEGINNING at the most southerly corner of aforementioned 2.982 acres, same being the most easterly corner of that certain called 11.880 acre tract (described as Tract No. 2, Land Acquisition 6A) conveyed to Shadow Creek Ranch Development Company Limited Partnership by instrument of record under File No. 2005068215, and re-recorded under File No. 2005072254, B.C.O.R., and File No. 2006007664, F.B.C.O.P.R., said point being on the westerly right-of-way line of Trinity Bay Drive (100-feet wide) as shown on Shadow Creek Ranch, Portions of Trinity Bay Drive, Biscayne Bay Drive and Regents Bay Drive, a plat of record in Volume 24, Pages 216-218, Plat Records of Brazoria County, Texas (B.C.P.R.) and Plat Number 20040178, Plat Records of Fort Bend County, Texas (F.B.C.P.R.);

Thence, with the common line of said 2.982 and 11.880 acre tracts, the following six (6) courses:

1. North 67° 07' 10" West, 81.50 feet to a point for corner;
2. North 23° 54' 28" East, 38.21 feet to a point for corner;
3. North 66° 05' 32" West, 284.75 feet to a point for corner;
4. North 29° 11' 23" East, 300.99 feet to a point for corner;

Curve	Radius	Tangent	Chord	Arc	Delta	Chord Bearing
1	83.83'	90.91'	123.26'	138.47'	94° 38' 08"	S18° 07' 42" E
2	2050.00'	29.94'	59.87'	59.87'	01° 40' 24"	S23° 43' 02" W

Line	Bearing	Distance
1	N67°07'10"W	81.50'
2	N23°54'28"E	38.21'
3	N60°48'37"W	50.00'
4	N29°11'23"E	89.83'
5	S29°11'23"W	15.49'
6	S65°26'48"E	16.35'



SHADOW CREEK RANCH
DEVELOPMENT COMPANY
LIMITED PARTNERSHIP
CALLED 11.880 ACRES
(TRACT NO. 2005068215
FILE NO. 2005072254
FILE NO. B.C.O.P.R.
F.B.C.O.P.R. 2006007664

SHADOW CREEK RANCH
DEVELOPMENT COMPANY
LIMITED PARTNERSHIP
TRACT NO. 2, 982 ACRES
FILE NO. 7 ACQ. (68)
FILE NO. 2005068215
FILE NO. B.C.O.R.
F.B.C.O. 2006007664
F.B.C.O.P.R.

SHADOW CREEK RANCH
DEVELOPMENT COMPANY
LIMITED PARTNERSHIP
CALLED NO. 11.880 ACRES
(TRACT NO. 2, A.C., CA)
FILE NO. 2005068215
FILE NO. 2005072254
FILE NO. B.C.O.P.R.
F.B.C.O.P.R. 2006007664

SHADOW CREEK RANCH
—PORTIONS OF TRINITY BAY DRIVE,
BISCAYNE BAY DRIVE, AND
REGENTS BAY DRIVE
PLAT NO. 20040178
F.B.C.P.R.
VOL. 24, PG. 216-218
B.C.P.R.

EXHIBIT OF
2.982 ACRES
SHADOW CREEK RANCH
DC-3

S.G. HAYNIE SURVEY, A-620
FORT BEND COUNTY, TEXAS
S.G. HAYNIE SURVEY, A-212
BRAZORIA COUNTY, TEXAS
CITY OF PEARLAND

MAY 2006 JOB NO. 1545-2005-101

LJA Engineering & Surveying, Inc.
2929 Briarpark Drive
Suite 600
Houston, Texas 77042-3703
Phone 713.953.5200
Fax 713.953.5028

NOTE:

1. All bearings referenced to the Texas State Plane Coordinate System, South Central Zone (NAD27).

I:\Pro\disk1\SURVEY\1545\2005\CAD\dc-3=exhibit.dgn
5-02-2006 13:32:56

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dr. Dianne Wilson

2006 Sep 12 12:45 PM

2006113849

VCK \$165.00

Dianne Wilson, Ph.D. COUNTY CLERK

FT BEND COUNTY TEXAS



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR SHADOW CREEK RANCH COMMERCIAL PROPERTY
(FOR RECORDATION IN FORT BEND COUNTY, TEXAS)

Referenced is hereby made to that certain Declaration of Covenants, Conditions and Restrictions for Shadow Creek Ranch Commercial Property recorded as Document Number 02032811 in the Office of the County Clerk of Brazoria County, Texas, a true and correct copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes, for the purpose of recording the same in Fort Bend County, Texas, such that the real property described in Exhibit "B" attached hereto and made a part hereof for all purposes shall be subject to the same provisions contained in said instrument.

Executed this 8th day of September, 2006.

DECLARANT:

SHADOW CREEK RANCH DEVELOPMENT
COMPANY LIMITED PARTNERSHIP,
a Nevada limited partnership

By: SHADOW CREEK RANCH, INC.,
a Nevada corporation, its general partner

By: Gary W. CookName: GARY COOKTitle: PresSTATE OF NevadaCOUNTY OF Clark§
§
§

This instrument was acknowledged before me on the 8 day of September, 2006, by Gary W. Cook, of Shadow Creek Ranch, Inc., a Nevada corporation, general partner of Shadow Creek Ranch Development Company Limited Partnership, a Nevada limited partnership, on behalf of said entities.

Marie Elaine Rock
Notary Public, State of Nevada

AFTER RECORDING, RETURN TO:

Sarah A. Powers

Hoover Slovacek LLP

5847 San Felipe, Suite 2200

Houston, Texas 77057



No. 93-0932-1

OFFICIAL SEAL
MARIE ELAINE ROCK
NOTARY PUBLIC - NEVADA
PRINCIPAL OFFICE IN
CLARK COUNTY

Exp. Commission Exp. 03/23/2009

EXHIBIT "A"

DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS

FOR SHADOW CREEK RANCH COMMERCIAL PROPERTY

(SEE ATTACHED)