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RE-RECORDED DECLARATION OF  
COVENANTS, RESTRICTIONS, EASEMENTS,  
CHARGES AND LIENS FOR  
SHADOW CREEK RANCH MAINTENANCE ASSOCIATION  
("SCRMA")

546-75-1971

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*Barbara J. Rayman*  
COUNTY CLERK  
HOUSTON, TEXAS

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DECLARATION OF  
COVENANTS, RESTRICTIONS, EASEMENTS,  
CHARGES AND LIENS FOR  
SHADOW CREEK RANCH MAINTENANCE ASSOCIATION  
("SCRMA")

546-75-1972

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**DECLARATION OF  
COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR  
SHADOW CREEK RANCH MAINTENANCE ASSOCIATION**

THIS DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR SHADOW CREEK RANCH MAINTENANCE ASSOCIATION (the "Covenants") is made this 30 day of August, 2001, by Shadow Creek Ranch Development Company Limited Partnership, a Nevada limited partnership, its successors or assigns ("Declarant"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Article I below.

**BACKGROUND**

Declarant as the master developer is developing Shadow Creek Ranch which will be a comprehensively planned, multi-use real estate development, affording well-planned residential, commercial, industrial, recreational, open space, and institutional buildings and facilities. Shadow Creek Ranch is currently projected to encompass a tract of land containing approximately 3,300 acres located in Brazoria, Fort Bend and Harris Counties, Texas. The final size and boundary of Shadow Creek Ranch is subject to the discretion of Declarant as the master developer. Nothing contained in these Covenants shall be construed to represent or limit the final size, configuration, or location of Shadow Creek Ranch, nor shall it constitute or be construed as a representation as to what land or lands will or will not be subjected to the terms of these Covenants. Furthermore, nothing in these Covenants shall be construed to permit the use of or grant rights to any property, whether within or outside of Shadow Creek Ranch, which is not specifically made subject to these Covenants by the recording of this Declaration or a Supplemental Declaration.

In connection with its development of Shadow Creek Ranch, the Declarant has formed a Tax Investment Reimbursement Zone (the "TIRZ") which covers the Property (as hereinafter defined). Certain development costs of Declarant shall be reimbursable under such TIRZ. Declarant also anticipates that certain development costs of other Sub-developers (as hereinafter defined) who develop all or a portion of the Property may also be reimbursable under the Master Developer Reimbursement Agreement dated September 22, 1999, by and among Declarant, the City of Pearland and Reinvestment Zone Number Two, City of Pearland, Texas ("TIRZ Agreement"), subject to the provisions of such TIRZ Agreement. In addition to the TIRZ, the Property will also be located in various municipal utility districts ("MUDs") which MUDs have the right to assess the Property and its various Owners and which assessments are secured by liens against the Property.

Declarant presently is the real owner of a portion of the real property described on Exhibit "A" hereof. Pearland Investments Limited Partnership is the owner of (and Declarant has the right to acquire and anticipates acquiring) the balance of the real property described on Exhibit "A" hereto. For purposes of this Declaration, it shall be deemed as if Declarant is the owner of all of the real property described on Exhibit "A". Pearland Investments Limited Partnership has consented to the encumbering of all of the property described on Exhibit "A" with this Declaration and the granting of all of the rights herein to Declarant by its execution hereof.

Declarant desires to impose these Covenants on the property comprising all of Shadow Creek Ranch, all of which will be part of the Shadow Creek Ranch Maintenance Association. Shadow Creek Ranch Maintenance Association ("Association") has been formed by Declarant as a non-profit maintenance association to serve as the representative of the residents and property owners of lands made subject to these Covenants. The Association is empowered to, among other things: collect assessments, charges, and fees as provided for herein; enforce all covenants, restrictions, and liens contained herein or subsequently adopted; and operate, manage, maintain, and improve the facilities and services of the Association.

Declarant encumbers and submits the lands described in the attached Exhibit "A" to the terms of these Covenants in order to:

- (i) establish, impose, and create a uniform plan and scheme of development for the Property (as hereinafter defined);
- (ii) provide funds for the uses specified in Article III;
- (iii) impose land use and design control criteria for the development of the Property;
- (iv) provide and maintain the drainage system, drainage facilities, landscaping, parks and trails, as referred to in the TIRZ Agreement; and
- (v) provide or provide for other activities, services, and programs as may be devised for the benefit of the Property and the Owners.

Declarant intends to cause the covenants, restrictions, easements, charges, liens, and other provisions contained in these Covenants to burden, affect, bind, and run with title to the lands encumbered by these Covenants, including the lands described in Exhibit "A" (attached hereto and by this reference incorporated herein), and any lands annexed in the manner permitted by Article V below. Declarant intends to cause these covenants, restrictions, easements, charges, and liens to be binding upon such land and those residing thereon or owning an interest therein, and to inure to the benefit of and be enforceable by the Owners, the Association, the Village Associations, Declarant, and their respective successors and assigns. This Declaration and these Covenants are superior to and take precedence over any Village Declaration or Village Association or other Village entity created subsequent hereto.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

Declarant, upon recording these Covenants, does hereby adopt, establish, and impose the following covenants, restrictions, easements, charges, and liens to apply to the use, improvement, occupancy, and conveyance of the Property, as the same may be supplemented and amended from time to time. Each contract, deed, lease, or other conveyance which may be hereafter executed with regard to any portion of the Property shall conclusively be held to have been executed, delivered, and accepted subject to these Covenants, which Covenants shall run with the land and be binding upon

all successive owners thereof regardless of whether these Covenants are set out in full or incorporated by reference in said conveyance.

## ARTICLE I DEFINITIONS

Section 1.01. "Annual Assessments" means assessments that are levied against all Owners to pay for Common Expenses budgeted for the fiscal year, as more specifically described in Section 2.02.

Section 1.02. "Area of Common Responsibility" means the Association Property and Community Facilities and other areas or property, if any, for which the Association has or assumes maintenance, insurance, operating, or other responsibility under these Covenants, the TIRZ Agreement, or other agreements which the Association may enter into. This Area of Common Responsibility may include open space, landscape easements, boulevards, parks, recreation sites and facilities constructed to benefit drainage. The office of any property or association manager or maintenance personnel employed by or contracting with the Association, whether or not located on the Property, maybe included in the Area of Common Responsibility, at the discretion of the Board.

Section 1.03. "Articles of Incorporation" means the Articles of Incorporation of Shadow Creek Ranch Maintenance Association, a Texas non-profit corporation, which have been filed with the Secretary of State of Texas, and as such may be amended from time to time.

Section 1.04. "Assessable Tract" means the fee estate and aerial rights above any separately owned or described portion of the Property defined as a Tract herein, except such part or parts thereof as may from time to time constitute "Exempt Property," as hereinafter defined.

Section 1.05. "Assessments" means all assessments created and referred to in Article II hereof, including Annual Assessments, Special Assessments and Reimbursement Assessments, and any other sums due from an Owner which are deemed to be Assessments pursuant to the terms hereof, and which shall include any and all costs and expenses that may be required to collect such Assessments (including attorneys' fees and interest on past due amounts allowed hereunder), and any applicable fine imposed on the Tract on which such Assessments are due, all of which are secured by a lien which can be foreclosed for failure to pay such Assessments or any portion thereof.

Section 1.06. "Assessment Rates" mean the specified dollar amounts which will be used to determine the Annual and Special Assessments, as determined by the Board in accordance with Section 2.02(F).

Section 1.07. "Association" means Shadow Creek Ranch Maintenance Association, a Texas non-profit corporation, its successors and assigns.

Section 1.08. "Association Property" means all real and personal property that the Association owns, leases, or otherwise holds possessory or use rights in for common use, benefit, and enjoyment as a public improvement. Declarant shall convey such real and personal property to the Association on an "as-is" basis, (or acquire such for the Association) when Declarant, in its sole discretion,

deems appropriate, but no later than the expiration of the Declarant Control Period. After the expiration of the Declarant Control Period, the Board will have the authority to acquire or remove Association Property as set forth herein.

Section 1.09. "Board of Directors" or "Board" means the body responsible for administration of the Association, selected as provided herein during the Declarant Control Period and thereafter as herein and in the By-Laws set forth and serving in the same role as boards of directors under Texas non-profit corporate law.

Section 1.10. "By-Laws" means the By-Laws of Shadow Creek Ranch Maintenance Association, which establish the powers, duties, and organization of the Association, as such may be amended from time to time.

Section 1.11. "Commercial Tract or Commercial and/or Multi-Family Tract" means any Tract used for commercial and/or multifamily purposes, as appropriate, including but not limited to shopping centers, retail locations, food establishments, apartment complexes, office buildings, senior assisted living and nursing facilities, medical facilities, day care centers, schools, churches, police and/or fire stations, and libraries. The term is intended to include every improved Tract other than Lots (which Lots are single family residential including townhouse and condominium uses), Area of Common Responsibility, Association Property and Community Facilities. Multi-Family Tracts include high density residential use in excess of a Lot.

Section 1.12. "Commercial and Multi-Family Village" shall mean the Village in which the Members are all Commercial and/or Multi-Family Tracts, regardless of where in the Property such Commercial and/or Multi-Family Tracts are located. As the use of any Tract is designated as a Commercial or Multi-Family Tract (as evidenced by the filing of a plat for commercial, multifamily or other use as a Commercial or Multi-Family Tract), such Commercial or Multi-Family Tract will automatically cease being a Member of any other Village and thereafter be a member of a Commercial and Multi-Family Village. The Declarant may, in its discretion, establish two or more Commercial and Multi-Family Villages. In that event, all references herein to Commercial and Multi-Family Village shall be deemed to mean all Commercial and Multi-Family Villages.

Section 1.13. "Common Expense" means the actual and estimated expenses which the Association incurs or anticipates incurring as a result of owning, operating, maintaining, and insuring the Area of Common Responsibility, and all other expenses of the Association for the general benefit of all Owners, Villages, and Village Associations.

Section 1.14. "Community Facilities" means the parks and other community amenities or facilities which are public improvements owned by the Association by deed or easement grant or as defined by plat or as designated by Declarant or the Association from time to time. Community Facilities may include any facilities or amenities located on open space, landscape reserves, parks and recreation sites, boulevards and facilities constructed for drainage, such as lakes.

Section 1.15. "Community-Wide Standard" means the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically

defined by Declarant and/or by the Board from time to time. The design standards, restrictions, regulations, rules, and all other such standards for each Village shall conform to and be consistent with the Community-Wide Standard. In the event of a conflict or dispute as to the prevailing standard, the ruling of Declarant or the Board or respective designated committee shall be determinative.

Section 1.16. "Community-Wide Standards Committee" or "CWSC" means the committee which has authority to promulgate and administer standards, rules, and regulations governing the planned development and improvement of all Tracts within the Property and primary authority over the initial planned development, as more specifically described in Article VII.

Section 1.17. "Covenant Lien" has the meaning given in Section 2.09.

Section 1.18. "Covenants" means this Declaration of Covenants, Restrictions, Easements, Charges and Liens for Shadow Creek Ranch Maintenance Association, as the same may be amended or supplemented from time to time.

Section 1.19. "Declarant" means Shadow Creek Ranch Development Company Limited Partnership, a Nevada limited partnership, as the master developer of Shadow Creek Ranch, or its successors and assigns, as may be determined by an assignment document recorded with the respective County Clerks' offices.

Section 1.20. "Declarant Control Period" means the period during which Declarant is entitled to appoint the Board members and enjoy other rights as provided in Section 6.04 and other sections hereof.

Section 1.21. "Deed" means a deed, assignment, easement, lease, or other instrument conveying legal title to any portion of or interest in the Property, including, but not limited to, a Tract.

Section 1.22. "Design Criteria" means the general guidelines, standards and requirements promulgated by Declarant and/or the CWSC from time to time which govern the design and construction of, and procedures to be followed in connection with, the proposed improvements to be constructed on any Tract in Shadow Creek Ranch. Such Design Criteria must be complied with by an Owner in order to obtain approval of the CWSC for such proposed development and improvements. The Design Criteria shall not apply to Declarant, its agents or assigns. Such Design Criteria may be amended from time to time by Declarant, which amended Design Criteria will be effective as of the date provided therein. Declarant shall not be required to follow the amendment procedure herein, nor obtain the approval of any person, to amend the Design Criteria.

Section 1.23. "Easement Area" has the meaning specified in Section 11.02.

Section 1.24. "EPA" means Environmental Protection Agency.

Section 1.25. "Exempt Property" means the following portions or parts of the Property:

A. all land and Taxable Improvements owned by the United States, the State of Texas, or any political subdivision, instrumentality, or agency of any such entity;

B. all land and Taxable Improvements owned by the Association or any Village Association for so long as the Association or Village Association shall be the owner thereof; and

C. any and all Tracts designated in any plat or Recorded instrument as recreational reserves, drainage reserves, lakes, street rights of way, open space, parks, drainage ditches and/or monument reserves.

Section 1.26. "Governing Documents" means these Covenants, the Articles of Incorporation, the By-Laws, any written Community-Wide Standards, any Rules and Regulations promulgated by Declarant or the Board, the Design Criteria, and any other documents and instruments which govern the administration and operation of the Property pursuant to these Covenants.

Section 1.27. "Improvement" means any physical change or addition to a Tract or any Structure thereon, including, by way of example, landscaping, grading, or changing the size, shape, appearance or drainage of a Structure.

Section 1.28. "Lot" means any Tract shown upon any recorded map(s) or plat(s) of the Property, as same may be amended from time to time, which is designated as a Lot thereon, and which is or will be improved with a single family residential structure thereon in conformity with the use and building restrictions herein. A Lot may include the legal description for a condominium unit and/or townhouse unit.

Section 1.29. "Member" means a Member of the Association as set forth in Section 6.02. As provided herein, Member shall be any Person entitled to membership in the Association, which for Class A Members shall be all Villages and any Representatives; and for Class B shall be the Declarant.

Section 1.30. "Mortgage" means a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Tract. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

Section 1.31. "Owner" means every Person who holds:

A. a fee interest in or to any Tract within the boundaries of the recorded plats of Shadow Creek or as may be described in Exhibit "A", regardless of whether such Tract is used for residential or nonresidential purposes;

B. a fee title to a condominium unit located on any portion of the Property; or

C. any share, membership, or other interest in any cooperative or other entity organized and operated for the purpose of providing residential dwelling to its shareholders, members, or other beneficiaries, which share, membership or other interest entitles the owner thereof to

possession of a residential dwelling unit within the Property, whether or not such Person actually resides on any part of the Property. "Owner" includes contract sellers, but excludes those owning an interest merely as security for the performance of an obligation.

Section 1.32. "Person" means a natural person, a corporation, a partnership, a limited liability company, a trustee, or other legal entity.

Section 1.33. "Private Facility" means certain real property and any improvements and facilities thereon located adjacent to or in the vicinity of or within the boundaries of the Property, which are privately owned and operated by Persons other than this Association for recreational and related purposes, on a membership basis or otherwise.

Section 1.34. "Property" means:

A. all real property described in Exhibit "A," together with all existing or subsequently constructed Structures and Improvements thereon located on any portion of such property, and any unit in a condominium located on any portion of such property; and

B. from and after the date of such annexation, all real property which becomes subject to these Covenants pursuant to Article V, together with all existing or subsequently constructed Structures and Improvements thereon and any unit in a condominium located on any portion of such property, less any real property withdrawn from these Covenants pursuant to Section 12.01 hereof..

Section 1.35. "Record", "Recording", "Recorded", or "Recordation" means to file, the filing of, or filed of record, a legal instrument in the Official Public Records of Real Property of Brazoria, Fort Bend and/or Harris Counties Texas, as applicable, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate in such counties.

Section 1.36. "Reimbursement Assessments" means assessments levied against a particular Village, Village Association, Owner, Resident or like entity as may become created within the boundaries of this Association for expenses incurred or to be incurred by the Association or Declarant for the purposes described in Section 2.05.

Section 1.37. "Resident" means each Person domiciled on any part of the Property regardless of whether such Person is also an Owner, including but not limited to tenants, lessees or other occupants.

Section 1.38. "Shadow Creek Ranch" means the comprehensively planned real estate community developed by Declarant, as master developer, as described in the "Background" section of these Covenants.

Section 1.39. "Special Assessments" means assessments levied against all Owners or a Village to cover unanticipated expenses or expenses in excess of those budgeted, as provided for in Section 2.04.

Section 1.40. "Structure" means without limitation, but as way of example:

A. any man-made thing or device, including, but not limited to, any building, garage, porch, shed, greenhouse, bathhouse, cabana, covered or uncovered patio, swimming pool, play apparatus, trellis, clothesline, fence, curbing, paving, wall, sign, permanent living quarters, commercial structure, retail structure, and any other temporary or permanent improvement;

B. any excavation, fill, ditch, diversion dam, or other thing or device which changes the grade of any Tract which affects or alters natural drainage flows or the flow of any waters in any natural or artificial stream, wash or drainage channel, or which affects flood storage or detention.

Section 1.41. "Sub-developer" shall mean and refer to any developer who purchases a Tract from Declarant for the purpose of developing such Tract for single family residential, commercial or multi-family use, and/or any homebuilding company who purchases a Tract to develop into Lots and then constructs and sells single family residential Improvements on such Lots. For the period of time which such Sub-developer owns any of the Property, it shall be an Owner herein.

Section 1.42. "Successor Entity" has the meaning given in Section 15.03.

Section 1.43. "Supplemental Declaration" means an instrument Recorded pursuant to Article V which subjects additional property to these Covenants, designates or modifies Villages, and/or imposes additional restrictions and obligations on the land described in such instrument.

Section 1.44. "Taxable Improvements" means all Structures, Improvements, and other matters and things which, at the time of assessment pursuant to Article II of these Covenants, are defined as real property under applicable law for purposes of ad valorem taxation by the State of Texas or the county in which such improvements are located.

Section 1.45. "TIRZ Plan" shall mean the Project Plan and Financing Plan adopted by the City of Pearland, Texas Tax Increment Reinvestment Zone No. 2.

Section 1.46. "TIRZ Improvements" means those improvements financed by the City of Pearland, Texas Tax Increment Reinvestment Zone No. 2.

Section 1.47. "Tract" means any improved or unimproved portion of the Property, including residential lots and commercial and multifamily tracts, which has been subdivided and separately described by a plat, condominium declaration, or survey description Recorded in the county in which such land is located. A Tract includes a single family residential Lot.



Section 1.48. "Village" means an area within the Property designated as a Village by Declarant in Exhibit "A" to these Covenants or in a Recorded Supplemental Declaration annexing additional real property to these Covenants or designating a Village under these Covenants, as modified subject to the provisions hereof. It is anticipated that there will be two or more Commercial and Multi-Family Villages and that the other Villages will be composed of mostly single-family residential Tracts. Single family residential Villages shall include townhouses and condominiums. Whenever the term Village or Villages is used herein, the Commercial and Multi-Family Village shall be deemed to be included as one of the Villages, unless otherwise specifically excepted from a specific reference herein, for the purpose of only that reference.

Section 1.49. "Village Architectural Review Committee" means the committee which has primary authority over initial construction of and later modifications to Structures and Improvements on any land within a Village, as provided for in Article VII, also referred to herein as "Village ARC".

Section 1.50. "Village Association(s)" means a community, property owner, or condominium association established within the Property to administer the affairs of a Village, subject to the jurisdiction of this Association and the terms of these Covenants. However, the term "Village Association" shall not include any sub-association or condominium association whose jurisdiction is concurrent with, (in whole or in part) but subordinate to, that of a Village Association.

Section 1.51. "Village Declaration(s)" means the Recorded declaration of covenants, easements, charges, and liens, by whatever name denominated, which by its terms makes a Village and its members subject to its terms as well as to the terms of these Covenants and the Association, however no Village Declaration shall be Recorded, nor shall any Village adopt or modify any articles of incorporation, by-laws, or any other type governing documents, without the prior written consent of Declarant, during the Declarant Control Period. Thereafter the prior written consent of the Board of Directors shall be required. It shall be the obligation of the Village in the Village Declaration, to incorporate this Declaration by reference therein, as well as to enumerate in such Village Declaration the obligations which such Village Association must perform pursuant to the provisions of this Declaration.

Section 1.52. "Village Property" means all that certain real property which is subject to the terms of a Village Declaration as "common property," "common area," or by whatever name denominated and which is owned and maintained by such Village Association for the primary use and benefit of the Owners and Residents of that particular Village. The maintenance or administration of such Village Property is not the obligation of this Association, but of the respective Village Association.

Section 1.53. "Village Standards/ Neighborhood Guidelines" means the design and architectural guidelines and rules promulgated by a Village Association or Sub-developer for such Village for Tracts within such Village and shall also mean and refer to the Neighborhood Guidelines promulgated by Declarant for Tracts within a Village to be developed as neighborhoods by a Sub-developer.

Section 1.54. "Voting Members" shall mean for each Class A Member the highest ranking elected official from each Village, from time to time, which official shall be responsible for casting the votes

of the Class A Member it represents whenever such a vote of Class A Members is called for herein or in the other Governing Documents. The term "Voting Member" shall also refer to an alternate Voting Member designated in writing by the Voting Member, if such Voting Member is unavailable. For the Class B Member, the Voting Member shall be Declarant.

## ARTICLE II ASSESSMENTS AND COVENANT LIEN

Section 2.01. Creation of the Lien and Personal Obligation of Assessments. The Association is authorized to levy Assessments as provided for in this Article and in these Covenants. By acceptance of a Deed, whether or not it shall be so expressed in such Deed, each Owner is deemed to covenant and agree to pay all Assessments authorized herein. Each Village Association, at the direction of the Association, shall be obligated to collect all Assessments levied by the Association against the Assessable Tracts within its respective Village and to pay such Assessments to the Association, out of the first funds available.

Annual Assessments shall be levied on each Assessable Tract on the basis of the Assessment Rate per property type, as provided in paragraph 2.02 F below. Special Assessments, Capitalization Fees and Reimbursement Assessments are levied as set forth below.

All Association Assessments and other charges and fees, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other or higher rate as the Board may establish subject to the limitations of Texas law), late charges and/or fines (as determined by prior Board resolution), court costs, reasonable attorney fees, and all other costs incurred in the collection of unpaid Assessments, shall constitute and become part of such Assessment and a continuing lien upon each Assessable Tract until paid in full.

Additionally, each Owner shall be personally liable for all Assessments, charges, and fees levied against his or her Assessable Tract or otherwise imposed pursuant to the Governing Documents, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other or higher rate as the Board may establish subject to the limitations of Texas law), late charges (as may be determined by prior Board resolution), court costs, reasonable attorney fees, and all other costs incurred in the collection of such unpaid Assessments. However, an Owner shall be personally liable only for those Assessments, charges, and fees levied against his or her Assessable Tract subsequent to the Owner's acquisition of title to the Assessable Tract and prior to the conveyance of such Assessable Tract to another Person.

### Section 2.02. Allocating Common Expenses, Annual Assessments

A. Commencement of Obligation to Pay Assessments. Annual Assessments for any Assessable Tract shall commence to accrue on the date which is the earlier to occur of: (i) the date upon which Declarant conveys to another Person record fee title to that Assessable Tract, or (ii) the date upon which Declarant or its lessee, agent, contract purchaser, permittee, or invitee commences the use or occupancy of any Structure or Improvement constructed on

an Assessable Tract. The first Annual Assessment levied on each Assessable Tract shall be adjusted according to the number of days and months remaining in the fiscal year at the time assessments commence on the Assessable Tract. Such first Annual Assessment shall be billed to the Owner directly at the time of the Owner's purchase of such Assessable Tract. In each subsequent year, Annual Assessments shall accrue annually as of January 1 and shall be billed as set forth below.

B. Procedures for Billing Associations and Time of Payment. Except as set forth herein, the Association shall bill Village Associations for the Assessment obligations of their Owners, including but not limited to Annual Assessments as well as all other Assessments, charges and fees authorized by the Governing Documents. The Association shall calculate, assess and mail or deliver a notice of the amount of Annual Assessments due from the Assessable Tracts within the Village to the appropriate Village Association as part of the Association's budget process, no later than October 15<sup>th</sup> of each year, for the following year. The Association shall then bill the Village Association for such amounts by delivering an invoice statement to each Village Association prior to the end of each year for the coming year. The Village Association shall bill and collect such assessment directly from the Owners subject to its jurisdiction. The Village Association shall pay to the Association the full amount due for such Assessment obligations of all of its Owners by February 1<sup>st</sup> of each year and same shall be delinquent if not paid by February 28<sup>th</sup> for the year for which same are due, retroactive to the February 1<sup>st</sup> due date for purposes of calculating past due interest as allowed herein. The failure of the Association to timely provide the invoice statement to any Village Association shall not invalidate such Annual Assessments or any rights of the Association in the collection of delinquent Assessments, except that Annual Assessments billed to a Village Association which represent the Assessment obligations of the Owners in such Village shall not become delinquent until sixty (60) days following the date on which the invoice was mailed or delivered to such Village Association.

C. Covenant Lien on Assessable Tracts. The terms of this Article II with respect to billing methods shall not in any way relieve an Owner of his or her obligation to pay Assessments, charges, or fees authorized by the Governing Documents and shall not affect the Covenant Lien against each Assessable Tract as established by this Article. In the event of failure of a Village Association to pay such Assessments, the Association may exercise its right to foreclose the Covenant Lien directly against the Assessable Tract. Notwithstanding this structure to collect Assessments through a Village Association, the Association reserves the right at any time, and from time to time, to collect Annual Assessments and all other Assessments directly from Owners, should it deem necessary.

D. Adjustment of Budget and Annual Assessments. The Board may additionally revise the budget and adjust the Annual Assessments from time to time during the fiscal year, if necessary, although not more often than one time per fiscal year, subject to the notice and payment requirements set forth in the Governing Documents or a Board resolution.

E. Calculation of Annual Assessment. The Board shall assess against each Assessable Tract an Annual Assessment for each calendar year equal to the Assessment Rate times the formula for that type of Assessable Tract, as set forth below. Notwithstanding such Assessment Rates, Assessable Tracts which are unimproved (as defined below) and Assessable Tracts in the process of construction and prior to the issuance of a certificate of occupancy will be assessed at the lower rates set forth below.

F. Assessment Rates. Beginning in the first year in which any full Annual Assessments are levied, the Assessment Rates shall not exceed \$310.00 per year for each Lot (which shall include single family detached dwelling units, single family attached dwelling units, townhouse units and condominium units) and \$0.02 per year per gross square foot of the total land area comprising each Commercial and/or Multi-Family Tract. Any acreage amount which includes a portion of a square foot shall be rounded up if the portion is .50 or over and shall be rounded down if the portion is .49 or less to arrive at whole numbers to multiply by the Assessment Rates. The Assessment Rates may be increased by the Board in any succeeding year, upon a determination by the Board that the proposed increase is necessary to meet the expenses, costs of operation, debt service obligation, reserve account deposits, capital additions, and planned expansion of the Association, without the need for approval of the Class "A" Members, unless required below. The budget process for establishing such Assessment Rates is set forth in Section 3.05 below.

Notwithstanding the full Assessment Rates per property type set forth above, the Assessment Rate for all Assessable Tracts which will be Lots, while still unimproved, is \$600.00 per acre per year. For purposes of this subsection, Assessable Tracts which will be Lots will go from "unimproved" to "improved", when such Assessable Tract is platted. After platting of an Assessable Tract into Lots, the Lots will be assessed at ½ the full Annual Assessment, which is currently \$155 per year, until any such Lot is improved with a single family dwelling unit which Lot is then sold to the general public. At the time of such sale to the general public, the Lot shall thereafter be subject to the full Annual Assessment of \$310.00 (or the then amount of Annual Assessment, as may be increased by the Board).

Further, notwithstanding the full Annual Assessment Rates per property type set forth above, the Assessment Rate for all Assessable Tracts which will be Commercial/Multi-Family Tracts that are still unimproved (as defined above) is \$.01 per year per gross square foot of the total land area comprising each such Tract. Thereafter, when such Assessable Tract is platted into a Commercial/Multi-Family Tract, the Assessment Rate shall rise to the full Annual Assessment Rate of \$.02 per year per gross square foot (or the then amount of Annual Assessment as may be increased by the Board).

It shall be the obligation of the Owner of each Assessable Tract to promptly notify the Association (or its managing agent), in writing, at such time a plat is recorded for any Assessable Tract (whether Lot or Commercial/Multi-Family), and again at such time as any Lot is sold to the general public.

Upon such notification, the Association (or its managing agent) may re-assess such Owner for the increased Annual Assessments due the Association, resulting from the change of status of the Assessable Tract, prorated for the number of days remaining in the year, having given credit for amounts already paid.

G. Increases Needing Member Approval. Notwithstanding the above, except for assessment increases necessary for emergency situations or to reimburse Declarant or the Association pursuant to Section 2.05, any proposed Assessment Rate of any type of property (i.e. Lots, Commercial or Multi-Family) that is more than twenty five percent (25%) over the same Assessment Rate for the same specific type of property for the immediately preceding fiscal year is subject to approval by Members representing two-thirds of the then eligible Class A and Class B votes. Approval may be indicated by vote or written consent prior to the beginning of the fiscal year. If any proposed Assessment Rate for a type of property is not approved or the Board fails for any reason to determine such Assessment Rate for any year, then the Assessment Rate most recently in effect for that type of property shall continue in effect until a new Assessment Rate for that type of property is determined. In such event, the Class "A" Members shall be notified of the proposed Assessment Rate increase at least thirty (30) days prior to its taking effect and there shall be a meeting called for the purpose of considering approval of such increased Assessment Rate.

An emergency situation is any one of the following:

- (1) an expense required by an order of a court;
- (2) an extraordinary expense necessary to repair or maintain the Property or any part thereof, for which the Association is responsible, or where a threat to personal safety on the Property is discovered; or
- (3) any expense necessary to repair or maintain the Property or any part thereof, for which the Association is responsible, which could not have been reasonably foreseen by the Board in preparing and distributing the Common Expense budget. However, prior to the imposition or collection of such an increase in Assessment, the Board shall pass a resolution containing written findings as to the necessity of the expense involved and the reason(s) for the unforeseeability of the expense in the budgeting process. Notice of such resolution shall be provided to the Members along with the notice of such increase in Assessment. Each Village Association shall then collect such increase in Assessments from the Owners in its respective Village.

H. Notice to Association. Each Village or other entity shall provide to the Association or its Managing Agent from time to time, but not less than annually, the name and address of each Person owning an interest in each Tract as an Owner. Such information shall be kept current as of thirty (30) days following any change in such information.

I. Statement of Annual Assessment. The Association shall send a written notice of Annual Assessment to each Village Association, and then bill each Village Association for, the assessment obligations of their Owners for any given year.

The written notice shall set forth: (i) the property type and/or square footage of each Assessable Tract in the Village; (ii) the Assessment Rate for the year in question; (iii) the amount of the Annual Assessment assessed against each such Assessable Tract, stated in terms of the total sum due and owing as the Annual Assessment; (iv) the date upon which the Annual Assessment shall be deemed delinquent; and (v) a notice that delinquent Annual Assessments will bear interest from the due date until paid in full, at the rate specified in Section 2.01.

Section 2.03. Budgeting for Reserves. The Board may, in its discretion, include in the budget those amounts which may be held as reserves for the replacement and repair of capital items, and those amounts which may be held as capital reserves and operating reserves.

Section 2.04. Special Assessments; Capitalization Fee. Conveyance Fee.

- A. Special Assessments. In addition to Annual Assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Assessable Tracts within any Village if such Special Assessment relates only to a specific Village. Except as otherwise specifically provided in these Covenants, any Special Assessment against the entire membership shall require the affirmative vote or written consent of Members representing two-thirds (2/3) of all eligible Class A and Class B votes.

Special Assessments against all Assessable Tracts shall be levied in accordance with the allocations set forth in Section 2.02, i.e. against each Assessable Tract in the same proportion as Annual Assessments on each Assessable Tract bear to the total Annual Assessments for all Assessable Tracts, unless the Board determines that another method is more equitable. Special Assessments against a specific Village shall be allocated against the Assessable Tracts in such Village in the same proportion as Annual Assessments on each Assessable Tract in such Village bear to the total Annual Assessments for such Village, unless the Board determines that another method is more equitable. Special Assessments shall be payable in such manner and at such times as the Board determines, and may be payable in installments extending beyond the fiscal year in which the Special Assessments are approved. Village Associations shall collect such Special Assessments from their respective Owners. Unpaid Special Assessments, in addition to interest, late charges, reasonable attorney fees, court costs, and costs of collection, shall constitute a continuing lien upon the subject Assessable Tract in accordance with the terms of Sections 2.01 and 2.09.

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- B. Capitalization Fee. Each Owner of an Assessable Tract other than Declarant (whether one or more Persons) at the time it purchases an Assessable Tract, shall be obligated to pay to the Association a fee of \$250.00 per Assessable Tract, as a Capitalization Fee, regardless of the size or projected usage of such Assessable Tract at the time of sale. 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 billed to the Owner directly at the time of purchase of the Assessable Tract. If any Assessable Tract is subdivided and/or platted into multiple Assessable Tracts, then the multiple Assessable Tracts will thereafter be subject to the Capitalization Fee at the time of each sale of each of the multiple Assessable Tracts. This Capitalization Fee shall be deemed an Assessment for collection purposes, if necessary.
- C. Conveyance Fee. In connection with the creation of the Association and the development 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, providing the credit enhancement necessary to obtain the necessary construction financing and financially subsidizing the maintenance and operations of the Association and Common Areas. In particular, the Declarant has personally guaranteed the construction financing obtained to construct all of the Common Area improvements and other infrastructure at Shadow Creek Ranch. Therefore, each Owner of an Assessable Tract other than Declarant (whether one or more Persons) at the time it purchases an Assessable Tract, shall be obligated to pay to the Declarant a fee of \$100.00 per Assessable Tract as a Conveyance Fee, regardless of the size or projected usage of such Assessable Tract at the time of sale. This Conveyance Fee shall be collected on every sale of an Assessable Tract for twenty (20) years from the date of recording of these Covenants, 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 Assessable Tract. If

any Assessable Tract is subdivided and/or platted into multiple Assessable Tracts, then each of the multiple Assessable Tracts will thereafter be subject to the Conveyance Fee at the time of each sale of each of the multiple Assessable Tracts.

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

Section 2.05. Reimbursement Assessments. Declarant and the Association shall have the power to levy Reimbursement Assessments against particular Assessable Tracts or Villages:

A. to cover the costs, including overhead and administrative costs, of providing services to particular Assessable Tracts or Village(s) as may be mandated or permitted by these Covenants or other applicable covenants. Assessments for special services may be levied in advance of the provision of the requested service; and

B. to cover costs incurred in bringing an Assessable Tract or Village into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Assessable Tract, their agents, contractors, employees, licensees, invitees, or guests; provided, Declarant or the Board, as appropriate, shall give the Owner of the Assessable Tract written notice and an opportunity to cure any such deficiency before levying any Reimbursement Assessment under this paragraph (B).

C. Declarant or the Association may also levy a Reimbursement Assessment against any Village Association to reimburse Declarant or the Association for costs incurred in bringing the Village into compliance with the provisions of the Governing Documents, provided Declarant or the Board, as appropriate, gives prior written notice to the Village Association's board of directors and an opportunity for the Village Association to cure the deficiency before levying any such assessment.

D. to cover the costs and expenses of the Association should it become necessary for the Association to assume the duties of a Village Association and/or administer the affairs of a Village, if such Village has ceased functioning.

Section 2.06. User Fees. The Board, in addition to other assessments provided for in this Article, may levy and collect charges and fees ("User Fees") for the operation and maintenance of facilities and the provision of services for the benefit of the Property, Owners, Residents, and the general public. In establishing User Fees, the Board may formulate reasonable classifications of users. Fees and charges must be uniform within each class but need not be uniform from class to class. User Fees shall become due and payable at the discretion of the Board, and shall become a personal debt of the user and, if applicable, shall be a lien against the Owner's Tract. Failure of any Owner or Resident to pay a User Fee when due and payable shall also be a breach of these Covenants and shall result in the suspension of the Owner's or Resident's rights and privileges as set forth in Article IV.



Declarant shall also have the right to levy and collect User Fees, and to assert lien rights against the Owner's Tract, in the same manner as provided above for the Board.

Section 2.07. Assessment by Board. The Board shall have the right to adopt procedures for the levy, imposition, billing, and collection of Assessments, charges, fines and fees, provided that the same are not inconsistent with the express provisions of the Governing Documents.

Section 2.08. Assessment Certificate and Transfer Fee. Upon written request by an Owner or Village, the Association shall, within a reasonable period of time, issue to an Owner a written certificate stating that all Assessments, charges, fines and fees (including any interest, late fees, and costs) have been paid with respect to any specified Assessable Tract. If all Assessments, charges, fines and fees have not been paid, the certificate shall set forth the amounts of such Assessments, charges, fines and fees (including any interest, late fees, and costs) due and payable as of the date of the certificate. The Association or its agent may make a reasonable charge for the issuance of such certificate, however there shall be no charge to the Declarant for such certificate. Any such certificate, when duly issued, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser or lender on the Assessable Tract specified in such certificate. The Association or its agent shall have the right to charge any Owner selling or otherwise transferring title to a Tract a fee which is reasonable compensation in the opinion of the Board, for the costs incurred by the Association in changing its records to reflect the transfer of ownership; however there shall be no charge to the Declarant when the Declarant sells or otherwise transfer title to a Tract.

Section 2.09. Covenant Lien. Declarant and all Owners, by acceptance of a Deed, whether or not it shall be expressed in such Deed, hereby covenant and agree to grant, and do hereby grant to a trustee as appointed from time to time, (hereinafter the "Trustee") a continuing lien (the "Covenant Lien") on each Assessable Tract and all Structures and Improvements thereon, for the benefit of the Association, to secure payment of delinquent Assessments (including Annual, Special, and Reimbursement Assessments), charges, and fees (including User Fees) against the Assessable Tract for this and future years, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other or higher rate as the Board may establish subject to the limitations of Texas law), late charges and/or fines (as may be determined by prior Board resolution), court costs, reasonable attorney fees, and all other costs incurred in the collection of unpaid Assessments. The Association shall have the right to appoint one or more substitute or successor trustees to act in place of the Trustee without other formality than the Recordation of such substitution. The authority hereby conferred on the Trustee shall extend to any substitute or successor trustees appointed in accordance with this paragraph.

The Covenant Lien shall be subordinate to the lien of any first priority Mortgage upon any Assessable Tract. The sale or transfer of any Assessable Tract shall not affect the Covenant Lien. Declarant and each Owner by acceptance of a Deed further agree that the Covenant Lien shall be a covenant running with the title to each Assessable Tract and all Structures and Improvements thereon. Sale or transfer of any Assessable Tract at foreclosure shall not relieve said Assessable Tract from liability for any Assessments, charges, and fees thereafter becoming due, however the sale or

transfer of any Assessable Tract at foreclosure of a first priority Mortgage shall extinguish the Covenant Lien as to payments which became due prior to such sale or transfer. Extinguishing such Covenant Lien as to payments becoming due prior to such foreclosure sale does not extinguish the personal liability of the Owner of the Tract at the time such Assessments came due. Where the Mortgagee holding a first priority Mortgage of record or other purchaser of an Assessable Tract obtains title pursuant to judicial or non-judicial foreclosure of such Mortgage, it shall not be liable for the Assessments, charges or fees chargeable to the Assessable Tract which became due prior to such acquisition of title. Such unpaid Assessments, charges and fees shall be deemed to be Common Expenses collectible from the Owners of all Tracts, including such acquirer, its successors and assigns, if not collected from the Owner liable therefor.

Section 2.10. Remedies of Declarant and the Association. If any assessments, charges, or fees secured by the Covenant Lien remain unpaid beyond the date same become delinquent, Declarant or the Board, as applicable, shall have the right to pursue any and all remedies available to Declarant or the Association, at law or in equity, to enforce payment of said sums, including, but not limited to, one or more of the following:

- A. bringing an action at law against the Owners or other Persons (including but not limited to any Village Association if billed directly to the Village Association) obligated to pay the Assessments, charges, fines or fees secured by the Covenant Lien in order to collect such delinquent sums, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other or higher rate as the Board may establish subject to the limitations of Texas law), late charges and/or fines (as may be determined by prior Board resolution), court costs, reasonable attorney fees, and all other costs incurred in the collection of unpaid Assessments;
- B. recording a notice of overdue assessments, charges, and fees owed under the Covenant Lien;
- C. authorizing and directing the foreclosure of the Covenant Lien against the Assessable Tract and all Structures and Improvements thereon by public sale conducted in accordance with Section 51.002 *et seq* of the Texas Property Code (as may hereinafter be amended) for the foreclosure of deed of trust liens upon real property;
- D. bringing an action for judicial foreclosure of the Covenant Lien in the manner prescribed by law; and
- E. any other remedy set forth in this Declaration.

The election to exercise any of the remedies permitted shall not be construed to constitute an election to waive the right to exercise any other available remedy. Each Owner hereby authorizes the use of any and all such remedies as frequently as necessary to collect the payment of sums secured by the Covenant Lien.

Section 2.11. Notice to Mortgagees. Notwithstanding any provisions of these Covenants to the contrary, Declarant or the Association, as applicable, shall provide to each holder of a loan secured by a Mortgage on an Assessable Tract, which is subordinate to the Covenant Lien, within twenty (20) working days following a written request therefor, the status of Assessments and compliance with the terms and provisions hereof for such Assessable Tract. The requirement of this Section is contingent upon the Mortgagee's proper written request to Declarant or the Association, as appropriate, of its Mortgage interest and current mailing address. Failure to give notice to subordinate lenders shall not, however, affect the validity of the Covenant Lien or the amounts secure thereby.

### ARTICLE III USE OF FUNDS

Section 3.01. Purposes for Which Funds May Be Used. The Association may apply all or portions of funds received by it pursuant to these Covenants and all other funds and property received by it from any source, to the following in such order as the Board shall determine:

A. the payment of all principal and interest when due, on all loans made to the Association, to the extent required under any agreement with note holders;

B. the Association's operating costs and expenses; and

C. for the benefit of the Property, including, but not limited to, the acquisition, construction, reconstruction, conduct, alteration, enlargement, laying, renewal, replacement, repair, maintenance, operation, financing, and subsidizing of, and establishment of reserve accounts for, such of the following facilities, services, projects, studies, programs, systems, and properties as the Board, in its discretion, may from time to time establish or provide:

(1) parks, recreational facilities and services, drainage systems, streets, roads, highways, walkways, curbing, gutters, sidewalks, trees, landscaping, lakes, fountains, benches, shelters, directional and informational signs, walkways, bridges, and street, road, and highway lighting facilities;

(2) public utility systems, communication systems and facilities, including all buildings, systems, facilities, and services used or useful in connection with the operation of communication networks and facilities, towers, stations, cables, lines, ducts, equipment, and appurtenances, and all properties, rights, easements, and franchises relating thereto;

(3) office buildings, buildings, storage and maintenance yards, garages, and other buildings and facilities deemed necessary or desirable by the Board in connection with the administration, management, control, and operation of the Association; and

(4) any and all other improvements, facilities, and services that the Board shall deem desirable, beneficial, or necessary for the advancement and best interests of the Property, Owners, and Residents.

Section 3.02. Handling of Funds. In order to secure the repayment of any and all sums which the Association may borrow from time to time, the Board is hereby granted the right and power:

A. to assign and pledge revenues received and to be received by the Association under any provision of these Covenants and the Governing Documents, including, but not limited to, the proceeds from the Assessments, and

B. to enter into agreements with lenders with respect to the collection and disbursement of funds, including, but not limited to, agreements wherein the Association covenants:

(1) to bill and collect the Annual Assessments for each year as provided herein and, subject to the limitation on amount specified in Article II, to bill and collect the same at a particular rate or rates,

(2) to establish sinking funds and/or other security deposits,

(3) to apply funds received by the Association to the payment of all principal and interest due on such loans,

(4) to establish such procedures as may be required by lenders, so long as such are consistent with these Covenants, and

(5) to provide for the custody and safeguarding of all funds received by the Association.

The amount, terms, and rates of all such loan agreements shall be subject to the Board's discretion.

Section 3.03. Bonding. The Board may require that all Persons who handle the Association funds or monies post bonds sufficient in amount to indemnify the Association for loss.

Section 3.04. Mortgages of Association Property. The Board shall have the right to mortgage Association Property as deemed necessary by the Board to secure payment of any sum borrowed by the Association from time to time.

Section 3.05. Association Budget. The Board shall cause to be prepared annual capital and operating budgets for the Association.

It shall be the duty of the Board, no later than September 1<sup>st</sup> of each year, to prepare an operating budget covering the estimated Common Expenses of the Association during the coming year. The budget shall, if the Board so determines, include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared.

The Assessment Rate to be levied against each type of property for Annual Assessments for the coming year shall be determined by the Board in its budget process.

Notwithstanding the above, the Board, may in its sole discretion, establish the Assessment Rate by taking into account:

- (a) other sources of funds available to the Association; and
- (b) assessments to be levied upon additional Tracts reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall cause a copy of the Common Expense operating budget and notice of the amount of the Assessment Rate to be levied against each type of property, (i.e. the amount per Lot or per square foot for a Commercial/Multi-Family Tract) for the following year to be delivered to each Member, i.e. Village, shall no later than October 15<sup>th</sup> of each year.

Section 3.06 Declarant's Obligations. So long as the Declarant owns any Assessable Tracts, even though Annual Assessments shall not have commenced as to such Assessable Tracts, the Declarant shall have three options with respect to the funding of the Association, which may be exercised singly or in combination: (1) the Declarant may annually elect to pay Annual Assessments on the Assessable Tracts it owns or, (2) the Declarant may elect to pay to the Association the difference between the amount of assessments collected on all other Assessable Tracts subject to assessment and the amount of expenditures required to operate the Association during the fiscal year, or (3) the 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, 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 1<sup>st</sup> of each year, so that it may evaluate its decisions under this paragraph. Upon Declarant's sale of all Assessable 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 Assessable Tracts, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Assessment Rate 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 future year.

#### ARTICLE IV RIGHTS OF ENJOYMENT IN COMMUNITY FACILITIES

Section 4.01. Right to Use Community Facilities. Owners and Residents shall have a nonexclusive right and easement of access, use, and enjoyment in and to the Association Property and the Community Facilities. All such rights are subject to Declarant's and the Association's rights to adopt and promulgate reasonable rules and regulations pertaining to such use, including the imposition of User Fees. There may be private parks or facilities which are owned or controlled by a Village Association and which such Village Association may restrict the use of to the members of such Village. The Association has no control or involvement in such Village parks or facilities.

The Association shall have the right to borrow money for the purpose of developing or improving any Community Facility; to mortgage Community Facilities to secure payment of such loans; and to grant such lender rights superior to the rights of Owners and Residents.

Section 4.02. Suspension of Rights. Declarant or the Association shall have the authority to suspend the rights and privileges of any Owner or Resident or Village under this Article IV (other than the rights of use in and to Community Facilities and Association Property), for any reasonable period during which assessments, charges, or fees (including User Fees) of Declarant, the Association, or a Village Association levied against such Owner and/or Resident or Village remain delinquent. Additionally, Declarant or the Association may suspend such rights and privileges in connection with the enforcement of any covenants, restrictions, rules, and regulations of Declarant, the Association, or a Village Association.

Section 4.03. Guests or Invitees. Any Owner or Resident may extend his or her right of use and enjoyment in and to the Community Facilities, as described in Section 4.01, to the members of his or her family, lessees, guests, social invitees, and, as applicable, employees, subject to such regulations as may be promulgated by Declarant or the Board.

Any Owner who leases his or her Tract shall be deemed to have assigned all such rights to the lessee of the Tract for the period of the lease. Other than as set forth in this Section 4.03, an Owner's or Resident's rights to use and enjoy the Community Facilities may not be transferred.

Section 4.04. Right to Convey Property. The Association, may convey to third parties portions of the Association Property restricted to use for park or open space purposes. The conveyance of two (2) acres or less of real property shall require the prior affirmative vote of two-thirds (2/3) of the Board. The conveyance of more than two (2) acres of such restricted Association Property shall require the affirmative vote of Members representing two-thirds (2/3) of the Members voting at an election held for such purpose.

Unless the requirements of Section 4.06 otherwise apply, the Association, by a majority vote of the Board, may convey other Association Property if the Board determines such conveyance to be in the best interest of the Association. No such conveyance shall be made in violation of any restrictions affecting the property being conveyed.

Section 4.05. Right to Grant/Convey Easements. Unless the requirements of Section 4.06 otherwise apply, the Association, by majority vote of the Board, or Declarant may grant or convey easements of use and access over and through the Association Property to utility providers and other third parties. Any such easement shall require the benefitted party to act in a manner which minimizes interference with the use and enjoyment of the burdened property. Upon completion of work permitted by such easement, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work.

Section 4.06. Actions Requiring Owner Approval. If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Tract, then the following actions shall require the prior approval of not less than two-thirds (2/3) of the Owners (other than Declarant) and the consent of the Class B Member, if such exists: merger, consolidation, or dissolution of the Association; annexation of additional property other than the Declarant Annexation Property (as herein defined); and dedication, conveyance, or mortgaging of Association Property (except as otherwise permitted under and in accordance with Section 4.04). Notwithstanding anything to the contrary in this Section, the Association, acting through the Board, or Declarant may grant easements over the Association Property for the installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Association Property, without the approval of the Owners.

## ARTICLE V ANNEXATION OF ADDITIONAL LANDS; VILLAGE DESIGNATIONS

Section 5.01. Annexation by Declarant. Declarant may from time to time subject to the provisions of these Covenants all such other property lying within ten (10) miles of the property described in Exhibit "A" ("Declarant Annexation Property") or otherwise subject to these Covenants, by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to annex property pursuant to this Section shall expire at such time as the Declarant Control Period has expired. Until then, Declarant may transfer or assign this right in whole or in part to any Person who is the Sub-developer of at least a portion of Shadow Creek Ranch. Any such transfer shall be memorialized in a Recorded, written instrument executed by Declarant.

Nothing in these Covenants shall be construed to require Declarant or any successor to subject additional property to these Covenants.

Section 5.02. Annexation by the Association. The Association may also subject additional property to the provisions of these Covenants by Recording a Supplemental Declaration describing the additional property to be annexed. Any such Supplemental Declaration shall require the affirmative, majority vote of the Board and the consent of the owner of the property to be annexed. In addition, so long as Declarant owns property subject to these Covenants or which may become subject to these Covenants in accordance with Section 5.01, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property to be annexed, and by Declarant, if Declarant's consent is necessary.

Section 5.03. Additional Covenants and Easements. Declarant may subject any portion of the Property to additional covenants and easements and restrictions, including, but not limited to, covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Annual or Reimbursement Assessments. Such additional covenants, easements and restrictions may be set forth either in an Supplemental Declaration subjecting such property to these Covenants or in a separate Supplemental Declaration referencing property previously subjected to these Covenants. If the property is owned by someone other than Declarant, then the consent of such Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of these Covenants as they apply to the subject property in order to reflect the different character and intended use of such property.

Section 5.04. Effect of Filing Supplemental Declaration. A Supplemental Declaration shall be effective upon its Recording unless otherwise specified in such Supplemental Declaration.

Section 5.05. Acquisition of Additional Community Facilities and Association Property. Declarant may acquire, and/or convey to the Association additional real estate, improved or unimproved, which upon conveyance or dedication to the Association shall be Association Property or Developer may acquire or construct facilities or amenities which upon designation as Community Facilities, shall be accepted by the Association and thereafter shall be maintained by the Association as public improvements.

Section 5.06. Villages. Every Tract shall be located within a Village as defined in Article I. The Tracts within a particular Village shall be subjected to additional covenants ("Village Declaration") and shall be members of an owners association for such Village ("Village Association"). No Village Declaration shall be recorded by any Sub-developer without the prior written approval of Declarant, during the Declarant Control Period. Further, a Sub-developer may also develop a neighborhood inside a Village and, with the prior written approval of Declarant, from a neighborhood association for such neighborhood ("Project Association"), by the filing of a declaration ("Project Declaration") which Project Association and Project Declaration will be subject to the Village Association and Village Declaration as well as subject to the Association and these Covenants.

The Declarant shall use Supplemental Declarations filed to subject additional property to these Covenants and/or designate Villages to initially assign the property described therein to a specific Village by name, which Village may be then existing or newly created. The Declarant may



unilaterally amend these Covenants or any Supplemental Declaration from time to time to redesignate or modify Village boundaries at any time prior to the expiration of the Declarant Control Period; provided, two (2) or more Villages shall not be combined without the consent of the affected Villages, and the consent of the Declarant during the Declarant Control Period.

Section 5.07. Village Grant of Authority. Should any Village Association ever cease operating or become abandoned by its members, i.e. the Owners of the Tracts located in such Village, then each Village and the Owners of Tracts in such Village hereby grants to the Association the authority to, and authorizes the Association, to administer the affairs of such Village and/or facilitate the reconstitution of such Village Association, until such Village Association is operating again on a self sufficient basis. This grant of authority shall include the right of the Association to enforce all terms, covenants and conditions of the Village Declaration and other Village governing documents of such Village Association, either in the name of and on behalf of such Village Association or on its own authority as the Association. In the event that the Association is exercising this authority, the Association may, subject to its supervision, delegate this authority to a committee of less than all of the Board members, which committee in turn may hire management personnel, attorneys, accountants and other personnel as they deem necessary to accomplish the reconstitution of the Village Association. Any costs and expenses incurred pursuant to this Section will be a cost or expense of the respective Village and shall be deemed an Assessment hereunder, to be collected from such Village as a Reimbursement or Special Assessment against such Village.

## ARTICLE VI SHADOW CREEK RANCH MAINTENANCE ASSOCIATION

Section 6.01. Membership. The Membership of the Association shall include all Members, as shall be as set forth below.

Section 6.02. Members. The Association shall have two classes of Members: Class A and Class B.

A. Class A. Class A Members shall be all Villages and the Representative (as hereinafter defined), if any. The Owners of Tracts shall not be Members of the Association and shall be represented in the Association by the Village Association with jurisdiction over their respective Tracts, it being intended that each Tract within the Property shall be within the jurisdiction of a Village. However, in the event any Tract is not within the jurisdiction of a Village, the Owners of the Tracts not within the jurisdiction of a Village shall elect, by majority vote on the basis of one vote per Tract, one individual (the "Representative") from their number to represent such Owners and be a Member of the Association.

Each Class A Member shall give the Association or its managing agent written notification from time to time (and upon any change) of the name and address of its Voting Member.

B. Class B. The sole Class B Member shall be Declarant. The Class B Member may appoint the members of the Board during the Declarant Control Period, as specified in Section 6.04

hereof. Additional rights of the Class B Member are specified in the relevant sections of the Governing Documents, including but not limited to Article III, Section 3 of the By-Laws. After termination of the Declarant Control Period, the Class B Member shall have a right to disapprove actions of the Board and committees, as long as such Class B membership exists.

The Class B membership shall terminate upon the earlier of: (1) ten years after expiration of the Declarant Control Period, pursuant to Section 6.04; or (2) when, in its discretion, Declarant so determines and declares in a Recorded instrument. Upon termination of the Class B membership, Declarant shall be a Class A Member entitled to vote in the same manner as other Class A Members.

Section 6.03. Voting Rights. Unless a different number of votes is allocated per Member in a specific Section or Subsection hereof, each Class A Member shall be entitled to one (1) vote per acre based on the total amount of acreage of all Assessable Tracts for each Assessable Tract that is within its respective Village; provided, any Class A Member who is in violation of these Covenants, as determined by a majority of the Board, or who is delinquent in the payment or collection of any Annual Assessment, Special Assessment, Reimbursement Assessment, User Fee, or other fees or charges levied pursuant to these Covenants, shall not be entitled to vote during any period in which such violation or delinquency continues. (If the total acreage amount for all of the Assessable Tracts in a Village includes a portion of an acre, then it shall be rounded up if the portion is .5 or over and shall be rounded down if the portion is .49 or below.)

Each Class A Member's votes shall be cast by the Voting Member of such Member. The Voting Member from each Member shall be the highest ranking elected officer of such Member, i.e., the President of the respective Village Association.

The Class B Member shall have 10,000 votes. The Class B Member's number of votes shall not change, as long as such Class B membership exists.

Section 6.04. Board of Directors.

A. Declarant shall have the sole authority to appoint, remove, and replace all three (3) or more directors of the Board during the Declarant Control Period. The Declarant Control Period shall expire upon the first to occur of the following:

(1) when: (a) 100% of the Assessable Tracts planned for development within the Property described on Exhibit "A" or annexed into the Property (as such plans may develop or change) have been conveyed to an Owner other than Declarant or a Sub-developer acquiring such Assessable Tract for the purpose of development and sale to third parties in the ordinary course of business, and (b) above ground, vertical improvements have begun to be constructed on all such Assessable Tracts;

(2) December 31, 2030; or

(3) when, in its discretion, the Class B Member so determines, as determined by Recorded document.

B. Upon termination of the Declarant Control Period, the Board shall increase to five (5) directors and shall be elected by the Members, as set out in the By-Laws. The Board shall be elected at large. Each Member may cast one vote for each position to be filled on the Board. There shall be no cumulative voting. The number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. The three of the five directors receiving the largest number of votes in the initial annual election of directors following termination of the Declarant Control Period are elected for a term of two years, and the remaining two directors are elected for a term of one year. All subsequent elections shall elect directors for a term of three years.

Section 6.05. Board Powers and Duties. The Board shall have all the powers necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as Texas law provides for non-profit corporations. The Board shall operate, manage, and maintain the Association Property and the Area of Common Responsibility subject to the rights of every Owner and Resident, the rights and powers of the Association as set forth in the Governing Documents, and the terms, conditions, covenants, or restrictions set forth in the instrument conveying such property to the Association.

The Board shall have the specific authority to establish a minimum Community Wide Standard for maintenance and preservation of the aesthetic appearance of all portions of the Property. The Association also may promulgate reasonable rules and regulations governing the use of the Area of Common Responsibility.

The Association shall have the authority to enforce such standards and such rules and regulations, including, without limitation, the right to levy fines, which, if unpaid, shall constitute a Reimbursement Assessment and a lien on the violator's property as set forth herein. The Association also shall have the right of self-help to abate any violation or non-conforming use or activity, which shall not be deemed a trespass, and the costs of which shall be a Reimbursement Assessment.

Section 6.06. Indemnification of Officers, Directors, and Others. To the fullest extent permitted by Texas law, the Association shall indemnify, protect, defend and hold every officer, director, and committee member harmless from and against all liability, claims, actions, damages and expenses, including counsel fees, arising or incurred in connection with any act or omission by the indemnified party in their capacity as an officer, director or committee member or in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Texas law.

The officers, directors, and committee members shall not be liable for any good faith 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 or action taken in good faith on behalf of the Association.

The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if and to the extent that such insurance is reasonably available.

Section 6.07. Insurance.

A. Coverages. The Association, acting through the Board or its duly authorized agent, may obtain and continue in effect any or all of the following types of insurance, as deemed necessary or advisable in the Board's business judgment and as may be reasonably available: (1) blanket property insurance covering all insurable improvements on the Association Property and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership; (2) commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds; and (3) such additional insurance as the Board, in its business judgment, determines advisable. Commercial general liability insurance on the Area of Common Responsibility and directors and officers liability coverage shall be obtained and continued in effect, in amounts deemed necessary and advisable in the Board's business judgment.

Premiums for all insurance on the Area of Common Responsibility and/or maintained pursuant to this Section for the benefit of the Association shall be a Common Expense.

B. Policy Requirements. After termination of the Declarant Control Period, and if the Board has elected to obtain insurance coverage for the Property, the Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Fort Bend, Brazoria, Fort Bend and Harris Counties, Texas, area. All Association policies shall be written in the name of the Association and shall provide for a certificate of insurance to be furnished to a Member upon request.

The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Assessable Tracts as a Reimbursement Assessment.

C. Owner Insurance. By virtue of taking title to a Tract subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that such Owner shall carry, at a minimum, casualty and general liability insurance on the Tract(s) and structures constructed thereon, unless either the Village in which the Tract is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of loss or damage to any structures located on its Tract, the Owner shall either (1) proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration; or (2) clear the Tract of all damaged structures, debris and ruins and thereafter maintain the Tract in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

A Village Association or Declarant, through Recorded covenants, may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Tracts within the Village and the standards for returning the Tracts to their natural state in the event the structures are not rebuilt or reconstructed.

D. Damage and Destruction.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any Improvements covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

(b) Repair and Reconstruction. Any damage or destruction to any Association Property or Community Facility or Area of Common Responsibility (if under the Association's insurance) shall be repaired or reconstructed unless at least seventy-five (75%) of the votes of the Class "A" Members and the Class "B" Member, so long as such Class B membership exists, agree otherwise.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's Members, levy a Special Assessment against all Assessable Tracts in proportion to the allocation of Annual Assessments. Additional Special Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as undeveloped by the Association in a neat and attractive condition.

Section 6.08 Condemnation. If the taking involves a portion of the Association Property or Community Facilities on which improvements have been constructed, then, unless within sixty (60) days after such taking, the Class "B" Member (if such Class B membership shall then exist) and at least seventy-five percent (75%) of the votes of Class "A" Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Association Property or Community Facilities to the extent lands are available therefor. The provisions of Section 6.07 D, above, applicable to Association Property or Community Facility improvements damages, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

#### ARTICLE VII COMMUNITY-WIDE STANDARDS COMMITTEE

Section 7.01. General. No planned or proposed development shall be commenced on any Tract, no plat shall be submitted or Recorded, nor any document related to any planned or proposed development submitted to any governing authority related to any Tract, nor shall any Improvement be undertaken or conducted on any Tract, nor shall any new use be commenced on any Tract, except in compliance with this Article, the Design Criteria, and the Governing Documents. Exempt Property is specifically included as a Tract for all purposes of this Article VII.

Each Owner agrees that no activity within the scope of this Article and/or Design Criteria shall be commenced on such Owner's Tract unless and until the Community-Wide Standards Committee ("CWSC"), gives its prior written approval for such activity, which approval may be granted or withheld in the such committee's sole discretion, except that no such approval shall be needed from the CWSC for any Commercial or Multi-Family Tract activity, after the expiration of the Declarant Control Period.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Declarant Control Period.

Section 7.02. Organization of the Community-Wide Standards Committee ("CWSC"). The CWSC shall be comprised of five (5) individuals, at least three (3) of whom shall have experience in architecture, engineering, land planning, landscape architecture, real estate development, contracting, building code enforcement, or a related field that Declarant deems appropriate. The Association shall pay all costs incurred by the CWSC as Common Expenses. The members of the CWSC shall be appointed from time to time by Declarant, and the CWSC shall be under the control of Declarant. Following the date on which written notice from Declarant is Recorded, evidencing Declarant's desire to transfer the authority of the CWSC to the Association, which shall be no later than the

expiration of the Declarant Control Period, the members of the CWSC shall be appointed from time to time by the Association, and the CWSC shall be a function of the Association.

Section 7.03. Organization of Village Architectural Review Committees. A Village Architectural Review Committee (sometimes referred to herein as "Village ARC") shall be established for each Village, i.e., for each residential Village of Lots and for each Commercial and Multi-Family Village. Each Village ARC shall be set up and controlled by the respective Village Declaration and other such Village governing documents.

Each Village Architectural Review Committee shall be a function of the Village Association which appoints it, subject to such standards and requirements as are imposed or delegated by the CWSC. In any event, the CWSC shall have oversight authority over the actions of any Village Architectural Review Committee, except that the CWSC's oversight authority of any Commercial and Multi-Family Village shall cease upon the expiration of the Declarant Control Period. Such oversight authority shall include the right of the CWSC to request notice of any Village Architectural Review Committee decision and the right to veto any such decision which is in contravention of the CWSC's established standards, except as set forth above with respect to any Commercial and Multi-Family Village. The operating expenses of each Village Architectural Review Committee shall be paid by the expenses of the applicable Village Association.

Section 7.04. Establishment and Amendment of CWSC Standards, Rules, and Policies. The CWSC has promulgated and will administer the standards, rules, and regulations governing the improvement of all Tracts and initial construction of Structures and Improvements thereon, as set forth in the Design Criteria. Such standards, rules, regulations, and statements of policy in the Design Criteria may be amended or revoked by the CWSC from time to time. The CWSC may also promulgate additional Community-Wide Standards.

Each Village Architectural Review Committee may promulgate and establish its own set of development guidelines, in addition to the Village Standards/ Neighborhood Guidelines, which will govern construction of Structures and Improvements on Tracts within its jurisdiction, which shall include, but are not limited to, the form and content of plans and specifications, architectural style, details of construction, and any other aspects of construction, modification and improvement to a Tract ("Village Standards/Neighborhood Guidelines"). Within its Village Standards/Neighborhood Guidelines, a Village Architectural Review Committee may establish its own set of architectural standards for different parts of a Village to reflect the different character or land uses within the Villages provided all such Village Standards/Neighborhood Guidelines are in addition to and not in violation of the Community-Wide Standard, as determined in the CWSC's discretion. All Village Standards/Neighborhood Guidelines and any amendment or modification thereof shall be subject to the prior written approval of the CWSC.

It shall be the responsibility of each Owner and Resident to inform themselves of the current standards, rules, regulations, and statements of policy promulgated by the CWSC. No change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Tract of any item for review under the Design Criteria shall not be deemed a waiver of the CWSC's

right to disapprove such same or similar item, or any of the features or elements included therein, if such same or similar item is subsequently submitted for use on any other Tract or Tracts. Approval of any such item relating to any Tract, however, shall be final as to that Tract and such approval may not be revoked or rescinded thereafter, provided that:

A. the Structures, Improvements, or uses shown or described on or in such plans and specifications do not violate any prohibition contained in these Covenants and Design Criteria; and

B. the approved item and any condition attached to such approval have been adhered to and complied with for all Structures or Improvements on, and uses of, the Tract.

Copies of Design Criteria, rules, regulations, and statements of policy shall be made available to Owners and Residents as well as other interested parties. Reasonable administrative and copying charges may be required.

Section 7.05. Construction and Occupancy Codes. All Owners are hereby notified that there are building codes, fire codes, housing codes, or other similar codes applicable to the Property from various governmental authorities or jurisdictions.

Section 7.06. Land Use Designation. Prior to the sale by Declarant of any tract of land subject to these Covenants or the construction of any building thereon, the City of Pearland shall have designated the land use for such parcel. There shall be no change in the land use designation for such parcel unless the City of Pearland has approved and except with the mutual consent of Declarant and the Owner thereof. Because of the current designations of the land use for portions of the Property that have been or will subsequently be subdivided, developed, and sold as a part of a common scheme relative to the designated land use (a "Development Tract"), Declarant may create reciprocal easement rights binding upon and benefitting each subsequent Owner of such Development Tract. Declarant's ability to create such reciprocal rights shall exist whether or not Declarant is the Owner of a Tract affected by such reciprocal rights, whether as a benefit or a burden.

Section 7.07. Development. No development or proposed development shall be commenced on any Tract, nor shall any plat be submitted or Recorded, nor any document related to any proposed development submitted to any governing authority related to any Tract, nor shall any Improvement be undertaken or conducted on any Tract, nor shall any new use be commenced on any Tract, unless complete plans, specifications, and descriptions of the proposed development or Improvement, or use have been submitted to and approved in writing by the CWSC, and then to the respective Village ARC, as called for herein and in the Village Declaration and Village Standards/Neighborhood Guidelines.

The procedures for approvals required by the CWSC under the Design Criteria shall be as set out in such Design Criteria. The procedure for approvals required by a Village ARC shall be as promulgated by such Village ARC.



The submission of plans and granting of approval required by this Article VII is in addition to and not in lieu of any design, construction, or improvement requirements of the applicable governmental authorities.

Notwithstanding anything to the contrary in this Section, no approvals shall be needed under this Section or under the Design Criteria or otherwise from the CWSC for Tracts located in the Commercial and Multi-Family Village, after the expiration of the Declarant Control Period.

Section 7.08. Scope of Committee Authority. The CWSC shall have review and approval authority over the development items covered by the Design Criteria. Village ARC's shall have primary review and approval authority over the initial construction of all Structures and Improvements within the respective Village pursuant to the Village Standards/Neighborhood Guidelines. Village Architectural Review Committees shall also have primary review and approval authority of modifications to existing Structures and Improvements within any land inside such Village. In cases where a Village Architectural Review Committee has primary authority, the CWSC shall not act except as set forth in Section 7.03.

No approval given by a Village Architectural Review Committee shall be given in violation of the Community-Wide Standard or any other standard, rule, regulation, finding, determination, or resolution promulgated by the CWSC, or any permit, authorization, or approval previously issued by the CWSC without written authorization from the CWSC for such variance.

Each Village Architectural Review Committee shall perform such additional functions as may be assigned to it from time to time by its Village Association or the CWSC, if any. A Village Architectural Review Committee shall only act on matters which are within its respective Village.

Section 7.09. Disapproval of Plans. The CWSC or a Village Architectural Review Committee shall have the right to disapprove any plans and specifications submitted pursuant to this Article for any reason, including, but not limited to, the following:

- A. failure of such plans or specifications to comply with any of the restrictions or provisions of these Covenants;
- B. failure to include such information as may reasonably have been requested by the CWSC or a Village Architectural Review Committee;
- C. failure to comply with the Community-Wide Standard, the Village Standards/Neighborhood Guidelines, or any of the standards, codes, rules, or regulations promulgated pursuant to this Article;
- D. purely aesthetic reasons including, but not limited to, the objection to the nature or quality of materials, color scheme, finish, proportion, style of architecture, lighting, setbacks, landscaping, height, bulk, safety, or appropriateness of any proposed Structure or Improvement;

E. incompatibility of any proposed Structure, Improvement, or use with existing Structures, Improvements, or uses upon other Tracts in the Property;

F. objection to the size or location of any proposed Structure or Improvement (including signage) upon any Tract or with reference to other Tracts in the Property;

G. objection to the grading and/or drainage plan for any Tract;

H. objection to the location of parking areas proposed for any Tract on the grounds of incompatibility with proposed uses and Structures on the Tract or insufficiency of the size of the parking area in relation to the proposed use of the Tract;

I. objection to a matter which, in the judgment of the CWSC or a Village Architectural Review Committee, would render the proposed Structure, Improvement, or use incompatible with the Community-Wide Standard, Village Standards/Neighborhood Guidelines, or general plan of development for the Property, a Village, or adjacent property; or

J. objection to any matter not set forth in the CWSC standards which, in the judgment of the CWSC, would not be in the best interest of the Property;

If the CWSC or a Village Architectural Review Committee (whether a residential Village of Lots ARC or a Commercial/Multi-Family Village ARC) disapproves a set of plans and specifications submitted hereunder or approves them as modified or subject to specific conditions, and if the applicant so requests in writing, the CWSC or Village Architectural Review Committee shall give the applicant a written statement specifying the grounds for disapproval or qualified approval. Upon request by the applicant, the CWSC or Village Architectural Review Committee shall make reasonable efforts to consult with and advise an applicant so that an acceptable proposal may be prepared and submitted.

Section 7.10. Operations of the CWSC; Appeals. CWSC operations and meetings and any procedures for appeal shall be governed by the Design Criteria and by such other consistent policies as may be adopted by a majority of the CWSC committee members.

Section 7.11. Operations of Village Architectural Review Committee; Appeals. The operations and meetings of Village Architectural Review Committees (whether a residential Village of Lots ARC or a Commercial/Multi-Family Village ARC) shall be governed by policies that it shall adopt with respect to its operations and meetings, provided that such policies are consistent with the Design Criteria and applicable CWSC resolutions, as such may be amended from time to time.

Section 7.12. Filing of Approved Plans. Upon approval by the CWSC a copy of plans and specifications on which the approval is clearly marked shall be deposited with the CWSC as a record, to be kept by the CWSC for no less than five (5) years. After such time, the CWSC may dispose of such records if continuing to keep all of such records becomes impractical.

Section 7.13. Inspection of Tracts and Improvements. An agent of the CWSC or a Village Architectural Review Committee may enter upon and inspect any Tract and any Structures, Improvements, or uses thereon at any time for the purpose of ascertaining whether such Tract and the Structures, Improvements, and uses thereon are in compliance with these Covenants, the Community-Wide Standard, and the standards, rules, regulations, and approvals granted or promulgated by the CWSC or a Village Architectural Review Committee. Neither Declarant, the Association, the CWSC, a Village Architectural Review Committee, nor the agent of any such entity shall be deemed to have committed a trespass by reason of such entry or inspection.

Section 7.14. Letter of Acceptance. Upon completion of a development plan or plat or document or Improvement approved by the CWSC pursuant to the Design Criteria, and upon delivery of a Certificate of Completion executed by the engineer and landscape architect of the Sub-developer, along with a copy of the as-built plans, and upon written request by the Tract Owner, the CWSC shall have authority, but not the obligation, inspect the Tract and issue a punch list of items needing to be completed. Upon completion of those items and upon expiration of a sixty (60) day warranty period, the CWSC shall have the authority to issue a Letter of Acceptance identifying the Tract and the development or Improvements thereon, and stating, based upon information supplied by third party architects, inspectors, or other agents of the Owner, or other information available to the CWSC, that construction of the proposed development or Improvements has been completed in substantial accordance with the approved plans and specifications. Such Letter shall not be construed to certify the acceptability, sufficiency, or approval by the CWSC of any work, materials, or specifications included in the actual construction of the development or the completion of the Improvement, or of the safety of the development or Improvement. A Letter of Acceptance shall be conclusive evidence of the facts stated therein as to any bona fide purchaser or encumbrance in good faith and for value, or as to any title insurer. The Owner is hereby notified and does hereby agree that the Letter in no way warrants the sufficiency, acceptability, or approval by the CWSC, of the construction, workmanship, materials, equipment, design (other than for aesthetic and other purposes which are expressly set forth herein), or safety of the development or Improvement. Preparation and Recordation of such a Letter shall be at the expense of the Owner of the subject Tract. Each Owner who has requested any review of any proposed development by the CWSC shall make a request under this Section for a Letter of Acceptance once such development is completed in accordance with such approved development plans.

Section 7.15. Fees for Examination of Plans and Specifications. The CWSC or a Village Architectural Review Committee may charge and collect reasonable fees for the examination of any plans and specifications submitted for approval pursuant to these Covenants and/or for any inspections performed pursuant to a request for a Letter of Acceptance. Such charges shall be payable at the time and place designated by the CWSC or a Village Architectural Review Committee, and shall be subject to amendment without advance notice.

Section 7.16. Violations and Enforcement. If any proposed development shall be commenced or any plat submitted or Recorded or any other document related to development of a Tract submitted, or if any Improvement shall be made or any new use commenced on any Tract, other than in accordance with plans, specifications, and descriptions approved by the CWSC and/or a Village

Architectural Review Committee, such development, Improvement, or use shall constitute a violation of these Covenants. The cessation of such violations may be enforced by Declarant, the Association, or the Village Association with jurisdiction over such Tract, pursuant to Article XIV.

Section 7.17. Variances. The Board may authorize variances from compliance with any of the architectural or other restrictions set forth in this Declaration and/or in the Design Criteria, as either or both may be amended, when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of any financing shall not be considered a hardship warranting a variance. All such variances must be evidenced in writing and signed by at least a majority of the CWSC or majority of the Board, and shall become effective upon the execution thereof unless stipulated otherwise in such writing. If such a variance is granted, no violation of the covenants, conditions and restrictions set forth in this Declaration and/or Design Criteria, as amended, shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance by the Board shall not operate to waive any of the terms or provisions of this Declaration and/or Design Criteria, as amended, for any purpose whatsoever except as to the particular provision addressed by such variance, nor shall a variance effect in any way an Owner's obligations to comply with all applicable governmental laws, rules and regulations.

Section 7.18. Limitation of Liability. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics and scheme of development of Shadow Creek Ranch Maintenance Association. They do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based on aesthetic considerations only. In any event, the reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, a Village Association, the CWSC, the Village Architectural Review Committees, any other committee, or any member or representative of any of the foregoing entities, shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; whether or not any development expense is reimbursable under the TIRZ; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a builder; or any injury, damage, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Tract, Structure, or Improvement. In all matters, Declarant, the Board, the CWSC, the Village Architectural Review Committees, and the members of each shall be defended and indemnified by the Association as provided in these Covenants and the Governing Documents. All express and implied warranties of any kind are expressly disclaimed.

ARTICLE VIII  
COMMUNITY-WIDE COVENANTS AND RESTRICTIONS

Section 8.01. Maintenance Required by Owner. Each Owner and Resident shall keep all Tracts owned or occupied by him or her, and all Structures and Improvements thereon, in good order and repair, including but not limited to, the seeding, watering, and mowing of all lawns, the pruning of all trees, shrubbery and other landscaping and signs, and the painting (or other appropriate external care) of all Structures and Improvements, all in a manner and with such frequency as is consistent with the Community-Wide Standard, any applicable Village Standards/Neighborhood Guidelines, safety, and good property management. EACH OWNER AND RESIDENT ALSO ACKNOWLEDGES THAT THE PROPERTY IS SUBJECT TO THE CITY ORDINANCES OF THE CITY OF PEARLAND, WHICH INCLUDE BUT ARE NOT LIMITED TO MANY ORDINANCES GOVERNING USE OF THE PROPERTY. EACH OWNER AND RESIDENT IS ALSO RESPONSIBLE FOR COMPLYING WITH ALL FEDERAL, STATE, COUNTY AND CITY OF PEARLAND (OR OTHER GOVERNMENTAL ENTITY) RULES AND REGULATIONS AND REQUIREMENTS RELATING TO THE PROPERTY AND SUCH OWNER'S AND/OR RESIDENT'S RESPECTIVE TRACT.

Owners of Tracts which are adjacent to any portion of the Association Property and/or Community Facilities on which walls, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the Association Property and/or Community Facility which lies between such wall and the Tract boundary. Owners of Tracts adjacent to any roadway with the Property shall maintain driveways serving their respective Tracts, whether or not lying within the Tract boundaries, and shall maintain and irrigate landscaping on that portion of the Association Property and/or Community Facilities, if any, or right-of-way between the Tract boundary and the back-of-curb of the adjacent street. Owners of Tracts abutting the bank or water's edge, or a portion of the Association Property and/or Community Facilities abutting the bank or water's edge of any river, pond, stream or wetland within the Property shall maintain and irrigate all landscaping between the Tract boundary and such bank or water's edge; provided there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article VII hereof.

If the Owner or Resident of a Tract upon which a violation of this Section exists has not taken reasonable steps to extinguish the violation within fifteen (15) days following the mailing of written notice to the Owner or Resident specifying the violation, Declarant or the Association shall have the right, through the CWSC or other agents or employees, to enter upon such Tract during regular business hours and to take such steps as specified in the notice to extinguish the violation of these Covenants. The cost thereof shall be a Reimbursement Assessment and a binding, personal obligation of the Owner, payment of which is secured by the Covenant Lien.

Maintenance Required by Association. The Association shall maintain and keep in good repair the Area of Common Responsibility. The Area of Common Responsibility shall include, but need not be limited to, all landscaping and improvements on the Association Property and Community Facilities, landscaping within public rights-of-way in or adjacent to the Property, landscaping on any public utility easement within the Property (subject to the terms of any easement agreement relating

thereto), and such portions of any additional property within the Area of Common Responsibility. The Area of Common Responsibility shall also include all ponds, lakes, streams and/or wetlands located within the Property created by or at the direction of Declarant which serve as part of the drainage and storm water retention system for the Property, including any retaining walls, bulkheads or dams retaining water therein and any fountains, lighting, pumps, conduits, and similar equipment installed therein or in connection therewith. The Association shall maintain such facilities and equipment in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless the Members representing seven-five (75%) percent of the Class "A" Members of the Association and the Class "B" Member, if such Class B. membership then exists, agree in writing to discontinue such operation. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

There are hereby reserved to the Association blanket easements over the Property as reasonably necessary to enable the Association to fulfill its responsibilities under this Section.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Tracts as part of the Annual Assessment, subject to the right of the Association to seek reimbursement from the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Declaration, other recorded covenants or other agreement with the owner(s) thereof.

The Association shall also be responsible for maintenance, repair and replacement of property within any Village to the extent designated in any Supplemental Declaration affecting the Village. The Association may also assume maintenance responsibilities with respect to any Village in addition to those that may be designated by any Supplemental Declaration. This assumption of responsibility may take place either by agreement with the Village Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Property. All costs of maintenance pursuant to this paragraph shall be assessed as a Village Assessment only against the Tracts within the Village to which the services are provided. The provision of services in accordance with the Section shall not constitute discrimination with a class.

Section 8.02. Appearance and Use Restrictions of Tracts. Without the prior written approval of the CWSC (however, as to any Commercial and/or Multi-Family Tract, this need for the approval of the CWSC for subparagraphs A and B below shall cease upon the expiration of the Declarant Control Period), and in accordance with other applicable terms and conditions of the Governing Documents:

- A. no previously approved Structure shall be used for any purpose other than that for which it was originally approved;
- B. no Tract shall be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise;

C. no facilities, including poles and wires for the transmission of electricity, telephone messages, and the like shall be placed or maintained above the surface of the ground on any Tract, and to the extent permitted by law, no external or outside antennas of any kind shall be maintained on any Tract or Improvement; and

D. no well, pump, shaft, casing, or other facility for the removal of subsurface water shall be placed or maintained on any Tract, and no boring, drilling, removal of, or exploration for, subsurface water shall be conducted on any Tract.

Each Owner and Resident hereby acknowledges that Declarant may grant the right to other Persons to construct and maintain above ground power lines, lift stations and other facilities for the operation and maintenance of utilities to the Property or any part thereof. Each Owner and Resident also acknowledges that Declarant, or some other Person or Persons at Declarant's direction, may drill water wells for the benefit of the Area of Common Responsibility.

Section 8.03. Forest Preservation shall be governed by Pearland City Ordinance.

Section 8.04. Keeping of Animals shall be governed by Pearland City Ordinance.

Section 8.05. Placement of Signs shall be governed by Pearland City Ordinance and the Design Criteria. Such Design Criteria shall not apply to the activities of Declarant, its agents or assigns.

Section 8.06. Temporary Buildings. No mobile home, trailer, tent, garage, or temporary building, and no building in the course of construction, shall be used, temporarily or permanently, as a residence on any Tract. This restriction shall not apply to manufactured housing approved by the CWSC.

Section 8.07. Disposition of Trash and Other Debris. No lumber, metals, bulk materials, refuse, or trash shall be kept, stored, or allowed to accumulate on any Tract, except building materials during the course of construction, unless such materials are visually screened in a manner approved by the CWSC. During the course of construction, each Owner shall insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner. No burning of trash and no accumulation or storage of litter, junk, or trash of any kind shall be permitted on any Tract. Every Owner must comply with all applicable state and federal regulations with respect to storage and disposal of construction materials and debris, including but not limited to EPA regulations regarding storm water discharge. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, trash containers may be placed in the open on any day that a pick-up is to be made. At all other times, such trash containers shall be stored so that they cannot be seen from adjacent and surrounding property or roads. The CWSC may adopt and promulgate reasonable rules and regulations relating to the size, shape, color, location and type of trash containers permitted and the screening of such containers on the Property. The Board and/or the CWSC may adopt and promulgate actions to be taken in the case of repeated violations of this Section, including but not limited to fines being imposed after notification of such violations.

Section 8.08. Placement of Pipeline. Except by Declarant, no water, gas, sewer, or drainage pipes (except hoses and movable pipes used for irrigation purposes) shall be installed or maintained on any Tract above the surface of the ground, except at the point of connection to the Structure served. Declarant may locate some TIRZ Improvements above ground.

Section 8.09. Natural Resources. Except for areas specifically designated for such purposes by Declarant or the Association, no Tract or portion thereof shall be used for mining, boring, quarrying, drilling, removal, or other exploitation of surface or subsurface natural resources. Further, any such activity would be subject to the City of Pearland drilling ordinance. Notice is hereby given that there are designated drill sites within the boundaries of the Property, as shown on the various recorded plats of the Property, some of which may be located in parks or open spaces.

Section 8.10. Air and Water Pollution. No Tract shall be used in a manner which emits pollutants into the atmosphere or discharges liquid or solid wastes or other harmful matter onto any land or into any waterway in excess of the requirements of federal, state, or local law. No waste or other substance or material of any kind shall be discharged into any private or public sewer system serving the Property or any part thereof in violation of applicable laws or regulations. No person shall dump any waste or other substances or materials of any kind into any lake, waterway or any drainage facility. Every Owner and Resident is responsible for complying with all federal, state, county and city rules and requirements (including but not limited to EPA rules and requirements) governing land, air or water pollution.

Section 8.11. Trailer Storage. No trailer, trailer house, recreational vehicle, camper, mobile home, boat, semi-truck tractor or trailer, or other truck with a licensed capacity in excess of one ton shall be stored on any street within the Property or brought upon or stored on any Tract except in an enclosed structure or other manner which does not permit it to be seen at ground level from adjacent property or an abutting street. This shall not be construed to prohibit the temporary parking of any such vehicle for short periods of time for loading or unloading purposes. Any such vehicle shall be considered stored after five days. The use of portable or temporary buildings or trailers as field offices by Declarant or by its contractors during authorized construction activities are permitted; provided, however, CWSC or Village Architectural Review Committee approval is required before use of such trailers or buildings on any Tract. Any such portable or temporary buildings or trailers must be removed within sixty (60) days from: the last conveyance of a Tract which related to the construction or occupancy of such Tract, or the cessation of construction on such Tract, whichever is later.

Section 8.12. Fireworks, Firearms, Etc. shall be governed by Pearland City Ordinance.

Section 8.13. Improper Activity. No unlawful, noxious, or offensive activities shall be carried on or maintained on any Tract, nor shall anything be done or permitted to be done thereon which may be or become an annoyance or a nuisance to surrounding Owners or Residents, as determined in the CWSC's discretion.



Section 8.14. No Partition. Except as permitted in this Declaration or amendments thereto, there shall be no judicial partition of Association Property 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 (or part thereof) has been removed from the provisions of this Declaration. This Section 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 8.15. Residents Bound. All provisions of the Declaration, By-Laws, any applicable Supplemental Declaration, and any rules and regulations promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Residents, guests and invitees of any Tract. Every Owner shall cause all Residents of his or her Tract to comply with the Declaration, By-Laws, any applicable Supplemental Declaration, and all rules and regulations of the Association. Every Owner shall be responsible for all violations and losses to the Community Facilities and/or Association Property caused by such Residents, notwithstanding the fact that such Residents of a Tract are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Section 8.16. Chemical Fertilizers, Pesticides, or Herbicides. No chemicals, fertilizers, pesticides, herbicides, or hazardous substances shall be used on the Property except normal household quantities of those products which are readily available for consumer use and, as applicable, are approved by a regulatory agency for the intended household use.

Section 8.17. Design Criteria and Village Declarations. Further use restrictions and other covenants and conditions applicable to all of the Property are in the Design Criteria. Further use restrictions and other covenants and conditions applicable to a certain Village may be found in the Village Declaration, Village Standards/Neighborhood Guidelines and other governing documents for that respective Village.

## ARTICLE IX WATERFRONT AREAS AND WATERWAYS

Section 9.01. Restrictions for Waterfront Tracts. Any Tract which abuts a lake, drainage channel, ditch, creek or other open drainage facility, stream, river, canal, or other waterway or body of water owned by or under the jurisdiction of the Association (hereinafter collectively referred to as "Waterways") shall be subject to the following covenants and restrictions:

- A. No wharf, pier, bulkhead, or other structure or obstruction shall be built or maintained upon any waterfront site or into or upon any Waterway on or adjacent to the Property except with the specific written approval of the CWSC. No structure or obstruction shall be permitted if it threatens safe navigation upon such Waterway or the safe and convenient use of such Waterway as a drainage facility.

B. No boat canal shall be constructed or installed upon any Tract nor shall any facility or device be constructed or installed upon any Tract which shall in any way alter the course of or boundaries of any Waterway, or which shall involve or result in the removal of water from any Waterway except with the specific written approval of the CWSC.

C. No boats, hoists, launching facilities, or similar structures or equipment shall be installed, constructed, or maintained upon any Tract except with the specific written approval of the CWSC, nor shall any boat trailer be stored on any Tract in violation of the standards or regulations of the CWSC.

Section 9.02. Use of Boats. No boat of any kind shall be operated upon any Waterway on the Property without the prior written approval of the CWSC. Any approved boating shall conform to all rules and regulations promulgated by the CWSC, governmental agency, state law, and any other entity with jurisdiction over the Waterway.

Section 9.03. Use of Waterway. No use of any Waterway on the Property, including but not limited to, fishing, swimming, boating, playing, or use of jet skis or personal flotation devices, shall be permitted without the prior approval of the CWSC; provided, if any such use is permitted, it shall be subject to the Declarant's and the Association's superior use rights as provided below and to all rules and regulations that may be promulgated by the Board of Directors. THE ASSOCIATION SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE OR INJURY TO ANY PERSON OR PROPERTY ARISING OUT OF THE AUTHORIZED OR UNAUTHORIZED USE OF WATERWAYS ON THE PROPERTY OR ADJACENT TO THE PROPERTY. Notwithstanding the foregoing, the Association and the Declarant (during the Declarant Control Period) may use and regulate the Waterways on the Property for the irrigation of the Area of Common Responsibility or for any other purpose deemed appropriate by the Board or Declarant. The Declarant's rights under this Section shall be superior to any rights of this Association.

## ARTICLE X COVENANTS WITH RESPECT TO EQUAL HOUSING OPPORTUNITY

Section 10.01. Covenants of Owners. Owners, Residents, their agents and representatives, shall not refuse to sell or rent or to negotiate for the sale or rental of any portion of the Property to any Person because of race, color, religion, gender, or national origin. Any restrictive covenant on the Property relating to race, color, religion, gender, or national origin in the sale or rental of property, now or in the future, is void and specifically disclaimed.

Similarly, no Person shall be denied the use of any portion of the Area of Common Responsibility or Village Property which is similarly made available to others because of that Person's race, color, religion, gender, or national origin.

Declarant shall be deemed a beneficiary of this covenant and this covenant shall run with the land in favor of Declarant for the entire period during which this covenant remains in force and effect without regard to Declarant's ownership of any land or interest therein to which this covenant relates.

In the event of any breach of any such covenant, Declarant shall have the right to exercise all rights and remedies, and to maintain any actions at law or suits in equity or other proceedings to enforce the curing of such breach, as may be available under law.

## ARTICLE XI EASEMENTS

Section 11.01. Easements and Rights-of-Way. Easements and rights-of-way across each Tract are hereby expressly reserved to Declarant, the Association, its designees, agents, successors, and assigns (which may include Brazoria, Fort Bend and Harris Counties and the City of Pearland and any utility company), in, on, over, and under the Easement Area (as defined in Section 11.02 below) for the following purposes, among others:

A. the installation, construction, maintenance, repair and replacement of:

(1) wires, lines, conduits, and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television, security, fiber optics, wireless communication antennas, and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage and other utilities and similar facilities,

(2) storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water, and heat, meter boxes and for any other public or quasi-public utility facility, service, or function, whether above ground or underground,

B. slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by Declarant, its successors and assigns, or which might create erosion or sliding problems, or which might change, obstruct, or retard drainage flow, and

C. an open space or buffer area between a Tract and the adjacent Tracts or street rights-of-way, to provide separation and privacy among adjacent Tracts.

D. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated in the Area of Common Responsibility, except as may be approved by the CWSC or as provided by Declarant.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all the Property for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes; provided, the exercise of this easement shall not extend to permitting entry into the residential improvements on any Tract.

The Board shall have, by a two-thirds (2/3) votes, the power to dedicate portions of the Association Property or Community Facilities to Brazoria, Fort Bend and Harris Counties, Texas, or to any other local, state, or federal governmental entity, subject to such approval requirements as may be contained in Sections 4.04, 4.05 and 4.06 of Article IV hereof.

Section 11.02. Definition of Easement Area. The term "Easement Area" as used herein, means and refers to any part of the Property designated as any type of an easement or open space or reserve by Recorded plat or other Recorded instrument, and all portions of the Area of Common Responsibility, including but not limited to flood storage easements, detention easements, reserves for lakes and detention, easements for drainage and restricted open space.

Section 11.03. Restrictions on Use of Easement Area. No Person shall construct, maintain, or place any Structures, Improvements, or other objects on, over, or above any portion of the Easement Area or in any flood storage easements without the prior written approval of the CWSC. In the event that any Person violates the restrictions in this Section, Declarant, the Association, or a Village Association may enter upon the Easement Area and remove such violating obstruction, and assess the removal costs and restoration costs thereof to the violator as a Reimbursement Assessment. The Person(s) exercising the easement rights described in Section 11.01 may clear the Easement Area and any flood storage easements of all trees (including any overhanging branches), landscaping, or other things which may obstruct or hinder the use of the easements and rights-of-way granted in that Section or which encroach upon or affect drainage in such Easement Area or flood storage easements.

Section 11.04. Reservation of Rights for Utilities. Declarant, its successors and assigns, reserves the right to build, maintain, repair, sell, grant, dedicate or lease all utilities and streets in the Property.

Section 11.05. Right of Entry. Declarant, the Association, the Village Associations, their respective designees (which may include, for example, the CWSC or a Village Architectural Review Committee), agents, successors, and assigns, shall have the right, at reasonable times, to enter upon all parts of the Easement Area for any of the purposes for which said easements and rights-of-way are reserved. The Person(s) exercising these easement rights shall be responsible for leaving each Tract in good condition and repair following any work or activity undertaken in an Easement Area, provided that this obligation shall not extend to Structures or things which have not been approved by the CWSC or are in violation of the Governing Documents.

Title to any Tract or portion thereof shall not include title to any utility lines in, on, over, or under the Easement Area or any street. Declarant expressly reserves the right for itself, its successors and assigns, to construct, operate, maintain, repair, remove, and replace utility lines in the Easement Area. The conveyance of a Tract shall not convey any right to any utility lines located in the Easement Area on such Tract.

Section 11.06. Easements for Waterways and Flood Water. Declarant reserves for itself and the Association, its successors, assigns, and designees of each, the non-exclusive right and easement, but not the obligation, to enter upon the Waterways located within the Area of Common

Responsibility (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any portion of the Area of Common Responsibility, (b) to construct, maintain and repair any wall, dam, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall be transferred to the Association at such time as Declarant shall cease to own property subject to this Declaration, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Property abutting or containing any portion of any of the rivers, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights and responsibilities under this Section.

There is further reserved, for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over all Association Property, Community Facilities and across the rear fifteen feet (15') of each Tract adjacent to a lake, channel, detention pond or drainage easement, as shown on a Plat, (but not the dwellings or improvements thereon) all within the Property, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Property; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the Waterways within the Property; (c) to maintain and landscape the slopes and banks pertaining to such Waterways; and (d) to enter upon and across such portions of the Property for the purpose of exercising its or their rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding from any cause, including without limitation, due to hurricanes, heavy rainfall, or other natural disasters.

Section 11.07. Telecommunication Services. The Declarant hereby reserves the sole and exclusive right to provide, either directly or by contracting with other parties, various telecommunication services to the Property, or parts thereof. The Declarant shall have the sole discretion to determine whether or not such telecommunication services are provided, the types of services to be provided, the manner in which such services will be provided, the amounts to be charged, and the method of paying for such services. The Association shall not attempt to provide nor enter into any type of competing contract to provide similar services as those being provided by Declarant, nor provide or attempt to provide any bulk rate arrangements for cable, telephone or security, unless or until Declarant shall have ceased to provide such services.

A. Types of Telecommunication Services. The types of telecommunication services that may be provided by or through the Declarant shall include, but not be limited to, the following: (i) local and long-distance telephone service; (ii) voice mail service; (iii) cable television service; (iv) private television channels for education and community purposes; (v) video monitoring of streets and/or the Area of Common Responsibility (or parts thereof), and other public areas; (vi) central home systems for fire and burglary detection; (vii) electronic utility meter reading systems; (viii) electronic mail systems; and (ix) such other similar telecommunication services as the Declarant determines to be necessary or beneficial for the safety, welfare or enjoyment of the Members, and Owners and/or Residents.

B. Common Area Facilities. The telecommunication equipment, wiring and other facilities that are necessary to provide the telecommunication services may be owned by the Declarant or the Declarant may contract with other parties to provide such facilities on behalf of the Declarant. The cost and expense of constructing, installing, operating, maintaining, repairing and replacing such facilities, if any, shall be paid by the Declarant, and may be included as part of the Annual Assessments and Special Assessments to the Members to reimburse the Declarant.

C. Structure Facilities. If the Declarant determines to provide telecommunication services, it may require that each Structure on a Tract constructed in the Property include wiring or other necessary facilities (a "black box") to provide access to the Structure for the telecommunication services described above. The "black box" will provide a connecting terminal for the wiring that extends to each outlet or point of access in the Structure for the telecommunication services. The Declarant shall have the right to designate the type of "black box" to be installed and the manner in which such "black box" shall be operated, maintained and repaired, and may, from time to time, designate appropriate replacements or improvements to the "black box". The Declarant may contract with other parties to provide the foregoing services relating to the "black box". The Declarant may require each Owner to pay all costs and expenses required to purchase, install, maintain, repair, replace or improve the "black box" for the Owner's Structure, which shall be paid by each Owner in the same manner as a Special Assessment. The "black box" shall remain as a permanent fixture to the Structure, and may not be removed from the Structure without the written permission of the Declarant, and shall remain as part of the Structure when it is sold to another party. The Declarant and the parties with whom it contracts to provide services relating to the "black box" shall have an easement and right of entry over and across each Tract and into each Structure for the purpose of installing, maintaining, repairing, replacing and making improvements to the "black box".

D. Optional Services. The installation of a "black box" in a Structure does not obligate the Owner to accept or pay for any of the telecommunication services that may be provided by, or available through, the Declarant (except to the extent the Board of Directors determines to provide a service to all Members paid with Annual Assessments). Each Owner shall have the right to (i) accept and pay for any such services provided by or through the Declarant, (ii) contract with another party to provide such services, or (iii) decline such services, in whole or in part.

## ARTICLE XII ADDITIONAL RIGHTS RESERVED TO DECLARANT

Section 12.01. Withdrawal of Property. Declarant reserves the unilateral right to amend these Covenants, so long as it has a right to annex additional property pursuant to Section 5.01, for the purpose of removing unimproved portions of the Property from the coverage of these Covenants. Such amendment shall not require the consent of any Person other than the Owner(s) of the property

to be withdrawn, if not the Declarant. If the property is Association Property, the Association shall consent to such withdrawal by majority vote of the Board. For purposes of this Section 12.01, the term "unimproved" means no above ground, vertical improvements located on such property.

Section 12.02. Marketing and Sales Activities. Declarant and other parties authorized by Declarant may construct and maintain upon portions of the Property such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Tracts, including, but not limited to, business offices, signs, model units, information centers, and sales offices. Declarant and such other authorized parties shall have easements for access to and use of such facilities at no charge.

Section 12.03. Right to Develop. Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Association Property for the purpose of making, constructing, and installing such improvements to the Association Property as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Property acknowledges that the development is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property inside or outside the Village or parcel in which such Person holds an interest, or (b) changes in the master plan of development for Shadow Creek Ranch as it relates to property inside or outside the Village or parcel in which such Person holds an interest.

Section 12.04. Right to Transfer or Assign Declarant Rights. Any or all of Declarant's rights and obligations set forth in these Covenants or the Governing Documents may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce any obligation nor enlarge any right beyond that which Declarant has under these Covenants or the Governing Documents. No such transfer or assignment shall be effective unless it is in a Recorded written instrument signed by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in these Covenants where Declarant does not intend to transfer such right in its entirety. In such case, it shall not be necessary to Record an assignment.

Section 12.05. Easement to Inspect and Right to Correct. Declarant reserves the right to (but is under no obligation), for itself, the Association, and others it may designate, inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Property, including Tracts, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Tract shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

Section 12.06. Right to Notice of Design or Construction Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any Structures or Improvements within the Property in connection with or in anticipation of any potential or pending claim, demand, or

litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing (which writing shall specify the specific construction defect or other claim or demand) and given an opportunity and reasonable amount of time (no less than 30 days) to meet with such Person or the Owner of the property to discuss the Owner's concerns, conduct their own inspection and respond to such claim or demand. No person shall institute litigation involving any such claim or demand without having first engaged in good faith mediation with the parties involved. After expiration of the Declarant Control Period, this notice and opportunity shall be given to the Board.

Section 12.07. Rules and Regulations. The Association, through its Board of Directors, may make and enforce rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for violations of this Declaration, the By-Laws, or the rules and regulations of the Association, may include among others, reasonable monetary fines and suspension of the right to vote. In addition, the Association, in accordance with Article III, Section 22, of the By-Laws, shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Association to any Owner or such Owner's Tract in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board shall also have the power to seek relief in any court for violations or to abate nuisances. Impositions of sanctions be as provided herein or in the By-Laws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to pursue remedies through any federal, state, county, city or governmental entity for all laws, regulations and ordinances applicable to the Property or any portion thereof.

Section 12.08. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, 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 12.09. Governmental Interests. At any time prior to the expiration of the Declarant Control Period, the Association shall permit the Declarant authority to designate sites within the Property which may include Community Facilities, whether or not owned by the Association, for fire, police, water, and sewer facilities, public schools and parks, trails and green belts, drainage facilities and other public facilities.

Section 12.10. Powers of the Association with Respect to Villages. Except as specifically set forth in Article VII and Article VIII regarding the limitation of the authority of the CWSC over the Commercial and Multi-Family Village, the Association shall have the power to veto any action taken or contemplated to be taken by any Village Association which the Board reasonably determines to be adverse to the interests of this Association or its Members or inconsistent with the Community-Wide Standard. Except as specifically set forth in Article VII and Article VIII regarding the limitation of the authority of the CWSC over the Commercial and Multi-Family Village, the Association shall also have the power to require specific action to be taken by any Village



Association in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Property. Without limiting the generality of the foregoing, the Association may require specific maintenance or repairs or aesthetic changes to be effectuated by a Village Association, may require that a proposed budget include certain items and that expenditures be made therefor, may require the Village Association to enforce its own Village Declaration and other Village governing documents, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by such Village Association.

Any action required by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Village Association shall be taken within the time frame set by the Association in such written notice, which time frame shall be reasonable. If the Village Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Village Association. To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Tracts in such Village for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Article II, Section 2.05. Such assessments may be collected as a Reimbursement Assessment hereunder and shall be subject to all lien rights provided for herein.

Section 12.11. Termination of Rights. The rights contained in this Article shall not terminate until the earlier of (a) expiration of the Declarant Control period, or (b) Declarant's Recordation of a written statement relinquishing such rights.

SECTION 12.12. NO ADOPTION OR RECORDATION BY A VILLAGE. SO LONG AS DECLARANT CONTINUES TO HAVE RIGHTS UNDER THE DECLARANT CONTROL PERIOD, NO VILLAGE SHALL ADOPT OR RECORD ANY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OR DECLARATION OF CONDOMINIUM OR SIMILAR INSTRUMENT, OR ADOPT OR MODIFY ANY ARTICLES OF INCORPORATION, BY-LAWS OR OTHER SIMILAR GOVERNING DOCUMENTS AFFECTING ANY PORTION OF THE PROPERTY WITHOUT DECLARANT'S REVIEW AND WRITTEN CONSENT THERETO, AND ANY ATTEMPTED RECORDATION WITHOUT COMPLIANCE HEREWITH SHALL RESULT IN SUCH INSTRUMENT OR INSTRUMENTS BEING VOID AND OF NO FORCE AND EFFECT UNLESS SUBSEQUENTLY APPROVED BY RECORDED CONSENT SIGNED BY DECLARANT. ANY OF SUCH DOCUMENTS MUST AFFIRMATIVELY STATE, AND EACH VILLAGE IS OBLIGATED TO INSERT IN SUCH DOCUMENTS, A CLAUSE INCORPORATING THIS DECLARATION AND ALL OF THE OBLIGATIONS, TERMS, COVENANTS AND CONDITIONS HEREIN INTO SUCH VILLAGE DOCUMENTS BY REFERENCE. AFTER THE DECLARANT CONTROL PERIOD HAS EXPIRED, SUCH APPROVAL RIGHTS SHALL PASS TO THE BOARD.

Section 12.13. TIRZ. For so long as Declarant retains rights under the Declarant Control Period, the following shall apply with respect to the TIRZ. Any development to be done by any Sub-developer of any Villages or part thereof ("Sub-Developer Development"), if the Sub-developer wishes such Sub-Developer Development to be reimbursable, in whole or in part, by the TIRZ, must

be planned, designed and constructed with the prior written approval of the TIRZ Board of Directors and according to the requirements of the TIRZ Plan and the TIRZ Project Implementation and Reimbursement Process, as may be amended from time to time. Further, once such construction is completed, no reimbursement shall be sought from the TIRZ unless and until the CWSC shall have inspected the completed construction and issued a certificate stating that it complies with the TIRZ Plan. After the expiration of the Developer Control Period, all rights under this Section shall devolve onto the Association.

Section 12.14 Conveyances 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 as Association Property. Declarant may, at any time after the date hereof, convey legal title to all or a portion of such Association Property 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 Association Property conveyed to the Association as elsewhere provided in this Declaration.

### ARTICLE XIII DURATION AND AMENDMENT

Section 13.01. Duration and Termination. These Covenants shall run with and bind the Property and all Owners and Residents, and shall inure to the benefit of and be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, until December 31, 2068. Upon expiration, these Covenants automatically shall be extended for successive ten (10) year periods unless terminated before December 31, 2068 or before the expiration of each successive ten (10) year extension period. These Covenants may be terminated at any time during the initial term or any successive ten (10) year term only by an affirmative vote or written consent (witnessed and notarized) of Class A Members representing at least seventy-five percent (75%) of the votes of the Class A Members, and the Class B Member's written consent, for so long as the Class B Membership exists.

Section 13.02. Amendment. In addition to specific amendment rights granted elsewhere in these Covenants, Declarant may unilaterally amend these Covenants if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Tracts; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee Mortgage loans on the Tracts; or (d) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Assessable Tract unless the Owner shall consent in writing.

In addition, prior to the conveyance of the first Tract, Declarant may unilaterally amend this Declaration for any reason. Further, so long as Declarant owns property described in Exhibit "A" or located in the Declarant Annexation Property for development as part of Shadow Creek Ranch, Declarant may unilaterally amend these Covenants for any purpose, provided the amendment has no

material adverse effect upon any right of any Owner or upon title to any Assessable Tract without such Owner's written consent.

Additionally, except where a higher vote is specifically required for action under a particular provision of these Covenants, these Covenants may be amended upon the affirmative vote or written consent, or any combination thereof, of Voting Member representing at least two-thirds (2/3) of the Class A Members votes, and the consent of the Class B Member so long as the Class B membership exists.

Unless a later effective date is specified therein, amendments to these Covenants shall become effective upon Recordation. Any procedural challenge to an amendment must be made in writing within thirty (30) days of its Recordation. In no event shall a change of conditions or circumstances operate to terminate or amend any provisions of these Covenants.

#### ARTICLE XIV GENERAL

Section 14.01. Covenants Do Not Supersede Law or Governmental Authority. The provisions and terms of these Covenants shall not be construed as permitting any action or thing prohibited by applicable laws, rules, or regulations of any governmental authority. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, or the terms of these Covenants shall govern, and control the Property.

Section 14.02. Promise to be Bound by Covenants. Each Person accepting a Deed in any Tract, whether or not the Deed incorporates or references these Covenants, agrees to observe, perform, and be bound by the terms of these Covenants and the Governing Documents and agrees to incorporate and reference these Covenants in any subsequent Deed.

Section 14.03. Violation or Breach of Covenants.

A. Violation of any covenant, restriction, or condition of these Covenants shall give Declarant and/or the Association, their respective agents and legal representatives, successors, and assigns, in addition to all other remedies at law or in equity, the right to enter upon the Tract on which such violation or breach exists, and to take such actions as reasonably necessary to remedy, abate, and remove the violation. The parties undertaking such remedial actions shall not be guilty of trespass or other potential legal claims arising therefrom for such entry, abatement, and removal. The entire cost of curing such violation shall be levied against the violating Owner and his or her Tract or against the violating Member as a Reimbursement Assessment as provided for in Section 2.05.

Except in cases where emergency remedial action is necessary or required (in which event no advance notice shall be required), Declarant or the Association shall send the violating Owner or Resident or Member a written notice of violation at least thirty (30) days prior to entry to remedy the violation. Notice shall be delivered in person, by certified U.S. mail, or

by other delivery means where confirmation of receipt is obtained. The written notice of violation shall set forth in reasonable detail the nature of the violation and shall demand that specific actions be taken to remedy such violation or breach.

B. In addition to the remedies set forth in paragraph (A) above, Declarant or the Board may impose the following sanctions for violation of the Governing Documents after notice and a hearing:

(1) imposing reasonable monetary fines which shall constitute a lien upon the violator's Tract. (In the event that any occupant, guest, or invitee of a Tract violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by Declarant or the Board, as appropriate, the Owner shall pay the fine upon notice from Declarant or the Board);

(2) suspending a Member's right to vote;

(3) suspending any services provided by Declarant or the Association to a Member or to an Owner or the Owner's Tract;

(4) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation; and

(5) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article VII and the architectural standards referenced therein from continuing or performing any further activities on the Property.

C. In addition, Declarant or the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with any notice or hearing procedures:

(1) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(2) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner or a Village Association fails to perform its maintenance responsibilities or violates any other restriction or covenant herein, Declarant or the Association may perform such maintenance or cure such violation and assess the costs as a Reimbursement Assessment against such Owner or Village Association. Further, if a Village Association fails to enforce its Village Declaration, Declarant or the Association may enforce such Village Declaration and assess the costs as a Reimbursement

Association against such Village. Except in an emergency situation, Declarant or the Association, as appropriate, shall provide the Owner or Village Association with at least thirty (30) days' notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if Declarant or the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

D. The decision to pursue enforcement action in any particular case shall be left to the discretion of Declarant or the Board, as appropriate, except that Declarant or the Board shall not be arbitrary or capricious or discriminatory in taking enforcement action. Without limiting the generality of the foregoing sentence, Declarant or the Board may determine that, under the circumstances of a particular case:

- (1) Declarant's or the Association's position is not strong enough to justify taking any or further action; or
- (2) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or
- (3) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending Declarant's or the Association's resources; or
- (4) that it is not in Declarant's or the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of Declarant or the Association to enforce such provision at a later time under other circumstances or preclude Declarant or the Association from enforcing any other covenant, restriction, or rule.

Section 14.04. Relief for Violation or Breach. Damages shall not be deemed to be the exclusive remedy for any breach or violation of any provision hereof. Any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity.

Section 14.05. Effect of Violation of Covenants on Mortgage. No violation or breach of these Covenants shall defeat or render invalid the lien of any Mortgage made in good faith and for value upon any portion of the Property. Any Mortgagee in possession or any purchaser at any Mortgagee's foreclosure sale shall be bound by and subject to these Covenants and the Governing Documents.

Section 14.06. Alteration of Covenants. No change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of these Covenants.

Section 14.07. Administration Pursuant to These Covenants. Declarant, the Association, the CWSC, any Village Association, or their representatives or designees, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation, and enforcement of the provisions of these Covenants. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling, or order, or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules, or regulations, such entity shall take into consideration the best interests of the Members to the end that the Property shall be developed, preserved, and maintained in accordance with the standards as established by the community.

Section 14.08. No Waiver for Failure to Enforce Covenants. Failure of Declarant, the Association, a Village Association, or any Owner to enforce the provisions of these Covenants or any provision of the Governing Documents shall not waive such parties' rights to seek enforcement thereafter as to the same or other violation or breach. Each Owner has the right to enforce the provisions of these Covenants, although the Owners shall not have all of the rights and remedies reserved to the Declarant and Association which are set forth herein unless expressly also reserved for the benefit of the Owners.

Section 14.09. Covenants Do Not Create Reversion. No Covenant herein is intended to be, nor shall any covenant be construed as, a condition subsequent or as creating a possibility of reverter.

Section 14.10. Further Restrictions. The covenants, conditions, and restrictions contained herein are in addition to and cumulative of other covenants, conditions, and restrictions placed on the Property by Declarant, including, without limitation, the Design Criteria for the Property.

Section 14.11. Attorney Fees. Any party who prevails in enforcing or enjoining a violation or breach of these Covenants or the Governing Documents shall be entitled to collect court costs and reasonable attorney fees incurred in pursuing such cause of action in a court of law or equity.

Section 14.12. Security and Safety. Declarant or the Association may, but shall not be obligated to, maintain or support certain activities within its jurisdiction designed to make the Property safer than it otherwise might be.

NEITHER THE ASSOCIATION, THE VILLAGE ASSOCIATIONS, DECLARANT, OR THEIR RESPECTIVE AGENTS, ASSIGNS, OR EMPLOYEES SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY OR SAFETY WITHIN THE PROPERTY, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY OR SAFETY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SAFETY MEASURE OR SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH IT IS DESIGNATED OR INTENDED. EACH OWNER AND RESIDENT ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION, THE VILLAGE

ASSOCIATIONS, DECLARANT, AND THEIR OFFICERS AND DIRECTORS ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTY ASSUMES ALL RISKS FOR PERSONAL INJURY AND LOSS OR DAMAGE TO PROPERTY RESULTING FROM ACTS OF THIRD PARTIES.

Section 14.13. Waiver of Liability. Neither Declarant, the Association, the Village Associations, the CWSC, the Village Architectural Review Committees, nor their respective successors or assigns, shall be liable in damages to anyone submitting plans or specifications for any structure to be constructed, remodeled, or moved onto any Tract or improvements to be conducted on any Tract, or to any Owner, Resident, or third party, by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with (1) the approval or disapproval or failure to approve any such plans or specifications, (2) the inspection, failure to inspect, issuance of a certificate as authorized by Section 7.14 above, or the failure to issue such certificate, or (3) the failure of any such indemnified parties to enforce any of the requirements of these Covenants requiring the submission of plans, specifications, a description of uses, or a grading plan for approval by the CWSC or the Village Architectural Review Committee. Every person who submits plans to the CWSC or Village Architectural Review Committee for approval agrees, by submission of such plans, and every Owner and Resident agrees, by accepting a Deed or other conveyance to a Tract or interest therein, that it will not bring any action or suit against such parties to recover any such damages, and that if it should violate this agreement not to bring any such suit or action, it shall pay all costs and expenses, including, but not limited to, court costs and attorneys' fees incurred by any party defending any such action or suit.

#### ARTICLE XV MISCELLANEOUS

Section 15.01. Private Facilities. Neither membership in the Association nor ownership or occupancy of a Tract shall confer any ownership interest in or right to use any Private Facility. Rights to use the Private Facilities will be granted only to such Persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Facilities. The owners of the Private Facilities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Facilities, including, without limitation, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

Section 15.02. Severability. Whenever possible, each provision of these Covenants shall be interpreted in such manner as to be effective and valid, but if the application of any provision of these Covenants to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application. To this end, the provisions of these Covenants are declared to be severable.

Section 15.03. Successor Entity. The Association shall be empowered to delegate and assign its rights, or any part thereof, to any successor or public body, authority, agency, district, or non-profit membership corporation (hereinafter referred to as the "Successor Entity"). Upon any such

assignment, the Successor Entity shall have those rights and be subject to those duties of the Association as delegated and assigned thereby, and shall be deemed to have agreed to be bound by the appropriate provisions of these Covenants and the Governing Documents to the same extent as the Association. Any such delegation and assignment shall be accepted by the Successor Entity under a Recorded agreement. If, for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a Successor Entity, the covenants, restrictions, easements, charges, and liens imposed by these Covenants shall continue to govern the Property. In such event, any Owner may petition a court of competent jurisdiction to appoint a trustee for the purpose of organizing a nonprofit membership corporation and assigning the rights and responsibilities of the Association to such nonprofit corporation.

Section 15.04. Titles and Gender. The titles and headings used in these Covenants are for the purpose of convenience and reference only and shall not be deemed to limit, modify, or otherwise affect any of the provisions hereunder. All references to singular terms shall include the plural where applicable, and all references to the masculine shall include the feminine and the neuter.

Section 15.05. Notice. Unless otherwise provided for by these Covenants, any notice given or required to be sent under the provisions of these Covenants shall be deemed to have been properly given and deemed to be to the correct address when deposited into the U.S. mail, postage prepaid, to the last known address of record for the Person to whom notice is to be given.

Section 15.06. Mortgagee Notice. Upon receipt of a written request and payment of any required fee for the reasonable cost of notice preparation, the Association shall provide the Beneficiary or holder of a Mortgage or deed of trust on any Tract with notices required by the Federal Home Loan Mortgage Association, the Federal National Mortgage Association, the U.S. Department of Housing and Urban Development, or the U.S. Department of Veterans Affairs, to the extent applicable.

Section 15.07. HUD/VA Approval. As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Tract: merger, consolidation, or dissolution of the Association; annexation of additional property other than that located in the Declarant Annexation Property; dedication, conveyance, or mortgaging of Association Property; or material amendment of these Covenants or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Association Property shall not be deemed a conveyance within the meaning of this Section. If the approval of either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs is requested pursuant to this Section and the agency whose approval is requested does not disapprove the action by written notice to the Association, Declarant, or other Person requesting its approval within 30 days after the delivery of the approval request to the appropriate agency, the action in question shall be deemed approved by such agency.

Section 15.08. No Warranty of Enforceability. Declarant has no reason to believe that any of the sections, terms, or provisions of these Covenants are or may be held invalid or unenforceable for any reason. Declarant makes no warranty or representation of any kind as to the present or future validity or enforceability of any Covenant section, term, or provision. Any Owner or Resident acquiring a portion of the Property shall not do so in reliance of the enforceability or validity of the sections, terms, or provisions of these Covenants. All Owners and Residents agree to hold harmless Declarant,



the Association, and the Village Associations in the event that any Covenant section, term, or provision is held invalid or unenforceable.

Section 15.09. Time is of the Essence. In regard to the acts, duties, obligations, or responsibilities to be performed by any Owner or Resident pursuant to these Covenants, time is of the essence as to such performance.

Section 15.10. Governing Law. These Covenants are made in Brazoria, Fort Bend and Harris Counties, Texas, and shall be governed by and enforced in accordance with Texas law. Any and all obligations required to be performed by these Covenants and the Governing Documents, including, but not limited to, the obligation to pay assessments, charges, and fees, are to be performed in Brazoria County, Fort Bend County or Harris County, Texas, as applicable.

Section 15.11. Successors and Assigns. These Covenants shall be binding upon the Association, Village Associations, Owners, Residents, and other Persons subject to these Covenants, and their heirs, successors, successors-in-title, and assigns.

Section 15.12. Clarification. No use or occupancy designation set forth in this Declaration or any supplement or amendment hereto shall be misinterpreted or misconstrued to limit or prohibit occupancy by any person or persons protected by state or federal statute.

Section 15.13. Good Faith Lender's Clause. Any violation of these restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Tract or part thereof, which liens may be enforced in due course, subject to the covenants, conditions and restrictions contained herein.

Section 15.14. Mergers. Upon a merger or consolidation of the Association with another association, its 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 affecting the Property, together with any additional restrictions affecting such other Properties under one (1) administration; provided, however, that no such merger or consolidation shall cause any revocation, change or addition to this Declaration, unless approved as herein provided.

Section 15.15. Conflicts with Deed of Conveyance. Where certain rights are reserved to Declarant in these Covenants, Declarant reserves the right to make modifications thereto in subsequently recorded deeds of conveyance from Declarant, in which case the terms of the subsequent deeds of conveyance shall prevail.

Section 15.16. Conflicts. If there are conflicts among the provisions of Texas law, these Covenants, the Articles of Incorporation, the By-Laws and the Design Criteria, the provisions of Texas law, these Covenants, the Articles of Incorporation, the By-Laws and the Design Criteria (in that order) shall prevail. In the event of a conflict between the Village Declarations, Village Standards/Neighborhood Guidelines, or other Village governing documents, and the Governing Documents, the Governing Documents shall control.

Section 15.17. Exhibits. Exhibit "A" attached to these Covenants is incorporated by this reference.

Section 15.18. Writing Required. In the event the approval or consent of Declarant, the Association, the Board or the CWSC is required under these Covenants, such approval or consent must be obtained in writing to be effective unless expressly provided to the contrary herein.

Section 15.19. Protection of Name. No Owner or Resident, nor any tenant or mortgagee of any Owner or Resident shall use the name "Shadow Creek Ranch", (or any part thereof) or the acronym "SCRMA", or any word or words or acronyms similar thereto in connection with any Tract or any business operated in connection with any Tract without the prior written consent of Declarant. This restriction is for the benefit of and may only be enforced by Declarant, unless Declarant grants to some other Person in a Recorded writing the rights pursuant to this restriction and its enforcement. Nothing contained herein shall be construed to restrict Declarant's use of the words and/or acronym described in this Section 15.19. Declarant specifically reserves the right to use, and holds all rights in and to, such words and acronym.

IN WITNESS WHEREOF, the undersigned Declarant has executed these Covenants on this 30<sup>th</sup> day of August, 2001.

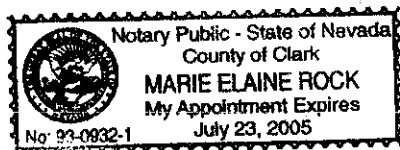
**SHADOW CREEK RANCH DEVELOPMENT COMPANY LIMITED PARTNERSHIP,  
a Nevada limited partnership**

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

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

THE STATE OF Nevada §  
§  
COUNTY OF Clark §

This instrument was acknowledged before me on Aug. 30, 2001, by Gary Cook, President 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

Executed this 30 day of August, 2001, also by Pearland Investments Limited Partnership as owner of a portion of the real property being subjected hereto, not as Declarant nor as the developer thereof but only in order to subject such real property to all of the

terms, provisions and conditions of this Declaration and acknowledge the Declarant and its rights pursuant to this Declaration.

Pearland Investments Limited Partnership,  
a Nevada limited partnership

*JP*

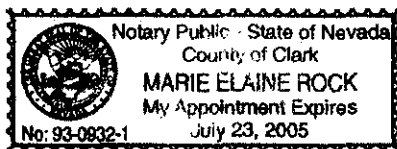
By its general partner,  
M.M.L.B. Corporation, a Nevada corporation

By: *M.M. Collins*  
Name: *M.M. Collins*  
Title: *President*

THE STATE OF *Nevada* §  
§  
COUNTY OF *Clark* §

This instrument was acknowledged before me on *Aug 30*, 2001, by  
*M.M. Collins*, *President* of M.M.L.B.  
Corporation, a Nevada corporation, general partner of Pearland Investments Limited Partnership, a  
Nevada limited partnership, on behalf of said entities.

*Marie Elaine Rock*  
Notary Public – State of *Nevada*



AFTER RECORDING, RETURN TO:

Sarah Ann Powers  
Hoover, Bax & Slovacek, L.L.P.  
5847 San Felipe, Suite 2200  
Houston, Texas 77057

DESCRIPTION OF  
2502.271 ACRES  
SHADOW CREEK RANCH  
MAINTENANCE ASSOCIATION  
(SCRMA)

Being 2502.271 acres of land, more or less, located in the William Morris Survey, Abstract 344, Brazoria County; T. C. R. R. Co. Survey, Section 3, Abstract 678, Brazoria County; T.C.R.R.Co. Survey, Section 4 (John Maxcy), Abstract 675, Brazoria County; Obediah Pitts Survey, Abstract 717, Brazoria County; James Crawley Survey, Abstract 174, Brazoria County; H.T. & B.R.R. Co. Survey, Section 82 (J.S. Talmage), Abstract 565, Brazoria County; S.G. Haynie Survey, Abstract 212 in Brazoria County, Abstract 620 in Fort Bend County and Abstract 362 in Harris County; Franklin Hooper Survey, Abstract 198, Fort Bend County; George W. McDonald Survey, Abstract 557, Fort Bend County, I.C. Stafford Survey, Abstract 668, Fort Bend County and the H. Levering Survey, Abstract 279, Fort Bend County, Texas; said 2502.271 acres, more or less, being more particularly described in two (2) tracts as follows (all bearings referenced to the Texas State Plane Coordinate System, South Central Zone):

PARCEL ONE

BEGINNING at the common south corner of aforementioned H. T. & B. R. R. Co. Survey, Section 82 and the H. T. & B. R. R. Co. Survey, Section 83, Abstract 305, Brazoria County, Texas, also being the common north corner of the H. T. & B. R. R. Co. Survey, Section 80, Abstract 564 and the H. T. & B. R. R. Co. Survey, Section 84, Abstract 538, Brazoria County, Texas, same being on the centerline of County Road 48 (60 feet wide);

Thence, with the common line of said H. T. & B. R. R. Co. Survey, Section 83 and said H. T. & B. R. R. Co. Survey, Section 84, South 86° 44' 14" West, at 5280.10 feet pass the common west corner of said H.T. & B. R.R. Co. Survey, Section 83 and said H.T. & B. R.R. Co. Survey, Section 84 and continue with the westerly extension of said common line, in all a distance of 7856.57 feet to a point for corner on the easterly right-of-way line of F.M. 521 (115 feet wide);

Thence, with said easterly right-of-way line of F.M. 521, North 17° 28' 43" East, 5855.64 feet to a point for corner;

Thence, continuing with said easterly right-of-way line of F.M. 521, North 17° 27' 05" East, 3642.53 feet to a point for corner on the centerline of Clear Creek, same being the south corner of that certain called 7.0 acre tract of land conveyed to Christian Investments of Texas, Inc. by instrument of record under File No. 9548587, Official Public Records, Fort Bend County, Texas (F.B.C.O.P.R.);

Thence, with the southeasterly line of said 7.0 acre and said centerline of Clear Creek, North 55° 29' 45" East, 636.41 feet to a point for corner;

Thence, continuing with said southeasterly line and said centerline, North 57° 37' 24" East, 289.59 feet to a point for corner;

Thence, leaving said centerline of Clear Creek, with the easterly line of said 7.0 acres, North 07° 11' 18" East, 256.59 feet to a point for corner on the arc of a curve on the southerly right-of-way line of F.M. 2234 (width varies), same being the northeast corner of said 7.0 acres;

Thence, with said southerly right-of-way line of F.M. 2234, the following thirty three (33) courses:

- 1) 700.00 feet along the arc of a non-tangent curve to the right, having a radius of 1829.86 feet, central angle of 21° 55' 06" and a chord that bears South 71° 46' 10" East, 695.74 feet to a point for corner;
- 2) South 60° 48' 37" East, 1226.72 feet to a point for corner, the beginning of a curve;
- 3) 2280.50 feet along the arc of a tangent curve to the left, having a radius of 5809.58 feet, a central angle of 22° 29' 28" and a chord that bears South 72° 03' 21" East, 2265.89 feet to a point for corner;
- 4) South 41° 12' 23" East, 44.61 feet to a point for corner;
- 5) South 83° 55' 18" East, 60.23 feet to a point for corner;
- 6) North 48° 20' 57" East, 40.82 feet to a point for corner, the beginning of a curve;
- 7) 940.10 feet along the arc of a non-tangent curve to the left, having a radius of 5809.58 feet, a central angle of 09° 16' 18" and a chord that bears South 89° 07' 31" East, 939.07 feet to a point for corner;
- 8) North 86° 14' 20" East, 624.92 feet to a point for corner;
- 9) South 48° 33' 00" East, 42.27 feet to a point for corner;
- 10) North 86° 14' 20" East, 40.00 feet to a point for corner;
- 11) North 41° 27' 00" East, 42.58 feet to a point for corner;
- 12) North 86° 14' 20" East, 1614.00 feet to a point for corner;

- 13) South 48° 33' 00" East, 42.27 feet to a point for corner;
- 14) North 86° 14' 20" East, 40.00 feet to a point for corner;
- 15) North 41° 27' 00" East, 42.58 feet to a point for corner;
- 16) North 86° 14' 20" East, 434.06 feet to a point for corner, the beginning of a curve;
- 17) 874.44 feet along the arc of a tangent curve to the left, having a radius of 1989.86 feet, a central angle of 25° 10' 42" and a chord that bears North 73° 38' 59" East, 867.42 feet to a point for corner;
- 18) North 61° 03' 38" East, 371.20 feet to a point for corner;
- 19) South 61° 08' 21" East, 35.45 feet to a point for corner;
- 20) North 61° 03' 38" East, 44.35 feet to a point for corner;
- 21) North 28° 51' 39" East, 56.30 feet to a point for corner;
- 22) North 61° 03' 38" East, 392.04 feet to a point for corner, the beginning of a curve;
- 23) 816.66 feet along the arc of a tangent curve to the right, having a radius of 1829.86 feet, a central angle of 25° 34' 15" and a chord that bears North 73° 50' 46" East, 809.90 feet to a point for corner;
- 24) North 86° 37' 53" East, 566.56 feet to a point for corner;
- 25) South 48° 21' 14" East, 42.42 feet to a point for corner;
- 26) North 86° 37' 53" East, 40.00 feet to a point for corner;
- 27) North 41° 38' 46" East, 42.44 feet to a point for corner;
- 28) North 86° 37' 53" East, 332.03 feet to a point for corner, the beginning of a curve;

- 29) 368.73 feet along the arc of a tangent curve to the left, having a radius of 1989.86 feet, a central angle of  $10^{\circ} 37' 02''$  and a chord that bears North  $81^{\circ} 19' 22''$  East, 368.20 feet to a point for corner;
- 30) North  $76^{\circ} 00' 51''$  East, 663.75 feet to a point for corner, the beginning of a curve;
- 31) 354.58 feet along the arc of a tangent curve to the right, having a radius of 1829.86 feet, a central angle of  $11^{\circ} 06' 09''$  and a chord that bears North  $81^{\circ} 33' 56''$  East, 354.03 feet to a point for corner;
- 32) North  $87^{\circ} 07' 01''$  East, 304.62 feet to a point for corner;
- 33) South  $50^{\circ} 37' 30''$  East, 74.35 feet to a point for corner, the westerly right-of-way line of State Highway 288 (width varies);

Thence, with said westerly right-of-way line of State Highway 288, the following thirteen (13) courses;

- 1) 333.46 feet along the arc of a non-tangent curve to the left, having a radius of 458.37 feet, a central angle of  $41^{\circ} 40' 57''$  and a chord that bears South  $32^{\circ} 33' 37''$  East, 326.16 feet to a point for corner;
- 2) South  $53^{\circ} 36' 00''$  East, 149.40 feet to a point for corner, the beginning of a curve;
- 3) 1169.07 feet along, the arc of a non-tangent curve to the right, having a radius of 1273.24 feet, a central angle of  $52^{\circ} 36' 29''$  and a chord that bears South  $27^{\circ} 03' 41''$  East, 1128.43 feet to a point for corner, the beginning of a compound curve;
- 4) 741.39 feet along the arc of a tangent curve to the right, having a radius of 11,249.16 feet, a central angle of  $03^{\circ} 46' 34''$  and a chord that bears South  $01^{\circ} 07' 51''$  West, 741.26 feet to a point for corner;
- 5) South  $03^{\circ} 01' 08''$  West, 1035.00 feet to a point for corner;
- 6) South  $36^{\circ} 20' 24''$  West, 83.75 feet to a point for corner;
- 7) South  $69^{\circ} 17' 58''$  West, 422.12 feet to a point for corner;
- 8) South  $86^{\circ} 37' 24''$  West, 199.72 feet to a point for corner;

- 9) South 03° 22' 34" East, 119.61 feet to a point for corner;
- 10) North 86° 39' 22" East, 200.20 feet to a point for corner;
- 11) South 74° 42' 53" East, 378.54 feet to a point for corner;
- 12) South 35° 30' 19" East, 78.29 feet to a point for corner;
- 13) South 03° 01' 08" West, 2179.42 feet to a point for corner, same being the southeast corner of that certain called 202.51 acre tract of land conveyed to Pearland Investments Limited Partnership by instrument of record under File No. 98-022936., Official Records, Brazoria County, Texas (B.C.O.R.);

Thence, with the south line of said 202.51 acres, South 86° 45' 40" West, at 2377.46 feet pass the southwest corner of said 202.51 acres and continue with the westerly extension of said south line, in all a distance of 2396.38 feet to a point for corner on the east line of that certain called 18.155 acre tract of land conveyed to Pearland Investments Limited Partnership by instrument of record under File Nos. 98-041753 and 98-041754 of said B.C.O.R.;

Thence, with the east line of said 18.155 acre tract, South 03° 15' 09" East, 700.96 feet to a point for corner, same being the southeast corner of said 18.155 acre tract, said point also being on the west line of Block 21 of the Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, a subdivision of record in Volume 2, Page 99, Plat Records, Brazoria County, Texas;

Thence, with the west line of Block 20 and Block 21 of said Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, South 03° 14' 22' East, 2167.10 feet to a point for corner on the common line of aforementioned T.C.R.R. Co. Survey, Section 4 and the H.T. & B.R.R. Co. Survey, Section 81, Abstract 300, Brazoria County, Texas same being on the centerline of County Road 92 (40 feet wide );

Thence, with centerline of said County Road 92, South 86° 46' 15" West, at 1808.21 feet pass the common south corner of aforementioned T.C.R.R. Co. Survey, Section 3 and the H.T. & B. R. R. Co. Survey, Section 82, same being the common north corner of aforementioned H.T. & B. R. R. Co. Survey, Section 81 and the H.T. & B. R. R. Co. Survey, Section 80, continuing in all a distance of 7093.31 feet to the POINT OF BEGINNING and containing 2897.312 acres of land;



PARCEL TWO

BEGINNING at the northwest corner of Lot 4, Block 10 of aforementioned Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, same being the northeast corner of that certain called 7.0564 acre tract conveyed to Pearland Investments Limited Partnership by instrument of record under File No. 98-033800 of said B.C.O.R., same being on the common line of the Dupuy and Roberts Survey, Abstract 726, Brazoria County, Texas and aforementioned T.C.R.R. Co. Survey, Section 4;

Thence, leaving said common survey line, with the common line of said Lot 4, Block 10 and 7.0564 acres, South 03° 23' 28" East, 620.02 to a point for corner on the arc of a curve on the northerly right-of-way line of F.M. 2234 (width varies);

Thence, with said northerly right-of-way line of F.M. 2234, the following thirty (30) courses;

- 1) 122.97 feet along the arc of a non-tangent curve to the left, having a radius of 1989.86 feet, a central angle of 03° 32' 27" and a chord that bears South 77° 47' 05" West, 122.95 feet to a point for corner;
- 2) South 76° 00' 51" West, 663.75 feet to a point for corner, the beginning of a curve;
- 3) 339.08 feet along the arc of a tangent curve to the right, having a radius of 1829.86 feet, a central angle of 10° 37' 02" and a chord that bears South 81° 19' 22" West, 338.60 feet to a point for corner;
- 4) South 86° 37' 53" West, 331.95 feet to a point for corner;
- 5) North 48° 21' 14" West, 42.42 feet to a point for corner;
- 6) South 86° 37' 53" West, 40.00 feet to a point for corner;
- 7) South 41° 38' 46" West, 42.44 feet to a point for corner;
- 8) South 86° 37' 53" West, 566.64 feet to a point for corner, the beginning of a curve;
- 9) 888.07 feet along the arc of a tangent curve to the left, having a radius of 1989.86 feet, a central angle of 25° 34' 15" and a chord that bears South 73° 50' 46" West, 880.71 feet to a point for corner;
- 10) South 61° 03' 38" West, 315.38 feet to a point for corner;

- 11) North  $61^{\circ} 08' 21''$  West, 35.45 feet to a point for corner;
- 12) South  $61^{\circ} 03' 38''$  West, 44.35 feet to a point for corner;
- 13) South  $28^{\circ} 51' 39''$  West, 56.30 feet to a point for corner;
- 14) South  $61^{\circ} 03' 38''$  West, 447.86 feet to a point for corner, the beginning of a curve;
- 15) 804.12 feet along the arc of a curve to the right, having a radius of 1829.86 feet, a central angle of  $25^{\circ} 10' 42''$  and a chord that bears South  $73^{\circ} 38' 59''$  West, 797.67 feet to a point for corner;
- 16) South  $86^{\circ} 14' 20''$  West, 432.88 feet to a point for corner;
- 17) North  $48^{\circ} 33' 00''$  West, 42.27 feet to a point for corner;
- 18) South  $86^{\circ} 14' 20''$  West, 40.00 feet to a point for corner;
- 19) South  $41^{\circ} 27' 00''$  West, 42.58 feet to a point for corner;
- 20) South  $86^{\circ} 14' 20''$  West, 1614.00 feet to a point for corner;
- 21) North  $48^{\circ} 33' 00''$  West, 42.27 feet to a point for corner;
- 22) South  $86^{\circ} 14' 20''$  West, 40.00 feet to a point for corner;
- 23) South  $41^{\circ} 27' 00''$  West, 42.58 feet to a point for corner;
- 24) South  $86^{\circ} 14' 20''$  West, 626.09 feet to a point for corner, the beginning of a curve;
- 25) 926.69 feet along the arc of a curve to the right, having a radius of 5649.58 feet, a central angle of  $09^{\circ} 23' 53''$  and a chord that bears North  $89^{\circ} 03' 43''$  West, 925.65 feet to a point for corner;
- 26) North  $41^{\circ} 34' 23''$  West, 44.30 feet to a point for corner;
- 27) North  $83^{\circ} 43' 28''$  West, 60.25 feet to a point for corner;
- 28) South  $48^{\circ} 53' 10''$  West, 40.47 feet to a point for corner, the beginning of a curve;

- 29) 2201.87 feet along the arc of a non-tangent curve to the right, having a radius of 5649.58 feet, a central angle of 22° 19' 50" and a chord that bears North 71° 58' 32" West, 2187.96 feet to a point for corner;
- 30) North 60° 48' 37" West, 129.69 feet to a point for corner on the common line of Fort Bend County and Brazoria County, same being the southeast corner of that certain called 34.6633 acre tract conveyed to Witco Corporation by instrument of record under File No. P656769, Official Public Records of Real Property, Harris County, Texas (H.C.O.P.R.R.P.), same being the southwest corner of that certain called 99.6852 acre tract of land conveyed to Pearland Investments Limited Partnership by instruments of record under File No. T649550 of said H.C.O.P.R.R.P.; File No. 1999028625 of said F.B.C.O.P.R. and File No. 99-015973 of said B.C.O.R.;

Thence, with the common line of said 34.6633 and 99.6852 acre tracts, North 11° 37' 36" East, 409.30 feet pass the common corner of Fort Bend County, Harris County and Brazoria County, continuing in all a distance of 1410.81 feet to a point for corner on the southerly line of that certain called 3.04 acre tract conveyed to Harris County Flood Control District by instrument of record under File No. K691655 of said H.C.O.P.R.R.P., same being the northwest corner of said 99.6852 acres, said point being 75 feet northerly of and at a right angle to the centerline of Clear Creek;

Thence, with a line 75 feet northerly of and parallel to the centerline meanders of Clear Creek, same being the common line of said 3.04 and 99.6852 acre tracts, the following seven (7) courses;

- 1) North 87° 45' 36" East, 13.94 feet to a point for corner;
- 2) North 79° 35' 49" East, 200.22 feet to a point for corner;
- 3) North 72° 27' 46" East, 634.82 feet to a point for corner;
- 4) North 84° 30' 11" East, 344.65 feet to a point for corner;
- 5) South 72° 07' 43" East, 205.84 feet to a point for corner;
- 6) North 89° 29' 33" East, 526.43 feet to a point for corner;
- 7) South 68° 13' 05" East, 110.95 feet to a point for corner on the west line of Almeda School Road;

Thence, with said west line of Almeda School Road, South 02° 26' 56" East, 26.11 feet to a point for corner;

Thence, continuing with said west line of Almeda School Road, South 01° 16' 24" West, 54.65 feet to a point for corner on the centerline of Clear Creek, same being the common line of Harris County and Brazoria County;

Thence, with the centerline meanders of Clear Creek, same being the common line of Harris County and Brazoria County, the following thirty seven (37) courses;

- 1) South 68° 13' 05" East, 13.04 feet to a point for corner;
- 2) South 48° 21' 54" East, 49.15 feet to a point for corner;
- 3) South 65° 33' 26" East, 140.39 feet to a point for corner;
- 4) South 63° 15' 24" East, 163.95 feet to a point for corner;
- 5) South 84° 38' 34" East, 305.44 feet to a point for corner;
- 6) North 83° 23' 06" East, 213.75 feet to a point for corner;
- 7) North 55° 56' 12" East, 131.39 feet to a point for corner;
- 8) North 39° 42' 01" East, 145.04 feet to a point for corner;
- 9) North 88° 30' 35" East, 150.90 feet to a point for corner;
- 10) South 86° 48' 29" East, 215.98 feet to a point for corner;
- 11) South 83° 37' 51" East, 345.52 feet to a point for corner;
- 12) South 77° 49' 13" East, 135.11 feet to a point for corner;
- 13) South 83° 11' 37" East, 193.66 feet to a point for corner;
- 14) South 73° 03' 13" East, 270.25 feet to a point for corner;
- 15) South 84° 47' 21" East, 64.31 feet to a point for corner;

- 16) South 74° 24' 23" East, 50.30 feet to a point for corner;
- 17) North 61° 57' 44" East, 116.91 feet to a point for corner;
- 18) North 86° 25' 07" East, 192.74 feet to a point for corner;
- 19) South 80° 08' 58" East, 137.51 feet to a point for corner;
- 20) South 61° 07' 06" East, 179.77 feet to a point for corner;
- 21) South 73° 54' 54" East, 220.86 feet to a point for corner;
- 22) South 83° 46' 28" East, 167.44 feet to a point for corner;
- 23) North 82° 50' 33" East, 205.26 feet to a point for corner;
- 24) South 84° 14' 08" East, 182.41 feet to a point for corner;
- 25) South 57° 49' 47" East, 257.92 feet to a point for corner;
- 26) South 85° 52' 28" East, 230.31 feet to a point for corner;
- 27) North 85° 28' 50" East, 175.92 feet to a point for corner;
- 28) North 77° 35' 53" East, 108.12 feet to a point for corner;
- 29) North 85° 25' 07" East, 400.22 feet to a point for corner;
- 30) North 88° 38' 24" East, 314.17 feet to a point for corner;
- 31) North 87° 59' 36" East, 181.61 feet to a point for corner;
- 32) North 75° 57' 23" East, 204.10 feet to a point for corner;
- 33) South 79° 16' 24" East, 161.06 feet to a point for corner;
- 34) North 55° 44' 08" East, 229.30 feet to a point for corner;

- 35) North 85° 42' 40" East, 316.69 feet to a point for corner;
- 36) North 71° 29' 14" East, 340.34 feet to a point for corner;
- 37) North 80° 28' 35" East, 11.29 feet to a point for corner on the common line of aforementioned Obediah Pitts Survey and the Dupuy and Roberts Survey;

Thence, leaving said centerline and said common county line, with said common line of the Obediah Pitts Survey and the Dupuy and Roberts Survey, South 03° 19' 33" East, 288.28 feet to a point for corner;

Thence, continuing with said common survey line, North 86° 40' 27" East, 150.00 feet to a point for corner, same being a common corner of said Obediah Pitts Survey and aforementioned T.C.R.R. Co. Survey, Section 4;

Thence, with the common line of said T.C.R.R. Co. Survey, Section 4 and said Dupuy and Roberts Survey, North 85° 56' 46" East, 1492.41 feet to the POINT OF BEGINNING and containing 384.135 acres of land.

Said Parcel 1 and Parcel 2 containing a gross area of 3281.447 acres of land, SAVE & EXCEPT however, the following tracts of land.

SAVE & EXCEPT TRACTS

779.176 ACRES

TRACT 1 – H.L. & P. FEE TRACT

5.316 acres, being a portion of 14.89 acres described in Volume 196, Page 591 and all of 4.560 acres described in Volume 516, Page 179, both Deed Records, Fort Bend County, Texas.

TRACT 2 – UNITED GAS PIPELINE CO.

5.87 acres, being 2.56 acres described in Volume 565, Page 414 and 3.31 acres described in Volume 553, Page 315, both Deed Records, Brazoria County, Texas.

TRACT 3 – CITY OF PEARLAND

13.3 acres described under File No. 98-011492, Official Records, Brazoria County, Texas;

TRACT 4 -- BOCKEL, ET AL

5.5 acres, being the west one-half of Lot 10, Block P of the Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, a subdivision of record in Volume 2, Page 99, Plat Records, Brazoria County, Texas;

TRACT 5 -- BALL

5.572 acres, being 4.00 acres described under File No. 96-040654 and 1.5720 acres described under File No. 97-008817, both Official Records, Brazoria County, Texas;

TRACT 6 -- NEW BETHLEHEM MISSIONARY BAPTIST, ET AL

8.334 acres described under File Nos. 98-002119 and 98-002120, Official Records, Brazoria County, Texas;

TRACT 7 -- PLEASANT GROVE MISSIONARY BAPTIST CHURCH, ET AL

10.2571 acres described under File No. 98-039121, Official Records, Brazoria County, Texas;

TRACT 8 -- CHIEN CHUN WANG

7.1313 acres, described under File No. 98-036221, Official Records, Brazoria County, Texas;

TRACT 9 -- BRAZORIA COUNTY DRAINAGE DISTRICT NO.4

2.255 acres, being 0.919 of one acre described in Volume (89) 707, Page 90, 0.852 of one acre described in Volume (89) 707, Page 98 and 0.484 of one acre described in Volume (89) 707, Page 84, all Official Records, Brazoria County, Texas;

TRACT 10 -- 50% UNDIVIDED INTEREST

101.961 acres described under File No. 99-016180, Official Records, Brazoria County, Texas under File No. 1999029037, Official Public Records, Fort Bend County, Texas.

TRACT 11 – WILSON, ET AL

4.541 acres, being the east one-half of Lot 1, Block 10 of the Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, a subdivision of record in Volume 2, Page 99, Plat Records, Brazoria County, Texas, less and except, 0.459 of one acre described in Volume (89) 703, Page 685, Official Records, Brazoria County, Texas;

TRACT 12 – RONDA COLE SEARS

6.2773 acres described under File No. 99-009671, Official Records, Brazoria County, Texas;

TRACT 13 – STATE OF TEXAS

0.500 of one acre, being 0.032 of one acres described in Volume (89) 688, Page 167 and 0.468 of one acre described in Volume (89) 716, Page 470, both Official Records, Brazoria County, Texas;

TRACT 14 – JAMES W. GUSTAFSON, TRUSTEE

0.797 of one acre, being the residue of that certain 9.746 acres described in Volume 1187, Page 205, Deed Records, Brazoria County, Texas, less and except, 1.350 acre described in Volume (89) 716, Page 477, 0.468 of the one acre described in Volume (89) 716, Page 470 and 7.1313 acres described under File No. 98-036221, all Official Records, Brazoria County, Texas;

TRACT 15 – PEARLAND INVESTMENTS LIMITED PARTNERSHIP

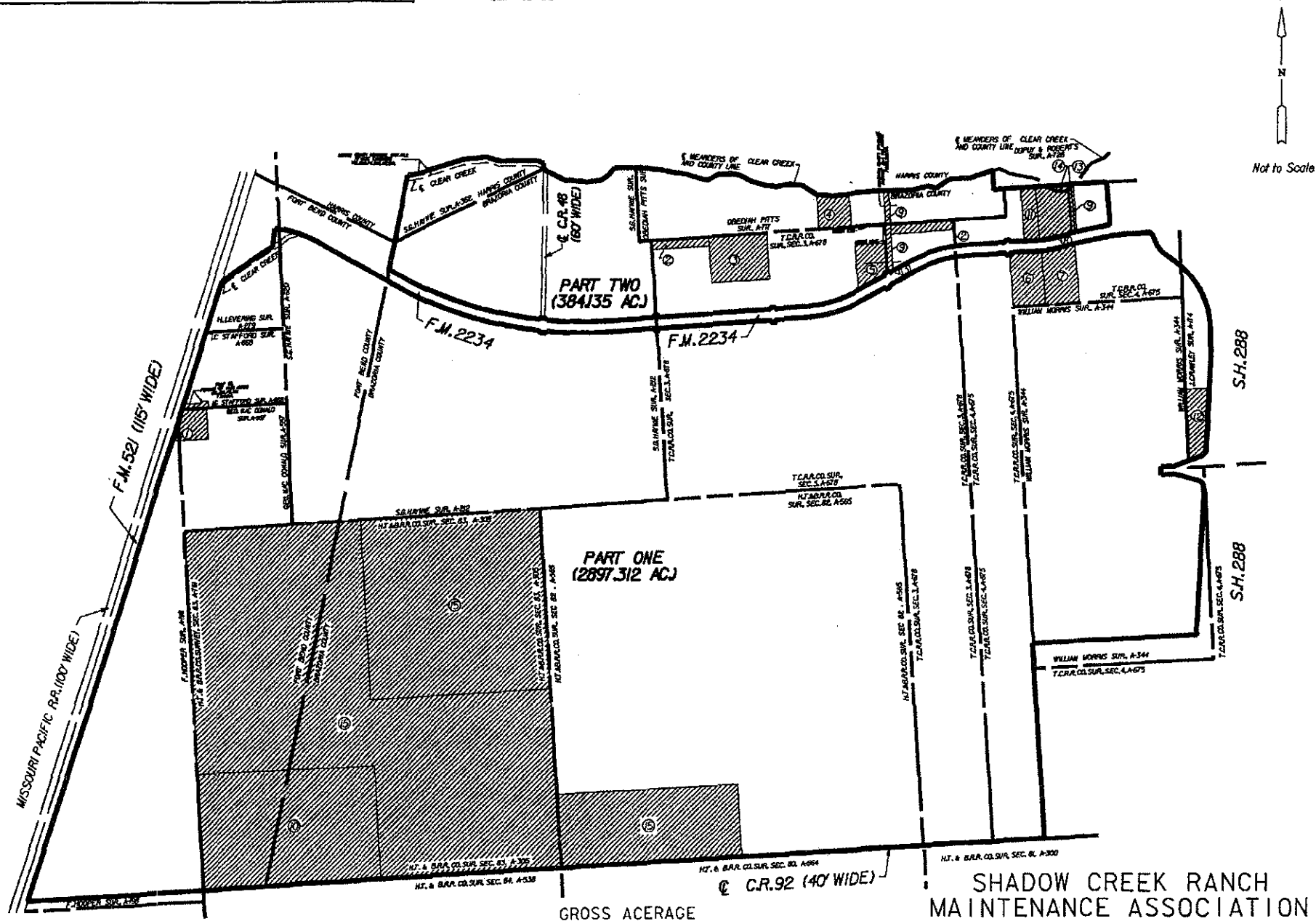
601.564 acres, being 367.681 acres, described as Tract I, of record under File No. 99-016813, Official Records, Brazoria County, Texas, (B.C.O.R.) and File No. 1999030069, Official Public Records, Fort Bend County, Texas, 65.187 acres described under File No. 99-016817 of said B.C.O.R. and 159.696 acres described under File No. 99-016820 of said B.C.O.R.;

Resulting in a net area of 2502.271 acres of land.

LJA Engineering and Surveying, Inc.

0002-01-915





⑥ TRACT DESIGNATION ACCORDING  
TO ATTACHED DESCRIPTION

Revised: July 24, 2001 to add additional exception tracts.

PARCEL ONE	2897.312 ACRES
PARCEL TWO	384.135 ACRES
GROSS AREA	3281.447 ACRES
SAVE & EXCEPT AREA	779.176 ACRES
NET AREA	2502.271 ACRES

**JOINDER OF ADDITIONAL PARTIES (SCRMA)**

The undersigned Lienholders, Benjamin F. Weems, Tierra Negra Corporation, Heart-Eye Land Company and Sturgis and Company, Inc., join herein for the sole purpose of subordinating the liens they hold on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 99 015971, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

**LIENHOLDER:**

By: Benjamin F. Weems  
BENJAMIN F. WEEMS

TIERRA NEGRA CORPORATION

By: Benjamin F. Weems  
Name: \_\_\_\_\_  
Title: President

HEART-EYE LAND COMPANY

By: Benjamin F. Weems  
Name: \_\_\_\_\_  
Title: President

STURGIS AND COMPANY, INC.

By: Benjamin F. Weems  
Name: \_\_\_\_\_  
Title: President

AS PER ORIGINAL

THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 17th day of August, 2001, by Benjamin F. Weems, lienholder.

Patricia A. Byrne  
Notary Public - State of Colorado

My Commission Expires 11/05/2003

THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 17th day of July, 2001, by Benjamin F. Weems, President of Tierra Negra Corporation, on behalf of said lienholder.

Patricia A. Byrne  
Notary Public - State of Colorado

My Commission Expires 11/05/2003

THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 17th day of July, 2001, by Benjamin F. Weems, President of Heart-Edge and Company, on behalf of said lienholder.

Patricia A. Byrne  
Notary Public - State of Colorado

My Commission Expires 11/05/2003

THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 17th day of July, 2001, by Benjamin F. Weems, President of Sturgis and Company, Inc., on behalf of said lienholder.

Patricia A. Byrne  
Notary Public - State of Colorado

My Commission Expires 11/05/2003

### JOINDER OF ADDITIONAL PARTIES (SCRMA)

The undersigned Lienholders, Benjamin F. Weems, Tierra Negra Corporation and Mildendo Land Company, Inc., join herein for the sole purpose of subordinating the liens they hold on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 99 015977 and recorded under Fort Bend County Clerk's File No. 1999028629, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

#### LIENHOLDER:

By: Benjamin F. Weems  
BENJAMIN F. WEEMS

TIERRA NEGRA CORPORATION

By: Benjamin F. Weems  
Name: \_\_\_\_\_  
Title: President

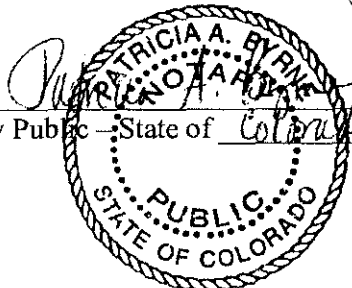
MILDENDO LAND COMPANY, INC. 102

By: Benjamin F. Weems  
Name: \_\_\_\_\_  
Title: President

THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 7th day of July, 2001, by Benjamin F. Weems, lienholder.

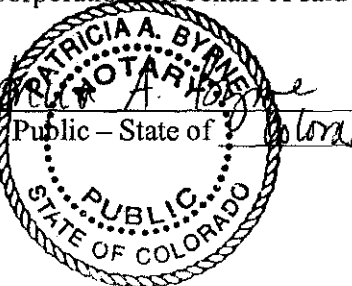
Patricia A. Byrne  
Notary Public - State of Colorado



THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 7th day of July, 2001, by Benjamin F. Weems, President of Tierra Negra Corporation, on behalf of said lienholder.

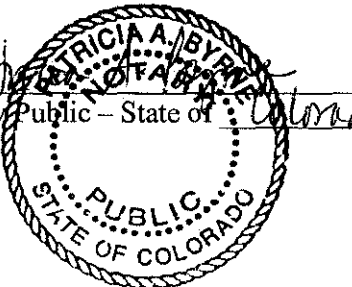
Patricia A. Byrne  
Notary Public - State of Colorado



THE STATE OF Colorado §  
COUNTY OF Boulder §

This instrument was acknowledged before me on the 7th day of July, 2001, by Benjamin F. Weems, President of Mildendo Land Company, Inc., on behalf of said lienholder.

Patricia A. Byrne  
Notary Public - State of Colorado



My Commission Expires 11/05/2003

546-75-2055

**JOINDER OF ADDITIONAL PARTIES (SCRMA)**

The undersigned Lienholder, F. Carrington Weems, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 99 015968, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

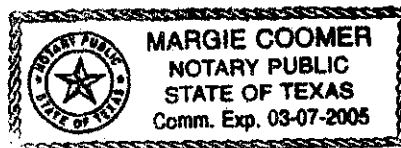
**LIENHOLDER:**

By: *F. Carrington Weems* 162  
F. CARRINGTON WEEMS

THE STATE OF Texas §  
COUNTY OF Harris §

This instrument was acknowledged before me on the 10<sup>th</sup> day of July, 2001, by F. Carrington Weems, lienholder.

*Margie Coomer*  
Notary Public - State of Texas



546-75-2056

JOINDER OF ADDITIONAL PARTIES (SCRMA)

The undersigned Lienholder, Marion Arlene Watson Heritage Trust, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 038056, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

MARION ARLENE WATSON HERITAGE TRUST

By:

Name:

Title:

*E.M. Hardcastle*  
E.M. HARDCASTLE  
TRUSTEE

102

102

THE STATE OF TEXAS

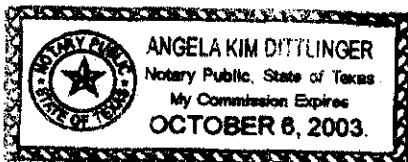
§

COUNTY OF BRAZORIA

§

§

This instrument was acknowledged before me on the 8<sup>th</sup> day of June, 2001, by E.M. HARDCASTLE of Marion Arlene Watson Heritage Trust, on behalf of said lienholder.



*Angela Kim Dittlinger*  
Notary Public - State of TEXAS

JOINDER OF ADDITIONAL PARTIES (SCRMA)

The undersigned Lienholder, Maura Ann Hardcastle Heritage Trust, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 038058, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

MAURA ANN HARDCASTLE HERITAGE TRUST

102

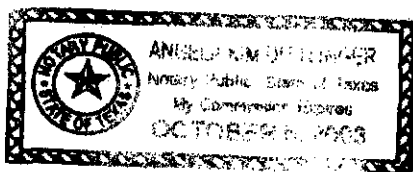
AS PER ORIGINAL

By: E.M. Hardcastle  
Name: ~~TRUSTEE~~ E.M. HARDCASTLE  
Title: TRUSTEE

THE STATE OF TEXAS §  
§  
COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the 8<sup>th</sup> day of June, 2001, by E.M. Hardcastle of Maura Ann Hardcastle Heritage Trust, on behalf of said lienholder.

Angela Kim Pittenger  
Notary Public - State of TEXAS



546-75-2058

ALL SIGNATURES AND SEALS  
APPEAR ON THE ORIGINAL \*\*\*



**JOINDER OF ADDITIONAL PARTIES (SCRMA)**

The undersigned Lienholder, Moon Capital Corp., a Texas Corporation, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 046085, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

**LIENHOLDER:**

MOON CAPITAL CORP.

EL

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

Name: JOHN H. MOON, SR.

Title: PRESIDENT

THE STATE OF TEXAS §  
§  
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 26TH day of JUNE, 2001, by JOHN H. MOON, SR. PRESIDENT of Moon Capital Corp., on behalf of said lienholder.

\_\_\_\_\_  
Notary Public State of TEXAS



ALL SIGNATURES AND SEALS  
APPEAR ON THE ORIGINAL \*\*\*

JOINDER OF ADDITIONAL PARTIES (SCRMA)

The undersigned Lienholder, Pam Properties, Inc., a Texas Corporation, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 038054, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

PAM PROPERTIES, INC. 102

By: E.M. Hardcastle  
Name: E.M. HARDCASTLE  
Title: PRESIDENT

THE STATE OF Texas §  
§  
COUNTY OF Harris §

This instrument was acknowledged before me on the 8 day of June, 2001, by E.M. Hardcastle, Pres of Pam Properties, Inc., on behalf of said lienholder.

Kelli Karisch  
Notary Public - State of Texas



546-76-2069

JOINDER OF ADDITIONAL PARTIES (SCRMA)

The undersigned Lienholder, Weems & Co., Inc., joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 050321, assigned by Ben F. Weems to Weems & Company, Inc. under instrument recorded in Brazoria County Clerk's File No. 98 050322, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

WEEMS & COMPANY, INC.  
(ASSIGNEE OF BEN F. WEEMS)

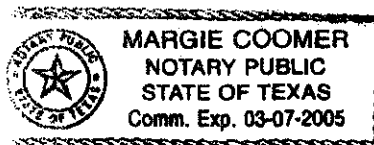
202

By: F. Carrington Weems  
Name: F. CARRINGTON WEEMS  
Title: PRESIDENT

THE STATE OF Texas §  
COUNTY OF Harris §

This instrument was acknowledged before me on the 10th day of July, 2001, by F. Carrington Weems President of Weems & Company, Inc., on behalf of said lienholder.

Margie Coomer  
Notary Public - State of Texas



546-75-2061

JOINDER OF ADDITIONAL PARTIES (SCRMA)

The undersigned Lienholders, Charlene Elizabeth Trigg Montgomery, Individually and as Independent Administrator of the Estate of John Harlan Montgomery, deceased, join herein for the sole purpose of subordinating the liens they hold on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 050558, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

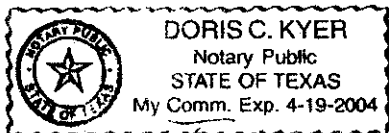
LIENHOLDER:

By: Charlene Elizabeth Trigg Montgomery  
Charlene Elizabeth Trigg Montgomery  
Individually

By: Charlene Elizabeth Trigg Montgomery  
Charlene Elizabeth Trigg Montgomery,  
Independent Administrator of the Estate of  
John Harlan Montgomery, Deceased

THE STATE OF Texas §  
COUNTY OF Smith §

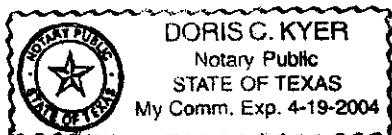
This instrument was acknowledged before me on the 1st day of June, 2001, by Charlene Elizabeth Trigg Montgomery, Individually, lienholder.



THE STATE OF Texas §  
COUNTY OF Smith §

Doris C. Kyer  
Notary Public - State of Texas

This instrument was acknowledged before me on the 1st day of June, 2001, by Charlene Elizabeth Trigg Montgomery, Independent Administrator of the Estate of John Harlan Montgomery, Deceased, on behalf of said lienholder.



Doris C. Kyer  
Notary Public - State of Texas

THIS DOCUMENT WAS FILED  
BY & RETURNED TO:  
FIRST AMERICAN TITLE

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Dianne Wilson*

2001 OCT 08 02:10 PM 2001095077  
DBC \$191.00  
DIANNE WILSON, COUNTY CLERK  
FORT BEND COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL  
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time  
stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris  
County, Texas on:

OCT 16 2001



*Dorely B. Kayman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

FILED  
OCT 16 11:10:14  
*Dorely B. Kayman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

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*

County Clerk of Brazoria Co., TX

FILED FOR RECORD

2001 NOV 14 PM 2:06

*Joyce Hudman*  
COUNTY CLERK  
BRAZORIA COUNTY, TEXAS

RECORDER'S MEMORANDUM:  
At the time of recordation, this instrument was  
found to be inadequate for the best photographic  
reproduction because of illegibility, carbon or  
photo copy, discolored paper, etc. All blockouts,  
additions and changes were present at the time  
the instrument was filed and recorded.

THIS DOCUMENT WAS FILED  
BY & RETURNED TO:  
FIRST AMERICAN TITLE

FILED AND RECORDED  
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*Dianne Wilson*

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DIANNE WILSON, COUNTY CLERK  
FORT BEND COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL  
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time  
stamped herein by me, and was duly RECORDED in the Official Public Records of Real Property of Harris  
County, Texas on

DEC 11 2001



*Dorely B. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

RECORDER'S MEMORANDUM

AT THE TIME OF RECORDATION, THIS  
INSTRUMENT WAS FOUND TO BE INADEQUATE  
FOR THE BEST PHOTOGRAPHIC REPRODUCTION  
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