

**DECLARATION OF
COVENANTS, CONDITIONS
& RESTRICTIONS
FOR
MARINE CREEK RANCH EAST**

Fort Worth, Texas
(Tarrant County)

PROPERTY

Marine Creek Ranch **EAST** is a residential development in the City of Fort Worth, Texas, on land that is being platted (initially) as certain sections of Marine Creek Ranch. This instrument pertains to only those sections of Marine Creek Ranch and any other tracts of land that are specifically subject to this Declaration, as it may be supplemented or amended. This instrument does not pertain to those sections of Marine Creek Ranch that are subject to the Declaration recorded as #D203411174 in Vol. 17361, Pg 204, Real Property Records, Tarrant County, Texas, as supplemented and amended. Also, the subject Property includes noncontiguous parcels of land.

Declarant

Crystal Lake Development, LLC

~ 11 KEY NOTES ABOUT HOMEBUYING ~

IN MARINE CREEK RANCH EAST BEFORE BUILD-OUT & SELL-OUT

1. Mandatory Membership. From the date this Declaration is recorded, the land described in Appendix A will be subject to this Declaration, which establishes a mandatory membership association of property owners. Current and future owners of the land, and any land added to the development, will automatically be members of the Association.
2. No Relation to Marine Creek Ranch. The neighboring community of Marine Creek Ranch is separate from and independent of Marine Creek Ranch East, even though portions of Marine Creek Ranch East may be platted as "Marine Creek Ranch." In parts of the development it may be hard to identify the dividing line between the two similarly named communities.
3. Obligation for Assessments. A home buyer is obligated to the Association for assessments from the first day of owning the home. Depending on date of closing, part or all of an annual assessment may be collected at time of purchase. New owners are advised to calendar the due date for the next assessment or installment.
4. Restricted Environment. A homeowner in Marine Creek Ranch East cannot do "anything he wants" with his home and yard. Even the color of his fence stain must conform to certain requirements.
5. Change is Possible. Every community rule and restriction is subject to change - by amendment or by law. Also, new and different rules and restrictions may be adopted. If a purchasing decision is based on something that is allowed or prohibited by the "HOA documents" at time of purchase, the homeowner should be aware that the rules can change from time to time, and he must go with the flow by complying.
6. Evolving Community. Marine Creek Ranch East is a planned community being developed in phases, for which the build-out and sell-out may last for many years, during which time the initial concept plan for Marine Creek Ranch East may be significantly modified to respond to perceived or actual changes and opportunities in the marketplace. *Declarant is not required to provide a proposed feature of Marine Creek Ranch East that is not in place when an owner contracts to buy a home in Marine Creek Ranch East.*
7. Declarant's Role. The "Declarant" of Marine Creek Ranch East is the overall land developer, not the builder of your home. Nevertheless, Declarant has a significant economic interest in overseeing the complete, orderly, and successful expansion, development, build-out and sell-out of Marine Creek Ranch East, which may span periods with no active homebuilding and periods during which Declarant owns no part of the subdivision.
8. Declarant Control. One of Declarant's reserved rights is "controlling" the Association by appointing its officers and directors during the build-out of Marine Creek Ranch East. Declarant intends to control the Association for the maximum length of time permitted by Texas law.
9. Separation of Powers. The for-profit business of creating and marketing the Property is distinct from the non-profit operation of the Association for the benefit of homeowners and residents. Although homeowners will, in time, control the governance and destiny of Marine Creek Ranch East, homeowners do not have a voice, role, or influence on any aspect of how the Property is created, constructed, built-out, and sold-out by Declarant and Builders.
10. Marketing Advantage. Declarant and Builders have rights and opportunities for marketing new homes that are not available to individual homeowners who desire to market their homes for resale. A homeowner who tries to resell his home before Marine Creek Ranch East is sold-out will be competing against Declarant or Builders with new houses and a marketing advantage.
11. Organization of Declaration. To make this Declaration more readable for the generations of homeowners that will own homes in Marine Creek Ranch East, most of Declarant's rights and reservations are compiled in Appendix B and Appendix C of this Declaration, which are in every way superior to and controlling over the main body of this Declaration.

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FOR
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Appendix B and Appendix C have priority over the main body of this Declaration.

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR MARINE CREEK RANCH EAST

This Declaration of Covenants, Conditions & Restrictions for Marine Creek Ranch East is made by Crystal Lake Development, LLC, a Texas limited liability company ("**Declarant**"), on the date signed below. Declarant owns the real property described in Appendix A of this Declaration, together with the improvements thereon.

Declarant desires to establish a general plan of development for the planned community to be known as Marine Creek Ranch East. Declarant also desires to provide a reasonable and flexible procedure by which Declarant may expand the Property to include additional real property, and to maintain certain development rights that are essential for the successful completion and marketing of the Property.

Declarant further desires to provide for the preservation, administration, and maintenance of portions of Marine Creek Ranch East, and to protect the value, desirability, and attractiveness of Marine Creek Ranch East. As an integral part of the development plan, Declarant deems it advisable to create a property owners association to perform these functions and activities more fully described in this Declaration and the other Governing Documents described below.

Declarant DECLARES that the property described in Appendix A, and any additional property made subject to this Declaration, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's rights and reservations in Appendix B and Appendix C of this Declaration, which run with the real property and bind all parties having or acquiring any right, title, or interest in any part of the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of any part of the Property. Declarant intends for the encumbrance and subjugation of Marine Creek Ranch East by this Declaration to be in accordance with the common law doctrines of restrictive covenant and implied equitable servitudes.

ARTICLE 1 **DEFINITIONS**

1.1. **DEFINED TERMS.** The following words and phrases, whether or not capitalized, have specified meanings when used in the Governing Documents, unless a different meaning is apparent from the context in which the word or phrase is used. Terms pertaining to development of the Property are identified in the following Section.

1.1.1. "**AGC**" or "**Architectural Guidance Committee**" means the Architectural Authority appointed by the board or by Declarant pursuant to this Declaration, with jurisdiction over certain architectural matters - primarily modifications to established homes on improved lots. The AGC has no authority over any aspect of a lot or improvement that is within the jurisdiction of the New Construction ACC.

1.1.2. "**Applicable Law**" means the statutes and public laws, codes, ordinances, and regulations in effect at the time a provision of the Governing Documents is applied, and pertaining to the subject matter of the Governing Document provision. Statutes and ordinances specifically referenced in the Governing Documents are "applicable law" on the date of the Governing Document, and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superceded.

1.1.3. "**Architectural Authority**" means the entity having jurisdiction over a particular architectural matter. The Property has two separate Architectural Authorities - each of which regulates a lot at different times. The exclusive Architectural Authority for vacant lots and new homes, being the original improvements on a lot,

Appendix B and Appendix C have priority over the main body of this Declaration.

through Build-Out is Declarant or persons designated by Declarant to serve as the "New Construction ACC". The "AGC" is the Architectural Authority for existing homes on improved lots.

1.1.4. "**Assessment**" means any charge levied against a lot or owner by the Association, pursuant to the Governing Documents or applicable law, including but not limited to the types of assessments defined in the Covenant for Assessments Article of this Declaration.

1.1.5. "**Association**" means the association of owners of lots in the Property, and serving as the "property owners' association" defined in Section 202.001(2) of the Texas Property Code. The initial name of the Association is Marine Creek Ranch East Owners Association.

1.1.6. "**Board**" means the board of directors of the Association.

1.1.7. "**City**" means the City of Fort Worth, Texas, in which the Property is located.

1.1.8. "**Class**" means a class of membership in the Association, as described in Appendix C of this Declaration.

1.1.9. "**Common Area**" means a portion of the Property that is not a "Lot" and which is identified on a plat or in this Declaration as intended, reserved, or dedicated for use, maintenance, or ownership by the Association, and any real property that is maintained or owned by the Association for the use or benefit of owners and residents, regardless of how it is platted. In most contexts, "common area" may be used interchangeably with "common property."

1.1.10. "**Common Property**" means real property, improvements to real property, and personal property that is used, maintained, or owned by the Association for the use or benefit of owners and residents, including common areas. In most contexts, "common property" may be used interchangeably with "common area."

1.1.11. "**Declarant**" means Crystal Lake Development, LLC, a Texas limited liability company, or the successors and assigns of Crystal Lake Development, LLC, which acquire the status of Successor Declarant according to the terms of the Successor Declarant section of Appendix B of this Declaration.

1.1.12. "**Declaration**" means this document, as it may be amended, supplemented, and restated from time to time.

1.1.13. "**Governance Policy**" means a policy or procedure of the Association that pertains to governance matters, as distinguished from property uses. Examples of governance matters include membership, voting, meetings, collections, and enforcement. The initial governance policies and procedures are compiled in the "**Governance Policy Book**", a term which may also be used to refer to each constituent policy and procedure, whether recorded separately or as part of the compilation.

1.1.14. "**Governing Documents**" means, singly or collectively as the case may be, the Plat, this Declaration, the Owners Manual, the Bylaws of the Association, the Articles of Association, the Governance Policy Book, the Rules (if any), and any other writing that affects the relationship of owners to the Property, to the Association, or to each other, as any of these may be adopted, amended, supplemented, restated, or repealed from time to time. Although Governing Documents reference each other and may be recorded contemporaneously, each instrument is independent and may be amended pursuant to its own terms or applicable law. Declarant may adopt, amend, restate, or repeal the initial Governing Documents.

1.1.15. "**Lot**" means a portion of the Property, as shown on the Plat, intended for independent ownership and construction of a dwelling. As a defined term, a "lot" is not a common area, even if a common area is platted and numbered as a lot, and does not become a common area if acquired by the Association. Where the context indicates or requires, "lot" includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the lot. For certain purposes, the Governing Documents may distinguish between vacant lots and improved lots. As used in the Governing Documents, a "**vacant lot**" is a lot on which a dwelling has never been built or a lot on which the initial dwelling is under construction, and an

Appendix B and Appendix C have priority over the main body of this Declaration.

"**improved lot**" is a lot on which the initial dwelling is or was substantially complete or completed. An improved lot retains its status even if the initial improvements are removed or destroyed.

1.1.16. "**Member**" means a member of the Association, unless the context indicates that member means a member of the board or a member of a committee of the Association.'

1.1.17. "**National Lender**" means a nationwide institutional quasi-public mortgage lender, mortgage purchaser, mortgage insurer, mortgage underwriter, or mortgage guarantor, such as Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (HUD/FHA), Federal National Mortgage Association (Fannie Mae), or U. S. Department of Veterans Affairs (VA), singly or collectively.

1.1.18. "**Neighborhood**" means a certain geographic area within Marine Creek Ranch East, which may contain noncontiguous parcels, and which may be subject to additional or different restrictions, may be liable for an additional assessment or different rate of assessment, and may have exclusive use of certain common areas or common services. Neighborhoods are further described in Section 4.12 below.

1.1.19. "**Owner**" means a holder of recorded fee simple title to a lot or to unplatted land subject to this Declaration. Persons or entities having ownership interests merely as security for the performance of an obligation are not owners. Every owner is a member of the Association.

1.1.20. "**Owners Manual**" refers to the Owners Manual of Rules & Regs for Marine Creek Ranch East, that certain Governing Document consisting of chapters that contain covenants, conditions, restrictions, specifications, rules, and regulations pertaining to many aspects of the lots and the improvements thereon, such as the appearance, maintenance, improvement, use, and occupancy of the improved lots. The Owners Manual deals with property uses, as distinguished from the Governance Policy Book. "Owners Manual" refers collectively to the compilation of chapters, and also refers to each constituent chapter, whether recorded separately or as part of the compilation. A Governing Document provision that pertains to the Owners Manual also pertains to any rule, regulation, or restriction that fits within the concept of the Owners Manual, no matter how it is named, adopted, published, or recorded.

MOST "DOs and DON'Ts" ARE IN THE OWNERS MANUAL

1.1.21. "**Plat**" means all plats, singly and collectively, recorded in the Real Property Records of Tarrant County, Texas, and pertaining to the real property that is subject to this Declaration, including all dedications, covenants, limitations, restrictions, easements, notes, and reservations shown on the plat, as it may be amended from time to time.

1.1.22. "**Property**" means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Marine Creek Ranch East, even if portions of the Property are platted with different subdivision names. The Property includes (1) the land described in Appendix A of this Declaration, as it may be amended or supplemented from time to time, (2) the land described in a supplemental declaration (if any) executed by Declarant pursuant to this Declaration, and (3) any land made subject to this Declaration pursuant to the Annexation Section of this Declaration, and includes every lot and any common area thereon.

1.1.23. "**Resident**" means an occupant of a dwelling, regardless of whether the person owns the lot.

1.1.24. "**Rules**" means the rules ~ singly and collectively ~ adopted by Declarant or by the Association in accordance with the Governing Documents or applicable law, and which are contained in one or more writings which may be referred to by a variety of names, such as (without limitation) rules, regulations, guidelines, procedures, manuals, policies, standards, specifications, and resolutions. If customary, rules may be "published" on signs posted or painted on the Property, or communicated to owners as temporary or seasonal rules that are circumstance-based. Rules may properly be used to refer to an instrument, sign, or communicate that contains rules, and may also be used to refer to the individual rules within an instrument, sign, or communicate. Certain covenants, conditions, and restrictions may be referred to as rules, the terms not being entirely mutually exclusive.

Appendix B and Appendix C have priority over the main body of this Declaration.

1.2. **DEVELOPMENT TERMS.** The following defined terms pertaining to development of the Property are contained in Appendix B and Appendix C of this Declaration, and hereby incorporated by reference: (1) **Additional Land**, (2) **Builder**, (3) **Build-Out**, (4) **Declarant Control Period**, (5) **Development Period**, (6) **Expansion Period**, (7) **New Construction ACC**, (8) **Sell-Out**, (9) **Shortfall**, and (10) **Unilaterally**.

ARTICLE 2
SUBJECT TO DOCUMENTS

2.1. **SUBJECT TO DOCUMENTS OF RECORD.** All real property subject to this Declaration, including the property described in Appendix A, and any other real property that is made subject to this Declaration, is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms of all publicly recorded Governing Documents, and all other publicly recorded instruments that touch and concern the land, run with the Property, and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns. This Declaration may contain certain disclosures about publicly recorded or publicly accessible documents that do or may affect the Property. Such disclosures are not intended to identify every publicly recorded or publicly accessible document affecting the Property. Neither the Association nor Declarant makes any representation that these are the only noteworthy documents affecting the Property. Every prospective owner and resident must make an independent investigation of documents affecting the Property, and make inquiries of anything that concerns him.

Even the subdivision plat speaks to your use of your lot. Check it out.

2.2. **COVENANTS IN PLAT.** The dedications, covenants, limitations, restrictions, easements, notes, and reservations shown on the plat are hereby incorporated by reference as covenants running with the land. Each owner must inform himself about the plat's covenants on his lot and those affecting his use or enjoyment of the lot and common areas. Similarly, the Association is bound by platted covenants, if any, pertaining to common areas, subject to any delegation of duty to owners by this Declaration. The label on a platted common area, such as "Open Space," is not a covenant that prevents improvement or change of use.

2.3. **SUBJECT TO PLATTING.** On the date of this Declaration, the Property described in Appendix A is partially or entirely unplatted. Declarant expects the Property to be platted in phases. Declarant is not required to amend or supplement this Declaration to identify those portions of the Property that are platted. If a law or interpretation of law benefitting developers of subdivisions pertains to the annexation of additional land, for purposes of applicability to this Property, the law or interpretation may be construed as an increase in the number of house lots by platting, if such construction is desired by Declarant.

2.4. **ADDITIONAL RESTRICTIONS.** Portions of the Property may be subjected to additional or different restrictions, such as restrictions on recorded plats of certain phases, or construction, fence, architectural, or use restrictions that are specific to a portion of the Property. Subjecting a portion of the Property to additional or different restrictions is accomplished by recording the restrictions in the Real Property Records of Tarrant County, Texas, typically as an amendment or supplement of this Declaration or the Owners Manual.

***When you buy a home in Marine Creek Ranch East,
you also buy into the Governing Documents.***

2.5. **OWNER AGREES TO BE BOUND.** Each owner, by impliedly or expressly accepting or acquiring an ownership interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Declaration, the plat, and the other Governing Documents. By acquiring the ownership interest before the Property is fully developed, expanded, Built-Out, and Sold-Out, each owner covenants, agrees, and acknowledges that Appendixes B and C of this Declaration control over anything to the contrary in the main body of this Declaration. Each owner further covenants that Declarant's economic interest in the Property is not tied to ownership of a lot, but rather to the Property's completion, regardless how the lots are owned. Additionally, each owner acknowledges that each Governing Document may be amended, supplemented, or restated from time to time. Each owner also agrees to maintain

Appendix B and Appendix C have priority over the main body of this Declaration.

any easement that crosses his lot and for which the Association does not have express responsibility or for which responsibility is delegated to the owner by this Declaration.

2.6. **DECLARANT RIGHTS.** The rights of Declarant in the Declaration, particularly in Appendixes B and C of this Declaration, override and supercede every provision of this Declaration and the other Governing Documents for the applicable periods of time. Accordingly, some provisions in this Declaration do not apply during Build-Out or Sell-Out, or during the Declarant Control or Development Periods. Many significant rights of Declarant are designed by this Declaration to survive after Declarant relinquishes control of the Association. Each owner acknowledges that Declarant may exercise its reserved rights after the Association's board is elected by the owners.

ARTICLE 3 CERTAIN PROPERTY FEATURES

3.1. **LIMITED DISCLOSURES.** The plat, this Declaration, the Owners Manual, the other Governing Documents, future websites maintained by or for the Association, print or electronic materials used in marketing or describing the Property, and any other type of document or resource related to the Property, may contain certain disclosures about the Property and its location that are intended to help inform prospective and current owners and residents about certain features or attributes that may pertain to the Property. Such disclosures are not intended to identify every feature, attribute, condition, or unusual aspect of the Property that may affect property values or the quality of life within the Property. Such disclosures are not intended to, and do not, constitute a full disclosure of the disclosed feature, attribute, or condition. Providing a disclosure does not create a duty for Declarant or the Association to make additional disclosures. An omission may not be construed as intentional or misleading. Neither the Association nor Declarant makes any representation that published disclosures are the only noteworthy or most significant features of the Property. Also, a mistaken disclosure about a feature or attribute that does not exist may not be construed as an attempt to deceive, and does not create a duty for Declarant or the Association to provide the feature or attribute. **Every prospective owner and resident must make an independent inspection and investigation** of the lot and the Property, its location, adjoining and nearby land uses, and publicly accessible documents and resources affecting the lot and the Property, and has a duty to make inquiries of anything that concerns him.

CITY MAKES HOA RESPONSIBLE FOR DRAINAGE FEATURES

3.2. **NOTICE OF ASSOCIATION DUTY FOR STORMWATER FACILITIES.** This Section pertains to "Stormwater Facilities Maintenance Area" ("**SWFM Area**"), which are stormwater drainage facilities which the City requires the Association or Declarant to maintain pursuant to an agreement, no matter whether or how an SWFM Area is labeled on a plat. Notes on a plat may address responsibilities and liabilities for this and other features of the Property. The obligations of the Association for the SWFM Area may be established by an SWFM Agreement, to which the City and the Association are parties, and which should be publicly recorded in the Real Property Records of Tarrant County, Texas.

3.2.1. **Agreement.** The Association, acting through the board, is hereby authorized to negotiate one or more agreements with local governments and public agencies for any aspect of an SWFM Area. Also, the Association must comply with the requirements of such an agreement, which may include a plan for the operation and maintenance of SWFM Areas, including (1) general maintenance procedures, (2) requirements for inspections and records, and (3) a maintenance checklist.

3.2.2. **Environmental Changes.** Notice is hereby given that future conditions outside the Property may affect aspects of the SWFM Area over time, such as changes in the quantity or quality of surface water due to changed conditions "upstream" from the Property, or changes in property use "downstream" from the Property. Notice is hereby given that if an SWFM Area is or becomes part of a larger drainage system - outside the bounds of the Property - the SWFM Area may be or become subject to regulation by a state or federal agency that deals with surface water or drainage issues.

3.2.3. **Common Expenses.** An SWFM Area is a common area for which the Association is responsible. Unlike other common areas of the Property, an SWFM Area is more likely to attract the attention of public agencies which may require the Association to perform certain work as a common expense. The Association is advised to budget for its duties and liabilities for each SWFM Area.

Appendix B and Appendix C have priority over the main body of this Declaration.

3.2.4. Dedicated Reserves. Within one year after the end of the Declarant Control Period, the Association will establish and begin accumulating Stormwater Reserves at a level that anticipates periodic major work on the Property's SWFM Areas, such as engineering studies, major repairs of the structures, and compliance with possible governmental orders to upgrade, enlarge, or replace the structures. Stormwater Reserves may be funded from transfer-related contributions, regular assessments, or a special dedicated assessment. Stormwater Reserves are dedicated for the stated purpose and may not be used for other purposes. During the Property's early years, Stormwater Reserves are not expected to be fully funded.

3.2.5. Wet/Dry. Because a water detention area may be sometimes "wet" and sometimes "dry," depending on climate conditions, permanent landscaping can be a challenge. A water detention area may require periodic dredging or desilting, which may be unsightly. Without the City's approval, a water detention area may not be used for any purpose that interferes with its role in surface water management. This explanation is for persons who wonder why those areas are not more extensively maintained, improved, landscaped, or used.

3.2.6. Notice of Liability. The Property is developed at a time when many local governments are trying to be absolved of liability for flood damage to private property. It is not uncommon for a governmental entity to try to shift liability for flood damage from the government to the Association as a condition of subdivision approval. It is not Declarant's intent or desire to impose such absolute liability on the nonprofit association of lot owners. Declarant acknowledges the unfairness and imbalance imposed by government on private property owners. Any SWFM Agreement is a requirement of the City of Fort Worth, not a requirement of Declarant. Neither this Section nor a SWFM Agreement may be construed against the Association if a future opportunity arises to shift the burden of surface water management back to government.

3.3. NOTICE OF NON-ADJACENT PARCELS. Portions of the Property are not contiguous and may be separated by streets, easements, and unrelated subdivisions. To illustrate, the 32.33-acre "Tract 3" described in Appendix A of this Declaration is separated from the rest of the Property by a portion of an unaffiliated development (Marine Creek Ranch). Also, the 75-acre tract described in Appendix E as potentially additional land is separated from the rest of the Property by Huffines Boulevard and a portion of the same unaffiliated development (Marine Creek Ranch).

3.4. MARINE CREEK LAKE. On the date of this Declaration, a large portion of the Property is bordered by Marine Creek Lake, which is a man-made reservoir on a tributary of the Trinity River. The Lake and its shoreline and banks are administered by a number of public agencies, such as Texas Parks & Wildlife, Tarrant Regional Water District, and the City of Fort Worth. By acquiring an ownership or occupancy interest in Marine Creek Ranch East, each owner and resident acknowledges that Declarant and the Association have no control over decisions made by public agencies and cannot guarantee that the Lake will be a perpetual water resource and location amenity.

These are only SOME of the unique attributes of Marine Creek Ranch East.

3.5. NOTICE FOR LAKE LOTS. A lot that is visible from the Lake (a "**Lake Lot**") may be subject to additional restrictions pertaining to fencing, landscaping, exterior lighting, use, maintenance, and appearance of portions of yards and buildings that are visible from the public trail or the Lake.

3.6. PUBLIC TRAIL. On the date of this Declaration, development maps of Marine Creek Ranch East show proposed sites for a public trail along the banks of Marine Creek Lake. By acquiring an ownership or occupancy interest in Marine Creek Ranch East, each owner and resident acknowledges that Declarant and the Association, and their respective directors, officers, committees, agents, and employees have no control over decisions made by local governments, and cannot guarantee that a site within or near Marine Creek Ranch East will be used for a public trail, or that - if so used - the use will be perpetual.

3.7. SPECIAL DISTRICT. On the date of this Declaration, the Property is located within the jurisdiction of one or more special districts, including the Tarrant Regional Water District ("**TRWD**"). Although the Association and the special district are independent entities, they may be related by overlapping origins, territory, population, and purposes. The Association is hereby authorized to negotiate with, exchange with, delegate to, convey to, and accept from a special district certain functions, properties (including common areas), authorities, and obligations, provided the action is not

Appendix B and Appendix C have priority over the main body of this Declaration.

prohibited by applicable law and is in the best collective interest of the members of the Association. On the date of this Declaration, TRWD is the reservoir controlling authority for Marine Creek Lake.

3.8. DIRT DISCLOSURE. No representation is made that any lot or common area in Marine Creek Ranch East is on native virgin soil or that the soil has a particular nutritional value for plants. This disclosure is made to give inquiry notice to prospective owners, who may make their own determinations about the composition and nutrients of the material on and beneath the surface of any lot in the Property.

3.9. RETAINING WALLS. The Property has a number of retaining walls, some of which may not be apparent when visiting Marine Creek Ranch East. The owner of each lot on which - or next to which - a retaining wall is located has certain legal duties and financial obligations for the retaining wall and to the owner of the land on the other side of the retaining wall, as described in Appendix D of this Declaration, titled "Retaining Walls," and the Owners Manual chapter titled "Retaining Wall Maintenance Specifications," both of which are incorporated by reference. By acquiring an ownership interest in a lot that contains, abuts, supports, or is supported by a retaining wall, the owner acknowledges and accepts the rights and responsibilities created by this Declaration for the retaining wall.

**RETAINING WALLS AND CLAY SOIL
CREATE DUTIES FOR HOMEOWNERS**

3.10. EXPANSIVE CLAY SOIL. The homes and other improvements in Marine Creek Ranch East are built on ground that may be composed partly or wholly of expansive clay soils, which are prone to expand and contract in response to wetness and drought if the homeowner does not properly maintain the soil to prevent soil movement. Cycles of shrinkage and swelling may put stress on structures, resulting in property damage and diminished property values. Each owner is responsible for preserving the structural integrity of the home and other improvements on the lot by maintaining the moisture content of the lot's soil to reduce the potential for soil movement that may result in damage to improvements. Each owner is advised to pay particular ongoing attention to any circumstance or change of circumstance that affects drainage of the lot, such as inadequate grading or drainage facilities to carry water away from the home's foundation, growth of improper vegetation near the home's foundation, the presence of groundwater or other subsurface condition affecting the lot, and uneven watering of the lot. This Section may apply to any lot in Marine Creek Ranch East, including a lot with an overlay of quality topsoil.

3.11. PHASE NUMBERING. The use of phase or section numbers when referring to the Property or to portions of the Property may bear little if any relationship to any aspect of the Property, such as the size or order of the Property's development, and creates no duty for Declarant to expand the size of the Property.

3.12. COMMERCIAL NEIGHBORS. On the date of this Declaration, land in the vicinity of the Property is used or zoned for non-residential purposes, such as retail, commercial, library, park, industrial, medical, or church. Also, a number of large nearby tracts are undeveloped. Prospective owners and residents are encouraged to inform themselves about every aspect of current and proposed uses of adjacent and nearby land. By acquiring an ownership or occupancy interest in the Property, each owner and resident acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have no control over the zoning, development, or use of adjacent and nearby land.

3.13. LAND USE. By acquiring an ownership interest in a lot, each owner acknowledges that the ownership, uses, platting, and development of land within, adjacent to, or near the Property may change over time, and from time to time, and that such a change may affect the value of owner's lot. Whether an owner is consulted about a proposed change to real property within the vicinity of the owner's lot is a function of local government, and not a function of the Association.

3.13.1. No Guaranty. Nothing in this Declaration or the other Governing Documents may be construed as a representation of any kind by the Association, Builders, or Declarant as to current or future uses - actual or permitted - of any land that is adjacent to or near the Property, regardless of what the plat shows as potential uses of nearby land. The Association, Builders, and Declarant can not and do not guaranty scenic views, volumes of traffic on streets around and through the Property, availability of schools or shopping, or any other aspect of the Property that is affected by the uses or conditions of adjacent or nearby land, water, or air.

Appendix B and Appendix C have priority over the main body of this Declaration.

3.13.2. Notice of Imprecise Terminology. Some words, acronyms, labels, references, and legends used on a plat to describe land uses may be industry standards when the plat is drawn, but may be imprecise, vague, or archaic as applied to this particular Property over time.

3.14. ENVIRONMENTAL CONDITIONS. In the era in which this Declaration is written, the public is increasingly aware of environmental conditions affecting health and quality of life. The Association has no duty to intervene on behalf of an owner or resident who complains of adverse environmental conditions. If a resident is or becomes sensitive to environmental conditions that now exist or that come into existence at a future time on or near the Property, the resident - at the resident's sole expense - may mitigate those conditions in his home and on his lot, provided the method of mitigation does not damage or interfere with the use of another lot or common area, and does not change the appearance of the Property, without approval of the Architectural Authority.

3.15. CITY ORDINANCES. **No amendment of the Governing Documents nor any act or decision of the Association may violate the requirements of City ordinances pertaining to the Property.** The Association should stay informed about the City's requirements for the Property, which may change from time to time.

3.16. STREETS WITHIN PROPERTY. Because streets within the Property may be capable of being converted from publicly dedicated to privately owned, and vice versa, this Section addresses both conditions. Public streets are part of the common area only to the extent a public or quasi-public body, such as the city, county, or a special district, authorizes or delegates to the Association. As to public streets, the Association is specifically authorized to accept from a public or quasi-public body any delegation of street-related duties, and to act as attorney-in-fact for the owners in executing instruments required by applicable law to impose, modify, enforce, or remove restrictions or traffic devices (such as speed bumps) on public streets in the Property. Private streets, if any, are part of the common area which is governed by the Association. If the Property has private streets or if State law or local ordinance authorizes the Association to regulate public streets within the Property, the Association is specifically authorized to adopt, amend, repeal, and enforce rules, regulations, and procedures for use of the Property's streets, such as (1) establishing and enforcing speed limits, (2) regulating the location, use, and appearance of traffic control devices, such as signs and speed humps, (3) designating parking or no-parking areas, (4) establishing limitations or prohibitions on curbside parking, (5) removing or prohibiting vehicles that violate applicable rules and regulations, (6) fining violations of applicable rules and regulations, and (7) implementing programs for controlling access through entrance and emergency access gates, if any.

ARTICLE 4

PROPERTY EASEMENTS AND RIGHTS

4.1. GENERAL. The easements and rights contained in this Article are in addition to, and not in place of, easements and rights established by other publicly recorded documents, such as the plat and the other Governing Documents. Neither the Association nor Declarant makes any representation that these are the only noteworthy easements and rights affecting the Property. Every prospective owner and resident must make an independent investigation of easements and rights affecting the Property, and make inquiries of anything that concerns him.

4.2. FLOWAGE EASEMENT. Marine Creek Lake, which wraps around portions of the Property, is a water reservoir operated by Tarrant Regional Water District (TRWD). The Property is subject to a flowage easement in favor of TRWD, which allows TRWD to occasionally overflow, flood and submerge portions of the Property in connection with the operation and maintenance of Marine Creek Lake.

4.3. SURFACE WATER EASEMENT. Marine Creek Ranch East is initially developed with a Property-wide surface water drainage and grading pattern and certain drainage features and facilities (such as swales, streets, and storm sewers) designed to channel customary amounts surface water away from buildings. Collectively, the surface water drainage patterns, features, and facilities are referred to in this Section as the "**Surface Water System**" for the Property. (For purposes of this Section, roof gutters are not included.) Each lot and common area is hereby burdened with a perpetual easement (the "**Surface Water Easement**") over, across, under, and through the lot or common area the continued existence of the Surface Water System for the mutual benefit of all lot owners and the Association, to allow the flow of surface water from lot to lot and across common areas for the purposes stated in this Section, regardless of whether or how the Surface Water System and Easement are shown on a plat or referenced in an instrument of conveyance. No person may interfere with the established drainage pattern over any part of the Property unless an

Appendix B and Appendix C have priority over the main body of this Declaration.

adequate alternative provision for proper drainage has been approved by the board. Specifically, no person may do anything to a lot or to adjacent property to change the positive drainage pattern for Marine Creek Ranch East.

4.3.1. Owner's Acceptance. Each owner acknowledges that surface water does not respect property lines and that, from time to time, water may flow through and over portions of the lot from adjacent and nearby property. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, acknowledges that owner's lot is burdened by the Surface Water Easement as part of a common Surface Water System, and agrees to comply strictly with the terms of this Section for the benefit of owners in the Property, the Association, and local government. Each owner holds the Association and Declarant harmless from damage or claims relating to the Surface Water System and Easement, and the exercise of rights under this Section.

4.3.2. Owner's Duties. Owner's duties for that portion of the Surface Water System located on owner's lot include the following:

- (1) Perpetually preserve and maintain the lot's original Surface Water System to ensure that it functions as designed, and make changes if and when so instructed by the Association or local government to maintain or improve the Property-wide System.
- (2) If the lot contains or should contain a swale, comply with the requirements of the Swales Sections of the Fence Specifications and the Landscape Specifications Chapters of the Owners Manual.
- (3) Do not create or tolerate a condition anywhere on the lot that changes the direction or increases the amount of surface water discharged from, through, or across the lot.
- (4) Within the lot's Surface Water Easement, do not place, install, or construct any item, building, or other improvement that interferes with the efficient functioning of the Surface Water System.
- (5) By act or omission, do not alter or interfere with the Surface Water System established for the Property unless an adequate alternative provision for proper drainage has been approved by the Association and the appropriate agency of local government.

4.3.3. Right of Access. Declarant and each subsequent owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, hereby grants to owners of other lots, to the Association, and to agencies of local government an easement of access and entry over, across, under, and through owner's lot for the below-described purposes. None of the below-stated purposes may be construed to create an affirmative duty for the Association. A person exercising this access easement is not liable to the owner for trespass. Except for emergencies, the exercise of this access easement requires that the Association first give the owner written notice of the circumstance requiring access and a reasonable period of time in which to remedy the circumstance. If the owner fails or refuses to take the required action within a reasonable period of time after receiving written instruction from the Association or local government, the Association may access the owner's lot during reasonable hours for the following purposes: (1) to inspect or test the Surface Water System, (2) to prevent the placement or construction of possible hazards or obstructions in the Surface Water Easement area, and to remove possible hazards or obstructions from the Surface Water Easement area, (3) to make additions or improvements to the Surface Water System, as deemed necessary or desirable by the Association, or as required by local government, and (4) to perform maintenance, repair, or reconstruction of the Surface Water System that is permitted or required of the owner.

4.3.4. Emergency Access. In response to a situation that - at time of entry - is deemed to be an emergency that may result in imminent damage to or loss of life or property, any person may enter any lot or common area, with or without notice or permission, for the sole purpose of clearing or unclogging the Surface Water System, including without limitation the removal or destruction of possible obstructions, for which the owner holds them harmless.

4.3.5. Expense. The owner, at the owner's sole cost and expense, is responsible for (1) the cost of meeting the owner's obligations under this Section, (2) the cost of work performed on the lot's Surface Water

Appendix B and Appendix C have priority over the main body of this Declaration.

System or Easement, regardless who performs the work, (3) the cost of repairing any damage to the lot caused by the exercise of a right under this Section, and (4) the cost of consequential damage to the property of others if caused by a breach of one or more of owner's above-stated duties. Any expense incurred by the Association pursuant to this Section is an individual assessment against the lot and an obligation of the owner.

4.3.6. Limitation on Liability. Although this Section gives the Association a number of rights pertaining to lots, the Association has no duty to police the condition of the Surface Water System on individual lots, and is not liable to any person for damages ensuing from an owner's failure to comply with this Section. Additionally, no person (including without limitation the Association, Declarant, and the City) can or should be liable for environmental conditions and weather events that overwhelm the capacity for which the Surface Water System is designed.

4.4. FLOOD PLAIN. Please refer to plats of the Property for information about the flood plain that touches or adjoins the Property. Neither the Association nor the Declarant has any responsibility or liability for (1) the location, relocation, or maintenance of the easement or flood plain, (2) the availability or purchase of flood insurance, or (3) the consequences of rising waters or flood-related damage. No improvements of any kind, including fences and berms, may be installed or maintained in any portion of a flood plain nor may the grading or drainage in those areas be changed. Any owner, the Association, or the City may effect the removal of any item or improvement that violates this provision.

4.5. EASEMENT FOR OWNER FENCES. By acquiring an interest in a lot, each owner hereby grants and affirms to the Association a perpetual easement of ingress, egress, maintenance, and improvement over owner's lot for the purpose of repairing or replacing a fence or wall for which the owner is responsible, when the owner fails to perform its duty. For some lots, the easement may be shown on the plat as a "wall maintenance easement." In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much as the surface of the lot as may be reasonably necessary for the Association to perform its contemplated work on the fence or wall. This easement is perpetual.

4.6. EASEMENT FOR SCREENING FEATURES. This Section applies to a screening feature, if any, that the Association is required to maintain pursuant to an agreement or plat requirement, if a portion of the screening feature is within, on, or along a lot's boundary. The Association is hereby granted a perpetual easement (the "**Screening Easement**") over each lot that abuts or contains a portion of the Property's screening features for the purposes stated in this Section, regardless of whether or how the plat shows the easement or screening features. On recording this Declaration, Declarant burdens every lot on which a screening feature is located or will be located with the Screening Easement. The purpose of the Screening Easement is to provide for the existence, repair, improvement, and replacement of the Property's screening features which the Association is required to maintain, if any. In exercising this Screening Easement, the Association may construct, maintain, improve, and replace improvements reasonably related to the screening of a residential subdivision. The owners of the lots burdened with the Screening Easement will have the continual use and enjoyment of their lots for any purpose that does not interfere with and prevent the Association's use of the Screening Easement. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much as the surface of a burdened lot as may be reasonably necessary for the Association to perform its contemplated work on the Screening Easement. This easement is perpetual. The Screening Easement will terminate when the purpose of the easement ceases to exist, is abandoned by the Association, or becomes impossible to perform. The Association may assign this easement, or any portion thereof, to the City if the City agrees to accept the assignment.

4.7. EASEMENT FOR ENTRY FEATURES. This Section applies to any entry feature installed on a lot during Build-Out by Declarant or with the approval of Declarant, and replacements or improvements thereof, and may not be construed to require an entry feature for the Property, nor an entry feature at each entrance to the Property. As used in this Section, "**entry feature**" means any improvement that formally marks an entrance to the Property, such as signage or monuments, landscape elements, and illumination. The Association is hereby granted a perpetual "**Entry Feature Easement**" over each lot (the "**Entrance Lot**") that contains one or more entry features, regardless of whether or how the plat shows the easement or entry feature. The purpose of the Entry Feature Easement is to provide for the existence, repair, improvement, and replacement of the Property's entry features, to be maintained by the Association as common property. In exercising this Entry Feature Easement, the Association may construct, maintain, improve, and replace improvements reasonably related to the entrance of a residential subdivision. The owner of the Entrance Lot will have the continual use and enjoyment of the lot for any purpose that does not interfere with and prevent the Association's

Appendix B and Appendix C have priority over the main body of this Declaration.

use of the Entry Feature Easement. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much as the surface of an Entrance Lot as may be reasonably necessary for the Association to perform its contemplated work on the Entry Feature Easement. This easement is perpetual. The Entry Feature Easement will terminate when the purpose of the easement ceases to exist, is abandoned by the Association, or becomes impossible to perform. The Association may assign this easement, or any portion thereof, to a public or quasi-public body that agrees to accept the assignment.

4.8. OWNER'S EASEMENT OF ENJOYMENT. Every owner is granted a right and easement of enjoyment over the common areas and to use of improvements therein, subject to other rights and easements contained in the Governing Documents. An owner who does not occupy a lot delegates this right of enjoyment to the residents of his lot. Notwithstanding the foregoing, if a portion of the common area, such as a recreational area, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

4.9. OWNER'S INGRESS/EGRESS EASEMENT. Every owner is granted a perpetual easement over the Property's streets, as may be reasonably required, for vehicular ingress to and egress from his lot.

4.10. OWNER'S RIGHT TO BUILD. That a lot remains vacant and unimproved for a period of years, even decades, does not diminish the right of the lot owner to construct a dwelling on the lot. Nor does a vacant lot enlarge the rights of owners of neighboring lots, who may have become so accustomed to the open space that they expect it to remain unimproved forever.

4.11. OWNER'S RIGHT TO LEASE OR SELL. An owner's right to lease a dwelling or sell a lot is subject to this Section and to provisions of this Declaration and the Owners Manual that pertain to sale and leasing. By acquiring an ownership or occupancy interest in a lot, each owner and resident acknowledges that **restraints on alienation of real property are permitted, changeable, and enforceable**. Accordingly, the Association has an affirmative right to enforce, adopt, modify, and terminate restrictions (including prohibitions) on leases and sales of dwellings and lots, and to distinguish between types of leases and sales. A change of restriction may not be used to compel a change of ownership or a change of use that exists on the date on which the changed restriction is publicly recorded, but may be enforced against the owner's successors and assigns. Restrictions on marketing, management, and occupancy of real property are not restraints on alienation and are allowed.

4.12. NEIGHBORHOODS. On the date of this Declaration, Marine Creek Ranch East is subject only to this Declaration and does not contain any "Neighborhoods" as defined above. This Section will apply to any portion of the Property which has features or consumes services that are not common to the entire Property and for which it is appropriate to have a "Neighborhood" within the Property, such as a gated neighborhood with a private street, or a townhome neighborhood with common yard maintenance. The following definitions are provided as concepts that may be suitable for future development in Marine Creek Ranch East.

4.12.1. "**Neighborhood Assessment**" means any charge levied against all the lots in a Neighborhood by the Association, to pay the actual and estimated expenses which the respective Association incurs or expects to incur for the benefit of lots in the Neighborhood.

4.12.2. "**Neighborhood Committee**" means a committee of three to five persons elected by owners of lots in the Neighborhood to represent the interests of the Neighborhood to the Association's board of directors.

4.12.3. "**Neighborhood Common Area**" means a common area created within a Neighborhood for the exclusive use of Neighborhood residents, the maintenance of which is paid for by lot owners in the Neighborhood, in the form of Neighborhood Assessments. This Declaration does not require a Neighborhood to have a Neighborhood Common Area. A common area of Marine Creek Ranch East that is located within or in close proximity to a Neighborhood is not a Neighborhood Common Area merely by virtue of its proximity.

4.12.4. "**Neighborhood Developer**" means a person who (a) acquires one or more portions of the Property for development or sale, (b) is designated as a Neighborhood Developer in writing by Declarant, (c) obtains Declarant's written consent to Neighborhood Restrictions (if any), and (d) causes the recording of Neighborhood Restrictions (if any) on the land in the Neighborhood. The rights of a Neighborhood Developer may not be assigned or otherwise transferred without Declarant's prior written consent.

Appendix B and Appendix C have priority over the main body of this Declaration.

4.12.5. "**Neighborhood Restrictions**" means covenants, conditions, and restrictions contained in the supplemental declaration or amendment of annexation by which the Neighborhood is made subject to this Declaration, or an additional declaration of restrictive covenants to which the Neighborhood is subject. During the Development Period, Neighborhood Restrictions are not effective without the acknowledged consent of Declarant. This Declaration does not require a Neighborhood to have Neighborhood Restrictions.

4.13. RIGHTS OF CITY. The City, including its agents and employees, has the right of immediate access to the common property at all times if necessary for the welfare or protection of the public, to enforce City ordinances, or to improve the appearance of or to preserve public property, public easements, or public rights of way. If the Association fails to maintain common property to a standard acceptable to the City, the City may give the Association a written demand for maintenance. If the Association fails or refuses to perform the maintenance within a reasonable period of time after receiving the City's written demand (at least 90 days), the City may maintain the common property at the expense of the Association after giving written notice of its intent to do so to the Association. The City may give its notices and demands to any officer, director, or agent of the Association, or alternatively, to each owner of a lot as shown on the City's tax rolls. To fund the City's cost of maintaining common property, the City may levy assessments against the lots and owners in the same manner as if the Association levied a special assessment. The rights of the City under this Section are in addition to other rights and remedies provided by law.

PUT OUT THE WELCOME MAT FOR YOUR HOA

4.14. ASSOCIATION'S ACCESS EASEMENT. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, and each resident by occupying a dwelling in the Property, grants to the Association an easement of access, entry, and maintenance over, across, under, and through the Property, including without limitation all common areas and the owner's lot and all improvements thereon for the below-described purposes. In exercising this easement on a lot, the Association is not liable to the lot owner or resident for trespass.

4.14.1. No Threats. Each owner and resident must allow the Association's workers to work on the lot **without interruption, interference, harassment, or fear, and may not create additional duties for the worker**. An owner or resident must not intimidate or threaten the Association's workers. If an owner or resident causes the Association to be concerned for its worker, the Association may obtain a court order or hire protection for its worker, the cost of which is an individual assessment against the owner and lot.

4.14.2. Notice of Entry. If the exercise of this easement requires entry onto a lot, the Association will try to limit its entry according to a schedule that is available to owners, or during reasonable hours and after notice to the owner, unless entry is a response to a situation that - at time of entry - is deemed by the Association to be an emergency that may result in imminent damage to or loss of life or property.

4.14.3. Limit on Easement. The Association may not use the easement created by this Section as authority to enter a locked or occupied dwelling without the prior consent of the lot owner.

4.14.4. Purposes of Easement. The Association may exercise this easement of access, entry, and maintenance for the following purposes:

- (1) To inspect the lot for compliance with maintenance and architectural standards.
- (2) To perform maintenance that is permitted or required of the Association by the Governing Documents or by applicable law, including installation and removal, as needed.
- (3) To perform maintenance that is permitted or required of the owner by the Governing Documents or by applicable law, if the owner fails or refuses to perform such maintenance, including installation and removal as needed.
- (4) To enforce architectural standards, including installation and removal as needed.
- (5) To enforce use restrictions.

Appendix B and Appendix C have priority over the main body of this Declaration.

- (6) To exercise any self-help remedy permitted by the Governing Documents or by applicable law.
- (7) To enforce any other provision of the Governing Documents.
- (8) To respond to emergencies.
- (9) To assist utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- (10) To perform any and all functions or duties of the Association as permitted or required by the Governing Documents or by applicable law.

4.14.5. Owner's Remedy. To challenge the Association's right of access or the Association's work on a lot, an owner or resident may ask a court to issue a restraining order against the Association. The prevailing party is entitled to receive its reasonable attorneys' fees and costs from the other party. Also, the Association may be liable to the owner or resident for any damages to the lot caused by the Association's exercise of this easement.

4.15. UTILITY EASEMENT. As used in this Declaration, "**utility**" means every utility and utility-type of function, service, or equipment, whether the provider is public or private, such as (without limitation) water, storm drainage, sewer, trash removal, electricity, fuel, natural gas, telephone, cable television, internet service, fiber optic cable, security, and other telecommunication receiving and distribution systems. This Section may not be construed as a representation that any particular utility will be provided. The Association may grant permits, licenses, and easements over common areas for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is hereby granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property. The Association may enter into contracts for utility equipment and services for all or portions of the Property, including bulk rate service agreements. Such contract may provide for installation, operation, management, maintenance, and upgrades or modifications to the utility as the Association determines appropriate. Until Build-Out, Declarant must approve any contract for utility service to a vacant lot. If a particular service or benefit is provided to fewer than all of the lots, or is requested by owners of fewer than all of the lots, the Association may require an owner to pay the service provider directly, or may levy individual assessments against the served lots to fund the expense.

4.16. MINERAL INTERESTS. On the date of this Declaration, it is expected that all mineral interests and water rights will have been reserved by a prior owner of the Property or conveyed pursuant to one or more deeds or other instruments recorded in the Real Property Records of Tarrant County, Texas, including but not limited to rights to all oil, gas, or other minerals and water lying on, in, or under the Property and surface rights of ingress and egress. Because the instruments conveying or reserving mineral interests and water rights were recorded prior to this Declaration, those interests in the Property are superior and are not affected by any provision to the contrary in this Declaration. By accepting title to or interest in a lot, every owner acknowledges the existence of the mineral and water rights or reservations referenced in this Section and the attendant rights in favor of the owner or owners of the mineral interests.

4.17. OIL & GAS ACTIVITY. In the era in which this Declaration is written, there is renewed interest in oil and gas exploration. Owners and occupiers of real property located anywhere in Texas must be aware that activities related to the exploration, drilling, storage, and transportation of oil, gas, and other minerals may occur, from time to time, within, adjacent to, or in the vicinity of the real property that is owned or occupied, typically pursuant to prior-recorded easements, rights, reservations, and mineral deeds. Prospective owners and residents of Marine Creek Ranch East are encouraged to inform themselves about past, current, or potential future oil and gas activity within, adjacent to, or in the vicinity of the Property, and to evaluate the potential effects of such activity on ownership or occupancy of a lot.

4.18. NOTICE OF LIMITATION ON LIABILITY. The development of the Property occurs during a period when many local governments are trying to be absolved of liability for flood damage to private property. As a condition of plat approval, a governmental entity may require a plat note that not only disavows the entity's liability for flood damage, but affirmatively assigns the liability to the Association. Declarant does not intend or desire to impose such absolute liability on the nonprofit association of lot owners. Notwithstanding plat notes or public codes or ordinances now in existence or hereafter created, the Association cannot and should not be liable for acts of God or for property damage that is not the

Appendix B and Appendix C have priority over the main body of this Declaration.

result of the Association's negligence or wilful misconduct. On behalf of the Association, Declarant hereby gives notice that the Association does not accept liabilities imposed by a governmental entity for which the Association cannot obtain insurance at a reasonable cost, or for which its members refuse to fund reserve accounts at levels sufficiently high to pay the damages for which the governmental entity may seek to make the Association liable. This notice is not intended to create a liability for any governmental entity. Further, this notice may not be construed to create a duty for the Association to obtain insurance or to fund reserve accounts for damage from rising waters.

ARTICLE 5 COMMON PROPERTY

5.1. **OWNERSHIP.** The designation of real or personal property as common property may be determined by the plat, this Declaration, the appraisal district, a taxing authority, local ordinance, a recorded development agreement, a recorded deed into the Association, possession and use, or any combination of these. Mere ownership of the property is not determinative. All costs attributable to common property, such as (if applicable) maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, regardless of the holder of legal title to the common property, unless this Declaration elsewhere provides for a different allocation for specific common property.

5.2. **USE.** The Association determines the use of every common area, and may change the use from time to time. As a general rule, a common area may be used only for the purposes for which the common area is designed, uses that are customary for that type of common area, and uses authorized by the Association. No portion of a common area may be "privatized" or used as an extension of a home or yard.

5.3. **PUBLIC v. PRIVATE.** On the date of this Declaration, the Property's common areas are intended for the exclusive use of the Property's owners and residents and their guests and are not intended to be a public accommodation or a public facility within the meaning of the Americans with Disabilities Act. This provision may not be construed to prevent the Association from enlarging the use of a common area if such expansion is deemed to be in the best interest of the Association, or from opening a common area to use by the public if public use is a condition of a status or benefit that is deemed to be in the best interest of the Association.

5.4. **ALLOCATION & DELEGATION.** All duties and liabilities of property ownership accompany ownership of fee title to real property, unless a duty or liability is assigned to another party by applicable law, the plat, or this Declaration. By acquiring an ownership interest in a lot, each owner acknowledges that certain obligations for a lot or common property may be allocated, delegated, or assigned to a party other than the parcel's record title owner. No duty may be assigned or re-assigned to Declarant without Declarant's acknowledged consent in a publicly recorded document. To bolster this Declaration's assignments to the Association, Declarant hereby assigns, delegates, and conveys to the Association any responsibility and liability for common property that is assigned to Declarant by a local ordinance, development agreement, or plat, subject to Declarant's reserved rights in Appendix B of this Declaration.

5.5. **CHANGE OF USE.** From time to time, the Association may modify common property on a temporary or long-term basis, such as to respond to changes of lifestyles, economies, environmental conditions, public policies, or recreational values, provided (1) the board deems the modification to be in the Association's best interest and (2) the modification does not violate an agreement with or requirement of a public entity without the entity's written approval of the modification. Modification includes (without limitation) a change of use, or the removal, addition, re-location, or change of improvements on a common area or improvements that are common property. In connection with the modification, the board may adopt use rules specific to the modification and may limit the applicability of common area use rules that are not applicable to the modification - without amending this Declaration. Unless required by a public or quasi-public entity, a modification does not require an amendment of this Declaration or of the plat, even if a common area was platted or improved for a particular use.

5.6. **CONVEYANCE BY OR TO ASSOCIATION.** The Association, acting through its board, must accept or convey a real property interest in a common area from or to, as the case may be, Declarant, a Builder, a special district, a local government, or any other public entity, if the conveyance is required by the Declarant, Builder, district, government, or entity, or if the conveyance is necessary to fulfill the development plan for the Property or to adjust to a change in the development plan. The Association, acting through its board, may accept or convey a real property interest in a common area from any other person or entity if the board deems such conveyance to be in the best interest of the Association

Appendix B and Appendix C have priority over the main body of this Declaration.

and if the conveyance does not result in a significant or adverse change of land use for residents of the Property. Conveyance of a platted common area to the Association does not require acceptance by the Association. Any other conveyance of a common area, except to and from Declarant, or with Declarant's approval, must be approved by the board and by owners of at least a majority of the lots. Property interests capable of conveyance include, without limitation, fee title to all or part of a common area, an easement across real property, and a lease or license of real property. Notwithstanding anything to the contrary in this Declaration, if the Property is subject to a special district, the special district may acquire responsibility for, control of, or ownership of what has been designated a common area. The authority of the special district is superior to that of the Association.

5.7. ACCEPTANCE OF TITLE. Each owner, by accepting an interest in or title to a lot in Marine Creek Ranch East, whether or not it is so expressed in the instrument of conveyance, acknowledges, understands, accepts, and agrees to each of the following statements for any common area conveyed to the Association in connection with a plat or development plan approved by local government, a platting authority, or Declarant:

- (1) The conveyance is a ministerial task to document what may also be a dedication by plat or local ordinance.
- (2) A common area may be conveyed to the Association with or without the Association's prior knowledge of or acknowledged consent on the instrument of conveyance.
- (3) Public recording of the deed in the Real Property Records of Tarrant County, Texas, is deemed to be delivery of the deed to the Association, whether or not actual delivery is made.
- (4) The Association's acceptance of title, with or without warranty, is deemed when the deed is publicly recorded.
- (5) This Section does not pertain to conveyance of a Lot to the Association, unless the conveyance is by or through Declarant or by a third party with Declarant's approval, and with the intent of converting the Lot to common area use.

COMMON PROPERTY IS "AS IS" ON ANY DAY - EVERY DAY.

5.8. ACCEPTANCE OF CONDITION. Each owner, by accepting an interest in or title to a lot in Marine Creek Ranch East, whether or not it is so expressed in the instrument of conveyance, acknowledges, understands, accepts, and agrees to each of the following statements:

- (1) All aspects of common property, such as condition and appearance, are destined to change, such as deterioration from normal wear and tear, the effect of weather conditions, the possibility of natural or man-made catastrophes, and the perspective of changing preferences and obsolescence.
- (2) The common property and any improvements are acceptable to owner in its then-existing "**AS IS**" condition, which will continue to change.
- (3) The Association is authorized to make decisions pertaining to common property, including decisions about appearance, maintenance, repair, and replacement.
- (4) The Association's responsibility for common property is continuous and uninterrupted by changes in the Association's board of directors or management.
- (5) Although the Association has affirmative duties for common property, it has no duty to an owner to address any aspect of common property to facilitate the marketing or financing of the owner's home.
- (6) A common area conveyed to the Association by or through the Declarant or by a third party with Declarant's approval is a ministerial task that does not require the Association's acceptance of title or condition, all of which are deemed to be accepted by the Association, "**AS IS, AND WITH ALL FAULTS**".

Appendix B and Appendix C have priority over the main body of this Declaration.

- (7) Although Declarant reserves the sole and exclusive right to use and enhance common areas during Build-Out (in Appendix B), Declarant has no responsibility for maintaining common area improvements or for "refreshing" them as they age. That ongoing continuous responsibility belongs to the Association, during the Declarant Control Period and after control transfers from Declarant to the owners. Accordingly, Declarant has no duty to pay for common property improvements as a condition of transferring control.

5.9. COMPONENTS. Common property may be improved or unimproved, and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. The common property of the Property consists of the following components on, within, or adjacent to the Property, even if located on a lot, land adjacent to the Property, or a public right-of-way:

- (1) Any area shown on the plat as common area or an area to be maintained by the Association.
- (2) Any land or interest in real property conveyed to the Association for use as a common area.
- (3) The formal entrances to the Property, if any.
- (4) Screening features (if any) along a street within or around the Property, to the extent that the Association has a right or duty to maintain a screening feature.
- (5) The right-of-way of a street within or around the Property, to the extent the Association has a right or duty to maintain or regulate that portion of the right-of-way.
- (6) The grounds between a street on the perimeter of the Property and the screening feature, if any, to the extent the Association has a right or duty to maintain or regulate that portion of the right-of-way.
- (7) Landscaping on street islands (if any), to the extent it is not maintained by a public or quasi-public entity.
- (8) Any modification, replacement, or addition to any of the above-described areas and improvements.
- (9) Any personal property owned by the Association.

5.10. LIMITED COMMON AREA. If the board determines it to be in the Association's best interest, from time to time the board may limit use of a portion of the common area to one or more lots for the sole and exclusive use of the lot owner, as a limited common area, whether or not the area is so designated on the plat, by license, lease, or other revocable agreement. Inherent in the limiting of a common area, maintenance of the limited common area becomes the responsibility of the lot owner to whom use is limited. Any such limitation is with the permission of the Association and does not support a claim of adverse possession. For example, a common area that is difficult to access and maintain except via the adjoining house lot might be a candidate for limited common area. Similarly, the Association has the right, but not the duty, to accept maintenance responsibility for a nominal portion of a lot or an improvement thereon for which the Association is better positioned than the owner to access and maintain, such as the edge of a lot that is adjacent to a common area.

5.11. NO ADVERSE POSSESSION. Each owner, by accepting an interest in or title to a lot, agrees that common area may not be adversely possessed by owner. An owner's use, maintenance, or improvement of a common area - with or without the Association's knowledge or permission, whether or not open or notorious, and regardless of duration - does not support an owner's claim of adverse possession of common area. To obtain title to a common area requires a publicly recorded deed or replat signed by the common area's owner of record. This Section may not be construed to authorize any owner's exclusive use of common area.

ARTICLE 6

ARCHITECTURAL COVENANTS & USE RESTRICTIONS

6.1. GENERAL PROVISIONS. This Declaration creates rights to oversee the design, use, and appearance of lots and homes in order to preserve and enhance the Property's value. The use and appearance of the Property are at all times subject to rules and restrictions contained in Governing Documents, such as this Declaration and the Owners Manual, and

Appendix B and Appendix C have priority over the main body of this Declaration.

applicable law, as each may be amended and supplemented from time to time, and to future rules and restrictions adopted pursuant to this Declaration or applicable law.

6.1.1. Applicability. This Article pertains to visible (as defined below) additions and changes to a lot and to anything on the lot, such as the dwelling and fences. This Article purposefully distinguishes between vacant and improved lots because of the separation of approval authorities ~ the AGC has authority over lots that have been improved with dwellings, the Declarant or its appointed New Construction ACC has authority over vacant lots and new home construction.

6.1.2. Timing. This Article is written for long-term use by the owner-controlled Association after Build-Out and Sell-Out of the Property, at which time the AGC will be the sole Architectural Authority. Prior to Sell-Out this Article must be construed in light of whichever Architectural Authority is applicable to a lot.

6.1.3. Construction & Conflict. If a provision of this Article or any Governing Document, such as the Owners Manual, is not clear as to its scope or applicability, it will be construed to apply only to uses, changes, additions, and improvements which are visible.

6.1.4. Improvement. The words "improved" and "improvement" do not have precise definitions and must be construed in light of the context in which used. "**Improved lot**" generally means a lot on which a dwelling has been constructed and completed, or a lot that is used for residential purposes in connection with the dwelling on the adjacent lot. "**Improvement**" has multiple meanings, such as (1) any item of construction (the house is an improvement on the lot) and (2) only a change or addition to an existing item of construction (the shutters are an improvement to the home's front facade).

6.1.5. Community Standard. As used in the Governing Documents, a term such as "**community standard**" or "**subdivision standard**" or "**neighborhood standard**" is an evolving flexible measure of the use and appearance of the Property as a pleasant and visually harmonious residential neighborhood. It requires compatibility, but not uniformity - harmony, but not sameness. The community standard is expected to change over time as materials, technologies, tastes, lifestyles, and values change, and as landscaping matures. Even though a community standard may be difficult to articulate, a violation of the community standard should be easy to identify as something unattractive, inappropriate, or otherwise unsuitable for the Property from the perspective of a reasonable person, taking into consideration prevailing public policy and community sensibilities. "Community standard" applies because - as a practical matter - the Governing Documents can not anticipate or dictate every possible use of a lot or dwelling.

**BEAUTY IS IN THE EYE OF THE BEHOLDER.
THE PROPERTY'S BEHOLDER IS THE AGC.**

6.1.6. Visibility & Context. As used in the Governing Documents, terms such as "**screened**" and "**visible**" are in relation to the view of an average person sitting in a passenger vehicle driving on a street, or the view of a person of average height standing flat-footed at least 20 feet away from the property line, as appropriate for the context. It does not pertain to a view from overhead or from a second floor window. Also, it must not require a person to strain to see the perceived violation. A perceived violation must be readily - easily - viewable, usually from afar, to be "visible" or "not screened" to be actionable. Depending on circumstances and location, partial or substantial compliance with an architectural requirement - rather than strict compliance - may be sufficient. The board may determine what constitutes a visible item or adequate screening on a case-by-case and location-by-location basis, for purposes of applying a particular rule. It is within the sole discretion of the Architectural Authority to determine whether a certain visible item in a particular location is sufficiently visible to constitute an actionable violation of a rule. For example, a violation on a lot near the Property's entrance - because of the lot's visibility - may be more actionable than the same violation on a lot in the back corner of the Property. Similarly, a violation on a home that is surrounded by substantial mature landscaping may be less noticeable, and hence less actionable, than the same violation on a lot with sparse landscaping.

6.1.7. Purposes. One purpose of this Article is to require that proposed visible additions and changes to a lot be subject to review, approval, and disapproval. Another purpose is to promote and ensure the level of taste,

Appendix B and Appendix C have priority over the main body of this Declaration.

design, and quality by which improved lots in the Property are maintained, modified, and further improved over time. A third purpose is to prevent visible modifications on improved lots that may be considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements or the evolving architectural vision for the Property. A fourth purpose is to regulate the appearance of every aspect of proposed or existing visible improvements on and to an improved lot, including but not limited to replacement dwellings, additions, fences, landscaping, retaining walls, yard art, sidewalks and driveways.

ALL VIOLATIONS ARE NOT EQUAL

6.1.8. Independent Requirements. Visible changes and additions to a lot must (1) have the Architectural Authority's prior written approval, (2) comply with applicable public codes and ordinances, (3) have a building permit issued by the appropriate local government, if applicable and if the type of improvement requires a permit, and (4) comply with the specifications and restrictions of the Declaration and Owners Manual, unless a waiver or variance has been granted. These four requirements are independent - one does not ensure or eliminate the need for another. If different sources of specifications address the same improvement, the source with the more stringent specification controls.

6.1.9. Vested Rights. As a general rule, an owner may rely on written approval from the Architectural Authority for as long as the approved item, improvement, or use, or its substantially equivalent replacement, exists and is adequately maintained. If the Association adopts new standards for the Property, such as a change of fence stain color, the owner of a previously approved item, improvement, or use is expected to incorporate the new standard in connection with maintenance or replacement of the item, improvement, or use.

**AGC IS "HANDS-OFF" NEW HOMES
& BUILDERS UNTIL SELL-OUT**

6.2. NEW HOMES. Until Sell-Out, Declarant has the absolute unilateral right of architectural control over every portion of the Property, including each lot, that (1) that is vacant or unimproved, (2) on which the initial improvements are incomplete or under construction, (3) is used by Declarant or a Builder for purposes of marketing, such as model homes, (4) is owned by Declarant or a signer of this Declaration, or their successors, or (5) is owned by a Builder. **Neither the Association, the board, the AGC, nor any other committee appointed by the Association or board (no matter how the committee is named) may involve itself with the approval of a lot's initial improvements, typically being new homes and their appurtenances, such as fences and flatwork. The AGC has no authority over any aspect of a lot that is under Declarant's architectural authority.** In case of dispute over the authority of the AGC versus Declarant or the Declarant-appointed New Construction ACC, Declarant or its New Construction ACC controls. Until Sell-Out, Builder-owners are subject to this Article only if and to the extent required by Declarant, and only by substituting the New Construction ACC for all references to the AGC or the board. This Section is superior to every other part of this Article, and may not be changed without Declarant's acknowledged consent on a publicly recorded change instrument.

OWNERS CAN MAKE SOME CHANGES WITHOUT AGC APPROVAL

6.3. ALLOWED ACTIVITIES. It is a high-wire balancing act to maintain the architectural integrity of the Property while allowing the owners to have a degree of autonomy over their yards and homes. The purpose of this Section is to carve-out certain appearance-related activities that may be performed by the owner without obtaining the prior approval of the AGC, and to inform the AGC that this Article and architectural control, in general, are not intended to regulate every action on every lot. The measure of subjective terms like "short-term," "temporary," "customary," and "reasonable" is determined on a case-by-case basis and must reflect the totality of the circumstances, such as the scope of the work, environmental conditions, and the availability of materials and labor. **This Section controls over anything to the contrary in this Article.**

Appendix B and Appendix C have priority over the main body of this Declaration.

6.3.1. Exemption for Temporary Conditions. To be exempt from AGC approval, any of the following activities must be necessary, temporary, short-term, and not-reoccurring:

- Warranty work by a homebuilder or contractor.
- Temporary treatments or repairs to damaged improvements pending permanent repairs.
- Temporary removal of fences in connection with a short-term project on the lot.
- Temporary use of unfenced yards and driveways for material storage or waste disposal in connection with a short-term project on the lot.

6.3.2. Exemption for Like-for-Like Activities. To be exempt from AGC approval, any of the following activities must be substantially like-for-like in appearance, so there is not a noticeable significant change to visible parts of the lot or dwelling:

- Maintain, repair, or reconstruct the lot and dwelling or other improvements.
- Rebuild according to original or previously-approved plans and specifications.
- Repaint exteriors according to an AGC approved color scheme.

6.4. OWNER'S DUTY. By accepting an interest in or title to a lot in Marine Creek Ranch East, **each owner covenants to make no visible changes or additions to the owner's lot or to improvements on the lot without the Architectural Authority's prior written approval if the change or addition is visible and noticeably affects the appearance of improvements on the lot.** Also, each owner (by acquiring title) and each resident (by occupying a home in the Property), acknowledges that the improvement, modification, appearance, maintenance, and use of the lot and home are regulated by the Governing Documents, in particular this Declaration and the Owners Manual. Each owner and resident further covenants to comply with and conform to the applicable rules and restrictions for the Property. Also, each owner and resident will follow the customary procedures for applying for an approval, waiver, or variance by the board or the Architectural Authority, as applicable, and will abide by the outcome.

6.5. DEFAULT-BASED DENIAL. The purpose of this Section is to give the Association leverage over an owner or lot in default by making certain privileges contingent on curing the default. This Section pertains to every owner and lot (other than Declarant and Declarant-owned lots) for which the assessment account is delinquent or the lot has an uncured violation that is visible from the street and which adversely affects the appearance of the lot, a status which is hereafter referred to being "**in default.**" On a case-by-case basis, tailored to the circumstances, the Association and the Architectural Authority have the discretionary right, but not the duty, to disqualify or deny a request for a variance or for approval of a change affecting the use or appearance of a lot solely on the grounds that the requesting owner or the owner's lot is in default, provided the owner has received written notice of the default and a reasonable opportunity to cure same. A disqualification or denial based on this Section must state the reason for disqualification or denial and the action required to qualify the request for consideration. Curing a default does not guaranty that the owner's request will be approved when re-submitted. Anything to the contrary in this Declaration or any other Governing Document must be construed in light of the discretionary authority created by this Section.

6.6. SPECIFICATION SOURCES. Specifications for the construction of initial improvements on vacant lots are not published in this Declaration or in the Owners Manual, and may be part of a private agreement between Declarant and a Builder. The specifications contained in the Owners Manual were selected from the multitudes because of their potential applicability to the daily use of the improved lots and the expectation that owners may try to modify their houses, fences, and yards. Also, additional or fewer specifications or variations of the requirements in the Owners Manual may be included in restrictions that are specific to certain lots, a designated neighborhood, or a particular phase of the Property, and may be included in a supplemental declaration or amendment of annexation, by which a phase or section of real property is added to Marine Creek Ranch East. This Section serves as notice of multiple sources of specifications pertaining to the initial construction or subsequent modification of improvements in Marine Creek Ranch East.

6.7. OWNERS MANUAL. The initial rules and regulations for the use, maintenance, and appearance of lots are compiled as chapters of a single publication, the Owners Manual. The provisions of the Owners Manual regulate every improved lot in the Property and specifically pertain to (1) modification of an existing home and other improvements on an improved lot, (2) reconstruction of an existing home and other improvements on an improved lot, (3) additions to an existing home and other improvements on an improved lot, and (4) the use and appearance of an improved lot. Because it is not necessary to republish the entire Owners Manual with every change and supplement, over time the Owners

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Manual may consist of multiple documents. Also, a lot may be subject to additional or different specifications in a publicly recorded instrument to which particular lots are subject. This Section applies to all rules and regulations for the use, maintenance, and appearance of lot, without regard to how the rule is published or whether it references this Section or the Owners Manual. The placement of a rule or restriction in a particular chapter of the Owners Manual is not intended to limit the applicability of that rule or restriction. Therefore, no person - or the Association - should rely on a single chapter or section of the Owners Manual as the complete treatment of a topic. The entire Owners Manual, as amended or supplemented from time to time, must be consulted to determine whether and how a particular matter is addressed. In addition to the Owners Manual, a lot may be subject to additional or different specifications in a publicly recorded instrument to which a particular lot is subject. The background explanation provided in this Section may not be invoked by an owner as a justification for the owner's noncompliance.

6.7.1. Backstory. The original Governing Documents, including the Owners Manual, are drafted when the Property is raw land ~ before buildings, before residents, before Marine Creek Ranch East becomes a neighborhood with a personality. Declarant imposes limits on what can be done with a home and yard to support the Build-Out and Sell-Out of new homes in the Property. Declarant also believes that the restrictions serve the long-term best interests of the community of owners.

6.7.2. Balancing Interests. Neighborhood appearance and quality of life may affect the value of a home, which is often an owner's largest investment. At the same time, a home is where real people live. In applying the Owners Manual, the board and the AGC are expected to balance the overall perspective of the Property and the collective needs of the community of owners with the rights of individual owners to use and enjoy their homes with a degree of autonomy. Similarly, owners may be required to temper their expectations. An owner who expects the Association to continually enforce every restriction against all lots to the nth degree may be disappointed. Similarly, an owner who expects to be able to do whatever he wants with his home and yard without suffering consequences may be disappointed. The "sweet spot" of community contentment is somewhere between the two extremes of no enforcement and constant strict enforcement.

FAIRNESS IS DESIRED & ASPIRED BUT NOT GUARANTEED

6.7.3. Authority for Flexibility. The original Governing Documents contain provisions that authorize the board, under certain circumstances, to tolerate violations, to grant variances, and to be flexible in its enforcement of the restrictions. That authority belongs to the board, in its sole discretion, acting in what it considers to be the best interests of the community of owners. Individual owners do not have corresponding rights under the Governing Documents to demand a waiver from the Association or to demand enforcement by the Association. Each owner is expected to honor the authority of the Association to enforce any restriction to which the owner and his lot are subject, and to accept that the board may use its discretion in enforcing the restrictions against owners and lots.

6.7.4. Changing Times. Over time, the Association may have reason to modify the restrictions or to change its interpretation or enforcement of the restrictions. Why? For a variety of reasons, such as to keep pace with changes in the values and lifestyles of residents, to address new technologies and materials, to reflect the Property's maturity, to eliminate restrictions that are more burdensome than beneficial, to respond to environmental or economic conditions, and to embrace changes of public policy and applicable law. Accordingly, some aspects of the Owners Manual will need to be changed from time to time. In the meantime, every provision of the Owners Manual is aspirational as well as enforceable.

6.8. THE AGC. The Architectural Guidance Committee (the "**AGC**") is a board-appointed committee of the Association. The AGC will consist of at least 3 but not more than 7 persons appointed by the board, pursuant to the Bylaws. Members of the AGC serve at the pleasure of the board and may be removed and replaced at the board's discretion. Members of the AGC need not be owners or residents. The board may serve as the AGC and may appoint directors to the AGC. The Association may hire professionals - such as architects, engineers, and design consultants - to serve on or to advise the AGC at a compensation determined by the board.

6.8.1. Limits on Liability. The AGC and each of its members has no liability for decisions made in good faith by the AGC and which are not arbitrary or capricious. The AGC is not responsible for: (1) errors in or

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omissions from the plans and specifications submitted to the AGC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with governmental codes and ordinances, and public laws.

6.8.2. Discretion. The AGC may exercise discretion with respect to taste, design, and all standards specified by the Governing Documents.

6.8.3. Variations. All lots are not similarly situated. One lot may be more visible than others because of its location, size, elevation, orientation, or landscaping. For example, a corner lot or a lot at the Property's entrance is typically more visible than an interior lot. The AGC may vary its interpretation and enforcement of specifications, use restrictions, and rules based, in part, on a lot's location or visibility - provided the AGC tries to treat similarly-situated lots or circumstances in like manner.

6.8.4. Appeal of AGC Decision. An owner may appeal to the board any decision by the AGC to deny the owner's application or to approve the owner's application only if certain changes are made. The owner must submit a written application for appeal to the board, with a copy to the AGC, within 60 days after the AGC's decision. The board may affirm, overrule, or modify the AGC's decision. If the board acts as the AGC, the owner may appeal to the board at an open board meeting or in executive session, the choice being solely at the discretion of the owner.

**BEFORE CHANGING THE APPEARANCE OF YOUR LOT OR THE OUTSIDE
OF YOUR HOME, APPLY FOR THE AGC'S WRITTEN APPROVAL.**

6.9. APPROVAL REQUIRED. Without approval of the Architectural Authority, a person may not construct or re-construct a dwelling or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to an improved lot, or to a vacant lot that was previously improved with a home, if (1) it is expected to have an adverse affect on the general value or appearance of the neighborhood, or (2) it will be visible from a street or common area and it changes the appearance of the lot or dwelling. The Architectural Authority has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property. Without the Architectural Authority's prior written approval for a variance, improvements, alterations, and additions to any lot - vacant or improved - must have the characteristics described in the Owners Manual. In case of conflict between the terms of this Article or the Owners Manual, and a restriction or guideline that pertains directly to the portion of the Property in which a lot is located, the more lot-specific restriction controls. The AGC may supplement this Article and the Owners Manual with interpretations, explanations, and adaptations. An owner should review the Association's architectural restrictions and requirements before planning or initiating visible changes, repairs, or replacements to his lot and dwelling.

6.10. APPLICATION FOR APPROVAL. To request architectural approval, an owner must make written application to the Architectural Authority and submit plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the owner of an improved lot may but is not required to submit letters of support or non-opposition from owners of lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration or the Owners Manual for which a variance is sought. The Architectural Authority's response to the applicant must be in writing and may be similar to "Approved," "Approved with Conditions," "Denied," or "More Information Required." **ANY RESPONSE OTHER THAN "APPROVED" IS A DENIAL, EVEN IF "DENIED" IS NOT USED.**

6.10.1. No Deemed Variances. If the AGC approves an application for work that requires a variance, without granting the variance, the approval is void. Applicant is solely responsible for performing due diligence to identify any land use restriction that relates to the proposed work, such as (without limitation) plat notes, setbacks, easements, and specifications in the Owners Manual, and for providing that information to the AGC with the application. If the proposed work requires a variance, applicant must apply for a specific variance and may not perform any work unless the specific variance is granted in writing by the AGC. Applicant must provide the AGC with actual notice of the restriction for which a variance is required and may not assume that the AGC has complete knowledge of restrictions and limitations on applicant's lot. Constructive and inquiry notice to the AGC are not sufficient for purposes of this Section. This Subsection does not apply to variances granted by Declarant or the New Construction ACC to Declarant-approved Builders, which variances may be deemed.

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6.10.2. Written versus Verbal Response. In the era in which this Declaration is written, some forms of writing - such as text messages, tweets, and online chats and messengers - are substitutes for conversation. For purposes of this Section, all "writings" are not equal. To qualify as "**written approval**" the writing must have certain **FORMALITIES**, such as (1) being in a form that can be easily preserved as a permanent record of the Association, (2) clearly identifying the lot and its owner, (3) referencing the application with enough detail to provide certainty about which application is being approved (or denied), and (4) citing the signer's authority for writing on behalf of the AGC. Any other communication - verbal or written - does not constitute AGC approval, even if issued by an Association director or officer, a member of the AGC, the Association's manager, or Declarant.

VERBAL APPROVAL DOESN'T COUNT
~ FORMAL WRITTEN APPROVAL IS REQUIRED ~

6.10.3. Method of Submission. Electronic submission with digital files is permitted. If the submission is by paper, the applicant must submit two identical sets of plans and specifications - one set to be retained by the AGC, the other set to be returned to the applicant marked with the AGC's response.

6.10.4. Inadvertent Mishandling. Declarant remains the exclusive Architectural Authority for the original improvements on a lot, such as construction of the first new home, even if an architectural application is mistakenly processed to and by the AGC instead of the New Construction ACC. The AGC is charged with recognizing applications outside its scope of authority and redirecting an application to the New Construction ACC.

6.10.5. No Approval Required. No approval is required for the "Allowed Activities" described above.

6.10.6. Building Permit. If the application is for work that requires a building permit from a governmental body, the Architectural Authority's approval is automatically and implicitly conditioned on the issuance of the appropriate permit. The Architectural Authority's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, issuance of a building permit does not ensure Architectural Authority approval.

6.10.7. Neighbor Input. The Architectural Authority may solicit comments on the application, such as from owners or residents of lots that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant are solely at the discretion of the Architectural Authority. The Architectural Authority is not required to respond to the commenters in ruling on the application.

6.10.8. Initial Variances for Vacant Lots. A lot does not come within the jurisdiction of the AGC until the initial dwelling and related improvements have been completed. Any aspect of an initial improvement that is contrary to this Declaration or the Owners Manual is presumed to have been granted a variance by Declarant.

6.11. TIME LIMITS. In approving an application, the Architectural Authority may specify maximum dates for starting and completing the proposed work, which dates may be tailored to the circumstances of the application and the nature of the proposed work. If the work has not commenced within 60 days after the specified start date, the approval is void and the owner must re-apply for approval. Once started, the work must be completed with due diligence. In the absence of time periods specified in the Architectural Authority's approval, the work must be started within 60 days from the date of application approval, and must be completed within 90 days from the date the work commences. In most cases, the commencement of work must be apparent at a site inspection and does not pertain to planning. The deadlines of this Section are subject to force majeure and may be extended if the approved work cannot be started or completed due to causes that are outside the control of the owner and its contractors and which could not be evaded through the exercise of due care, such as natural disasters. An approval automatically expires on the earlier of completion of the work for which approval was granted, or one year after date of approval. This Section does not apply to improvements made or approved by Declarant, such as construction of the first home on a lot.

6.12. REASONABLE ACCOMMODATION FOR HANDICAP. To the extent required by applicable law and subject to the requirements of this Section, the Architectural Authority will accept an application for "reasonable accommodation" (within the context of Fair Housing Acts) by or for a person with a valid handicap that qualifies for protection under the

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Fair Housing Act. The Architectural Authority may require adequate documentation of the handicapped person's qualification for Fair Housing Act protection as a condition of reviewing the application. To the extent permitted by applicable law, the Architectural Authority may specify aspects of the reasonable accommodation that affect the appearance and value of the Property, and the right to choose an alternate method for the reasonable accommodation. No reasonable accommodation for a handicap is permitted on portions of the Property that are visible from a street or common area without the prior written approval of the Architectural Authority.

6.13. CO-ADJACENT LOT. This Section applies to Marine Creek Ranch East as long as applicable law defines "adjacent lot" and "residential purpose" as it does in Property Code Sec. 209.015 in effect on the date of this Declaration. This Declaration, the Owners Manual, and the other Governing Documents are drafted with the expectation that every platted residential lot owned by a person other than Declarant will be improved with a dwelling, unless the lot is conveyed to the Association or to a Public Agency. This Section pertains to the atypical situation of a vacant lot (the "**Co-Adjacent Lot**") that is adjacent to a lot with a dwelling (the "**Dwelling Lot**"), and is used in conjunction with the Dwelling Lot, both lots having the same owner ~ a situation which is addressed by State law. Because there may be no Co-Adjacent Lot in the Property, this Declaration, the Owners Manual, and the other Governing Documents do not specifically address how provisions intended for lots improved with dwellings are to be applied to Co-Adjacent Lots. Therefore, notwithstanding anything to the contrary in a Governing Document, the following provisions apply. A Co-Adjacent Lot may be used by the owner of the Dwelling Lot only for "residential purposes" as defined by applicable law, or for any additional purpose permitted by the Architectural Authority. Notwithstanding provisions (if any) specific to vacant lots in the Property, a Co-Adjacent Lot is subject to the same assessment liability, at the same rate, as the Dwelling Lot with which it is paired. On a case-by-case basis and to the full extent permitted by applicable law, the Architectural Authority may establish and enforce additional or different criteria and specifications for every aspect of the use, maintenance, appearance, and improvement of the Co-Adjacent Lot, including (without limitation) screening, landscaping, and construction specifications. By owning a Dwelling Lot and a Co-Adjacent Lot, the owner acknowledges that (to the full extent permitted by applicable law) (1) this Section applies to the Co-Adjacent Lot and controls over any provision to the contrary elsewhere in the Governing Documents; (2) a Co-Adjacent Lot may not be used or improved without the prior written approval of the Architectural Authority; (3) in reviewing an application for uses or improvements on the Co-Adjacent Lot, the Architectural Authority may require additional information specific to the proposed use or improvement; (4) the Architectural Authority may establish lot-specific criteria and specifications that are different from or in addition to requirements for lots improved with dwellings, and tailored to the location and visibility of the Co-Adjacent Lot; and (5) the conditioned approval for the Co-Adjacent Lot may be in the form of a covenant agreement to be signed and acknowledged by the owner and by the Architectural Authority or the Association, and publicly recorded in Tarrant County, Texas.

6.14. VARIANCE. The board or the Architectural Authority, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance, other than the limited exceptions authorized by this Declaration or the Owners Manual.

MARINE CREEK RANCH EAST HAS RULES

6.15. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association has the right to adopt, amend, repeal, and enforce reasonable rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. **The right to make rules and to regulate includes the right to prohibit or to restrict.** A right or prohibition established by a Governing Document or applicable law may not be abridged or extinguished under this Section except to the extent (if any) permitted by the establishment authority. In addition to the restrictions contained in this Article and the Owners Manual, each lot is owned and occupied subject to the right of the board to establish rules, and penalties for infractions thereof, governing:

- (1) Use of common areas.
- (2) Hazardous, illegal, or annoying materials or activities on the Property.
- (3) The use of Property-wide services provided through the Association.
- (4) The consumption of utilities billed to the Association.
- (5) The use, maintenance, and appearance of exteriors of dwellings and lots.

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- (6) Landscaping and maintenance of yards.
- (7) The occupancy, leasing, and marketing of dwellings.
- (8) The business use of dwellings, including short term rentals.
- (9) Animals.
- (10) Vehicles.
- (11) Disposition of trash and control of vermin, termites, and pests.
- (12) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for residents.

6.16. **ASSOCIATION'S RIGHT TO POST SIGNS.** The Association may post signs on the Property and on the Association's website (if any). If customary and if done or authorized by the Association, rules may be published on signs posted or painted on the Property, or communicated to owners as temporary or seasonal rules that are circumstance-based. Each resident must comply with any rules and signs posted from time to time on the Property by the Association, such as those regulating use of common areas. Also, each resident must comply with notices communicated by the Association, from time to time, in the nature of seasonal or temporary rules, or notice of a change affecting use of the Property. The Association may, but is not required to, recite the text of a sign in a publicly recorded document. In the event of a discrepancy or conflict between a rule that is posted on the Property by the Association and a rule that is in a publicly recorded Governing Document, the posted rule controls if it is posted in a place and manner that is appropriate for the conduct to which it relates.

6.17. **SUBJECTIVE STANDARDS.** Standards for some rules and restrictions are inherently subjective, such as what is unattractive or offensive. The Association is not required to honor every resident's individual tolerances. The Use Restrictions, in particular, are not intended to shield a hypersensitive resident from actions or circumstances that would be tolerable to a typical resident of the Property. The Association may refrain from acting on a perceived violation unless the board determines the violation to be significant or a community-wide problem. The Association may not be compelled by one resident to enforce rules and restrictions against another resident. Residents are expected to deal directly and peaceably with each other about their differences.

6.18. **LIMITS TO OWNER'S RIGHTS.** No right granted to an owner by this Article, the Owners Manual, or any provision of any Governing Document is absolute. The Governing Documents grant rights with the expectation that the rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article, the Owners Manual, and the other Governing Documents as a whole do not try to anticipate and address every creative interpretation of the restrictions. For example, if the rules allow an owner to post a for-sale sign, such a right is not permission to mount the sign on the chimney and illuminate it with pulsating neon lights. The rights granted by this Article, the Owners Manual, and the other Governing Documents are at all times subject to the board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Governing Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

6.19. **LIMITED ROLE OF DECLARANT.** Prior to Build-Out, Declarant may identify to the AGC certain locations, uses, or modifications that must not be approved by the AGC without the prior written approval of Declarant or Declarant's designee to prevent a potentially adverse affect on the value or marketing of vacant lots and new homes in the Property. To illustrate, Declarant may require heightened scrutiny for improved lots near a subdivision entrance, along a main thoroughfare, near common areas, or across the street from a model home.

ARTICLE 7 **ASSOCIATION OPERATIONS**

7.1. **MANDATORY MEMBERSHIP.** By acquiring an ownership interest in a lot, a person automatically becomes a member of the Association ~ a mandatory membership Texas property owners association. Membership in the Association is not optional, and may not be severed from ownership of a lot. Conveyance of a lot automatically conveys the Association membership that is appurtenant to the lot, subject to the right of the Association to require satisfactory proof of conveyance as a condition for changing its membership records. This Section is modified by the Declarant Class Member provision of Appendix C.

Appendix B and Appendix C have priority over the main body of this Declaration.

MEMBERSHIP IN THE ASSOCIATION IS NOT OPTIONAL.

7.2. THE ASSOCIATION. The existence and legitimacy of the Association are derived from this Declaration and the Bylaws of the Association.

7.2.1. Type. The Association must be a nonprofit organization, and may be unincorporated or incorporated, as the Association decides from time to time. If the Association is incorporated, the subsequent failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association.

7.2.2. Applicability. The Association is subject to the Texas Business Organizations Code ("**TBOC**"). Because provisions of this Declaration address issues covered by the TBOC, this Declaration is a "Governing Document" as defined by TBOC, and any such provision herein is a "Bylaw" as defined by TBOC. When incorporated, the Association is subject to TBOC Chapter 22 - the Nonprofit Corporation Law. When unincorporated, the Association is subject to TBOC Chapter 252 - the Unincorporated Nonprofit Association Act.

7.2.3. Name. A name is not the defining feature of the Association. Although the initial name of the Association is Marine Creek Ranch East Owners Association, the Association may operate under any name that is approved by the board and (1) registered by the board with the County Clerk of Tarrant County, Texas, as an assumed name, or (2) filed by the Association with the Secretary of State as the name of the filing entity. The Association may also change its name by amending the Governing Documents. Another legal entity with the same name as the Association, or with a name based on the name of the Property is not the Association, which derives its authority from this Declaration.

7.2.4. Duties. The duties and powers of the Association are those set forth in the Governing Documents, together with the general and implied powers of a property owners association and, as applicable, an unincorporated nonprofit association or a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Governing Documents.

7.2.5. Duration. The Association comes into existence on the later to occur of the two following events: (1) the date on which this Declaration is recorded in the Real Property Records of Tarrant County, Texas, or (2) the date on which a deed is recorded in the Real Property Records of Tarrant County, Texas, evidencing diversity of ownership in the Property (that the Property is not owned entirely by Declarant or its affiliates). The Association will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

THE ASSOCIATION ACTS THROUGH ITS BOARD OF DIRECTORS.

7.3. BOARD. The Association is governed by a board of directors. Unless the Governing Documents expressly reserve a right, action, or decision to another party, such as the owners or Declarant, the board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Governing Documents to the "Association" may be construed to mean "the Association acting through its board of directors." The board of directors may authorize or direct officers of the Association, who serve at the pleasure of the board, to implement its decisions.

7.4. MEMBERS & VOTING. Prior to Sell-Out, the Sections of Appendix C titled "Classes of Members" and "Voting" control in lieu of applicable portions of this Section. The Association will have one class of members - the Homeowner Class. Membership is automatic, mandatory, appurtenant to ownership of a lot, and terminates when the member is divested of his ownership interest in the lot to which it is tied and from which it may not be separated. If a lot is owned by more than one person, the co-owners share the membership and decide for themselves how it will be exercised. The board may require satisfactory evidence of transfer of ownership before a purported owner is recognized by the

Appendix B and Appendix C have priority over the main body of this Declaration.

Association as a member. The one vote appurtenant to each lot is indivisible. All votes are uniform in weight, regardless of the value, size, or location of the lot or its improvements. Cumulative voting is not allowed.

7.5. HEAD COUNTS. A reference in a Governing Document or applicable law to a percentage or share of owners or members means owners of at least that percentage or share of the lots, unless a different meaning is specified. For example, "a majority of owners" means owners of at least a majority of the lots. In a different context, to make a point, a representative of the Association who appears before a tribunal on behalf of the Association may properly refer to members of the Association as "citizens" and "voters" in the jurisdiction in which the Property is located, without evidence of citizenship or voter registrations to substantiate the reference. In that context, the actual number of individual owners may be used.

7.6. DECISION-MAKING. Any decision or act of the Association may be made by or at the direction of the board, unless the Governing Documents reserve the decision or act to the members, the Declarant, or any other person or group. Unless the Governing Documents or applicable law provide otherwise, any action requiring approval of the members may be approved (1) at a meeting by owners of at least a majority of the lots that are represented at the meeting, provided notice of the meeting was given to an owner of each lot, or (2) in writing by owners of at least a majority of all lots, provided the opportunity to approve or disapprove was given to an owner of each lot. As long as the Declarant Class exists, Declarant has the right to veto any decision made by the Association which Declarant reasonably expects to have an adverse affect on the rights and interests of Declarant or Builders in completing the development, construction, and marketing of the Property.

7.7. MANAGER. The board may delegate the performance of certain functions to one or more managers or managing agents of the Association. Notwithstanding a delegation of its functions, the board is ultimately responsible to the members for governance of the Association.

7.8. RIGHT TO CONTRACT. The Association has the right to contract. No person may create a legal obligation for the Association via a contract to which the Association is not a party. The Association is not and cannot be bound by any term or condition of an agreement to which the Association is not a party and to which it has not agreed in writing.

7.9. ARRANGEMENTS WITH OTHER ASSOCIATIONS. If deemed by the board to be in the best interest of the Association, the Association may participate in one or more contractual arrangements with other property owners associations or with owners or operators of nearby property for the benefit of Association members, such as to consolidate services and reduce costs. The board may act unilaterally to negotiate, execute, modify, or terminate such contractual arrangements. Common funds of the Association may be used to pay the Association's share of any such contractual arrangement.

7.10. COMMUNICATIONS. Drafted in an era of rapidly changing communication technologies, this Declaration does not intend to limit the methods by which the Association, owners, and residents communicate with each other. Such communications may be by any method or methods that are available and customary, or which are permitted by applicable law. For example, if the Association is required by the Governing Documents or applicable law to make information available to owners of all lots, that requirement may be satisfied by posting the information on the Association's website or by using electronic means of disseminating the information, unless applicable law requires a specific method of communication. It is foreseeable that meetings of the Association and voting on issues may eventually be conducted via technology that is not widely available on the date of this Declaration. As communication technologies change, the Association may adopt as its universal standard any technology that is used by owners of at least 85 percent of the lots. Also, the Association may employ multiple methods of communicating with owners and residents.

7.11. BOOKS & RECORDS. The Association will maintain copies of the Governing Documents and the Association's books, records, and financial statements. The Association will make its books and records available to members, on request, for inspection and copying pursuant to the requirements of applicable law.

7.12. INDEMNIFICATION. The Association indemnifies every officer, director, committee chair, and committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other

Appendix B and Appendix C have priority over the main body of this Declaration.

rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors and officers liability insurance to fund this obligation. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

7.13. INSURANCE. All insurance affecting the Property is governed by the provisions of this Section, with which the board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each owner irrevocably appoints the Association as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

7.13.1. General Features. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days' prior written notice to the board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an owner or resident or their invitees, the owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission.

7.13.2. Property. To the extent it is reasonably available, the Association will obtain blanket all-risk insurance for insurable common area improvements. If blanket all-risk insurance is not reasonably available, then the Association will obtain an insurance policy providing fire and extended coverage. Also, the Association will insure the improvements on any lot owned by the Association.

7.13.3. General Liability. To the extent it is reasonably available, the Association will maintain a commercial general liability insurance policy over the common areas - expressly excluding the liability of each owner and resident within his lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the common areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an owner's claim because of negligent acts of the Association or other owners.

7.13.4. Directors & Officers Liability. To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

7.13.5. Other Coverages. The Association may maintain any insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bond requested and required by a National Lender for planned unit developments as long as the National Lender is a mortgagee or an owner.

7.14. OBLIGATIONS OF OWNERS. This Section supplements and does not replace the duties, responsibilities, and obligations of owners in Marine Creek Ranch East that are communicated throughout the Governing Documents.

7.14.1. General Obligations. Without limiting the obligations of owners under the Governing Documents and pursuant to applicable law, each owner will:

- (1) Refrain from interfering with the Association's performance of its responsibilities, such as maintenance of the common areas.

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- (2) Maintain effective contact information with the Association, and promptly notify the Association of changes in the owner's contact information in a manner that brings attention to the changed information.
- (3) Pay assessments properly levied by the Association against the owner or his lot, and will pay reoccurring scheduled assessments, such as regular assessments, without demand by the Association.
- (4) Pay the applicable transfer-related fees and contributions at time of closing.
- (5) Comply with the Governing Documents as amended and published from time to time.
- (6) Pay for damage to the Property caused by the negligence or willful misconduct of the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, contractors, agents, or invitees.
- (7) Be liable to the Association for violations of the Governing Documents by the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance.

7.14.2. Owner's Responsibility for Insurance. Each owner will obtain and maintain property insurance on all insurable improvements on his lot, in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. Further, each owner will obtain and maintain general liability insurance on his lot. Each owner and resident is solely responsible for insuring his personal property in his dwelling and on the lot, including furnishings and vehicles. If circumstances warrant, the board may establish additional minimum insurance requirements for owners if the insurance is deemed necessary or desirable by the board to reduce potential risks to the Association or other owners. Each owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. This Subsection may not be construed to create a duty for the Association to inquire about an owner's insurance coverage or to enforce this Subsection.

0 7.15. DECLARANT MAY ACT FOR BOARD. During the Declarant Control Period, any act that the board is permitted to take for or on behalf of the Association may be performed by Declarant acting in the name of Declarant. Any decision or act made by the board during the Declarant Control Period which is challenged for procedural issues may be ratified and validated by Declarant, even after the Declarant Control Period. This Section is in addition to rights reserved by Declarant elsewhere in this Declaration.

ARTICLE 8

COVENANT FOR ASSESSMENTS

8.1. GENERAL. The words and concepts used in the Sections of this Declaration that pertain to assessments, reserves, and the financial affairs of the Association ("**money-related**") are intended to have their ordinary meanings, and are not intended to be "terms of art" that have meanings specific to fields such as taxation, accounting, and finance. Any aspect of the money-related Sections of this Declaration that conflicts with an applicable regulation or ruling from the Internal Revenue Commission is unenforceable or must be construed in a way that does not conflict.

8.2. BOARD DISCRETION. By acquiring an ownership interest in a lot, **each owner acknowledges that the board may use its sole discretion** in exercising the rights of the Association and of the board under this Article, such as decisions regarding reserve funds, and including without limitation the interpretation and implementation of every provision of this Article. If made in good faith, a board decision regarding any money-related matter is final. Because reasonable people may disagree about the intent, scope, and effect of certain provisions of this Article, the board is hereby authorized to adopt one or more resolutions or policies to interpret or implement any provision or right contained in this Article, and also has the right to amend or restate, from time to time, any such resolution or policy. To make informed money-related decisions that are mindful of potential tax consequences to the Association, the board may, from time to time, obtain the counsel of accounting, legal, banking, and investment professionals (as appropriate).

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8.3. PERSONAL OBLIGATION. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. An owner is obligated to pay assessments levied by the board against the owner or his lot. An owner makes payment to the Association at its principal office or at any other place the board directs. Payments must be made in full regardless of whether an owner has a dispute with the Association, another owner, or any other person or entity regarding any matter to which this Declaration pertains. No owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the common area or by abandonment of his lot. An owner's obligation is not subject to offset by the owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the owner and a continuing covenant running with the lot.

**IF YOU OWN A HOME IN MARINE CREEK RANCH EAST,
YOU MUST PAY ASSESSMENTS TO THE ASSOCIATION.**

8.4. USES OF ASSESSMENTS. The Association will use its common funds (typically assessment income and reserves) **for the general purposes of preserving and enhancing the Property, and for the common benefit of owners and residents,** including but not limited to maintenance of real and personal property, management and operation of the Association, any expense reasonably related to the purposes for which the Property was developed, and any expense permitted or required by the Governing Documents or by applicable laws and governmental regulations. If made in good faith, the board's decision with respect to the use of common funds is final. This Section does not attempt to identify every possible use of common funds, nor to create a duty for the Association to provide the illustrated uses. The Association's common funds may be used for any expense which, in the opinion of the board, is **necessary or desirable for the operation, maintenance, preservation, enhancement, and beautification of the Property, or for the general benefit of owners and residents,** such as (by way of illustration but not limitation) the following:

- (1) Maintenance, repair, and replacement, as necessary, of common property.
- (2) Utilities billed to the Association, if any.
- (3) Services billed to the Association and available to all lots, if any.
- (4) Taxes on property owned by the Association (if any), franchise taxes, and the Association's income taxes.
- (5) Management, legal, accounting, auditing, and professional fees for services to the Association.
- (6) Costs of operating the Association, such as website, internet, telephone, postage, office supplies, printing, meeting expenses.
- (7) Activities that promote the Property and the Association to the community at large, as well as activities that contribute to communications between the Association and its members and among the members, such as social and recreational functions, websites, and social media services and subscriptions.
- (8) Educational opportunities of benefit to the Association.
- (9) Premiums and deductibles on insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
- (10) Contributions to reserve funds, savings accounts, and other permitted accounts of the Association.
- (11) Performance of a written contract, if any, between the Association and a special district, local government, or neighboring property owner or owners association.
- (12) Costs of performing the Association's required and discretionary functions under this Declaration, the other Governing Documents, and applicable law, and any expense which the Association is required to pay by law or the Governing Documents.

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- (13) Costs of enforcing the Governing Documents.
- (14) Acquisition and construction of common property, consistent with applicable sections of the Internal Revenue Code, and subject to the Betterments Section below.

8.5. ANNUAL BUDGET. The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, estimated contributions to reserve funds, and a projection for uncollected receivables. Estimated expenses for the year typically include common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association. The board will make the budget or its summary available to an owner of each lot, although failure to receive a budget or summary does not affect an owner's liability for assessments. The board will make the detailed budget available to an owner upon request.

8.6. SURPLUS & SHORTFALL. The annual budget being an estimate of income and expenses, almost every year will result in either a shortage or surplus of income over expenses. The purpose of this Section is to clarify that the board is authorized to deal with budget surpluses and shortfalls. Words used in this Section are not intended to have meanings specific to fields such as taxation, accounting, and insurance.

8.6.1. Shortfall. If during the course of a year the board determines that the Association's actual income may be insufficient to cover the actual amount of budgeted common expenses for the remainder of the year, the board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. The Association is not prohibited by this Declaration from transferring money from its reserve accounts to cover an operating shortfall or to respond to an emergency.

8.6.2. Surplus. Being a nonprofit entity does not prohibit the Association from acquiring a surplus of income over expenses. If during the course of a year the board determines that the Association's income is expected to exceed the common expenses that are budgeted for the remainder of the year, the board may determine one or more uses for the excess income by any means that benefits the Property, owners, and residents.

8.6.3. Decisions for IRS. By acquiring an ownership interest in a lot, each member of the Association instructs the Association to act through the board in making decisions and IRS elections that are available to the Association as a tax-paying entity, such as the annual election permitted by IRS Revenue Ruling 70-604. Decisions and IRS elections by the board may be ratified or reversed by a vote of the members.

8.7. BETTERMENTS. The purpose of this Section is to distinguish between improvements to common property that may be authorized unilaterally by the board in its sole discretion, and improvements to common property that must have the prior approval of owners in addition to the board. Words used in this Section are not intended to have meanings specific to fields such as taxation, accounting, and insurance.

8.7.1. Maintenance Improvements. The board has sole authority and discretion for "**Maintenance Improvements**," being improvements of real and personal common property that are within the scope of maintenance, repair, and replacement, regardless of the cost of the improvement. As used in this Section, "**maintenance, repair, and replacement**" of real and personal common property means substitutions, upgrades, additions, improvements, enhancements, and even removal which are required or recommended (1) to reduce future maintenance duties or costs, (2) to reduce liability, (3) to respond to an emergency or to prevent additional damage, (4) to take advantage of advancements in technology, systems, or materials, (5) to preserve the condition of common property, (6) to improve the appearance of common property, (7) to comply with laws and ordinances, or (8) to conform to changes in community standards.

8.7.2. Betterment Improvements. A **Betterment Improvement** is an improvement of real or personal common property that is not a Maintenance Improvement. Subject to the exception below for Nominal Betterments, common funds from any source (such as assessment, budget surplus, reserves, or bank loan) may not be spent on a Betterment Improvement without the prior approval of both the board and owners representing at least two-thirds of the lots represented in person or by proxy at a meeting of the Association (at which a quorum is attained) called for the purpose of approving the Betterment Improvement. If the requisite approvals were obtained for a proposed Betterment Improvement in connection with establishing a discretionary reserve fund or special

Appendix B and Appendix C have priority over the main body of this Declaration.

assessment dedicated to the Betterment Improvement, the prior approval also pertains to expending the discretionary reserve fund or special assessment on the dedicated Betterment Improvement.

8.7.3. Nominal Betterments. The board has sole authority and discretion for **Nominal Betterments**, being Betterment Improvements of real and personal common property that, in the sole discretion of the board, meet all of the three below-listed criteria. A determination of "significant increase" by the board is a proper exercise of its discretionary authority and is presumed to be reasonable. The board may develop guidelines for such determinations. Adding a grove of trees to an open space is an example of a Nominal Betterment. The criteria for a Nominal Betterment are:

- (1) The cost of the Betterment Improvement is less than five percent of the Association's annual operating budget.
- (2) The Betterment Improvement is not expected to significantly increase the Association's liability.
- (3) The Betterment Improvement is not expected to significantly increase the Association's responsibility and financial obligation for operation, insurance, maintenance, repairs, or replacement.

8.8. OWNERS' CONTROL FOR ASSESSMENT INCREASES. This Section of the Declaration may not be amended without the approval of owners of at least two-thirds of the lots. In addition to other rights granted to owners by this Declaration, owners have the following powers and controls over the Association's budget:

8.8.1. Veto Increased Dues. At least 30 days prior to the effective date of an increase in regular assessments, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless owners of at least a majority of the lots disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

8.8.2. Veto Special Assessment. At least 30 days prior to the effective date of a special assessment, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless owners of at least majority of the lots disapprove the special assessment by petition or at a meeting of the Association.

8.9. INCEPTION OF ASSESSMENT. The obligation for assessments begins 120 days after the later of (1) the date on which the subdivision plat creating the lot is publicly recorded in the Plat Records of Tarrant County, Texas, or (2) the date on which the land is acquired by an owner other than Declarant or a signer of this Declaration, as evidenced by a deed recorded in the Real Property Records of Tarrant County, Texas. Once a lot becomes subject to assessment, it remains subject in perpetuity, modified only by exemptions created by or pursuant to this Declaration for certain categories of owners (such as a successor Declarant).

8.10. TYPES OF ASSESSMENTS. There are 5 types of assessments that may be levied by the Association: Regular, Dedicated, Special, Individual, and Deficiency.

8.10.1. Regular Assessments. Regular assessments are based on the annual budget. Each lot is liable for its equal share of the annual budget. If the board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, owners will continue to pay the regular assessment as last determined

8.10.2. Dedicated Assessments. Dedicated assessments are permitted but not required if the board, in its sole discretion, determines that a recurring line-item in the Association's annual budget warrants a separate assessment dedicated for that purpose. Any common expense that is properly funded with regular assessments, and which must be included in the Association's annual budget, is a candidate for separate levy as a dedicated assessment. The payment period and due date for a dedicated assessment may differ from those of the regular assessment. If the Association levies a dedicated assessment, the Association must disclose the amount and

Appendix B and Appendix C have priority over the main body of this Declaration.

purpose of the dedicated assessment in resale certificates prepared by the Association. This subsection may not be construed to require a separate dedicated assessment.

8.10.3. Special Assessments. The board may levy one or more special assessments against all lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the owners, unless this Declaration so stipulates.

8.10.4. Individual Assessments. In addition to regular and special assessments, the board may levy an individual assessment against a lot and its owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an owner or his lot into compliance with the Governing Documents; fines for violations of the Governing Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-lot basis; and "pass through" expenses for services to lots provided through the Association and which are equitably paid by each lot according to benefit received.

8.10.5. Deficiency Assessments. The board may levy a deficiency assessment against all lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

8.11. BASIS & RATE OF ASSESSMENTS. The share of liability for common expenses allocated to each lot is uniform for all lots, regardless of a lot's location or the value and size of the lot or dwelling. Unplatted portions of the Property, if any, are not subject to assessment. This Section does not affect this Declaration's assessment exemptions.

8.12. DUE DATE. The board may levy regular assessments on any periodic basis, such as annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied, unless a different due date is established by the board. (A due date for an assessment is independent of the dates on which the Association's fiscal year starts and ends.) If the board changes the regular assessment due date, the Association may levy a supplemental regular assessment if needed to bridge a gap in the Association's income stream between the old and new due dates. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

8.13. DECLARANT ROLE. Declarant's role, rights, and reservations regarding Association finances are described in Appendix C of this Declaration, particularly the Section titled "Financial Rights & Reservations," which is superior to this Article and controls in case of conflict. Declarant's obligation for common expenses and exemption from assessments is also described in Appendix C. Unless Appendix C creates an affirmative assessment obligation for Declarant, every vacant lot and every improved lot owned by Declarant, by an affiliate of Declarant, by a consenting signer of this Declaration, or by a land owner who is under contract to sell land or lots to Declarant, is exempt from assessment by the Association.

8.14. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association has the right to borrow money, subject to (1) the ability of the Association to repay the borrowed funds from assessments, (2) approval by the board, and (3) the approval or consent of either (a) owners of at least a majority of the lots, or (b) if a meeting of the Association is called for the purpose of approving the loan, and if a quorum is attained, then owners of at least two-thirds of the lots which are represented (in person or by proxy) at the meeting may approve the loan, even though they may comprise less than the number of owners required for the quorum. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder. This Section does not apply to loans between accounts of the Association, or loans between the Association and Declarant.

8.15. LIMITATIONS OF INTEREST. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Governing Documents or any other document or agreement executed or made in connection with the Association's collection of assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater

Appendix B and Appendix C have priority over the main body of this Declaration.

than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the owner if those assessments are paid in full.

TO AVOID PENALTIES, PLEASE PAY ASSESSMENTS TIMELY AND IN FULL.

8.16. EFFECT OF NONPAYMENT OF ASSESSMENTS. An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association is responsible for taking action to collect delinquent assessments. The Association's exercise of its remedies is subject to applicable laws, such as Chapter 209 of the Texas Property Code, and pertinent provisions of the Bylaws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the board in its sole discretion deems appropriate, to the Association's manager, an attorney, or a debt collector. Neither the board nor the Association, however, is liable to an owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

8.16.1. Interest. Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the board from time to time, not to exceed 10 percent per annum. If the board fails to establish a rate, the rate is 10 percent per annum. On a delinquent account, the Association may charge interest or late fees, but not both.

8.16.2. Late Fees. Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the board from time to time. On any delinquent account, the Association may charge interest or late fees, but not both.

8.16.3. Costs of Collection. The owner of a lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorneys fees and processing fees charged by the manager.

8.16.4. Acceleration. If an owner defaults in paying an assessment that is payable in installments, the Association may terminate the owner's use of installment payments and declare the entire unpaid balance due and payable in a lump sum by giving the defaulting owner a written notice of default and intent to accelerate in the same manner as mortgage lenders customarily use for residential mortgage loan defaults in Texas.

8.16.5. Suspension of Use. If an owner's account has been delinquent for at least 30 days, the Association may suspend the right of the owner and residents of the owner's lot to use common areas and common services during the period of delinquency. Suspension does not constitute a waiver or discharge of the owner's obligation to pay assessments.

8.16.6. Money Judgment. The Association may file suit seeking a money judgment against an owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

8.16.7. Notice to Mortgagee. The Association may notify and communicate with the holder of any lien against a lot regarding the owner's default in payment of assessments.

8.16.8. Foreclosure of Assessment Lien. As provided by this Declaration, the Association may foreclose its lien against the lot by judicial or nonjudicial means.

8.16.9. Application of Payments. The Association will accept partial payments, but may adopt a policy for returning partial payments with words of limitation to which the Association has not agreed. Payments received for the lot's account will be applied according to the requirements of applicable law.

Appendix B and Appendix C have priority over the main body of this Declaration.

ARTICLE 9 RESERVE FUNDS

9.1. **GENERAL.** Generally, the funds of the Association are in either operating funds or reserve funds. From time to time, and as needed, the Association may establish any number of reserve funds for different purposes, provided each purpose benefits the Property and its owners and residents. Duties imposed on the Association or the board by this Section are voluntary during the Declarant Control Period, and do not become obligatory until the first fiscal year after the end of the Declarant Control Period.

9.1.1. **Authority.** The Association's reserve funds may not be placed in accounts other than no-risk fully-insured accounts, except pursuant to - and in close adherence with - an investment policy adopted by the board. To be effective, an investment policy must be approved and signed by all the directors, or by a majority of the directors and all three members of an advisory committee of disinterested owners appointed by the board for the purpose of considering and approving the investment policy. Although not required, review of the investment policy at least once every three years by the board and the above-referenced advisory committee is recommended.

9.1.2. **Sources.** Typically, reserve accounts are funded by monies paid by owners other than Declarant, who has no duty to contribute to reserves. Owners' contributions may be in the form of initial contributions at time of purchase, special assessments, budgetary surpluses, or set-asides from regular assessments.

9.1.3. **Non-Reimbursable.** By acquiring an ownership interest in a lot, each owner acknowledges that the Association's reserve accounts are not subject to partition and are not a source of reimbursement to the owner for monies contributed by the owner during the period of lot ownership. This may not be construed to prevent the buyer and seller of a lot from negotiating reserve contributions between themselves.

9.2. **REPAIR & REPLACEMENT RESERVES.** Within one year after the end of the Declarant Control Period, the Association will establish, maintain, and accumulate Repair & Replacement Reserves ("**R&R Reserves**") for repair and replacement of some (if not all) improvements in the common area and components of common property. Within one year after the end of the Declarant Control Period, and periodically thereafter, the board elected by the owners will adopt a replacement reserve schedule as the basis for the Association's R&R Reserves.

9.3. **OPERATIONS RESERVES.** The Association may establish, maintain, and accumulate operations reserves, at a level determined by the board, to cover expenses such as the cost of operational or maintenance emergencies or contingencies. Also, operations reserves may be used by the Association to cover fluctuations and shortages in operating income.

9.4. **DISCRETIONARY RESERVES.** The board may establish, maintain, and accumulate as many additional types of reserve funds as it desires, such as "Special Future Projects." As a general rule, the Association should endeavor to adequately fund the R&R Reserve fund before funding one or more discretionary reserve accounts.

9.5. **DECLARANT EXEMPTION.** Declarant's exemption from reserve contributions is described in Appendix C of this Declaration. By acquiring an ownership interest in a lot, each owner acknowledges that Declarant and its affiliates are not obligated to contribute to the Association's reserve funds, and that during the Declarant Control Period the Association is not obligated to fund reserves, even if shown on a build-out budget as a category of future expense.

ARTICLE 10 ASSESSMENT LIEN

10.1. **CREATION & PERFECTION OF LIEN.** The recording of this Declaration creates the Association's continuing assessment lien on every lot in the Property to secure the payment of assessments levied or to be levied by the Association. This publicly recorded Declaration constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. Each assessment is a charge on the lot and is secured by a continuing lien on the lot. Each owner, and each prospective owner, is placed on notice that his title is subject to the Association's continuing lien, which may secure unpaid assessments attributable to a period prior to the date he purchased his lot.

Appendix B and Appendix C have priority over the main body of this Declaration.

Yes, the HOA *can* foreclose!

If you fail to pay assessments to the Association, you may lose title to your home
if the Association forecloses its assessment lien against your lot.

10.2. LIEN SUPERIOR TO HOMESTEAD. Because this Declaration is recorded before the instrument by which an owner takes title to a lot, the assessment lien hereby created is superior to any homestead right acquired in the future by a lot owner. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, acknowledges that the Association's assessment lien is superior to the owner's claim of homestead, if applicable.

10.3. OTHER SUPERIORITIES. In addition to a claim of homestead, the assessment lien created by this Declaration is also superior to all other liens and encumbrances on a lot, except only for (1) real property taxes and assessments levied by governmental and quasi-governmental authorities, (2) a deed of trust or vendor's lien recorded against land before the land became subject to this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original improvements on a lot, and (4) a purchase money vendor's lien or purchase money deed of trust lien recorded before the date on which the delinquent assessment became due. The Association may voluntarily subordinate its assessment lien to an otherwise-inferior lien, from time to time. However, the lien created by this Declaration can not and may not be released as to a lot without withdrawing the lot from the effect of this Declaration. Any instrument that purports to "release" the Association's assessment lien, even if executed by the Association, will be construed, depending on the circumstances, as either a subordination of the assessment lien as to future assessments on the lot, or as a waiver of Association's superior claim against the lot for delinquent assessments.

10.4. EFFECT OF MORTGAGEE'S FORECLOSURE. Foreclosure of a superior lien extinguishes the Association's claim against the lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former owner, and does not extinguish the Association's lien for assessments that become due after the sale. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

10.5. NOTICE AND RELEASE OF NOTICE. Although this Declaration constitutes perfection of its lien, the Association, at its option, may cause a notice of the lien to be recorded in the Real Property Records of Tarrant County, Texas. If the debt is cured after a notice has been recorded, the Association will publicly record a release of the notice within 60 days after cure, or within 60 days after receiving the owner's written request. Although the owner is liable to the Association for reimbursement of release expenses incurred by the Association, the Association may not require prepayment as a condition of the release.

10.6. POWER OF SALE. By accepting an interest in or title to a lot, each owner grants to the Association a private power of nonjudicial sale in connection with the Association's assessment lien. The board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.

10.7. FORECLOSURE OF LIEN. Foreclosure of the Association's assessment lien - and all prerequisite procedures - must comply with at least the minimum requirements of applicable law for foreclosures, in general, and for foreclosures by property owners associations, in particular. To the extent permitted by law, the assessment lien may be foreclosed by judicial or nonjudicial methods. A nonjudicial foreclosure requires a court order pursuant to the expedited foreclosure process required by Chapter 209 of the Texas Property Code, and must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to applicable provisions of the Bylaws and applicable law, such as Chapter 209 of the Texas Property Code. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same. The Association may not foreclose the assessment lien if the debt consists solely of interest, late fees, fines, a claim for reimbursement of attorney's fees incurred by the Association, or any charge prohibited by applicable law as the sole basis of a foreclosure action.

Appendix B and Appendix C have priority over the main body of this Declaration.

ARTICLE 11
ENFORCING THE DOCUMENTS

11.1. RIGHT TO ENFORCE. The Association and each owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed on the Property, on the owners, or on the Association by the Governing Documents or by applicable law. Failure by the Association or by any owner to enforce a provision of the Governing Documents or applicable public law is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Governing Documents at any future time. No officer, director, or member of the Association is liable to any owner for the failure to enforce any of the Governing Documents at any time.

Although published in black ink on white paper,
RULES ARE NOT "BLACK & WHITE".

11.2. BOARD DISCRETION. The board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

11.3. NOT LACHES. Because the value of consistency to the community may not be apparent when a small number of variances are granted or a small number of violations are tolerated, the Association and the Architectural Authority, as appropriate, have the continuing and perpetual right to enforce the provisions of the Governing Documents against future violations, even though past violations are tolerated or affirmatively approved.

11.4. CONSISTENCY BY CIRCUMSTANCE. The board may vary its interpretation, application, and enforcement by circumstance, provided (1) the board establishes a rational and reasonable basis for circumstantial enforcement, and (2) the board diligently tries to be consistent in dealing with similar circumstances. To illustrate, the Association may decide that circumstances warrant different procedures for collecting delinquent assessments from owners who do not live in the Property, or are selling their homes, or are temporarily unemployed, or are in bankruptcy, or are deceased. That is permitted as long as the board is consistent about dealing with owners who are similarly-situated, meaning they share a category - such as those who are temporarily unemployed. Similarly, there may be a basis for enforcing a construction specification or use restriction because of a particular circumstance, such as more rigorous enforcement for lots that are highly visible because of their prominent location, such as at the subdivision entrance, versus lots that have a less visible or less prominent location. Such distinctions are valid if there is a rational basis and consistent application.

11.5. AFTER-THE-FACT APPROVAL. This Section pertains to any action by an owner that requires prior written approval under the Governing Documents, such as (without limitation) a change of use or appearance. If an owner applies for approval of an action after having initiated or completed the action, the application cannot be denied solely because it was not timely submitted, if the action would have been approved, in the reasonable exercise of the Architectural Authority's discretionary powers, if the application had been submitted timely. A written approval issued after the action is started or completed may not be construed as a waiver of the duty of owners to obtain prior written approval when required by a Governing Document, nor as an abdication of authority over actions that are regulated by the Governing Documents.

11.6. COSTS OF ENFORCEMENT. The Association may use common funds to exercise its rights and remedies for enforcing the Governing Documents, including funds contributed by the owner against whom enforcement is sought, subject to limitations for funding litigation in the Dispute Resolution Article. Costs incurred by the Association for curing or abating a violation are at the expense of the owner or other person responsible for the violation. If legal assistance is obtained to enforce a provision of a Governing Document, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of a Governing Document or the restraint of a violation of a Governing Document, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

Appendix B and Appendix C have priority over the main body of this Declaration.

11.7. NOTICE AND HEARING. Before the Association may exercise certain of its remedies for a violation of the Governing Documents or damage to the Property, the Association must give an owner written notice and an opportunity for a hearing, according to the requirements and procedures in the Bylaws and in applicable law, such as Chapter 209 of the Texas Property Code. Notices are also required before an owner is liable to the Association for certain charges, including reimbursement of attorneys fees incurred by the Association.

**STATE LAW APPLIES
to many of the Association's enforcement rights and remedies.**

11.8. REMEDIES. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Governing Documents and by applicable law, the Association has the following right to enforce the Governing Documents, subject to applicable notice and hearing requirements (if any):

11.8.1. Nuisance. The result of every act or omission that violates any provision of a Governing Document is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

11.8.2. Fine. The Association may levy reasonable charges, as an individual assessment, against an owner and his lot if the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the owner's obligations under the Governing Documents. As a remedy, fines may be used to obtain compliance with an ongoing violation or a violation that is likely to be repeated. Fines may not be used after-the-fact as punishment for a spot violation that is over and is not likely to be repeated.

11.8.3. Suspension. The Association may suspend the right of owners and residents to use common areas for any period during which the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Governing Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Governing Documents.

11.8.4. Self-Help. The Association has the right to enter any part of the Property, including lots, to abate or remove, using force as may reasonably be necessary, any improvement, thing, animal, person, vehicle, or condition that violates a Governing Document. In exercising this right, the Association is not trespassing and is not liable for damages related to the abatement. The Association may levy its costs of abatement against the lot and owner as an individual assessment. The Association will make reasonable efforts to give the violating owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the owner. Prior notice is not required (1) in the case of emergencies, (2) to remove violative signs, (3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, health hazard, or an eyesore to the neighborhood. The Association may not use this Section as authority to enter a locked or occupied dwelling without the prior consent of the lot owner.

11.8.5. Suit. Failure to comply with the Governing Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.

**ARTICLE 12
MAINTENANCE AND REPAIR OBLIGATIONS**

12.1. ASSOCIATION MAINTAINS. The Association must adequately maintain common areas, typically using preventative maintenance, routine maintenance, and corrective maintenance in combinations that evolve as improvements age, conditions change, and technologies advance. The Association's maintenance obligations are discharged when and how the board deems appropriate, solely within the discretion of the board. Although owners are encouraged to make

Appendix B and Appendix C have priority over the main body of this Declaration.

the Association aware of common property in need of maintenance, an owner cannot compel the Association to perform maintenance nor dictate conditions for doing the work.

12.1.1. Required Maintenance. Except as delegated or assigned, the Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on lots, in public rights of way, or in common areas.

- (1) The common areas.
- (2) Any real and personal property owned by the Association but which is not a common area, such as a lot owned by the Association.
- (3) Any area, item, easement, or service, whether located within or outside the Property, the responsibility for which is assigned to the Association by law, ordinance, court order, a governmental entity, an agreement to which the Association is a party, this Declaration, the plat, or any other publicly recorded document to which the Property is subject.

12.1.2. Discretionary Maintenance. The Association may, but is not required to, use common funds to maintain property within, adjacent to, or near Marine Creek Ranch East if maintenance of same is deemed by the board in its sole discretion to be in the best interests of the Association, and if not prohibited by the owner or operator of said property, such as litter removal from an adjacent public right-of-way (by way of example only). The Association's exercise of discretionary maintenance does not require prior contact with the owner or operator of the property, unless the owner or operator has previously prohibited such maintenance.

12.1.3. Delegated or Assigned Maintenance. The Association may permanently or temporarily delegate or assign a maintenance responsibility to any entity or person who accepts the assignment. A permanent delegation must be in a publicly recorded document that touches, concerns, and runs with the property. Acceptance may be deemed by acquisition of property that is burdened with the assignment. If the assignee fails or refuses to maintain the property to the standard required for or by the Association, the Association may perform such maintenance at the expense of the assignee, after giving the assignee prior written notice and an opportunity to cure the default.

You have a legal duty to maintain your home and yard.

12.2. OWNER RESPONSIBILITY. Every owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to applicable restrictions in the Governing Documents, such as (without limitation) this Declaration's architectural controls and (if any) yard maintenance delegation.

12.2.1. Maintenance. Each owner, at the owner's expense, must maintain all portions of the lot and all improvements on the lot, such as (if any, without limitation) the dwelling, fences, sidewalks, driveways, drainage features, grounds, landscaping, and appurtenant rights-of-way, unless this Declaration establishes a different allocation for a maintenance duty. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each owner is expected to maintain his lot and its improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces. Under certain circumstances permitted by this Declaration, the Association may perform the owner's duties at the owner's expense.

12.2.2. Avoid Damage. An owner may not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.

12.2.3. Responsible for Damage. An owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance,

Appendix B and Appendix C have priority over the main body of this Declaration.

repair, or replacement to common property to property which the Association maintains, or to the property of another owner.

12.3. OWNER'S DEFAULT IN MAINTENANCE. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which is an individual assessment against the owner and his lot. In case of an emergency, however, the board's responsibility to give the owner written notice may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense.

12.4. FENCES BETWEEN LOTS. The concept of shared fences is intended to be more space-efficient, material-efficient, and cost-efficient than each owner separately fencing his own lot, with two fences abutting. Sharing fences requires cooperation and flexibility by and between owners of adjoining lots. A fence or other type of partition located on or near the dividing line between two lots and intended to benefit both lots constitutes a "**Party Wall**" and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

12.4.1. Applicability. This Section applies to fences between two residential lots that are both within the Property. It does not pertain to fences on the perimeter of the Property, or to fences between a residential lot and a common area.

12.4.2. Encroachments & Easement. If the Party Wall is on one lot or another due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section. Each lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

12.4.3. Right to Repair. If the Party Wall is damaged or destroyed from any cause, the owner of either lot may repair or rebuild the Party Wall to its previous condition, and the owners of both lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall.

12.4.4. Right of Access. The owner of the lot on each side of the Party Wall hereby grants to the owner of the lot on the other side of the Party Wall a reciprocal access easement for maintenance, repair, replacement, or reconstruction of the Party Wall, as appropriate and necessary to effect the purposes and provisions of this Section.

12.4.5. Maintenance Costs. The owners of the adjoining lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an owner is responsible for damage to or destruction of the Party Wall, that owner will bear the entire cost of repair, reconstruction, or replacement. If an owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Tarrant County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an owner to contribution from another owner under this Section is appurtenant to the land and passes to the owner's successors in title.

12.4.6. Alterations. The owner of a lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the other lot, without the prior written consent of the owner of the other lot. Unless both owners reach a mutual decision to the contrary, the Party Wall will always remain in the same location as where initially erected.

12.4.7. Abandonment. An owner who installs a privacy fence inside, along, and next to a Party Wall is deemed to abandon the Party Wall to the owner of the adjacent lot.

Appendix B and Appendix C have priority over the main body of this Declaration.

ARTICLE 13 **MORTGAGEE PROTECTION**

13.1. **FIRST MORTGAGEE RIGHTS.** This Article establishes certain standards for the benefit of a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a lot, or any renewal, modification, or refinancing thereof ("**First Mortgagee**"). Each First Mortgagee has the following rights under this Declaration:

13.1.1. **Lien Superiority.** As stated in the Assessment Lien Article of this Declaration, the lien in a First Mortgagee's recorded deed of trust is superior to the Association's lien for assessments.

13.1.2. **Representation.** In dealing with the Association, a First Mortgagee may be represented by a mortgage servicer, agent, or representative, or by a holder, insurer, guarantor, or trustee.

13.1.3. **Leasing & Sales.** A prohibition or restriction related to conveyancing, occupancy, or marketing does not apply to a house owned by a First Mortgagee following foreclosure or deed-in-lieu of foreclosure of a deed of trust lien, but **does apply** to its successors in interest.

13.1.4. **Termination.** An action to terminate the legal status of the Property as a planned unit development must be approved by the First Mortgagees on at least a majority of the lots that are subject to an outstanding purchase money mortgage, in addition to the required consents of owners, subject to the right of Declarant to unilaterally terminate during the Development Period if the Property has no common areas.

13.1.5. **Books & Meetings.** A First Mortgagee may inspect the Association's books and records, including the Governing Documents, by appointment, during normal business hours. A First Mortgagee may attend and address any meeting which an owner may attend.

13.1.6. **Financial Statements.** A First Mortgagee may have an audited statement of the Association's books and records prepared at its own expense. If the Association obtains an audited statement for its members, if a First Mortgagee so requests, the Association will give the First Mortgagee an audited statement for the preceding fiscal year within 120 days after the Association's fiscal year-end.

13.1.7. **Right of First Refusal.** As initially written, this Declaration does not create a right of first refusal. Any right of first refusal imposed in the future by the Association with respect to a lease, sale, or transfer of a lot does not and may not apply to a lease, sale, or transfer by a First Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

13.1.8. **Amending Governing Documents.** If a First Mortgagee requests from the Association compliance with the mortgage underwriting guidelines of a National Lender, the board, without approval of owners or First Mortgagees, may amend this Article and other provisions of the Governing Documents, as necessary, to meet the requirements of the National Lender. This Article is supplemental to, not a substitution for, any other provision of the Governing Documents. In case of conflict, this Article controls.

13.2. **CONSENTS OF MORTGAGEES.** If the Governing Documents or applicable law require the consent of mortgagees for an act, decision, or amendment by the Association, the approval of a mortgagee is implied when the mortgagee fails to respond within 60 days after receiving the Association's written request for approval of the act, decision or amendment, provided the Association's request to the mortgagee was delivered by certified or registered mail, return receipt requested.

ARTICLE 14 **AMENDMENTS**

14.1. **AMENDMENT BY OR AFFECTING DECLARANT.** In this Declaration, particularly in the Article titled Covenants for Declarant's Benefit and Appendix B of this Declaration, Declarant reserves certain superior rights regarding adoption, amendment, interpretation, and enforcement of this Declaration and other Governing Documents, which condition the following Sections authorizing amendments by the board and by members.

Appendix B and Appendix C have priority over the main body of this Declaration.

14.2. AMENDMENT BY BOARD. The board may not unilaterally amend this Declaration or the Owners Manual, except for the following limited purposes, which must be clearly identified in the instrument of amendment, and then only to the extent necessary to achieve the permitted goal, and only with the unanimous written consents of all directors, there being no vacancy on the board:

- (1) To qualify the Property or the Association for mortgage underwriting, tax exemption, insurance coverage, or any public or quasi-public program or benefit, if doing so is in the best interests of the Association and its members.
- (2) To correct an obvious error that affects the validity or enforceability of the document, if doing so is in the best interests of the Association and its members.
- (3) To comply with a requirement of applicable law that requires a specific provision to be included in or removed from a document.

14.3. AMENDMENT BY MEMBERS. Except for certain amendments of this Declaration that may be executed by Declarant alone, or by the board alone, amendments to this Declaration must be approved by owners of at least a majority of the lots. Approval of owners does not require that the amendment be signed by the consenting owners, or that consents be executed and acknowledged by the approving owners. For an amendment of this Declaration that requires the approval of owners, the consents may be solicited by any method selected by the board from time to time, pursuant to the Bylaws and applicable law, provided the method gives an owner of each lot the substance if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

**Like public laws, this Declaration can be changed ~
and the change may apply to you even if you didn't vote for it.**

14.4. EFFECTIVE. To be effective, an amendment approved by the owners or by the board must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of owners or directors and, if required, First Mortgagees; and (3) recorded in the Real Property Records of Tarrant County, Texas, except as modified by the following section.

14.5. ANNEXATION. After the Expansion Period, additional land may be annexed to the Property and subjected to this Declaration and the jurisdiction of the Association by the Association with the consent of owners representing at least two-thirds of the lots in the Property, and the consent of the owner of the real property being annexed. Annexation of additional property is accomplished by recording an amendment of annexation or a supplemental declaration in the Real Property Records of Tarrant County, Texas. A land owner's consent to the annexation of the owner's land is automatically a consent to having the land restricted by, burdened by, and subject to all the Governing Documents. *(Declarant may unilaterally subject Additional Land to this Declaration pursuant to Appendix B)*

14.6. APPENDIXES. To amend an Appendix of this Declaration, it is not necessary to restate and re-record this entire Declaration. Each Appendix of this Declaration may be amended, restated, and supplemented individually as an amendment of this Declaration.

14.7. ORDINANCE COMPLIANCE. When amending a Governing Document, the Association must consider the validity and enforceability of the amendment in light of applicable law, such as (if any) subdivision ordinances of a local government.

14.8. MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by owners of at least a majority of the lots. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving association pursuant to the merger. The surviving or consolidated association may administer the provisions of the Governing Documents within the Property, together with the covenants and restrictions established upon any other

Appendix B and Appendix C have priority over the main body of this Declaration.

property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

14.9. **TERMINATION.** Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by owners of at least a majority of the lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the board without a vote of owners. In all other circumstances, an amendment to terminate must be approved by owners of at least two-thirds of the lots. If a local government requires its prior approval of a change of status for the Property or to terminate the Association, the amendment must also be executed by the local government. Notwithstanding the foregoing, during the Development Period - if the Property has no common areas - Declarant may unilaterally terminate the status of the Property as a planned unit development.

14.10. **CONDEMNATION.** In any proceeding, negotiation, settlement, or agreement concerning condemnation of a common area, the Association will be the exclusive representative of the owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the common area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

ARTICLE 15 **INDEMNIFICATION & RELEASE**

15.1. **GENERAL.** The indemnifications in this Article are in addition to indemnifications in the Bylaws and Articles.

15.2. **CONSIDERATION.** Each owner, by acquiring an ownership interest in a lot, and each resident, by occupying a home in the Property, grants the releases from duty and liability contained in this Article as consideration for being part of the Marine Creek Ranch East community and as consideration for and a condition to having the benefits, use, or enjoyment of common areas, common improvements, or common services (if any) of Marine Creek Ranch East. Each owner and resident acknowledges and agrees that the releases from liability contained in this Article are a material inducement to Declarant and to the Builders to sell, convey, lease, or allow the use of lots and homes in Marine Creek Ranch East.

15.3. **PERSONAL RESPONSIBILITY.** Each owner, by accepting an interest in or title to a lot in Marine Creek Ranch East, whether or not it is so expressed in the instrument of conveyance, and each resident of Marine Creek Ranch East, by occupying a home in the Property, acknowledges, understands, and agrees to each of the following statements, for himself, the members of his household, and his and their guests:

- (1) Each owner and resident agrees to be informed about and to comply with the published or posted common area rules of Marine Creek Ranch East.
- (2) The use and enjoyment of the Property's common areas involve risk of personal injury, risk of death, and risk of damage or loss to property, all of which risks are assumed by each person using the Property's common areas.
- (3) Parents, guardians, hosts, caretakers, and supervisors are at all times responsible for the well being and safety of their children and guests in their use of the Property's common areas.
- (4) The Association, Declarant, Builders, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of personal safety in or on the common areas of Marine Creek Ranch East.
- (5) The Association, Declarant, Builders, and their respective directors, officers, committees, agents, and employees have made no representations or warranties - verbal or written - relating to safety or lack of risks pertaining to the common areas of Marine Creek Ranch East.

Appendix B and Appendix C have priority over the main body of this Declaration.

- (6) Each owner and resident agrees to educate the members of his household and his and their guests about the risks, responsibilities, and releases from liability contained in this Article.

15.4. **RELEASE FOR HEALTH, WELFARE, SAFETY.** Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, and each resident of any portion of the Property, covenants and agrees that the Association is **not responsible for the health, welfare, or safety of residents of the Property or their guests**, even if the Association acts or fails to act in accordance with public laws, policies, and recommendations that may be characterized as supporting the "health, welfare, or safety" of residents or the general public. BY ACQUIRING AN OWNERSHIP OR OCCUPANCY INTEREST IN A HOME, EACH OWNER AND RESIDENT, FOR HIMSELF AND HIS INVITEES, AGREES TO THE FOLLOWING COVENANTS AND CONDITIONS:

15.4.1. **No Duty.** The Association has no duty for the health, welfare, or safety of living beings or property.

15.4.2. **Action Does Not Create Liability.** Even if the Association acts for the health, welfare, or safety of living beings or property, such as acting in accordance with public mandates, authorizations, or recommendations that support health, welfare, or safety, the Association does not become liable for the actual health, welfare, or safety of living beings or property in Marine Creek Ranch East, and is not liable for the efficacy or lack of efficacy of the act, or for any consequence that ensues from the act.

15.4.3. **Inaction Does Not Create Liability.** By failing or refusing to act in accordance with public mandates, authorizations, or recommendations that support health, welfare, or safety, the Association does not become liable for actual health, welfare, or safety of residents and other beings, or for any consequence that ensues from the inaction.

15.4.4. **Inconsistency Does Not Create Liability.** The Association is not liable to its members or any person for inconsistency or inadequacy in responding to public mandates, authorizations, or recommendations that support the health, welfare, or safety of residents and other beings.

15.4.5. **Limits.** This Section may not be construed as authorization for the Association to act with reckless disregard for the health, welfare, or safety of residents.

15.5. **PRIVACY.** Because this Declaration is written in the "post-privacy era," the Association hereby disavows a duty of any kind - express or implied, to the extent permitted by law - to shield owners and residents from invasions of privacy. **Each owner and resident acknowledges and accepts that the Association does not guaranty the privacy of his person, property, or data.** The Association may, but is not obligated to, adopt policies, procedures, or systems designed, either directly or indirectly, to endeavor to support the privacy of persons, property, and data. Each owner and resident acknowledges and agrees, for himself and his guests, that Declarant, Builders, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable to any person for any exposure, loss, nuisance, or damage caused by the failure or ineffectiveness of privacy protection measures undertaken or by inaction regarding privacy protection measures.

PLEASE PAY HEED TO THE PRIVACY & SECURITY SECTIONS

15.6. **SECURITY.** The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety or the perception of safety in or on the Property. Each owner and resident acknowledges and agrees, for himself and his guests, that Declarant, Builders, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. **Each owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same.** Each owner and resident further acknowledges that Declarant, Builders, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the owner or resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each owner and resident acknowledges and agrees that Declarant, Builders, the

Appendix B and Appendix C have priority over the main body of this Declaration.

Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

15.7. **DISASTER & RECOVERY.** This Section pertains to any disaster that threatens to - or does - damage the Property, destroy life, or render the Property uninhabitable - in whole or in substantial part, and to the aftermath and recovery from such a disaster. This Section recognizes that substantial or widespread destruction may create circumstances in which the Association is challenged to function "normally." The Association and its directors, members, and managers, are hereby authorized to do whatever is reasonable and necessary to reduce loss of life and destruction of property in the face of an impending disaster that is forecast to affect more than a few lots, without regard to compliance with the Governing Documents. Similarly, the Association may temporarily suspend or modify any provision in a Governing Document that interferes with disaster-related recovery and restoration, and may distinguish between owners and lots that are directly affected by the disaster, and those that are not. This Section does not pertain to an individual's perception of a threat, such as fear of an interplanetary alien invasion.

15.8. **INDEMNITY FOR ASSOCIATION OPERATIONS.** The Association indemnifies, defends, and holds harmless Declarant against any loss, claim, demand, damage, cost, and expense relating to or arising out of the management and operation of the Association, including without limitation, the collection of assessments, the enforcement of the Governing Documents, and the operation and maintenance of the common areas. Indemnified expenses include, without limitation, reasonable attorneys fees, whether or not a lawsuit is filed, and costs at all court levels, including expenses incurred by Declarant in establishing the right to be indemnified, defended, and held harmless pursuant to this Declaration.

15.9. **RELEASE FOR INJURY OR LOSS.** Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, and each resident of any portion of the Property, covenants and agrees that the Association, the Architectural Authority, Declarant, and their respective directors, officers, committees, members, agents, and employees (individually and collectively, the "**Indemnitees**") may not be held liable to any person claiming any loss or damage including, without limitation, indirect, special, or consequential loss or damage arising from personal injury or death, destruction of property, trespass, loss of enjoyment, or any other wrong or entitlement to remedy based upon, due to, arising from, or otherwise relating to the design, construction, maintenance, or use of any common area, expressly including every item of equipment used in connection therewith, including, without limitation, any claim arising in whole or in part from the negligence of an Indemnitee.

IMPORTANT TO READ AND UNDERSTAND THESE RELEASES

15.10. **INTENT TO RELEASE FROM NEGLIGENCE.** Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, and each resident of any portion of the Property by the act of occupancy, acknowledges that the releases and indemnities contained in this Article are **intended to release and indemnify the Indemnitees from liability for their own negligence or carelessness.**

15.11. **AGAINST SELF-INTEREST OF OWNER OR OCCUPANT.** Each owner and resident acknowledges that the releases and indemnities in this Article are **contrary to the self-interest of the owner or resident.** In other words, the releases and indemnities are not in the owner or resident's best interest.

**ARTICLE 16
DISPUTE RESOLUTION**

16.1. **INTRODUCTION & DEFINITIONS.** The Association, owners, residents, Declarant, Builders, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. A Party may not avoid this Article by assigning its cause of action to another person. As used in this Article only, the following words, when capitalized, have the following specified meanings:

16.1.1. "**Claim**" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:

Appendix B and Appendix C have priority over the main body of this Declaration.

- (1) Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.
- (2) Claims relating to the rights or duties of Declarant as Declarant under the Governing Documents.
- (3) Claims relating to the design, construction, or maintenance of the Property.
- (4) Disputes of any kind between residents and owners.

16.1.2. "**Claimant**" means any Party having a Claim against any other Party.

16.1.3. "**Exempt Claims**" means the following claims or actions, which are exempt from this Article:

- (1) The Association's claim for assessments, and any action by the Association to collect assessments.
- (2) An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
- (3) Enforcement by Declarant or the Association, or their respective representatives, of the easements, architectural control, maintenance, and use restrictions of this Declaration.
- (4) A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

16.1.4. "**Respondent**" means the Party against whom the Claimant has a Claim.

16.2. MANDATORY PROCEDURES. **Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.**

☺ **LET'S WORK IT OUT** ☺

16.3. NOTICE. Claimant must notify Respondent in writing of the Claim (the "**Notice**"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

16.4. NEGOTIATION. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

16.5. MEDIATION. If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the

Appendix B and Appendix C have priority over the main body of this Declaration.

Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

16.6. TERMINATION OF MEDIATION. If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

16.7. ALLOCATION OF COSTS. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

16.8. ENFORCEMENT OF RESOLUTION. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys fees and court costs.

16.9. GENERAL PROVISIONS. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim. A Party having an Exempt Claim may submit it to the procedures of this Article.

16.10. LITIGATION APPROVAL & SETTLEMENT. To encourage the use of alternative dispute resolution and discourage the use of costly and uncertain litigation, the initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to and notwithstanding the above alternate dispute resolution procedures. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Section. This Section may not be amended without the approval of owners of at least 75 percent of the lots.

16.10.1. Owner Approval. The Association may not initiate any judicial or administrative proceeding without the prior approval of owners of at least a majority of the lots, except that no such approval is required (1) to enforce provisions of this Declaration, including collection of assessments; (2) to challenge condemnation proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of owners in order to preserve the status quo.

16.10.2. Higher Approval of Certain Suits. Except to obtain a temporary restraining order when circumstances warrant, the Association may not initiate any judicial or administrative proceeding against a current or former officer or director of the Association, the AGC, the New Construction ACC, Declarant, or a Builder without the approval of owners representing at least 75 percent of the lots because of the potential for counterclaims and the costs and liabilities appurtenant thereto.

16.10.3. Funding Litigation. Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a special assessment, the Association must levy a special assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its annual operating income, reserve funds, or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

16.10.4. Settlement. The board, on behalf of the Association and without the consent of owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

Appendix B and Appendix C have priority over the main body of this Declaration.

16.11. CONSTRUCTION-RELATED DISPUTES. In addition to the above procedures, a claim relating to an alleged construction defect may be governed by Texas statutes relating to residential construction, such as Chapter 27 of the Texas Property Code, the Residential Construction Liability Act.

ARTICLE 17 **HOME SALES & REALES**

17.1. GENERAL. In the era in which this Declaration is written, the law pertaining to the sale and resale of residential lots governed by a mandatory property owners association is evolving. The purpose of this Article is to formalize the process by which Association-related fees are imposed on lot sales. An obligation to the Association or its managing agent for transfer-related fees on a lot conveyance varies by whether the lot is vacant or improved with a home, and whether the home is new or a resale. Lot sales in the Property are not subject to a right of first refusal in favor of the Association or its individual members. An owner who sells his lot under an executory contract (contract for deed) may delegate his membership rights to the contract purchaser, provided a written assignment signed by the contract seller and purchaser is delivered to the board. However, the contract seller remains liable for all assessments attributable to his lot until fee title to the lot is transferred.

17.2. HOA SALE FEES. "**HOA Sale Fee**" means a non-refundable expense, fee, charge, or contribution that is charged by the Association or its manager in connection with the sale or purchase of a lot, pursuant to the Governing Documents, applicable law, or a management contract to which the Association is a party. A buyer's prepaid or pro-rata assessments are not HOA Sale Fees. HOA Sale Fees are generally of two types - budget enhancing fees (also known as "**cap fees**"), such as contributions to the reserve or operating funds of the Association, and administrative fees (also known as "**transfer fees**"), such as fees for resale certificates and ownership record changes. The Association and its manager may waive some or all HOA Sale Fees on a transfer by transfer basis, without waiving the right to charge such fees on future transfers.

17.3. ADMINISTRATIVE TRANSFER FEES. Transfer-related administrative fees may be charged and collected only pursuant to a contract, policy, or resolution adopted by the board identifying the type, purpose, amount, and beneficiary of each administrative transfer fee charged to an owner or prospective owner by the Association or its managing agent. The number, amounts, and types of administrative transfer fees may not exceed what is customary for the local marketplace. To be effective, the contract, policy, or resolution must be signed by an officer of the Association, certifying approval by the board. This Article does not require the Association or its manager to levy administrative HOA Sale Fees.

17.4. NEW HOME SALES. HOA Sale Fees pertaining to sales of vacant lots to Builders and New Home Sales are addressed at the end of Appendix C of this Declaration, and in Appendix G of this Declaration. The Association may not determine or change any aspect of HOA Sale Fees pertaining to the conveyance of New Homes and vacant lots or land without Declarant's prior consent in a publicly recorded writing that is dated, signed, and acknowledged by Declarant, which consent may not be deemed from any act, omission, or other writing. This Section and Appendix G of this Declaration will cease to apply to the Property upon Sell-Out.

17.5. HOME REALES. This Section applies to every "**Home Resale**", being the sale or conveyance of a residential lot that is improved with a completed dwelling, and for which the selling owner is a person other than Declarant or a Builder. This Section does not apply to the sale of vacant lots and New Home Sales by Declarant or Builders.

17.5.1. Resale Certificate. An owner intending to sell his home will notify the Association and will request a resale certificate from the Association. The resale certificate provided by the Association or its manager must state the amount, type, and payee of each HOA Sale Fee, which must conform to the Association's contract, policy, or resolution then in effect.

17.5.2. Amounts. At time of closing a Home Resale, the following amounts are due and payable by buyer or seller of a Home Resale, subject to the limited exclusions below.

- (1) To the Association, a one-time contribution to the Association's reserve funds, in the amount of **one-fourth the annual regular assessment** for each lot purchased.

Appendix B and Appendix C have priority over the main body of this Declaration.

- (2) If any, the customary administrative HOA Sale Fees, payable to the Association or its manager, as directed at time of closing.

17.5.3. Notice of Obligation. HOA Sale Fees on a Home Resale may be paid by either the seller or the buyer, per their negotiations, and are typically collected at closing. If HOA Sale Fees are not collected at closing, the buyer remains liable to the Association or to the manager, as applicable, for the fee until the fee is received. HOA Sales Fees may not be avoided by effecting the transfer without the services of a title company.

17.5.4. Information. Within 30 days after acquiring an interest in an improved lot, an owner will provide the Association with the following information: a copy of the settlement statement or deed by which owner has title to the lot; the owner's email address (if any), U. S. postal address, and phone number; any mortgagee's name, address, and loan number; the name and phone number of any resident other than the owner; the name, address, and phone number of owner's managing agent, if any.

17.6. CHANGES IN AMOUNTS. Notwithstanding the Amendments Article of this Declaration, the board, without a vote of the owners, may amend this Article for the following two purposes only: (1) to change the amount or formula stated for HOA Sale Fees on Home Resales, or (2) to conform this Article with applicable law regarding HOA Sale Fees on Home Resales. The change of amount or formula is not effective unless stated in a writing that is publicly recorded in the Real Property Records of Tarrant County, Texas, signed and acknowledged by an officer of the Association. If the change of amount results in an overall reduction of HOA Sale Fees for a conveyance that is pending at the time of the change, the lower rate is effective immediately for any closing that occurs after the date the notice of change is publicly recorded. If the change of amount results in an overall increase of HOA Sale Fees for the lot being conveyed at the time of the change, the increased amount is not effective until the 90th day after the date on which the notice of change is publicly recorded.

17.7. EXCLUSIONS. Except for the above duty to provide the Association with information at time of transfer, the requirements of this Article, including the obligation for HOA Sale Fees, do not apply to the following transfers: (1) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien; (2) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (3) transfer to, from, or by the Association; (4) voluntary transfer by an owner to one or more co-owners, or to the owner's spouse, child, or parent; (5) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; (6) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; (7) a disposition by a government or governmental agency; or (8) a transfer from Declarant to a successor Declarant or to an affiliate of Declarant.

ARTICLE 18

COVENANTS FOR DECLARANT'S BENEFIT

This Article highlights, emphasizes, and reasserts certain rights reserved elsewhere in this Declaration for the benefit of Declarant. Every person who acquires an ownership interest in the Property while Declarant has reserved rights and reservations under this Declaration is presumed to have actual knowledge of this Article and to be bound by its terms.

18.1. OWNERSHIP NOT REQUIRED. As stated in Appendix B, Declarant's rights and reservations under this Declaration are not contingent on Declarant's ownership of a lot. However, if it becomes necessary or desirable for Declarant to own land subject to this Declaration in order to exercise a Declarant right or reservation, Declarant hereby reserves the right to acquire or re-acquire an ownership interest in one or more lots or unplatted parcels in the Property for that purpose, in addition to Declarant's right to unilaterally subject Additional Land to this Declaration.

18.2. ECONOMIC INTEREST. As a real estate developer, Declarant's economic interest in the Property continues at least until the development is completely expanded, developed, built-out and sold-out, without regard to day-to-day ownership of lots in the Property. Because the Governing Documents are branded with Declarant's name, Declarant's reputation as a developer of subdivisions is inextricably linked to the Property's reputation and success. For that reason, Declarant rights - such as rights to unilaterally expand the Property, unilaterally amend this Declaration, and unilaterally adopt and amend other Governing Documents - are not dependent on Declarant's ownership of a lot, which is only one type of economic interest in the subdivision. Another economic interest is Declarant's reasonable expectation to market future subdivisions from the successful completion of this Property, the retention of property values, and the viability of

Appendix B and Appendix C have priority over the main body of this Declaration.

the Association. In service to those outcomes, Declarant retains a substantial bundle of significant rights that straddle periods when Declarant may own no lot in the Property while having a significant economic interest.

18.3. ASSOCIATION FINANCES. Any portion of the Property that is owned by Declarant, by a signer of this Declaration, or by an owner who is under contract to sell the property to Declarant is exempt from assessment by the Association. During the Declarant Control Period, the Association may apply all monies received from owners to the operating expenses of the Association, and is not required by this Declaration to fund reserve accounts, even if a projected build-out budget for the Association shows contributions to reserves. During the Declarant Control Period only, Declarant may contribute or loan money to the Association if monies received from owners are not sufficient to cover the Association's operating expenses. After the Declarant Control Period, the Association must adopt a budget that can be funded fully by owners other than Declarant, its affiliates, or an owner who is under contract to sell the property to Declarant.

18.4. AMENDING GOVERNING DOCUMENTS. Declarant has an exclusive right to unilaterally amend, supplement, and restate this Declaration and every other Governing Document for any purpose, and the right to adopt Governing Documents, as stated in Appendix B. A provision of this Declaration or any other Governing Document that pertains in any way - directly or indirectly - to Declarant or Builders, or to their rights and reservations under this Declaration, such as this Article and Appendixes B and C (without limitation), may not be changed or terminated without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. Nor may this Declaration or any other Governing Document be adopted, changed, or terminated to increase the liabilities or responsibilities of Declarant or Builders, without Declarant's written and acknowledged consent, which must be part of the recorded instrument. A document that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. See the "Right to Approve" subsection of the Section titled Governing Documents Rights & Reservations in Appendix B, which is referenced here for emphasis.

18.5. APPENDIXES B AND C. The provisions of Appendixes B and C of this Declaration control over anything to the contrary in the main body of this Declaration or in any other Governing Document. This Declaration may not be published, amended, or restated without Appendixes B and C, without Declarant's written and acknowledged consent on the amendment, restatement, or publication of this Declaration.

18.6. DURABLE RIGHTS. Declarant's rights and reservations under this Declaration are intended to be durable and incapable of inadvertent loss. Any claim that a Declarant right has been relinquished or terminated sooner than required by this Declaration is invalid without a publicly recorded document, signed and acknowledged by Declarant, clearly and unequivocally stating Declarant's intent to terminate a right. Absent such documentation, no act or omission or combination of acts and omissions may be construed as a change, diminution, or termination of any Declarant right or reservation.

ARTICLE 19

GENERAL PROVISIONS FOR ALL GOVERNING DOCUMENTS

19.1. HIGHER AUTHORITY. The Governing Documents are subordinate to federal and state law, and local ordinances. Generally, the terms of the Governing Documents are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance. Among the Governing Documents there is a pecking order.

19.1.1. Between Documents. In the event of a conflict between the Governing Documents and subject to the exception below, the hierarchy of authority is as follows: the Plat (highest), this Declaration, Owners Manual, Articles of Association (certificate of formation), Bylaws, board-made rules, and (lowest) policies, procedures, and guidelines.

19.1.2. Within Declaration. In the event of a conflict within this Declaration, Appendix B has the highest authority, followed by Appendix C, and lastly by the main body of this Declaration. In the event of a conflict between this Declaration and a subsequent amendment, the amendment controls for the purposes of the amendment. In the event of a conflict between this Declaration and a supplement, the supplement controls for the purposes of the supplement.

Appendix B and Appendix C have priority over the main body of this Declaration.

19.1.3. Exception. If a law that is specifically applicable to property owners associations, such as Prop. Code Chapter 209, authorizes certain actions or the adoption of certain policies or procedures, the Association may act or adopt pursuant to applicable law even if the act or adoption appears to be inconsistent with an otherwise superior Governing Document.

19.2. COMPLIANCE. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Governing Documents and applicable laws, as same may be amended from time to time, of any public or quasi-public entity having jurisdiction over the Association or Property. Users of this Declaration and the other Governing Documents should periodically review statutes and court rulings that may modify or nullify a provision or its enforcement, or may create rights or duties not anticipated by a Governing Document.

Laws are superior to the HOA Docs, and laws change.

19.3. CHANGE OF APPLICABLE LAW. This Section applies to a provision of a Governing Document that is modified, rendered void, or becomes obsolete because of a change of applicable law. If the board of directors determines that the significance of the provision that is changed by operation of law should be brought to the attention of owners and the public, the board of directors, without a vote of the owners, may issue a Notice of Change that references the provision of a Governing Document and how it is affected by applicable law. The Notice may be recorded in the Real Property Records of Tarrant County, Texas, and does not constitute an amendment of the Governing Document. If such a Notice is issued, the Association will notify owners of its existence and will make it available to owners as a record of the Association. This provision may not be construed to give the board unilateral amendment powers, nor to prevent an amendment of a Governing Document to achieve the same purpose.

19.4. NOTICE. Any demand or written notice required or permitted by a Governing Document may be sent by any method or combination of methods permitted or required by applicable law, such as (without limitation) electronic mail, first-class mail, priority mail, verified mail, or certified mail, postage prepaid. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the member at the address shown on the Association's records. If transmitted by fax or email, the notice is deemed delivered on successful transmission of the facsimile or electronic correspondence. The notice must be sent to the party's last known address as it appears on the records of the Association at the time of transmission. If an owner fails to give the Association an effective address, the notice may be sent to the address of the owner's lot. If the Association properly transmits the notice, the owner is deemed to have been given notice whether or not he actually receives it.

19.5. CHANGING TECHNOLOGY. The Governing Documents are drafted at the end of an era that uses ink on paper to communicate, to give notice, and to memorialize decisions. The next era of communications may be paperless, relying on electronic communications for many activities that are customarily papered on the date of this Declaration. As technology changes, the terms of the Governing Documents that pertain to communications, notices, and documentation of decisions may be interpreted and applied in ways that are consistent with and customary for the then-current technology for standard business practices, without necessity of amending the Governing Document.

19.6. LIBERAL CONSTRUCTION. The terms and provisions of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision in any Governing Document or applicable law, including restrictions on the use or alienability of property, will be resolved in the following order of preferences: first to give effect to Declarant's intent to protect Declarant's interests in the Property, second to give effect to Declarant's intent to direct the Build-Out and Sell-Out of the Property, third to give effect to Declarant's intent to control governance of the Association for the maximum permitted period, then in favor of the operation of the Association and its enforcement of the Governing Documents for the benefit of owners collectively, and finally to protect the rights of individual owners, regardless which party seeks enforcement.

19.7. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

19.8. CAPTIONS. In all Governing Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are

Appendix B and Appendix C have priority over the main body of this Declaration.

inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text. Boxed notices are not enforceable provisions.

19.9. INTERPRETATION. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate. The use of "or" in a series as inclusive or exclusive depends on the context.

19.10. DURATION. Unless terminated or amended by owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

19.11. EXECUTIONS. This Declaration is executed by the below-named parties (the "**signers**") in their respective stated capacities. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, and each resident of any portion of the Property, covenants and agrees that each signer and the signer's successors and assigns has no liability of any kind to any owner or to the Association by virtue of its execution of this Declaration or any other Governing Document. Each owner further covenants and agrees that mere execution of this Declaration by a signer does not impose the status of "Declarant" on a signer. Although the signatures below act as "declarations" that the signer's land is subject to this Declaration, no signer other than Crystal Lake Development, LLC, is a Declarant as defined in this Declaration and may not become a Declarant except by compliance with Section B.10 of Appendix B of this Declaration. Additionally, as stated in Section 8.9 above, lots and unplatted land owned by the below signers are not subject to assessment by the Association. The signers are:

- (1) Crystal Lake Development, LLC, in its capacity as the Declarant of Marine Creek Ranch East, and as the owner of a portion of the Property subject to this Declaration. *(Next page)*
- (2) Hayco Realty, Ltd., a Texas limited partnership, in its capacity as the owner of a portion of the Property subject to this Declaration. *(Appendix F-1)*
- (3) M & C Development, Ltd., a Texas limited partnership, in its capacity as the owner of a portion of the Property subject to this Declaration. *(Appendix F-2)*
- (4) Westover Development, Ltd., a Texas limited partnership, in its capacity as the owner of a portion of the Property subject to this Declaration. *(Appendix F-3)*
- (5) Southside Bank, a Texas state charter bank, in its capacity as the beneficiary of one or more deed of trust liens on some or all of the Property subject to this Declaration. *(Appendix F-4)*

19.12. APPENDIXES. The following appendixes are attached to this Declaration and incorporated by reference:

- A - Description of Subject Land
- B - Declarant's Rights & Reservations for Build-Out & Sell-Out
- C - Declarant's Rights & Reservations for Association Governance
- D - Retaining Walls
- E - Additional Land Appendix
- F - Consents to Declaration
- G - Transfer-Related Fees During Sell-Out

(Signed on next page.)

Appendix B and Appendix C have priority over the main body of this Declaration.

SIGNED AND ACKNOWLEDGED

SIGNED on the date stated in the acknowledgment below.

CRYSTAL LAKE DEVELOPMENT, LLC, a Texas limited liability company

By: _____
John Cockerham, Manager

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on this _____ day of July 2018 by John Cockerham, Manager of Crystal Lake Development, LLC, a Texas limited liability company, on behalf of the company.

Notary Public, The State of Texas

Appendix B and Appendix C have priority over the main body of this Declaration.

APPENDIX A
DESCRIPTION OF SUBJECT LAND

TRACT 1 - 4.460 ACRES

BEING A 4.460 ACRE TRACT OF LAND LOCATED IN THE JOSEPH BOMAN SURVEY, ABSTRACT NO. 79, AND THE ALEXANDER F. ALBRIGHT SURVEY, ABSTRACT 1849, CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, BEING A PORTION OF A CALLED 19.603 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO M & C DEVELOPMENT, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D214158673, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), SAID 4.460 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" FOR THE NORTHWEST CORNER OF LOT 27, BLOCK I, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D216024776, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), FROM WHICH A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" FOR THE SOUTHWEST CORNER OF LOT 23, BLOCK I, OF SAID MARINE CREEK RANCH, BEARS SOUTH 00 DEGREES 23 MINUTES 42 SECONDS EAST, A DISTANCE OF 302.27 FEET, SAID BEGINNING POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6993780.6 E:2304653.8 (BEARINGS & COORDINATE VALUES NOTED HEREON ARE IN REFERENCE TO THE NAD83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK). ALL DISTANCES NOTED HEREON WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00015312510, BASE POINT 0,0,0;

THENCE NORTH 00 DEGREES 23 MINUTES 42 SECONDS WEST, ALONG THE WEST LINE OF SAID CALLED 19.603 ACRE TRACT OF LAND, A DISTANCE OF 205.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE NORTH 89 DEGREES 36 MINUTES 05 SECONDS EAST, DEPARTING SAID WEST LINE, AND OVER AND ACROSS SAID CALLED 19.603 ACRE TRACT OF LAND, A DISTANCE OF 11.63 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE NORTH 00 DEGREES 23 MINUTES 55 SECONDS WEST, CONTINUING OVER AND ACROSS SAID CALLED 19.603 ACRE TRACT OF LAND, A DISTANCE OF 115.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE NORTH LINE OF SAID CALLED 19.603 ACRE TRACT OF LAND AND BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK 1, EAGLE MOUNTAIN SAGINAW ELEMENTARY SCHOOL NO. 13 ADDITION, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 11779, PLAT RECORDS, TARRANT COUNTY, TEXAS (PRTCT), FROM WHICH A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" FOR THE NORTHWEST CORNER OF SAID CALLED 19.603 ACRE TRACT OF LAND BEARS SOUTH 89 DEGREES 36 MINUTES 05 SECONDS WEST, A DISTANCE OF 11.63 FEET;

THENCE NORTH 89 DEGREES 36 MINUTES 05 SECONDS EAST, ALONG THE NORTH LINE OF SAID CALLED 19.603 ACRE TRACT OF LAND, BEING COMMON WITH THE SOUTH LINE OF SAID LOT 1, BLOCK 1, EAGLE MOUNTAIN-SAGINAW ELEMENTARY SCHOOL NO. 13 ADDITION, A DISTANCE OF 663.46 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE WEST RIGHT-OF-WAY LINE OF CRYSTAL LAKE DRIVE, A 100-FOOT PUBLIC RIGHT-OF-WAY (CC# D215031086);

THENCE SOUTH 00 DEGREES 23 MINUTES 08 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 280.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE NORTHEAST CORNER OF LOT 11X, BLOCK H, OF SAID MARINE CREEK RANCH (D216024776);

THENCE SOUTH 89 DEGREES 36 MINUTES 05 SECONDS WEST, DEPARTING SAID WEST RIGHT-OF-WAY LINE, AND ALONG THE NORTH LINE OF SAID MARINE CREEK RANCH (D216024776), A DISTANCE OF 510.02 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE NORTHWEST CORNER OF LOT 1, BLOCK H, OF SAID MARINE CREEK RANCH (D216024776);

THENCE SOUTH 00 DEGREES 23 MINUTES 55 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 1, BLOCK H, A DISTANCE OF 40.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE SOUTH 89 DEGREES 36 MINUTES 05 SECONDS WEST, A DISTANCE OF 165.02 FEET, TO THE **POINT OF BEGINNING**, AND **CONTAINING 4.460 ACRES** (194,281 SQUARE FEET) OF LAND, MORE OR LESS.

TRACT 2 - 26.703 ACRES

BEING A 26.703 ACRE TRACT OF LAND LOCATED IN THE ALEXANDER F. ALBRIGHT SURVEY, ABSTRACT NO. 1849, IN THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, AND BEING ALL OF A CALLED 26.703 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO CRYSTAL LAKE DEVELOPMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D217147954, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), SAID 26.703 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES & BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" FOR THE SOUTHEAST CORNER OF LOT 22, BLOCK C, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D217004225, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), BEING ON THE NORTH LINE OF A 30-FOOT MULTIPLE PIPELINE RIGHT-OF-WAY AND EASEMENT TO BARNETT GATHERING LP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D208201387, OPRTCT, SAID BEGINNING POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6992715.9 E:2306783.9 (BEARINGS & COORDINATE VALUES SHOWN HEREON ARE IN REFERENCE TO THE NAD83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK. ALL DISTANCES SHOWN HEREON WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00015312510, BASE POINT OF 0,0,0);

THENCE SOUTH 10 DEGREES 46 MINUTES 48 SECONDS WEST, ALONG AN EAST LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, AND OVER AND ACROSS SAID 30-FOOT MULTIPLE PIPELINE RIGHT-OF-WAY AND EASEMENT, A DISTANCE OF 36.83 FEET, TO A POINT FOR CORNER, BEING ON THE NORTH LINE OF AN ATMOS PIPELINE EASEMENT (FORMERLY ENSERCH CORPORATION), FILED FOR RECORD IN VOLUME 7094, PAGE 908, DRTCT;

THENCE SOUTH 79 DEGREES 12 MINUTES 42 SECONDS EAST, ALONG A NORTH LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, BEING COMMON WITH THE NORTH LINE OF SAID ATMOS EASEMENT, A DISTANCE OF 31.11 FEET, TO A POINT FOR CORNER, BEING THE NORTHERNMOST NORTHEAST CORNER OF A 30-FOOT PIPELINE EASEMENT (EASEMENT NO. 9) TO XTO ENERGY, INC., AS DESCRIBED IN COUNTY CLERK'S INSTRUMENT NO. D207418844, OPRTCT;

THENCE SOUTH 10 DEGREES 50 MINUTES 30 SECONDS WEST, ALONG AN EAST LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, BEING COMMON WITH THE EAST LINE OF SAID 30-FOOT PIPELINE EASEMENT, A DISTANCE OF 107.06 FEET, TO A POINT FOR CORNER;

THENCE SOUTH 78 DEGREES 50 MINUTES 08 SECONDS EAST, ALONG A NORTH LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, BEING COMMON WITH A NORTH LINE OF SAID 30-FOOT PIPELINE EASEMENT, A DISTANCE OF 91.95 FEET, TO A POINT FOR CORNER FOR THE EASTERNMOST NORTHEAST CORNER OF SAID CALLED 26.703 ACRE TRACT OF LAND, SAME BEING THE NORTHWEST CORNER OF A CALLED 23.584 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO WESTOVER DEVELOPMENT, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D206244184, OPRTCT, FROM WHICH A 1/2 INCH IRON ROD FOUND (DISTURBED) BEARS SOUTH 41 DEGREES 29 MINUTES 58 SECONDS WEST, A DISTANCE OF 0.36 FEET;

THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, BEING COMMON WITH THE WEST LINE OF SAID CALLED 23.584 ACRE TRACT OF LAND, THE FOLLOWING CALLS:

SOUTH 05 DEGREES 32 MINUTES 08 SECONDS WEST, A DISTANCE OF 140.91 FEET, TO A POINT FOR CORNER;

SOUTH 10 DEGREES 50 MINUTES 30 SECONDS WEST, A DISTANCE OF 120.34 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 565.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A SOUTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 27 DEGREES 28 MINUTES 43 SECONDS, AN ARC LENGTH OF 270.97 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 24 DEGREES 34 MINUTES 52 SECONDS WEST, A CHORD LENGTH OF 268.38 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 435.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A SOUTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 29 DEGREES 16 MINUTES 24 SECONDS, AN ARC LENGTH OF 222.25 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 23 DEGREES 41 MINUTES 03 SECONDS WEST, A CHORD LENGTH OF 219.84 FEET, TO A POINT FOR CORNER;

SOUTH 09 DEGREES 02 MINUTES 52 SECONDS WEST, A DISTANCE OF 150.50 FEET, TO A POINT FOR CORNER;

THENCE WESTERLY, DEPARTING THE WEST LINE OF SAID CALLED 23.584 ACRE TRACT OF LAND, AND IN A NORTHWESTERLY DIRECTION ALONG THE SOUTH LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, THE FOLLOWING CALLS:

NORTH 73 DEGREES 21 MINUTES 51 SECONDS WEST, A DISTANCE OF 193.15 FEET, TO A POINT FOR CORNER;

NORTH 16 DEGREES 38 MINUTES 09 SECONDS EAST A DISTANCE OF 5.00 FEET, TO A POINT FOR CORNER;

NORTH 73 DEGREES 21 MINUTES 51 SECONDS WEST, A DISTANCE OF 157.74 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 850.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A WESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 07 DEGREES 18 MINUTES 08 SECONDS, AN ARC LENGTH OF 108.33 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 77 DEGREES 00 MINUTES 55 SECONDS WEST, A CHORD LENGTH OF 108.26 FEET, TO A POINT FOR CORNER;

NORTH 80 DEGREES 39 MINUTES 59 SECONDS WEST, A DISTANCE OF 245.05 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1650.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A WESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 09 DEGREES 37 MINUTES 32 SECONDS, AN ARC LENGTH OF 277.19 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 75 DEGREES 51 MINUTES 13 SECONDS WEST, A CHORD LENGTH OF 276.87 FEET, TO A POINT FOR CORNER;

NORTH 71 DEGREES 02 MINUTES 27 SECONDS WEST, A DISTANCE OF 81.52 FEET, TO A POINT FOR CORNER;

NORTH 18 DEGREES 57 MINUTES 33 SECONDS EAST, A DISTANCE OF 120.00 FEET, TO A POINT FOR CORNER;

NORTH 71 DEGREES 02 MINUTES 27 SECONDS WEST, A DISTANCE OF 72.07 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1230.00 FEET, AND BEING ON THE EAST LINE OF MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D215031086, OPRTCT, SAME BEING THE EAST RIGHT-OF-WAY LINE OF CRYSTAL LAKE DRIVE, A 60-FOOT PUBLIC RIGHT OF WAY, SAID POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6992099.0 E:2305561.2;

THENCE ALONG SAID CURVE TO THE LEFT, AND IN A NORTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 40 DEGREES 16 MINUTES 59 SECONDS, AN ARC LENGTH OF 864.78 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 01 DEGREES 30 MINUTES 21 SECONDS EAST, A CHORD LENGTH OF 847.08 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE SOUTHWEST CORNER OF LOT 4, BLOCK C, OF SAID MARINE CREEK RANCH (D217004225), SAID POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6992945.6 E:2305583.4;

THENCE SOUTH 79 DEGREES 10 MINUTES 03 SECONDS EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, AND ALONG THE SOUTH LINE OF SAID MARINE CREEK RANCH (D217004225), A DISTANCE OF 1222.43 FEET, TO THE **POINT OF BEGINNING**, AND **CONTAINING 26.703 ACRES (1,163,196 SQUARE FEET) OF LAND**, MORE OR LESS.

TRACT 3 - 32.330 ACRES

BEING A 32.330 ACRE TRACT OF LAND LOCATED IN THE JOSEPH BOMAN SURVEY, ABSTRACT NO. 79, CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, BEING A PORTION OF A CALLED 964.473 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO HAYCO REALTY, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN VOLUME 14192, PAGE 644, DEED RECORDS, TARRANT COUNTY, TEXAS (DRTCT), AND BEING A PORTION OF A CALLED 19.603 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO M & C DEVELOPMENT, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D214158673, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), SAID 32.330 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" FOR THE SOUTHEAST CORNER OF LOT 1, BLOCK J, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D217119504, OPRTCT, SAID BEGINNING POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6994480.7 E:2303052.1 (BEARINGS & COORDINATE VALUES SHOWN HEREON ARE IN REFERENCE TO THE NAD83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK. ALL DISTANCES SHOWN HEREON WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00015312510, BASE POINT OF 0,0,0);

THENCE NORTH 00 DEGREES 06 MINUTES 53 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 1, BLOCK J, MARINE CREEK RANCH, AT A DISTANCE 210.00 FEET, PASSING THE NORTHEAST CORNER OF SAID LOT 1, BLOCK J, MARINE CREEK RANCH, AND CONTINUING IN ALL A TOTAL DISTANCE OF 269.23 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE SOUTH RIGHT-OF-WAY LINE OF CROMWELL MARINE CREEK ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, AND BEING ON THE NORTH LINE OF SAID CALLED 964.473 ACRE TRACT OF LAND, FROM WHICH AN "X" CUT FOUND IN CONCRETE FOR THE NORTHERNMOST NORTHEAST CORNER OF MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 12800, PLAT RECORDS, TARRANT COUNTY, TEXAS (PRTCT), BEARS SOUTH 89 DEGREES 37 MINUTES 03 SECONDS WEST, A DISTANCE OF 212.00 FEET;

THENCE NORTH 89 DEGREES 37 MINUTES 03 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CROMWELL MARINE CREEK ROAD, A DISTANCE OF 1610.80 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE SOUTH 00 DEGREES 05 MINUTES 53 SECONDS EAST, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, AT A DISTANCE OF 61.9 FEET, PASSING THE NORTHWEST CORNER OF LOT 1, BLOCK 1, EAGLE MOUNTAIN-SAGINAW ELEMENTARY SCHOOL NO. 13 ADDITION, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 11779, PRTCT, AT A DISTANCE OF 660.1 FEET, PASSING THE SOUTHWEST CORNER OF SAID LOT 1, BLOCK 1, EAGLE MOUNTAIN-SAGINAW ELEMENTARY SCHOOL NO. 13 ADDITION, SAME BEING ON THE NORTH LINE OF SAID CALLED 19.603 ACRE TRACT OF LAND, AND CONTINUING IN ALL A TOTAL DISTANCE OF 775.09 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE SOUTH 89 DEGREES 33 MINUTES 57 SECONDS WEST, A DISTANCE OF 11.03 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE WEST LINE OF SAID CALLED 19.603 ACRE TRACT OF LAND;

THENCE SOUTH 00 DEGREES 23 MINUTES 42 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 507.27 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE SOUTHWEST CORNER OF LOT 23, BLOCK I, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D216024776, OPRTCT;

THENCE SOUTH 10 DEGREES 49 MINUTES 40 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID CALLED 19.603 ACRE TRACT OF LAND, A DISTANCE OF 184.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" ON THE NORTH RIGHT-OF-WAY LINE OF TUXBURY POND DRIVE, A 50-FOOT PUBLIC RIGHT-OF-WAY, BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK I, OF SAID MARINE CREEK RANCH (D216024776), AND BEING THE EASTERNMOST CORNER OF MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D217293760, OPRTCT;

THENCE NORTH 79 DEGREES 10 MINUTES 03 SECONDS WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 254.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE SOUTHEAST CORNER OF LOT 16, BLOCK CC, OF SAID MARINE CREEK RANCH (D217293760);

THENCE NORTH 00 DEGREES 17 MINUTES 53 SECONDS WEST, ALONG THE EAST LINE OF BLOCK CC, A DISTANCE OF 737.78 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE NORTHEAST CORNER OF LOT 3, BLOCK CC, OF SAID MARINE CREEK RANCH (D217293760);

THENCE SOUTH 89 DEGREES 42 MINUTES 07 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 3, BLOCK CC, A DISTANCE OF 115.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE EAST RIGHT-OF-WAY LINE OF HICKORY HILLS LANE, A 50-FOOT PUBLIC RIGHT-OF-WAY;

THENCE NORTH 00 DEGREES 17 MINUTES 53 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 15.00 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE SOUTH 89 DEGREES 42 MINUTES 07 SECONDS WEST, OVER AND ACROSS SAID HICKORY HILLS LANE, AND ALONG THE NORTH LINE OF BLOCK FF, OF SAID MARINE CREEK RANCH (D217293760), A DISTANCE OF 1010.62 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING THE NORTHWEST CORNER OF LOT 23, BLOCK FF, OF SAID MARINE CREEK RANCH (D217293760);

THENCE SOUTH 14 DEGREES 00 MINUTES 23 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 23, BLOCK FF, A DISTANCE OF 126.14 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE NORTH RIGHT-OF-WAY LINE OF SALT SPRINGS DRIVE, A 50-FOOT PUBLIC RIGHT-OF-WAY, AND BEING AT THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 265.00 FEET;

THENCE ALONG SAID CURVE TO THE LEFT, AND SAID NORTH RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 10 DEGREES 55 MINUTES 03 SECONDS, AN ARC LENGTH OF 50.49 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 70 DEGREES 32 MINUTES 04 SECONDS WEST, A CHORD LENGTH OF 50.42 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE NORTH 73 DEGREES 24 MINUTES 18 SECONDS WEST, A DISTANCE OF 14.75 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE SOUTH 69 DEGREES 06 MINUTES 20 SECONDS WEST, A DISTANCE OF 61.01 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE SOUTH 64 DEGREES 18 MINUTES 42 SECONDS WEST, A DISTANCE OF 126.86 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE NORTH 75 DEGREES 51 MINUTES 26 SECONDS WEST, A DISTANCE OF 14.15 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING ON THE EAST RIGHT-OF-WAY LINE OF HUFFINES BOULEVARD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, AND BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1100.00 FEET;

THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF SAID HUFFINES BOULEVARD, THE FOLLOWING CALLS:

ALONG SAID CURVE TO THE LEFT, AND IN A NORTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 01 DEGREES 38 MINUTES 08 SECONDS, AN ARC LENGTH OF 31.40 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 32 DEGREES 11 MINUTES 46 SECONDS WEST, A CHORD LENGTH OF 31.40 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1050.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A NORTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 16 DEGREES 35 MINUTES 18 SECONDS, AN ARC LENGTH OF 602.03 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 16 DEGREES 35 MINUTES 18 SECONDS WEST, A CHORD LENGTH OF 593.82 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

THENCE NORTH 89 DEGREES 41 MINUTES 35 SECONDS EAST, DEPARTING SAID EAST RIGHT-OF-WAY LINE, AT A DISTANCE OF 12.00 FEET, PASSING THE SOUTHWEST CORNER OF AFOREMENTIONED LOT 1, BLOCK J, MARINE CREEK RANCH (D217119504), AND CONTINUING IN

ALL A TOTAL DISTANCE OF 212.00 FEET, TO THE **POINT OF BEGINNING**, AND **CONTAINING 32.330 ACRES (1,408,287 SQUARE FEET) OF LAND**, MORE OR LESS.

TRACT 4 - 23.584 ACRES

BEING A 23.584 ACRE TRACT OF LAND LOCATED IN THE ALEXANDER F. ALBRIGHT SURVEY, ABSTRACT NO. 1849, CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, BEING ALL OF A CALLED 23.584 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO WESTOVER DEVELOPMENT, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D206244184, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), SAID 23.584 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT FOR CORNER FOR THE EASTERNMOST NORTHEAST CORNER OF A CALLED 26.703 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO CRYSTAL LAKE DEVELOPMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D217147954, OPRTCT, FROM WHICH A 1/2 INCH IRON ROD FOUND (DISTURBED) BEARS SOUTH 41 DEGREES 29 MINUTES 58 SECONDS WEST, A DISTANCE OF 0.36 FEET, ALSO BEING ON THE SOUTHEAST LINE OF AN ATMOS PIPELINE EASEMENT (FORMERLY ENSERCH CORPORATION), FILED FOR RECORD IN VOLUME 7094, PAGE 908, DEED RECORDS, TARRANT COUNTY, TEXAS (DRTCT), SAID BEGINNING POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6992551.0 E:2306877.6 (BEARINGS & COORDINATE VALUES SHOWN HEREON ARE IN REFERENCE TO THE NAD83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK. ALL DISTANCES SHOWN HEREON WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00015312510, BASE POINT OF 0,0,0), THIS METES & BOUNDS DESCRIPTION IS BASED SOLELY ON RECORD INFORMATION AND DOES NOT PURPORT TO REFLECT AN ON-THE-GROUND SURVEY MADE BY THIS FIRM;

THENCE SOUTH 78 DEGREES 50 MINUTES 07 SECONDS EAST, A DISTANCE OF 141.21 FEET, TO A POINT FOR CORNER, BEING THE NORTHEAST CORNER OF SAID CALLED 23.584 ACRE TRACT OF LAND;

THENCE IN A SOUTHERLY DIRECTION, ALONG THE EAST LINE OF SAID CALLED 23.584 ACRE TRACT OF LAND, THE FOLLOWING CALLS:

- SOUTH 29 DEGREES 06 MINUTES 00 SECONDS EAST, A DISTANCE OF 804.72 FEET, TO A POINT FOR CORNER;
- SOUTH 16 DEGREES 45 MINUTES 45 SECONDS EAST, A DISTANCE OF 44.04 FEET, TO A POINT FOR CORNER;
- SOUTH 43 DEGREES 41 MINUTES 48 SECONDS WEST, A DISTANCE OF 55.71 FEET, TO A POINT FOR CORNER;
- SOUTH 53 DEGREES 56 MINUTES 10 SECONDS WEST, A DISTANCE OF 101.59 FEET, TO A POINT FOR CORNER;
- SOUTH 45 DEGREES 31 MINUTES 13 SECONDS WEST, A DISTANCE OF 73.44 FEET, TO A POINT FOR CORNER;
- SOUTH 11 DEGREES 48 MINUTES 11 SECONDS WEST, A DISTANCE OF 54.60 FEET, TO A POINT FOR CORNER;
- SOUTH 00 DEGREES 30 MINUTES 07 SECONDS WEST, A DISTANCE OF 26.75 FEET, TO A POINT FOR CORNER;
- SOUTH 08 DEGREES 50 MINUTES 54 SECONDS EAST, A DISTANCE OF 95.12 FEET, TO A POINT FOR CORNER;
- SOUTH 20 DEGREES 31 MINUTES 38 SECONDS EAST, A DISTANCE OF 95.02 FEET, TO A POINT FOR CORNER;
- SOUTH 29 DEGREES 52 MINUTES 17 SECONDS EAST, A DISTANCE OF 549.00 FEET, TO A POINT FOR CORNER;

SOUTH 15 DEGREES 39 MINUTES 48 SECONDS WEST, A DISTANCE OF 246.02 FEET, TO A POINT FOR CORNER, BEING ON THE NORTH LINE OF A CALLED 19.07 ACRE TRACT OF LAND CONVEYED TO TEXAS ELECTRIC SERVICE CO., AS RECORDED IN VOLUME 2200, PAGE 310, DRTCT, SAID POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6990651.0 E:2307490.7;

THENCE SOUTH 89 DEGREES 34 MINUTES 50 SECONDS WEST, ALONG THE SOUTH LINE OF SAID CALLED 23.584 ACRE TRACT OF LAND, AND BEING ON THE NORTH LINE OF SAID CALLED 19.07 ACRE TRACT OF LAND, A DISTANCE OF 472.67 FEET, TO A POINT FOR CORNER;

THENCE NORTH 00 DEGREES 24 MINUTES 52 SECONDS WEST, A DISTANCE OF 325.00 FEET, TO A POINT FOR CORNER;

THENCE SOUTH 89 DEGREES 35 MINUTES 08 SECONDS WEST, A DISTANCE OF 264.38 FEET, TO A POINT FOR CORNER;

THENCE IN A NORTHERLY DIRECTION, ALONG THE WEST LINE OF SAID CALLED 23.584 ACRE TRACT OF LAND THE FOLLOWING CALLS:

- NORTH 06 DEGREES 49 MINUTES 26 SECONDS EAST, A DISTANCE OF 44.80 FEET, TO A POINT FOR CORNER;
- NORTH 05 DEGREES 06 MINUTES 14 SECONDS WEST, A DISTANCE OF 289.56 FEET, TO A POINT FOR CORNER;

NORTH 22 DEGREES 44 MINUTES 32 SECONDS WEST, A DISTANCE OF 305.82 FEET, TO A POINT FOR CORNER;

NORTH 01 DEGREES 17 MINUTES 16 SECONDS EAST, A DISTANCE OF 95.01 FEET, TO A POINT FOR CORNER;

NORTH 09 DEGREES 02 MINUTES 52 SECONDS EAST, AT A DISTANCE OF 18.54 FEET, PASSING THE SOUTHEAST CORNER OF SAID CALLED 26.703 ACRE TRACT OF LAND, AND CONTINUING IN ALL A TOTAL DISTANCE OF 169.04 FEET, TO A POINT FOR CORNER, BEING ON EAST LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, AND BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 435.00 FEET;

ALONG SAID CURVE TO THE RIGHT, CONTINUING ALONG THE EAST LINE OF SAID CALLED 26.703 ACRE TRACT OF LAND, AND IN A NORTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 29 DEGREES 16 MINUTES 24 SECONDS, AN ARC LENGTH OF 222.25 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 23 DEGREES 41 MINUTES 03 SECONDS EAST, A CHORD LENGTH OF 219.84 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 565.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A NORTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 27 DEGREES 28 MINUTES 43 SECONDS, AN ARC LENGTH OF 270.97 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 24 DEGREES 34 MINUTES 52 SECONDS EAST, A CHORD LENGTH OF 268.38 FEET, TO A POINT FOR CORNER;

NORTH 10 DEGREES 50 MINUTES 30 SECONDS EAST, A DISTANCE OF 120.34 FEET, TO A POINT FOR CORNER;

NORTH 05 DEGREES 32 MINUTES 08 SECONDS EAST, A DISTANCE OF 140.91 FEET, TO THE **POINT OF BEGINNING**, AND **CONTAINING 1,027,316 SQUARE FEET OR 23.584 ACRES OF LAND.**

TRACT 5 - 63.024 ACRES

BEING A 63.024 ACRE TRACT OF LAND LOCATED IN THE ALEXANDER F. ALBRIGHT SURVEY, ABSTRACT NO. 1849, CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, BEING A PORTION OF A CALLED 964.473 ACRE TRACT OF LAND AS DESCRIBED IN THE WARRANTY DEED TO HAYCO REALTY, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN VOLUME 14192, PAGE 644, DEED RECORDS, TARRANT COUNTY, TEXAS (DRTCT), SAID 63.024 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF LOT 46X, BLOCK X, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D213027687, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), SAME BEING THE SOUTHERNMOST SOUTHWEST CORNER OF MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D215031086, OPRTCT, AND BEING ON THE SOUTHERLY LINE OF CENTER HILL DRIVE, A 60 FOOT WIDE PUBLIC RIGHT-OF-WAY, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 795.00 FEET, SAID BEGINNING POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6992024.8 E:2304647.1 (BEARINGS & COORDINATE VALUES SHOWN HEREON ARE IN REFERENCE TO THE NAD83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK. ALL DISTANCES SHOWN HEREON WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00015312510, BASE POINT OF 0,0,0), THIS METES & BOUNDS DESCRIPTION IS BASED SOLELY ON RECORD INFORMATION AND DOES NOT PURPORT TO REFLECT AN ON-THE-GROUND SURVEY MADE BY THIS FIRM;

THENCE EASTERLY, ALONG THE SOUTHERLY LINE OF SAID MARINE CREEK RANCH (D215031086), SAME BEING THE SOUTHERLY LINE OF CENTER HILL DRIVE, THE FOLLOWING CALLS:

ALONG SAID CURVE TO THE LEFT, AND IN A NORTHEASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 2 DEGREES 43 MINUTES 10 SECONDS, AN ARC LENGTH OF 37.73 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 78 DEGREES 45 MINUTES 51 SECONDS EAST, A CHORD LENGTH OF 37.73 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS";

NORTH 77 DEGREES 24 MINUTES 27 SECONDS EAST, A DISTANCE OF 462.11 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS", BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 720.00 FEET

ALONG SAID CURVE TO THE RIGHT, AND IN AN EASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 34 DEGREES 31 MINUTES 34 SECONDS, AN ARC LENGTH OF 433.87 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 85 DEGREES 19 MINUTES 46 SECONDS EAST, A CHORD LENGTH OF 427.33 FEET, TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "MYCOSKIE MCINNIS" FOR THE SOUTHEAST CORNER OF SAID MARINE CREEK RANCH (D215031086);

THENCE NORTH 21 DEGREES 40 MINUTES 12 SECONDS EAST A DISTANCE OF 0.97 FEET, TO A POINT FOR CORNER, BEING THE WESTERNMOST SOUTHWEST CORNER OF A CALLED 26.703 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO CRYSTAL LAKE DEVELOPMENT, LLC, A TEXAS LIMITED LIABILITY COMPANY, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D217147954, OPRTCT;

THENCE IN AN EASTERLY DIRECTION, ALONG THE SOUTHERLY LINES OF SAID CALLED 26.703 ACRE TRACT OF LAND, THE FOLLOWING CALLS:

SOUTH 71 DEGREES 02 MINUTES 27 SECONDS EAST A DISTANCE OF 72.07 FEET, TO A POINT FOR CORNER;

SOUTH 18 DEGREES 57 MINUTES 33 SECONDS WEST A DISTANCE OF 120.00 FEET, TO A POINT FOR CORNER, BEING THE SOUTHERMOST SOUTHWEST CORNER OF SAID CALLED 26.703 ACRE TRACT OF LAND;

SOUTH 71 DEGREES 02 MINUTES 27 SECONDS EAST A DISTANCE OF 81.52 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 1650.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN AN EASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 09 DEGREES 37 MINUTES 32 SECONDS, AN ARC LENGTH OF 277.19 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 75 DEGREES 51 MINUTES 13 SECONDS EAST, A CHORD LENGTH OF 276.87 FEET, TO A POINT FOR CORNER;

SOUTH 80 DEGREES 39 MINUTES 59 SECONDS EAST A DISTANCE OF 245.05 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 850.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN AN EASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 07 DEGREES 18 MINUTES 08 SECONDS, AN ARC LENGTH OF 108.33 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 77 DEGREES 00 MINUTES 55 SECONDS EAST, A CHORD LENGTH OF 108.26 FEET, TO A POINT FOR CORNER;

SOUTH 73 DEGREES 21 MINUTES 51 SECONDS EAST A DISTANCE OF 157.74 FEET, TO A POINT FOR CORNER;

SOUTH 16 DEGREES 38 MINUTES 09 SECONDS WEST A DISTANCE OF 5.00 FEET, TO A POINT FOR CORNER;

SOUTH 73 DEGREES 21 MINUTES 51 SECONDS EAST A DISTANCE OF 193.15 FEET, TO A POINT FOR CORNER, BEING THE SOUTHEAST CORNER OF SAID CALLED 26.703 ACRE TRACT OF LAND, AND BEING ON THE WEST LINE OF A CALLED 23.584 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO WESTOVER DEVELOPMENT, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D206244184, OPRTCT, SAID POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6991698.7 E:2306617.8;

THENCE IN A SOUTHERLY DIRECTION, ALONG THE WESTERLY LINES OF SAID CALLED 23.584 ACRE TRACT OF LAND, THE FOLLOWING CALLS:

SOUTH 09 DEGREES 02 MINUTES 52 SECONDS WEST A DISTANCE OF 18.54 FEET, TO A POINT FOR CORNER;

SOUTH 01 DEGREES 17 MINUTES 16 SECONDS WEST A DISTANCE OF 95.01 FEET, TO A POINT FOR CORNER;

SOUTH 22 DEGREES 44 MINUTES 32 SECONDS EAST A DISTANCE OF 305.82 FEET, TO A POINT FOR CORNER;

SOUTH 05 DEGREES 06 MINUTES 14 SECONDS EAST A DISTANCE OF 289.56 FEET, TO A POINT FOR CORNER;

SOUTH 06 DEGREES 49 MINUTES 26 SECONDS WEST A DISTANCE OF 44.80 FEET, TO A POINT FOR CORNER;

NORTH 89 DEGREES 35 MINUTES 08 SECONDS EAST A DISTANCE OF 264.38 FEET, TO A POINT FOR CORNER;

SOUTH 00 DEGREES 25 MINUTES 00 SECONDS EAST A DISTANCE OF 324.96 FEET, TO A POINT FOR CORNER, BEING ON THE NORTH LINE OF A CALLED 19.07 ACRE TRACT OF LAND CONVEYED TO TEXAS ELECTRIC SERVICE CO., AS RECORDED IN VOLUME 2200, PAGE 310, DRTCT;

THENCE SOUTH 89 DEGREES 34 MINUTES 46 SECONDS WEST, ALONG SAID NORTH LINE OF 19.07 ACRE TRACT OF LAND, A DISTANCE OF 2355.89 FEET, TO A POINT FOR CORNER, BEING THE SOUTHEAST CORNER OF LOT 46X, BLOCK X, OF SAID MARINE CREEK RANCH (D213027687), SAID POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6990630.3 E:2304662.6;

THENCE IN A NORTHERLY DIRECTION, ALONG THE EASTERLY LINE OF SAID MARINE CREEK RANCH (D213027687), THE FOLLOWING CALLS:

NORTH 00 DEGREES 25 MINUTES 00 SECONDS WEST, A DISTANCE OF 325.04 FEET, TO A POINT FOR CORNER;

NORTH 89 DEGREES 31 MINUTES 15 SECONDS EAST A DISTANCE OF 70.06 FEET, TO A POINT FOR CORNER;

NORTH 00 DEGREES 25 MINUTES 57 SECONDS WEST A DISTANCE OF 291.59 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 455.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A NORTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 15 DEGREES 39 MINUTES 39 SECONDS, AN ARC LENGTH OF 124.37 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 08 DEGREES 09 MINUTES 18 SECONDS WEST, A CHORD LENGTH OF 123.98 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 745.00 FEET;

ALONG SAID REVERSE CURVE TO THE RIGHT, AND IN A NORTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 14 DEGREES 57 MINUTES 11 SECONDS, AN ARC LENGTH OF 194.43 FEET, AND HAVING A CHORD BEARING OF NORTH 08 DEGREES 34 MINUTES 40 SECONDS WEST, A CHORD LENGTH OF 193.88 FEET;

NORTH 01 DEGREES 06 MINUTES 14 SECONDS WEST A DISTANCE OF 312.38 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 455.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A NORTHERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 19 DEGREES 25 MINUTES 02 SECONDS, AN ARC LENGTH OF 154.20 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 10 DEGREES 43 MINUTES 40 SECONDS WEST, A CHORD LENGTH OF 153.46 FEET, TO THE **POINT OF BEGINNING**, AND **CONTAINING 63.024 ACRES (2,745,308 SQUARE FEET) OF LAND**, MORE OR LESS.

TRACT 6 - 91.185 ACRES

BEING A 91.185 ACRE TRACT OF LAND LOCATED IN THE ALEXANDER F. ALBRIGHT SURVEY, ABSTRACT NO. 1849, AND THE JOSEPH BOMAN SURVEY, ABSTRACT NO. 79, CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, BEING A PORTION OF A CALLED 964.473 ACRE TRACT OF LAND AS DESCRIBED IN THE WARRANTY DEED TO HAYCO REALTY, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN VOLUME 14192, PAGE 644, DEED RECORDS, TARRANT COUNTY, TEXAS (DRTCT), SAID 91.185 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF A CALLED 10.131 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO M & C DEVELOPMENT, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D204274829, OFFICIAL PUBLIC RECORDS, TARRANT COUNTY, TEXAS (OPRTCT), SAID POINT BEING IN THE NORTH LINE OF A CALLED 19.07 ACRE TRACT OF LAND CONVEYED TO TEXAS ELECTRIC SERVICE CO., AS RECORDED IN VOLUME 2200, PAGE 310, DRTCT, AND BEING ON THE EAST RIGHT-OF-WAY LINE OF HUFFINES BOULEVARD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, SAID COMMENCING POINT HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6990616.2 E:2302676.2 (BEARINGS & COORDINATE VALUES SHOWN HEREON ARE IN REFERENCE TO THE NAD83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK. ALL DISTANCES SHOWN HEREON WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00015312510, BASE POINT OF 0,0,0), THIS METES & BOUNDS DESCRIPTION IS BASED SOLELY ON RECORD INFORMATION AND DOES NOT PURPORT TO REFLECT AN ON-THE-GROUND SURVEY MADE BY THIS FIRM;

THENCE SOUTH 00 DEGREES 27 MINUTES 43 SECONDS EAST, ALONG SAID EAST RIGHT-OF-WAY LINE OF HUFFINES BOULEVARD, A DISTANCE OF 75 FEET TO A POINT FOR CORNER, BEING ON THE SOUTH LINE OF SAID 19.07 ACRE TRACT OF LAND CONVEYED TO TEXAS ELECTRIC SERVICE CO., SAME BEING THE NORTHWEST CORNER OF A CALLED 39.19 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO MARINE CREEK RANCH HOMEOWNERS ASSOCIATION, INC., FILED FOR RECORD IN COUNTY CLERK'S INSTRUMENT NO. D212210512, OPRTCT;

THENCE NORTH 89 DEGREES 35 MINUTES 13 SECONDS EAST, ALONG NORTH LINE OF SAID CALLED 39.19 ACRE TRACT OF LAND, A DISTANCE OF 1559.49 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHERNMOST NORTHEAST CORNER OF SAID CALLED 39.19 ACRE TRACT OF LAND, HAVING A NAD83 - TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6990552.4 E:2304236.0;

THENCE NORTH 89 DEGREES 35 MINUTES 09 SECONDS EAST A DISTANCE OF 3234.00 FEET, TO A POINT FOR CORNER, SAID POINT BEING A NORTHEAST CORNER OF SAID CALLED 964.473 ACRE TRACT OF LAND;

THENCE ALONG THE EAST LINE OF SAID CALLED 964.473 ACRE TRACT, AND IN A SOUTHWESTERLY DIRECTION, THE FOLLOWING CALLS:

SOUTH 15 DEGREES 39 MINUTES 49 SECONDS WEST, A DISTANCE OF 168.21 FEET, TO A POINT FOR CORNER;

SOUTH 34 DEGREES 19 MINUTES 32 SECONDS WEST, A DISTANCE OF 409.62 FEET, TO A POINT FOR CORNER;

SOUTH 20 DEGREES 52 MINUTES 58 SECONDS WEST, A DISTANCE OF 586.75 FEET, TO A POINT FOR CORNER;

SOUTH 29 DEGREES 58 MINUTES 55 SECONDS WEST, A DISTANCE OF 341.84 FEET, TO A POINT FOR CORNER;

SOUTH 12 DEGREES 17 MINUTES 03 SECONDS WEST, A DISTANCE OF 633.27 FEET, TO A POINT FOR CORNER;

SOUTH 01 DEGREES 22 MINUTES 03 SECONDS WEST, A DISTANCE OF 676.92 FEET, TO A POINT FOR CORNER;

SOUTH 85 DEGREES 39 MINUTES 43 SECONDS WEST, A DISTANCE OF 154.68 FEET, TO A POINT FOR CORNER;

THENCE IN A NORTHWESTERLY DIRECTION, THE FOLLOWING CALLS:

NORTH 48 DEGREES 09 MINUTES 53 SECONDS WEST, A DISTANCE OF 271.74 FEET, TO A POINT FOR CORNER;

NORTH 29 DEGREES 29 MINUTES 46 SECONDS WEST, A DISTANCE OF 400.97 FEET, TO A POINT FOR CORNER;

NORTH 52 DEGREES 48 MINUTES 49 SECONDS WEST, A DISTANCE OF 265.63 FEET, TO A POINT FOR CORNER;
NORTH 23 DEGREES 54 MINUTES 13 SECONDS WEST, A DISTANCE OF 528.37 FEET, TO A POINT FOR CORNER;
NORTH 13 DEGREES 19 MINUTES 51 SECONDS WEST, A DISTANCE OF 168.51 FEET, TO A POINT FOR CORNER;
NORTH 73 DEGREES 45 MINUTES 31 SECONDS WEST, A DISTANCE OF 301.89 FEET, TO A POINT FOR CORNER, BEING ON AN EAST LINE OF SAID CALLED 39.19 ACRE TRACT OF LAND;
NORTH 42 DEGREES 49 MINUTES 53 SECONDS WEST, ALONG SAID EAST LINE OF SAID CALLED 39.19 ACRE TRACT OF LAND, A DISTANCE OF 1644.66 FEET, TO THE **POINT OF BEGINNING**, AND **CONTAINING 91.185 ACRES (3,971,997 SQUARE FEET) OF LAND**, MORE OR LESS.

(End of Description of Subject Land)

APPENDIX A NOTES

NOTE 1: The acreage in the 6 above-described tracts totals 241.286 acres (more or less)

Tract 1 - 4.460 acres
Tract 2 - 26.703 acres
Tract 3 - 32.330 acres
Tract 4 - 23.584 acres
Tract 5 - 63.024 acres
Tract 6 - 91.185 acres

NOTE 2: The 6 above-described tracts comprise the real property that is initially made subject to this Declaration, any portion of which may be withdrawn by Declarant from the effect of this Declaration under certain circumstances described in Appendix B.

NOTE 3: From time to time, this Appendix A may be amended, corrected, restated, and supplemented by Declarant in the exercise of rights reserved by and granted to Declarant in this Declaration, particularly in Appendix B.

NOTE 4: Additional real property may be subjected to this Declaration by methods described in this Declaration.

(End of Appendix A)

APPENDIX B
DECLARANT'S RIGHTS & RESERVATIONS FOR BUILD-OUT & SELL-OUT

B.1. GENERAL PROVISIONS. Declarant intends for this Declaration to be perpetual and understands that provisions that are warranted for the complete and orderly development, expansion, Build-Out, and Sell-Out of the Property will eventually become obsolete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, most of the provisions relating to the roles of Declarant and Builders are compiled in this Appendix and Appendix C. **The terms and provisions of this Appendix are superior to the terms and provisions of the other Governing Documents, such as the Owners Manual, Bylaws, Articles, and the main body of the Declaration.**

B.1.1. General Reservation & Construction. Declarant hereby reserves exclusively unto itself and its successors, assigns, and designees, the rights and reservations contained in this Appendix. No other provision in a Governing Document may be construed to prevent or interfere with Declarant's exercise of its rights and reservations. Nor may any mortgagee, other owner, or the Association, prevent or interfere with Declarant's exercise of its rights and reservations. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to ensure the complete and orderly development, expansion, Build-Out, and Sell-Out of the Property, which is ultimately for the benefit and protection of homeowners and mortgagees, as well as to protect the interests and investments of Declarant and Builders (if any), and Declarant's reputation as a community developer.

Declarant's rights are not tied to land ownership.

B.1.2. Ownership Not Required. This Appendix intends for Declarant's rights and reservations to be extant until certain statuses are attained, such as Sell-Out or the end of the Development Period, whether or not Declarant owns any part of the Property or the Additional Land. In other words, **Declarant need not be an owner to exercise the rights and reservations of Declarant.** If the laws of Texas are amended or interpreted to predicate all or any of Declarant's rights on an interest in real property subject to the Declaration, for the purpose of satisfying such a requirement, Declarant hereby reserves an independent right to acquire or reacquire real property already subject to the Declaration, or to subject additional real property to this Declaration by means of a supplemental declaration.

B.1.3. Statutory Reservation. Declarant hereby reserves for itself each and every right, reservation, privilege, and exception available or permissible under applicable law for declarants and developers of residential subdivisions, if and to the full extent that such right, privilege, or exception is beneficial to or protective of Declarant or Builders. If the benefit or protection of applicable law is predicated on an express provision being in this Declaration or other Governing Document, such provision is hereby incorporated by reference unless Declarant executes an instrument to disavow such benefit or protection.

B.1.4. Amendment. An amendment, restatement, supplement, or termination of this Appendix or any of its provisions is void and unenforceable without Declarant's prior written approval of the instrument, as evidenced by Declarant's acknowledged signature on the instrument that is publicly recorded.

B.1.5. Reserved Periods. This Appendix creates a number of periods of time for the exercise of certain reserved rights, such as Development Period, Expansion Period, Build-Out, and Sell-Out. Each reservation period is independent of the others. Each reservation period is for a term of years or until a stated status is attained, and does not require that Declarant own a lot or any other land. No act, statement, or omission by the Association, a Builder, or any other party may effect a change or termination of any reservation period. Declarant, however, may unilaterally change any reservation period by amending this Appendix. To document the end of a reservation period, Declarant may (but is not required to) execute and publicly record a notice of termination of the period.

B.2. DEFINITIONS. Words and phrases defined in Article 1 of the Declaration and in Appendix C have the same meanings when used in this Appendix. As used in this Appendix and elsewhere in the Governing Documents, the following words and phrases have the following specified meanings, subject to Declarant's right to amend or supplement this Section:

B.2.1. **"Additional Land"** means real property which may be subjected to this Declaration by Declarant and thereby included within the meaning of "the Property," being real property with **any one** of these attributes: (1) described on the Additional Land Appendix to this Declaration, (2) any portion of which is contiguous with, adjacent to, or within one-half mile of any portion of the real property that is subject to this Declaration, (3) any portion of which is separated by a street, right-of-way, public land, open space or waterway, or utility-owned land or easement from any portion of the real property that is subject to this Declaration, (4) in an addition or subdivision platted as a phase or section of Marine Creek Ranch or Marine Creek Ranch East, (5) in an addition or subdivision for which the plat is approved by local government on the condition that the subdivision is served by the Association or has access to the common areas of Marine Creek Ranch East, or (6) located in a planned development district or other special district created or approved by local government for the property subject to this Declaration.

B.2.2. **"Builder"** means a person or entity which owns or contracts to purchase a platted or unplatted portion of the Property for the purpose of constructing or completing a new dwelling for speculative sale or pursuant to a construction contract with a prospective owner. As used in this Declaration, Builder does not refer to Declarant or to a home building or home marketing company that is an affiliate of Declarant.

These defined terms are used in other parts of the Declaration

B.2.3. **"Build-Out"** is the status that the Property attains when (in the sole opinion of Declarant) the Property is fully expanded to include the Additional Land, and is fully platted, fully developed, and every lot that is capable of being improved has been improved with a completed dwelling and customary appurtenances, at which time the Property will be **"Built-Out"** from the Declarant's perspective. As used in this definition, "fully" and "every" means 100 percent.

B.2.4. **"Development Period"** means the period of time that runs continuously from the date this Declaration is recorded, during which Declarant reserves the right to facilitate the platting, expansion, development, construction, and marketing of the Property as enlarged by the Additional Land, and the right to direct the size, shape, and composition of the Property as enlarged by the Additional Land, pursuant to the rights and reservations contained in this Declaration, particularly in this Appendix and Appendix C, to the full extent permitted by applicable law. **Declarant hereby states the length of the reserved Development Period as 25 years, and reserves the right to increase or decrease the length by amendment of this Declaration.** The Development Period is for a term of years and does not require that Declarant own land or lots in the Property or in the Additional Land. If applicable law requires an event of termination as an alternative to a stated number of years, the Development Period runs continuously from the date this Declaration is recorded until three years after the date on which every lot that may be created in the Property as enlarged by the Additional Land is (1) made subject to this Declaration, (2) improved with a completed dwelling, and (3) conveyed to an owner other than a Builder, Declarant, or their respective affiliates. Although they address some of the same functions, the Development Period is independent of the Expansion Period.

B.2.5. **"Expansion Period"** means the **24-year period, beginning on the date this Declaration is recorded**, during which Declarant has unilateral rights that may be exercised from time to time (1) to subject Additional Land, in whole or in part, to this Declaration and to the jurisdiction of the Association by recording one or more supplemental declarations, each of which may contain different or additional restrictions, (2) to expand the size of the Property by annexation, phasing, merger, or consolidation, (3) to increase the number of lots in the Property by platting or replatting a portion thereof, and (4) to change the stated maximum number of lots that may become subject to this Declaration. Although they address some of the same functions, the Expansion Period is independent of the Development Period.

B.2.6. **"New Construction ACC"** means the Architectural Authority with exclusive jurisdiction over unimproved land, vacant lots, and each lot's original improvements (the first new home on a lot and its appurtenances), and being Declarant or persons who serve at the pleasure of Declarant.

B.2.7. **"Sell-Out"** is the status that the Property attains after Build-Out, when every home is occupied or owned by a person other than a Builder, Declarant, or their respective affiliates. Until Sell-Out, Builders and Declarant have protective rights established by this Declaration to market vacant lots and new homes in the

Property. Sell-Out will be deemed to have occurred five years after Build-Out, if it has not occurred prior to that time. No act, statement, or omission by the Association, Declarant, a Builder, or any other party may effect the attainment of "Sell-Out" before Build-Out.

B.2.8. "**Unilaterally**" means that Declarant may take the authorized action without the consent, approval, vote, or joinder of any other person, such as owners, mortgagees, Builders, and the Association. Certain provisions in this Appendix and elsewhere in the Governing Documents authorize Declarant to act unilaterally. Unilateral action by Declarant is favored for purposes of efficiency and to protect the interests of Declarant.

B.3. LAND USE RIGHTS & RESERVATIONS. Declarant reserves the following rights, reservations, and easements, exercisable at Declarant's sole discretion, from time to time, and at **any time prior to the later of Build-Out or the end of the Development Period, whichever event is last to occur** (unless a different period is specified), without requiring that Declarant own land described in Appendix A or in any supplemental declaration at the time or times Declarant exercises its right or reservation.

B.3.1. Platting & Replatting. Any unplatted land subject to this Declaration may be platted in whole or in part, and in phases. Additionally, any platted portion of the Property may be replatted, in whole or in part, for any reason, such as to change lot boundaries, to increase or decrease the number of lots in the Property, to change land use, to convert residential lots into common area and common area into residential lots, to impose or remove easements, and to effect any other land use which, in the sole discretion of Declarant, is conducive to development of Additional Land or Build-Out and Sell-Out of the Property. **The platting or replatting of land that is not owned by Declarant must have Declarant's prior written approval**, in addition to the approval of public platting authorities.

B.3.2. Expansion. Declarant reserves the unilateral right (not duty) to make additional real property subject to this Declaration and to the jurisdiction of the Association. During the Expansion Period, Declarant may - but is not required to - subject any or all of the Additional Land to this Declaration in one or more installments by recording a supplemental declaration in the Real Property Records of Tarrant County, Texas. The supplemental declaration must include a description of the additional real property or a reference to the recorded plat that describes the additional real property. Unless this Declaration or the supplemental declaration provides otherwise, real property automatically becomes subject to the jurisdiction of the Association and all the Governing Documents when it becomes subject to this Declaration.

B.3.2.1. Land Owner. If any portion of the real property described in a supplemental declaration is owned by a person other than Declarant, the land owner must sign and acknowledge a consent to the annexation. A land owner's consent to the Declaration is automatically the owner's consent to having the land subject to, restricted by, and burdened by the Owners Manual and the other Governing Documents.

B.3.2.2. Color of Annexation. If any portion of the Additional Land, such as a platted lot, is conveyed under color of being subject to the Declaration, before the required supplemental declaration has been publicly recorded, Declarant may remedy the omission in the public record by recording the instrument required by this Subsection with an effective date that is prior to the date of the first conveyance in the Additional Land. "Under color of being subject to the Declaration" means that a combination of circumstances would cause a reasonable person to presume that the conveyed property is - in fact - subject to this Declaration.

B.3.3. Reinstated Rights, if Necessary. In case events and circumstances, applicable law, or a Governing Document are interpreted to limit or terminate Declarant's rights and reservations prior to their maximum durations, Declarant hereby **DECLARES** that all rights and reservations of Declarant for Build-Out and Sell-Out are in effect or reinstated anew for every unplatted part of the Property that is platted and every piece of Additional Land that is made subject to this Declaration.

B.3.4. Withdrawal. Until Build-Out, Declarant may withdraw real property from the Property and the effect of this Declaration (1) if the owner of the withdrawn property consents to the withdrawal, and (2) if the withdrawal does not significantly and detrimentally change the overall appearance, character, operation, or use of the Property.

B.3.5. Re-Acquired Interest, if Necessary. If applicable law requires that Declarant own an interest in the Property as a condition of exercising the rights reserved by Declarant in this Declaration, Declarant hereby reserves the right to acquire or re-acquire the required interest.

B.3.6. Delegation. Declarant may delegate to the Association the obligation (if any) and the attendant cost - in whole or in part - imposed on Declarant by local government or by a development-related agreement for maintenance of real property or maintenance of improvements within or near the Property that may be construed as benefitting the Property or the larger community. The cost of such maintenance is a common expense of the Association.

B.3.7. Neighborhoods. Declarant may impose additional or different restrictions on a "neighborhood" within the Property, which may be subject to an additional "neighborhood assessment," and which may have exclusive use of "neighborhood common areas." If a portion of the Property were gated, for example, the gated portion could be a "neighborhood" within the Property, with the private street as its "neighborhood common area."

B.3.8. Additional Easements & Restrictions. Until Sell-Out, Declarant reserves a blanket easement and right over the Property to burden the Property, or any part or parts thereof, with additional covenants, conditions, restrictions, easements, licenses, and leases as may be necessary or desirable for the orderly or proper development, operation, use, enjoyment, and maintenance of the Property, the Additional Land, or any adjacent property, or to facilitate access to or through the Property, the Additional Land, or any adjacent property. Declarant may evidence one or more additional covenants, conditions, restrictions, easements, licenses, or leases by recording an instrument in the Real Property Records of Tarrant County, Texas, executed in the name of Declarant or in the name of the Association, without the approval or joinder of any other party, including, but not limited to, the Association.

B.3.9. Utility Easements. Until Build-Out, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities (as described in the Utilities Easement Section above), roads, and other purposes necessary for the proper development and operation of the Property and the Additional Land. Declarant hereby reserves an easement across every utility, drainage, access, firelane, or other easement shown on a recorded plat (the "platted easements") for the installation, operation maintenance, repair or removal of a utility serving any portion of the Property or the Additional Land, together with a full right of ingress and egress at all times over the burdened lot for the stated purposes, and the right to remove any obstruction that interferes with the use or exercise of the easement. Declarant reserves the right to make changes in and additions to the easements on common areas and vacant lots to more efficiently or economically install utilities or other improvements. To exercise this right on a lot that is not owned by Declarant, Declarant must have the prior consent of the lot owner, which may not be unreasonably withheld. Declarant may assign and convey the easements and easement rights reserved by this Section, in whole or in part, to one or more public or private utilities, the Association, a public or quasi-public entity, or any other person.

B.3.10. Utility Contracts. Declarant, in its name or in the name of the Association, may enter into contracts for utility equipment and services for all or portions of the Property, including bulk rate service agreements. Such contract may provide for installation, operation, management, maintenance, and upgrades or modifications to the utility as Declarant determines appropriate. After the Declarant Control Period, Declarant's right to contract for utilities is limited to vacant lots. Until Build-Out, Declarant must approve any contract for utility service to a vacant lot.

B.3.11. Completion. Until Sell-Out, Declarant has (1) the right to complete or make improvements indicated on the plat; (2) the right to sell or lease any lot owned by Declarant; and (3) an easement and right to erect, construct, and maintain on and in lots owned or leased by Declarant and the common area, whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

B.3.12. Easement to Inspect & Right to Correct. Until five years after Build-Out, Declarant reserves for itself and Builders, and their respective architects, engineers, other design professionals, materials manufacturer, and general contractors, the right, but not the duty, to inspect, monitor, test, redesign, correct, relocate, and

replace any structure, improvement, material, or condition that may exist on any portion of the Property, including the lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant or Builder, as applicable, will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a screening wall located on a lot may be warranted by a change of circumstance, imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant, a Builder, or the Association. **This Subsection survives Sell-Out if Sell-Out occurs within five years after Build-Out.**

B.3.13. Termination. Declarant may voluntarily and affirmatively terminate the Development Period at any earlier time by signing and acknowledging a notice of voluntary termination that is recorded in the Real Property Records of Tarrant County, Texas. A writing by Declarant may not be construed to be a notice of termination unless that purpose is clearly stated in the writing.

B.4. RIGHTS & RESERVATIONS TO MAKE CHANGES. Until Build-Out, Declarant reserves the following exclusive rights which Declarant may exercise unilaterally from time to time when circumstances warrant.

B.4.1. Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Subject to approval by (1) a public or quasi-public entity, if applicable, and (2) the owner of the land or lots to which the change would directly apply (if other than Declarant), Declarant may (a) change the sizes, dimensions, and configurations of lots and streets; (b) change the minimum or maximum dwelling size; (c) change the building setback requirements; and (d) eliminate or modify any other feature of the Property.

B.4.2. Change of Architectural Styles. Declarant reserves the right to periodically change the types of architectural styles, building materials, and elevations that are eligible for architectural approval.

B.4.3. Change of Construction Specifications. Declarant has the right to establish specifications for the construction of all initial improvements in the Property, to establish different specifications for each category of lots, or for each phase or neighborhood within the Property, and to grant variances or waivers for certain lots, phases, or neighborhoods within the Property.

B.4.4. Change of Community Features. The initial plans for use and development of the Property may change in response to a number of circumstances, influences, and opportunities that may not be apparent or applicable at the inception of the development. An owner who acquires a lot while the Property is being developed is hereby given notice that a common area improvement or community feature that is not installed at the time an owner contracts is subject to change. Representations given to a prospective purchaser about a proposed community feature are based on a development plan that makes assumptions that are subject to change.

**Declarant is the one and only
architectural authority for new homes**

B.5. ARCHITECTURAL COVENANTS FOR VACANT LOTS. Until Build-Out, Declarant has the absolute unilateral right of architectural control over vacant lots and lots owned by Declarant or Builders, and is the exclusive architectural authority for vacant lots and lots owned by Declarant or Builders. Neither the Association, the board of directors, the AGC, nor any other committee appointed by the Association or board (no matter how the committee is named) may involve itself with the approval of new homes and related improvements on vacant lots.

B.5.1. Declarant's Rights Reserved. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property or the ability of Declarant or Builders to sell homes in the Property. Accordingly, each owner agrees that - during the Development Period - no improvements will be started or progressed on owner's lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant

may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

B.5.2. Approved Builders. Declarant reserves the exclusive right to designate certain homebuilding companies as "Declarant-Approved Builders". **The designation of Declarant-Approved Builder is solely for Declarant's protection and benefit.** A designation of Declarant-Approved Builder is not intended to - and must not be construed to - benefit any other party, such as owners, mortgagees, public officials, and contractors. By designating a Builder as "approved," Declarant makes no representation, express or implied, to any person with regard to any aspect of the Builder, such as (without limitation) a Builder's reputation, competence, performance, warranty, financial status, knowledge of and compliance with applicable laws and codes, or use of methods or materials.

B.5.3. Delegation by Declarant. Declarant may from time to time, but is not obligated to, delegate all or a portion of its rights and authority as New Construction ACC, subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

B.5.4. Improvements by Declarant. Notwithstanding anything to the contrary in this Declaration or the Owners Manual, any improvement to the Property made by Declarant or an affiliate of Declarant is deemed to have been approved by Declarant acting as the New Construction ACC. If the improvement is of a nature that would require a variance or waiver by the New Construction ACC, such variance or waiver is deemed to have been granted.

B.5.5. Improvements by Builder. **Without the prior written approval of the New Construction ACC, a Builder or other person may not construct a dwelling or any appurtenant improvement on a vacant lot.** In the absence of specific instructions provided to a Builder by the New Construction ACC, a Builder's application for approval of plans and specifications must follow the same procedures and adhere to the same time frames as required by the Declaration for owners' submissions to the AGC, which procedures are hereby incorporated by reference - except that the submission is made to the New Construction ACC instead of to the AGC. The New Construction ACC has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property. Without the New Construction ACC's prior written approval for a variance, initial improvements to a lot must have the characteristics described in construction and landscape specifications provided by Declarant or, otherwise, the Owners Manual.

B.5.6. Approval of Builder Plans. If a Builder intends to construct a number of pre-designed homes in a phase of the Property, the Builder may submit the set of house plans and elevations to the New Construction ACC for approval. Such plans may be submitted and approved prior to Builder's purchase of lots in the Property. House plans and elevations that are pre-approved by the New Construction ACC for use by Builder in a particular phase of the Property may be constructed by Builder without re-submitting plans on a lot by lot basis as the houses are constructed, unless the actual house plan or elevation deviates substantially from the pre-approved plan and elevation. Examples of substantial deviation include (1) reversing a garage from rear entry to front entry, (2) reducing the size of the dwelling by more than 15 percent, (3) reducing the amount of masonry exterior material by more than 15 percent, (4) changing the style of the front elevation, such as from Cape Cod to Spanish, and (5) replacing a garage with a porte cochere. Builder must apply to the New Construction ACC for approval of any substantial modifications or variations from or additions to the pre-approved plans for the Property, as well as the plot plan for each house.

B.6. GOVERNING DOCUMENTS RIGHTS & RESERVATIONS. Declarant reserves the following rights and reservations, exercisable at Declarant's sole discretion, from time to time, and at any time prior to the later of Sell-Out or the end of the Development Period, whichever event occurs last (unless a different period is specified), without requiring that Declarant own land described in Appendix A or in any supplemental declaration at the time or times Declarant exercises its right or reservation.

B.6.1. Right to Approve. No Governing Document may create, terminate, or alter any responsibility, right, reservation, privilege, or release of Declarant or a Builder without Declarant's written approval. During the Declarant Control Period, a Governing Document is void and unenforceable in its application to Declarant or

Builders, or to property owned or leased by Declarant or Builders, without Declarant's consenting execution of the Governing Document. Until the later of Sell-Out or the end of the Development Period, whichever occurs last, an interpretation, application, adoption, or amendment of a Governing Document is void and unenforceable in its application to Declarant or Builders, or to property owned or leased by Declarant or Builders, without Declarant's prior written approval of the act or instrument.

B.6.2. Adoption. Declarant has the right, but not the duty, to adopt one or more Governing Documents for the Property and for the benefit of the Association, either in its capacity as Declarant, or in the name of the Association. The exercise of this right by Declarant, in its capacity as Declarant, may not be construed as an act or decision of the Association or its board.

Declarant can amend and adopt Governing Documents UNILATERALLY.

B.6.3. Amendment. **Declarant may amend, supplement, or restate this Declaration and every other Governing Document, unilaterally, for any purpose.** In addition to exercising this right on its own initiative, Declarant may exercise this right at the request of the Association to address a concern of the membership. The exercise of this right by Declarant, in its capacity as Declarant, may not be construed as an act or decision of the Association or its board. **For illustration only**, the following are examples of some of the purposes for which Declarant may amend the Governing Documents:

- (1) To add or withdraw real property to or from the Property.
- (2) To create lots, easements, and common areas within the Property.
- (3) To subdivide, combine, or reconfigure lots.
- (4) To convert lots into common areas, and common areas into lots.
- (5) To change the maximum number of lots that may be made subject to this Declaration.
- (6) To allocate the use of certain common areas to specified lots as limited common areas.
- (7) To change the designation of or restrictions on common areas.
- (8) To modify - even to increase - Declarant's rights and reservations.
- (9) To change any aspect of the Owners Manual.
- (10) To modify HOA Sale Fees.
- (11) To merge the Association with another property owners association.
- (12) To conform to applicable law.
- (13) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions.
- (14) To qualify the Property or the Association for mortgage underwriting, tax exemption, insurance coverage, and any public or quasi-public program or benefit.
- (15) To enable a reputable company to issue title insurance coverage on the lots.
- (16) To change the name or entity of Declarant.
- (17) To change the name of the addition in which the Property is located.
- (18) To change the name of the Association.
- (19) **For any other purpose.**

B.7. MARKETING RIGHTS & RESERVATIONS. Declarant reserves the following rights, reservations, and easements, exercisable at Declarant's sole discretion, from time to time, and at any time prior to Sell-Out.

B.7.1. Promotion. Until Sell-Out, Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other owners and residents, for purposes of promoting, identifying, and marketing the Property or Declarant's houses, lots, developments, or other products located outside the Property. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events - such as open houses, MLS tours, and brokers parties - at the Property to promote the sale of lots. Until Sell-Out, Declarant also reserves (1) the right to authorize its agents to place signs and promotional materials on the Property to market property owned by Declarant, (2) the right to permit Builders to place signs and promotional materials on the Property, and (3) the right to exempt Builders from the sign restriction in this Declaration.

B.7.2. Common Area Enhancements. Until Sell-Out, Declarant reserves for itself an easement and right over the Property's entrances and common areas to provide or install, at Declarant's sole expense, items that Declarant deems to be enhancements or improvements to the Property. Solely at Declarant's discretion, and without the approval of the Association or AGC, such enhancements or improvements may be temporary or permanent, and may be destroyed, removed, or relocated by Declarant. The Association must maintain - as a common expense - any item provided or installed by Declarant if the expense is relatively modest or easily absorbed, such as providing landscape maintenance for additional plants.

B.7.3. Marketing Lingo. Use of advertising terms that create an impression that the Property is completely developed does not affect Declarant's reserved rights. Terms such as "close out", "last lots," and "final inventory" may refer to the particular stage, phase, or block that is being marketed, and must not be construed as relinquishment of Declarant's reserved rights to annex additional land, and to build-out and sell-out the further expanded development. Rights reserved in this Declaration by Declarant may not be altered except by amendment of this Declaration to which Declarant consents in writing.

B.7.4. Signs & Self-Help. Until Sell-Out, Declarant reserves for itself the right (but not the duty) to enforce any restriction or prohibition pertaining to any sign in the Property, such as a sign marketing a home for sale or lease. In support of this right, Declarant may enter any part of the Property, including lots, to remove any sign in violation of a Governing Document, using force as may reasonably be necessary. In exercising self-help, Declarant is not trespassing and is not liable for damages related to the removal. Prior notice to the owner or resident is not required. Declarant may exercise this reserved right for itself, for a Declarant-approved Builder, or for the Association.

B.7.5. Offices. Until Sell-Out, Declarant reserves for itself the right to use dwellings owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and alterations on and to lots and dwellings used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

B.7.6. Access. Until Sell-Out, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property and the Additional Land, and for discharging Declarant's obligations under this Declaration. Declarant also has the right to provide a reasonable means of access for construction-related traffic and the homebuying public through any existing or future gate that restricts vehicular access to the Property or to the Additional Land in connection with the active construction and marketing of lots and homes by Declarant or Builders, including (without limitation) the right to remove gates or to postpone the installation of gates to prevent damage from construction vehicles, and the right to require that the gate be kept open during certain hours or on certain days. This provision may not be construed as an obligation or intent to gate the Property.

B.7.7. Marketing Other Locations. This Declaration grants to Declarant a number of significant rights to market the Property. Declarant hereby reserves for itself and its affiliates the right to use each and every such right and privilege for the additional purposes of promoting, identifying, and marketing off-site developments of Declarant or its affiliates. Declarant has the right, but not the duty, to authorize a Builder to use one or more model homes in the Property to market homes to be built in other locations.

DIFFERENT RULES

Declarant and Builders (if any) have rights and privileges to use the property in ways that are not available to other owners and residents.

B.7.8. Model Home Notice. In connection with its development and marketing of the Property, Declarant may create or authorize one or more marketing centers in the Property, with homes that serve as models of what may be constructed in the Property. The designation of a lot as a model is entirely within the discretion of Declarant. The use of a model home does not require that the model be reproduced in the Property. The sizes, styles, appearances, materials, and construction specifications of model homes may differ significantly from other homes in the immediate vicinity. A model may be approved for construction in one part of the Property, although

it markets homes in other parts of the Property. A model home may be substantially remodeled from time to time, or may be replaced by a different home on the same lot. All exterior aspects of a model home are deemed to have been approved by the New Construction ACC, with variances if necessary to allow the home to remain in a portion of the Property with different construction specifications. Neither the Association nor the AGC may enact rules, guidelines, or specifications that - by intent or effect - are disproportionately adverse to a home that is or was used as a model. This Section may not be amended without the prior written consent of Declarant and the owner of any model home lot that would be affected by the amendment.

B.8. RELATIONSHIP WITH BUILDERS. Declarant does not intend to construct dwellings on the lots. Instead, Declarant intends to sell the lots to one or more Builders to improve the lots with dwellings to be sold and occupied. Declarant reserves the following rights, exercisable at Declarant's sole discretion, at any time and from time to time, until Sell-Out:

B.8.1. Builders. Declarant may invite a Builder to share in the exercise of any, some, or all of its easements and rights, without any formality other than the consent of Declarant and Builder. Notwithstanding such sharing, a Builder is not a Successor Declarant, nor does Builder assume the duties and liabilities of Declarant under this Declaration unless Builder and Declarant join in an instrument that assigns and transfers Declarant rights and duties under this Declaration, signed and acknowledged by both Declarant and Builder, and recorded in the Real Property Records of Tarrant County, Texas.

B.8.2. Builder Obligations. During the Declarant Control Period only, Declarant has the right but not the duty (1) to reduce or waive the assessment obligation of a Builder, and (2) to exempt a Builder from any or all liabilities for transfer-related fees charged by the Association or its manager, provided the agreement is in writing and provided to the Association. Absent such an exemption, any Builder who owns a platted lot is liable for all assessments and other fees charged by the Association in the same manner as any owner.

B.8.3. Promotion. Until Sell-Out, Declarant may authorize Builders to exercise any or all of the promotional rights, reservations, and easements that Declarant reserves for itself in this Declaration. Without the prior written approval of Declarant, a Builder may not market its off-site products from its offices, models, or signs in the Property.

B.8.4. Builder Signs. Until Sell-Out, Declarant also reserves (1) the right to permit Builders to place signs and promotional materials on the Property and (2) the right to exempt a Builder from sign restrictions in the Owners Manual. Any sign used by Builders in the Property may be approved in writing by Declarant prior to installation, and is subject to summary removal if not approved and if Declarant finds it objectionable. As used in this Section, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message.

B.8.5. Offices. Until Sell-Out, Declarant may authorize Builders to use lots and dwellings owned or leased by Declarant or Builders as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of homes in the Property. Also, Declarant may authorize structural changes and alterations on and to lots and dwellings used by Builders as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

B.8.6. Builder Limitations. Declarant may require its approval (which may not be unreasonably withheld) of all documents and materials used by a Builder in connection with the development and sale of lots, including without limitation promotional materials; deed restrictions; forms for deeds, lot sales, and lot closings.

B.9. BUILDER FINANCIAL OBLIGATIONS. See Section C.13 of Appendix C for information about transfer-related fees on land and lots acquired by a Builder. A platted lot owned by a Builder is subject to assessment by the Association, at the same rate of assessment as other owners. Unplatted land owned by a Builder is not subject to assessment. See Section 8.9 of this Declaration regarding the inception of the assessment obligation. This Section may not be construed to limit additional financial obligations created by contract or supplemental declaration.

B.10. SUCCESSOR DECLARANT. One role of Declarant may be to buffer the process of building-out and marketing the Property from the possible desire of the Association and homeowners to impose their views on Build-Out and Sell-Out. The intent of this Section is for the role of "Declarant" to be extant through Build-Out until Sell-Out, whether or not

Declarant owns a lot or Additional Land. The rights, reservations, and roles of Declarant under this Declaration may be transferred, in whole or in part, pursuant to this Section.

B.10.1. Voluntary Designation. Declarant may designate one or more Co-Declarants or Successor Declarants for specified designated purposes (such as architectural control over new homes) or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and by the Co- or Successor Declarant, and recorded in the Real Property Records of Tarrant County, Texas. The designation instrument may subject the Co- or Successor Declarant to limitations and restrictions.

B.10.2. Involuntary Designation. A person who acquires substantially all of Declarant's interest in the Property by an involuntary method, such as court order, deed in lieu of foreclosure, foreclosure, or bankruptcy proceeding, may - but is not required to - designate itself, or its successor or assign, as Declarant for all purposes, or for specified purposes (such as architectural control over new homes). To be effective, the designation must be in a writing that (1) describes the involuntary circumstance, (2) is signed and acknowledged by the designatee, and by the designator, if any, and (3) is recorded in the Real Property Records of Tarrant County, Texas. This Subsection is not invalidated by temporary interim ownership of the Property, such as by a trustee, beneficiary, or executor.

B.10.3. Presumption. The rights, reservations, and responsibilities of Declarant may not be informally acquired or transferred. A Co- or Successor Declarant has the burden of proving its authority with appropriate publicly recorded documentation. The legal role of Declarant may not be presumed from events, circumstances, or the informal use of the "Declarant" title. Mere ownership of all or portions of the Property does not bestow the rank of Declarant.

B.10.4. Subsequent Designations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

**Declarant plays an important role in the life of
Marine Creek Ranch East until Sell-Out.**

B.10.5. Reinstated Role. If by act or omission the role of Declarant appears to have been abandoned, abdicated, vacated, or refuted, the following procedures may be used to reinstate the role of Declarant. Any Builder or owner of a vacant lot or unimproved land in the Property or (if any) Additional Land may call a meeting of all Builders and all owners of vacant lots or unimproved land in the Property and Additional Land, if any, for the purpose of adopting a plan to fill the role of Declarant. The plan may provide for (1) the appointment of one or more persons to fill the role of Declarant to shepherd the Property through Expansion (if applicable), Build-Out, and Sell-Out, (2) the hiring of one or more consultants to fill the role of Declarant, or (3) a petition to a court to appoint one or more persons to serve as Declarant. Written notice of the proposed plan must be given to every person or entity who has been previously designated as Declarant in a publicly recorded document affecting the Property. If within a reasonable period of time no previous Declarant asserts its status as then-Declarant, the owners of two-thirds (by acreage) of the vacant lots or unimproved land in the Property and (if any) Additional Land may sign and acknowledge an instrument that (1) describes the circumstances and plan for reinstating the role of Declarant, (2) references the Declaration to which the vacant lots or unimproved land are subject, (3) describes with specificity the vacant lots or unimproved land in the Property and (if any) Additional Land, (4) is signed and acknowledged by each person or entity that accepts appointment to the role of Declarant, and (5) provides contact information for the appointed Declarant. A copy of the recorded instrument must be delivered to the Association.

B.10.6. Association as Declarant. This Section may not be construed to prevent Declarant from voluntarily designating the Association as a Successor Declarant. Absent a voluntary designation by Declarant, in the form of publicly recorded designation executed by Declarant and an officer of the Association, the Association has no basis, authority, or right to be or perform as a successor Declarant.

B.11. COMMON AREAS. Common areas may be dedicated to the Association or to a public entity by the plat. Additionally, common areas may be conveyed to the Association or, if appropriate, to a public entity, by one or more

deeds - with or without warranty of title, and with or without warranty of improvements. At time of conveyance, common areas will be free of encumbrance, except for unpaid or accruing property taxes which are a common expense of the Association. The conveyance to the Association of platted common areas or property intended by Declarant for use as common area is a ministerial task that does not require and is not subject to acceptance by the Association or the owners. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of common areas requiring inspection, evaluation, acceptance, or approval of common area improvements by the owners.

B.12. PARDON OUR DUST. A person who occupies a home during Build-Out is living in a construction site that may experience periodic and temporary inconveniences during the Build-Out and Sell-Out of the Property. Declarant - for itself and the Builders - apologizes in advance for these disturbances, many of which cannot be avoided. The sooner the construction work is completed, the sooner residents will be able to enjoy the community of which they are a part. Declarant hopes Build-Out occurs swiftly and with minimal disruption of residents' lives and households. Declarant thanks residents in advance for their patience and tolerance of what may be a relatively short but challenging period for the Marine Creek Ranch East community.

(End of Appendix B)

APPENDIX C

DECLARANT'S RIGHTS & RESERVATIONS FOR ASSOCIATION GOVERNANCE

C.1. **GENERAL PROVISIONS.** Declarant intends the Declaration to be perpetual and understands that provisions that are warranted for Declarant's control of the Association's governing and budgetary functions will eventually become obsolete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, most of the provisions relating to Declarant's role, rights, and responsibilities towards the Association and governance of the Property are compiled in this Appendix. **The terms and provisions of this Appendix are superior to the terms and provisions of the other Governing Documents, such as the Bylaws, the Articles, and the main body of the Declaration.** Except for a few provisions which expressly survive Sell-Out, most of the terms and provisions of this Appendix will cease to apply to the Property upon Sell-Out.

C.1.1. **General Reservation & Construction.** Declarant hereby reserves exclusively unto itself and its successors, assigns, and designees, the rights and reservations contained in this Appendix. No other provision in a Governing Document may be construed to prevent or interfere with Declarant's exercise of its rights and reservations. No mortgagee, other owner, or the Association may prevent or interfere with Declarant's exercise of its rights and reservations. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to control the governing and budgetary functions of the Association for the maximum period of time permitted by applicable law, which is ultimately for the benefit and protection of homeowners and mortgagees, as well as to protect the interests and investments of Declarant and Builders (if any), and Declarant's reputation as a community developer.

C.1.2. **Ownership Not Required.** This Appendix intends for Declarant's rights and reservations to be extant until certain statuses are attained, whether or not Declarant owns any part of the Property. In other words, **Declarant need not be an owner to exercise the rights and reservations of Declarant.** If the laws of Texas are amended or interpreted retroactively to predicate Declarant's rights on an interest in real property subject to the Declaration, Declarant hereby reserves the right to acquire or re-acquire a lot, or to annex additional real property in order to satisfy the requirement.

C.1.3. **Statutory Reservation.** Declarant hereby reserves for itself each and every right, reservation, privilege, and exception available or permissible under applicable law for declarants and developers of residential subdivisions, if and to the full extent that such right, privilege, or exception is beneficial to or protective of Declarant or Builders. If the benefit or protection of applicable law is predicated on an express provision being in this Declaration or other Governing Document, such provision is hereby incorporated by reference unless Declarant executes an instrument to disavow such benefit or protection.

C.1.4. **Amendment.** An amendment, restatement, supplement, or termination of this Appendix or any of its provisions is **void and unenforceable without Declarant's prior written approval** of the instrument, as evidenced by Declarant's acknowledged signature on the instrument that is publicly recorded.

C.2. **DEFINITIONS.** Words and phrases defined in Article 1 of the Declaration and in Appendix B have the same meanings when used in this Appendix. As used in this Appendix and elsewhere in the Governing Documents, the following words and phrases have the following specified meanings, subject to Declarant's right to amend or supplement this Section:

C.2.1. **"Declarant Control Period"** means that period of time during which Declarant has the right to control the operation and management of the Association by appointing officers and directors of the Association, pursuant to the rights and reservations contained in this Appendix, to the full extent permitted by applicable law. If applicable law requires a stated term, the Declarant Control Period runs continuously from the date this Declaration is recorded until the earlier of the following events: (1) **23 years after the date on which this Declaration is publicly recorded,** or (2) **120 days after 95 percent of the lots** that may be created (including property subject to annexation) have been improved with dwellings and conveyed ("closed") to owners other than Builders or Declarant (also referred to as "at 95 percent of Build-Out and Sell-Out"). To the fullest extent possible, the term "Declarant Control Period" as defined by this Declaration will be given effect for the purposes of this Declaration and the other Governing Documents. In event of conflict between this definition and a

subsequently enacted statutory definition of "Declarant Control Period," the statutory definition controls for the limited purpose of compliance with the applicable statute.

C.2.2. **"Shortfall"** is used in this Appendix with the following terms and meanings. **"Actual Shortfall"** is the difference between actual and available cash in the Association's operating account having been contributed by owners other than Declarant, and the Association's actual cash outlays for operating expenses, whether budgeted or not. **"Expected Shortfall"** is the difference between the Association's actual cash outlays for budgeted operating expenses and the assessments payable - collectively - by owners other than Declarant, as if all of those owners paid their assessments in full and on time. **"Shortfall Loan"** is money paid by Declarant to the Association or for the Association's benefit to fund some or all of the difference between the actual shortfall and the expected shortfall.

C.3. CLASSES OF MEMBERS. From the date this Declaration is recorded through Sell-Out, the Association may have as many as three classes of members - Homeowner Class, Homebuilder Class, and Declarant Class, as described below. Each class exists to the extent it has qualified members. On the date this Declaration is recorded, there is one class of members - Declarant Class - which continues to exist until Sell-Out. On the date of recording the first improved lot deed to an owner, the Homeowner Class comes into existence. If a Builder acquires a vacant lot, the date of recording the first vacant lot deed to a Builder establishes the Homebuilder Class. Each lot has only one membership and one class of membership at a time. Except for the Declarant Class, membership is automatic, mandatory, appurtenant to ownership of a lot, and terminates when the member is divested of his ownership interest in the lot to which it is tied and from which it may not be separated. If a lot is owned by more than one person, the co-owners share the membership and decide for themselves how it will be exercised. The board may require satisfactory evidence of transfer of ownership before a purported owner is recognized by the Association as a member. One purpose of the membership classes is to allow (but not require) Declarant to maintain membership in the Association until Sell-Out, even during periods when Declarant does not own property subject to this Declaration. References to "members of the Association" in the Governing Documents and applicable law apply to Association members in each class.

C.3.1. Homeowner Class. A lot owner who is not a member of another class is a Homeowner Class member of the Association, ownership of a lot being the sole qualification for membership.

C.3.2. Homebuilder Class. Homebuilder Class members consist of owners (other than Declarant and its affiliates) who are Builders, owners of unplatted or unimproved land in the Property, and owners of lots with never-occupied dwellings that are being offered for sale or lease. If this class has members at Sell-Out, such as a Builder who occupies a house or who owns a house that is occupied, the Homebuilder Class membership automatically converts to Homeowner Class membership at Sell-Out. Declarant and its affiliates are not members of the Builder Class. During any period when no owner qualifies as a Builder, as defined above, the Homebuilder Class does not exist.

C.3.3. Declarant Class. Declarant Class members of the Association are (1) Declarant, whether or not Declarant owns land in the Property or Additional Land, (2) any affiliate of Declarant who owns land in the Property or Additional Land, and (3) any consenting signer of this Declaration who owns land in the Property or Additional Land. If there are co-Declarants, each co-Declarant is a member of the Declarant Class. The Declarant Class member enjoys the same membership rights as the Homeowner and Homebuilder Class members, except that Declarant's membership does not require ownership of a lot. If a Declarant Class member owns property subject to the Declaration, the member may cast votes for any lot it owns. If a Declarant Class member owns an occupied house at Sell-Out, the membership automatically converts to Homeowner Class membership for any lot with an occupied house owned by a Declarant Class member.

Declarant is a voting member - with or without a lot.

C.4. VOTING. This Section pertains to voting by owners and members of the Association between the date this Declaration is recorded and Sell-Out. The vote appurtenant to each lot is indivisible. Cumulative voting is not allowed.

C.4.1. Number of Lots for Voting Purposes. If the Property contains unplatted tracts of land, each fifteenth of an acre is treated as a lot for voting purposes. When unplatted tracts are platted, the number of voting lots will be automatically adjusted by the number of platted lots. Until a plat is recorded, the number of voting lots

may be based on the most recent preliminary plat or unrecorded final plat. If additional property is made subject to this Declaration, the number of voting lots will be increased automatically by the number of additional lots. If the number of lots in the Property changes with final platting or replatting by Declarant or with Declarant's approval, the number of voting lots will be adjusted accordingly.

C.4.2. Number or Weight of Votes Per Lot. At Sell-Out, each lot will have one vote, and all votes will be uniform in weight. Prior to Sell-Out, the voting power of each lot is determined by its owner's membership class. For each lot owned by a Homeowner Class member, the vote is counted once, as one vote per lot with a weight of one. For each lot owned by a Homebuilder Class member prior to Sell-Out, the vote is counted twice or is tallied as two votes per lot, or is weighted twice that of a Homeowner Class member's vote. For each lot owned by a Declarant Class member prior to Sell-Out, the vote is counted thrice or is tallied as three votes per lot, or is weighted three times that of a Homeowner Class member's vote.

C.4.3. Tallying Votes. Prior to Sell-Out, if applicable law or a Governing Document requires consent by a percentage or share of owners, members, or total votes, the percentage or share will be determined by the percentage of share of total number or weights of votes based on membership class.

C.4.4. Declarant Class Member. **The Declarant Class membership is a voting membership, even if the Declarant Class member does not own a lot in the Property.** Prior to Sell-Out, during any period in which no lot is owned by the Declarant Class member, the Declarant Class member may cast one vote, the weight of which is one.

C.5. MAXIMUM SIZE. To satisfy a requirement of applicable law that the Declaration state the maximum number of lots that may be created and made subject to the Declaration, Declarant hereby states that **maximum number as 1,000 residential lots** (the "**Maximum Size**"), and reserves the right to increase or reduce that number by amendment of this Declaration. This disclosure of Maximum Size does not obligate Declarant to annex land, to create lots, or to subject lots to the Declaration, and may not be construed as any kind of representation regarding common areas. Declarant's rights that are tied to the size of the Property, such as the calculation for determining the end of the Declarant Control Period, are based on the Maximum Size stated in this Section. The Maximum Size may differ from an interim Build-Out Size which has certain practical applications, such as preparation of the "Build-Out Budget" on which regular assessments are based. Both the Build-Out Size and the Maximum Size may change from time to time during the Development Period in response to changing conditions and opportunities. Generally, the Build-Out Size is grounded in current probability, whereas the larger Maximum Size accounts for future possibility. Both sizes play a role in the development process. The Chapter 209 Election referenced below is based on the Maximum Size.

C.6. BOARD CONTROL RIGHTS & RESERVATIONS. Declarant hereby reserves the Declarant Control Period by which Declarant may unilaterally appoint, remove, and replace officers and directors of the Association, subject to the following conditions and provisions. Declarant's reservation and right to control the Association by appointing officers and directors is independent of Declarant's reservations and rights to control the development, expansion, Build-Out, and Sell-Out of the Property.

C.6.1. Duration. Declarant intends for the Declarant Control Period, as defined above, to be the maximum amount of time permitted by this Declaration and applicable law. No act, statement, or omission by the Association may effect termination of the Declarant Control Period earlier than the term stated in this Appendix. Declarant, however, may terminate the Declarant Control Period at any earlier time by signing and acknowledging a notice of voluntary termination that is recorded in the Real Property Records of Tarrant County, Texas.

C.6.2. Independent Reservation. Notwithstanding badly written applicable laws that link a declarant's control of real property development with its control of the governing body, Declarant and this Declaration recognize the independence of those realms and functions. Declarant may terminate its reserved right to appoint officers and directors of the Association without affecting any of Declarant's other rights and reservations under this Declaration or applicable law.

C.6.3. Officers & Directors. During the Declarant Control Period, the board may consist of 3 persons, or any larger number chosen by Declarant. During the Declarant Control Period, Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be members or owners, and each of whom

is indemnified by the Association as a "Leader," subject to the below-described Chapter 209 Election. Declarant's unilateral right to remove and replace officers and directors applies only to Declarant's appointees.

C.6.4. Chapter 209 Election. On the date of this Declaration, Sec. 209.00591(c) of Chapter 209 of the Texas Property Code requires an election (the "**Chapter 209 Election**") within 120 days after the conveyance of 75 percent of the lots stated above as the Maximum Size, at which at least one-third of the board must be elected by owners other than Declarant. Because Declarant continues to control the board by appointing a majority of directors, the Chapter 209 Election is distinguishable from the election that occurs at the turnover meeting. A director elected at the Chapter 209 Election serves until the earlier of two years or the turnover meeting, at which time the seat will be filled by election. If an elected director vacates the seat during the term, it must be filled with an elected director at the next annual meeting or at any special meeting of the Association called for that purpose. Declarant construes applicable law to mean 120 days after 75 percent of the lots that may be created in the fully expanded development have been improved with homes and conveyed to owners other than Builders. The conveyance of vacant lots does not count toward the 75 percent requirement.

Declarant appoints HOA leaders until almost all the homes are built and sold.

C.6.5. Proxy Participation. Any director appointed by Declarant may participate in person or by proxy in meetings of the board. Declarant appointees who are employees, principals, or agents of Declarant are automatically holders of each other's proxy by virtue of this Subsection. The proxy created by this Subsection automatically self-renews every three months as long as Declarant is authorized to appoint a person to the board. This Subsection constitutes the writing required by applicable law. If not prohibited by applicable law, a director who participates by proxy under this Subsection may be counted toward a quorum of board members.

C.7. ASSOCIATION GOVERNANCE.

C.7.1. Annual Meetings. During the Declarant Control Period, the board may use its discretion in setting the agenda for meetings of the Association, and is not bound by the order of business stated in the Bylaws. Annual meetings during the Declarant Control Period may be informational only. If the Association gives notice of one meeting of members during the year, the meeting will be deemed to be the annual meeting of the Association whether or not it is so designated in the notice.

C.7.2. Board Meetings. During the Declarant Control Period, to the extent not prohibited by applicable law, meetings of the board of directors are permitted but not required. The Bylaws provision that requires periodic board meetings becomes effective when the Declarant Control Period ends.

C.7.3. Bylaws. During the Declarant Control Period, the board may use its discretion in applying the provisions of the Bylaws, which ~ during the Declarant Control Period only ~ must be construed as permissive (not mandatory), aspirational, and within the sole discretion of the board, to the extent permitted or not prohibited by applicable law.

C.7.4. Power of Attorney or Proxy. In connection with its sale of lots to Builders, Declarant may obtain a specific power of attorney or a general appointment of proxy to exercise the voting rights of owners who are members of the Builder Class in order to retain Declarant's reserved right to control the appointment of all officers and directors of the Association for the maximum period permitted by applicable law.

C.7.5. Turnover Meeting. The "**turnover meeting**" is a special meeting of Association members called by Declarant or by the Declarant-controlled board for the purpose of transferring control of the Association's governance from the Declarant-controlled board to a board of directors elected by the Association members.

C.7.5.1. Purpose. At the turnover meeting, the owners will elect directors to the board. The single-purpose turnover meeting may be combined with any other Association meeting for which proper notice is given. Regardless of the timing specified in the Bylaws for the annual meeting, an annual meeting may be called to coincide with the turnover meeting to avoid the cost of conducting two membership meetings in a 12-month period.

C.7.5.2. Timing, Notice, Quorum. Declarant, alone, is authorized to determine the date, time, and place of the turnover meeting. Notice of the turnover meeting will be given no later than 120 days after the end of the Declarant Control Period. For the turnover meeting, owners present in person or by proxy constitute a quorum.

C.7.5.3. Terms. Directors elected at the turnover meeting will serve terms that are staggered according to the Bylaws, some directors serving terms that are one year longer than the terms of other directors.

C.7.6. Notice and Quorum. During the Declarant Control Period, notice of each Association meeting must be given to Declarant, whether or not Declarant owns a lot in the Property. The presence of Declarant, in person or by proxy, is required to attain a quorum for any meeting of the Association during the Declarant Control Period. Declarant may waive this requirement in writing on a meeting-by-meeting basis. However, Declarant's waiver may not be assumed, deemed, or construed from circumstances, omissions, or verbal statements. A meeting of the Association called during the Declarant Control Period is not valid without Declarant's presence or a written waiver signed by Declarant prior to the start of the meeting.

C.8. ACTION IN LIEU OF BOARD. During the Declarant Control Period, Declarant has the right - in its capacity as Declarant - to act for or on behalf of the Association without the formality of board action. Declarant may perform any action that the board may take under the Governing Documents or applicable law, such as (for illustration only) calling a meeting of Association members or adopting the Association's annual budget. This right and reservation supplements any provision suggesting or requiring board action during the Declarant Control Period and may be exercised for any purpose.

C.9. DECLARANT AS EX-OFFICIO BOARD MEMBER. Declarant hereby reserves the right to serve on the board in an ex-officio capacity when the Declarant Control Period ends, for the remainder of the Declarant Class membership. Only Declarant may appoint the person who serves as the ex-officio director, with full power to remove and replace the appointee, who serves at the pleasure of Declarant. As an ex-officio member of the board, Declarant has the same rights and privileges as do all other directors, including the right to vote. As an ex-officio director, Declarant is not subject to recall, removal, or term limits.

C.10. ADVISORY & ARCHITECTURAL COMMITTEES. During the Declarant Control Period, the board may appoint any number of committees pursuant to the authority and procedures stated in the Bylaws. This Section pertains to two committees that may be of particular interest during the Declarant Control Period. Although committee appointments are made by the board, the board may invite nominations from owners, or may provide owners with a straw poll opportunity to recommend candidates.

C.10.1. Advisory Committees. During the Declarant Control Period, the board may appoint one or more committees comprised of owners or residents to assist the board in an advisory capacity by contributing the perspectives of residents and owners. The committee may be referred to as an "advisory committee," "advisory board," "shadow board," or by any other name that is commonly used by property owners associations. The board may adopt a policy of delegating to the Association's manager the responsibility for appointing and working with such committees. The policy may provide that all duties of the board under the Bylaws article titled "Committees" will be construed to mean "the board or the manager pursuant to a policy adopted by the board."

C.10.2. AGC. During the Declarant Control Period, the board appoints the AGC, which may consist of (1) Declarant only as a "committee of one," (2) principals or employees of Declarant, (3) independent design professionals, such as architects and engineers, (4) one or more Builders, (5) owners appointed by Declarant, (6) owners recommended by owners other than Declarant, or (7) any combination of the forgoing. At all times, the chair and members of the AGC serve at the pleasure of the board, which may remove and replace appointees. Declarant may, from time to time, and solely at Declarant's discretion, appoint an AGC comprised solely of owners other than Declarant and Builders. Decisions by the AGC are at all times subject to review and veto by the board. The AGC has no authority over unimproved land, vacant lots, or new homes, and no authority over lots owned by Declarant or Builders or owners who signed this Declaration. No authority granted to the AGC, even by the board, may ever be construed to give the AGC jurisdiction over new homes and related improvements on vacant lots.

C.11. FINANCIAL RIGHTS & RESERVATIONS. Declarant hereby reserves the following financial rights, reservations, and duties regarding the Association's budget and financial functions, which are independent of Declarant's reservation and right to control the appointment of officers and directors, and Declarant's reservation and right to control the development, build-out, and sell-out of improvements in the Property. The purpose of any support - such as monetary or in-kind - by Declarant to or for the Association is solely to assist the Association in meeting its actual expenses as they arise, and may not be construed as an obligation by Declarant to pay sums certain to or for the Association.

During Build-Out, the HOA's budget may be based on projections and assumptions that may or may not be realized. So, rates of assessment may change during and after Build-Out.

C.11.1. Annual Budget. Declarant or the Declarant-appointed board will approve an estimated projected annual budget for the Association on which regular assessments are based. From time to time during the Declarant Control Period, as Declarant deems appropriate, Declarant may unilaterally revise and republish the Association's annual operating budget and the corresponding rate of assessment for the lots. Such a budget adopted by Declarant for the Association does not require approval by the board. Alternately, assessment and budget changes may be adopted by the board.

C.11.1.1. Purposes. During the Declarant Control Period, the annual budget has three primary purposes. First, to inform homebuyers about the typical types and relative sizes of expenses that the Association may be expected to incur when their community is Sold-Out and they control the Association. Second, to yield a rate of assessment that is more affordable for the initial homebuyers than if the Association's expenses were divided among only owners of completed homes prior to Sell-Out. Third, to serve as a budget snapshot that can be used in the home marketing program for a relatively long period of time during the community's development.

C.11.1.2. No Warranty. For itself and the Association, Declarant hereby disclaims and disavows any warranty or representation that may be attributed to any Association budget that is published or adopted during the Declarant Control Period. An annual budget is not a warranty or representation by Declarant or by the Association that the types of budgeted expenses or their relative sizes are accurate or complete for any particular year. Nor is it a warranty or representation that the Property or the Association will achieve the budget's assumptions. Nor is it a warranty or representation by Declarant or the Association that the Association will annually incur or fund every category of expense that is shown on the budget, or that the relative size of an expense category will be achieved. Neither the Association nor any owner has a right or expectation of being reimbursed by Declarant or by the Association for a budgeted line item that is not realized, or that is not realized at the projected level.

C.11.1.3. Assumptions. The annual budget may be based on any number of assumptions that are customary for Declarant-prepared budgets in the local marketplace, such as assumptions that (1) the Property is Built-Out, Sold-Out, and fully occupied, (2) owners of all lots subject to assessment pay assessments in full and on time, (3) the Property enjoys a level of service and maintenance that is typical for similar types of developments in the general area of the Property, and (4) no inflation or increase in the costs of goods and services from the date on which the budget is prepared. All such assumptions are presumed to be reasonable for this purpose.

STUFF HAPPENS

C.11.1.4. Anticipatory Disclosure of Budget Errors. During the Declarant Control Period, budgets are typically prepared by a third-party management company and may be routinely published or distributed without word-for-word approval by the board. This subsection recognizes that some management companies use budgeting methods or software with features that make wrong assumptions or use inaccurate wording regarding Declarant's role in financing the Association. Terms such as "Developer Subsidy", "Developer Contribution," and "Declarant Funding" may be systematically used by a budget preparer who is not knowledgeable about this Declaration's limitations on Declarant's financial obligations to the Association. Accordingly, the mere use of such terms in a budget may not be construed

to create a legal obligation for Declarant, even if the budget is approved by Declarant or by the Declarant-controlled board.

C.11.2. Declarant's Financial Responsibility. A lot owned by Declarant or by an affiliate of Declarant is not subject to mandatory assessment by the Association and will not become subject to assessment by the Association until the date title is transferred to an owner other than Declarant or a Declarant affiliate. Because Declarant establishes the Association's budget and the rate of assessment during the Declarant Control Period, Declarant feels obliged to make sure the Association pays its actual out-of-pocket operating expenses as they occur during that period, which is the basis of Shortfall funding.

C.11.3. During the Declarant Control Period only, Declarant is responsible only for the Expected Shortfall. For any budget period during the Declarant Control Period in which the Actual Shortfall exceeds the Expected Shortfall, Declarant may (a) fund some or all of the difference, (b) direct the board to reduce the Association's expenses by reducing services, or (c) direct the board to fund the difference by raising the rate of assessment.

C.11.4. On termination of the Declarant Control Period, Declarant ceases being responsible for shortfalls and the owner-elected board of directors will adopt a budget for the Association that is capable of being funded completely by owners without any contribution by Declarant. Under any circumstance, Declarant is not liable to the Association for more than the amount that Declarant would pay if Declarant were liable for assessments on the unsold lots in the same manner as any other owner. This may not be construed to create a per lot assessment liability for Declarant.

C.11.5. Limits on Declarant's Financial Responsibility. All provisions of this Declaration and applicable law that pertain to Declarant's financial responsibility to the Association or to its members, or to Declarant's role in maintaining or improving the Property, must be interpreted in light of the following statements and limitations:

C.11.5.1. Common Area Improvements. Because the Association, not Declarant, is responsible for all aspects of the common property's condition, including the effects of time, natural elements, wear and tear, the Declarant - as Declarant - has no ongoing or future financial responsibility for common area improvements, even during the Declarant Control Period.

C.11.5.2. Budget Adequacy. The Association's ability to operate from fiscal year to fiscal year during the Declarant Control Period without incurring debt other than Shortfall Loans is adequate proof that the Association has sufficient funds and appropriate budgeting to meet its operating expenses for a fiscal year.

C.11.5.3. Timely Invoice. Declarant is not liable to the Association for any expense for which Declarant was not given actual and timely written notice and a reasonable opportunity to pay or challenge the expense. Actual notice must be in the form of an invoice issued by the person or company managing the Association's accounts. To be timely, the invoice must be received by Declarant by the later of: (1) 60 days after the expense was incurred by the Association, or (2) the end of the fiscal year in which the expense was incurred by the Association. Declarant's receipt or review of the Association's budget or financial reports may not be construed as notice.

Reserves aren't funded by Declarant.

C.11.6. Reserves. The annual budget may show an annual contribution to reserves or to a contingency fund to illustrate to homebuyers the types of expenses they may expect to fund after the Declarant Control Period. During the Declarant Control Period, a budgeted line item for reserves is not a guaranty that the Association's reserves will be funded from regular assessments or from any other source. Declarant has no duty to contribute to the Association's reserve accounts. If the Declarant-controlled Association does not collect initial reserve contributions from owners at time of purchase, after the Declarant Control Period the Association will levy a special assessment to establish initial reserve accounts, and will thereafter collect initial reserve contributions in connections with transfers of title.

C.11.7. Commencement of Assessments. Declarant may elect to postpone the Association's initial levy of regular assessments until a certain number of lots are sold. Prior to the first levy, Declarant is responsible for the operating expenses of the Association as they accrue.

C.11.8. Budget Control. During the Declarant Control Period, the right of owners to veto assessment increases or special assessments is not effective and may not be exercised.

C.11.9. Annual Audit. During the Declarant Control Period, audits of the Association's financial records are optional (not required) from year to year, and from time to time, including any audit required by the Bylaws.

C.11.10. Enhancements. Until Sell-Out, Declarant - solely at Declarant's discretion - may voluntarily provide enhancements for the Property, such as higher levels of maintenance, management, insurance, seasonal color in landscaping, and recreational personnel. If such enhancements are included in the Association's annual operating budget they must be identified as voluntary contributions by Declarant.

C.11.11. Loans. Nothing in this Appendix may be construed to prevent Declarant from making a loan or voluntary monetary donation to the Association, provided it is so characterized in the books and records of the Association.

C.11.12. Declarant's Right to Inspect & Correct Accounts. Until five years after the end of the Declarant Control Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association's financial books, records, and accounts from the Declarant Control Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. By way of illustration but not limitation, Declarant may find it necessary to recharacterize an expense or payment to conform to Declarant's obligations under the Governing Documents or applicable law. This Section may not be construed to create a duty for Declarant or a right for the Association. In support of this reservation, each owner, by accepting an interest in or title to a lot, hereby grants to Declarant a right of access to the Association's books, records, and accounts that is independent of Declarant's rights during the Declarant Control and as the Declarant Class member of the Association, for the limited purpose of this Section and only to the extent necessary to enable Declarant to exercise its rights under this Section. **This Subsection survives Sell-Out, if Sell-Out occurs within five years after the end of the Declarant Control Period.**

C.12. RIGHT OF REIMBURSEMENT FOR SHORTFALL LOANS. While Declarant controls the Association, Declarant may from time to time, and solely at Declarant's discretion, provide financial assistance to the Association. Providing financial assistance one time, or from time to time, does not obligate Declarant to provide additional or continual financial assistance. The purpose of this Section is to describe the relationship between Declarant and the Association regarding Declarant's financial support and the duty of the Association to reimburse Declarant for some of Declarant's contributions under certain circumstances. In case of conflict between this Section and other provision of the Declaration, this Section controls.

C.12.1. Reservation. Declarant hereby reserves the right to be reimbursed by the Association for any shortfall loan and hereby creates an affirmative duty for the Association to fund the reimbursement if and when Declarant exercises this right.

C.12.2. Association's Duty. The Association is responsible for monitoring expected and actual shortfalls, identifying the differences that are eligible for reimbursement, and for reimbursing Declarant as targeted funds are received, without demand by Declarant. **The Association's duties under this Section do not terminate at the end of the Declarant Control Period.**

C.12.3. Examples. Circumstances that are capable of resulting in shortfall loans include without limitation: (1) the failure of owners to pay assessments to the Association; (2) expenses pre-paid by the Association for which an owner or a third party is liable; and (3) any expense pre-paid by the Association for which a special assessment or increase in regular assessments is subsequently levied, or for which the Association obtains bank funding.

C.12.4. Shortfall Loan. A shortfall loan arises automatically, with or without formality. A shortfall loan may be evidenced by a promissory note executed by the Association in favor of Declarant or a person or entity designated by Declarant. A shortfall loan may be further secured by a lien against the common areas contained

in a publicly recorded lien instrument executed by the Association. The Association will execute loan and security documents if so requested by Declarant. A shortfall loan incurs no interest and will be repaid - without demand - as the Association receives reimbursement of prepaid expenses, payment of delinquent assessments, or funding from loans or levied assessments. If a rate of interest on the shortfall loan will be imputed, the rate will be six percent per annum. Unless a promissory note specifies a different plan of payment, the Association will budget for shortfall loan repayment in a manner that retires 10 percent of the shortfall loan each year for 10 years.

C.13. TRANSFER-RELATED FEES ON VACANT LAND. This Section pertains to the sale and purchase of vacant lots or tracts of land prior to Build-Out. This Subsection is subject to Declarant's continuing right to modify or waive the obligation for transfer-related and HOA Sale Fees with each Builder and for each contract.

C.13.1. Declarant Not Liable. Declarant and the owner-signers of this Declaration are not liable to the Association or its manager for transfer-related fees on any tract of land or lot conveyed to or conveyed by Declarant or an owner-signer. This exemption applies to a successor Declarant who was a Builder prior to the assignment. Declarant and the owner-signers of this Declaration are not liable for HOA Sales Fees that are not collected on transactions that are subject to HOA Sale Fees.

C.13.2. Estoppels. A request to the Association for a "payoff" or statement of assessments in connection with the purchase or closing of a vacant lot or tract of land may be satisfied with an assessment estoppel letter, and may not be treated as a request for "subdivision information" which triggers a resale certificate.

C.13.3. Resale Certificate. In the event a resale certificate, per se, is required for conveyance of multiple lots or tracts in a single transaction (a bulk sale), the requirement may be satisfied with a single resale certificate for the multi-lot or multi-tract transaction.

C.13.4. Amounts. On or before the closing of a platted or unplatted portion of the Property from Declarant or from an owner-signer of this Declaration to a Builder, the purchasing Builder is liable for the transfer-related fees shown on the attached Appendix G. On or before the closing of a platted or unplatted portion of the Property from one Builder to another Builder, the purchasing Builder is liable for the transfer-related fees shown on the attached Appendix G.

C.14. HOA SALE FEES ON NEW HOME SALES. This Section pertains to "**New Home Sales**", meaning the sale to a homeowner of a lot that is improved with a newly constructed dwelling, or a vacant lot with a contract for construction of the first dwelling. The request for or issuance of a "resale certificate" does not convert a New Home Sale into a Home Resale for purposes of this Declaration.

C.14.1. Amounts. On or before the closing of a New Home Sale to a purchaser other than Declarant, a Successor Declarant, or a Declarant-affiliate, the purchaser is liable for the transfer-related fees shown on the attached Appendix G.

C.14.2. Operating Funds. A contribution of HOA Sale Fees to the Association's operating funds may be used to defray Declarant's obligation, if any, for the Association's operating expenses that are not funded by regular assessments received from other owners during the Declarant Control Period. After the Declarant Control Period, the Association will transfer to Declarant the initial operating fund contributions received from buyers of New Homes.

C.14.3. Liability. If HOA Sale Fees are not collected from a New Home purchaser at closing, Declarant is not thereafter liable for the contribution, and Declarant reserves the right (but not the duty) to waive the purchaser's liability for HOA Sale Fees on a case by case basis. Declarant acknowledges that this condition may create an inequity among the owners, but deems it a necessary response to the volume and diversification of closing New Home Sales.

(End of Appendix C)

APPENDIX D RETAINING WALLS

D.1. GENERAL. Retaining walls are used to stabilize soil, modify slopes, level sites, and adjust for grade or elevation differences between adjoining parcels of land, such as between two lots. A retaining wall is hereby deemed to benefit the parcel on each side of the wall ~ to be mutually beneficial ~ even though the wall may be entirely within the legal boundaries of only one of the adjacent parcels. As used in this Appendix, the following terms, whether or not capitalized, have specified meanings unless a different meaning is apparent from the context in which the term is used:

"Continuous Retaining Wall" means a retaining wall that extends - on either side - beyond the boundaries of a particular parcel, thereby serving two or more parcels on at least one side of the wall.

"Parcel" means any piece of real property that contains, abuts, supports, or is supported by a retaining wall within or adjacent to the Property, such as lots and common areas. Depending on its elevation in relation to the retaining wall, a parcel is either a **"Higher Parcel"** (having the higher elevation in relation to the retaining wall) or a **"Lower Parcel"** (having the lower elevation in relation to the retaining wall).

"Retaining Wall" means a structure designed to restrain soil between two elevations. Depending on its location, a retaining wall is either a **"Shared"** or **"Perimeter"** retaining wall. A **"Shared Retaining Wall"** is located between or along the boundary shared by two parcel within the Property. A **"Perimeter Retaining Wall"** is located on or along the perimeter of the Property or on or along public property (such as a public right-of-way, street, park, or creek).

D.1.1. Applicability. This Appendix applies to every parcel in Marine Creek Ranch East that is on either side of a retaining wall, regardless of whether the retaining wall is located exactly on the boundary between two parcels, entirely on one of the two parcels, or partly on one parcel and partly on the other. For retaining walls on the perimeter of the Property, see also the "Perimeter Retaining Walls" Section below. A publicly recorded parcel-specific document that addresses retaining walls controls the parcel to which it pertains. This Appendix does not pertain to a retaining wall that is entirely within a parcel and does not support another parcel, such as a raised planter bed.

D.1.2. Rule of Law. To the extent not inconsistent with this Appendix or (if any) an enforceable agreement between owners of adjacent parcels, a retaining wall is subject to the general rules of law regarding party walls, retaining walls, and liability for property damage due to negligence, willful acts, or omissions.

D.2. ENCROACHMENTS AND EASEMENTS. If a retaining wall is on one parcel or another, the retaining wall is nevertheless deemed to be on the dividing line between the parcels for purposes of this Appendix. The owner of the parcel on each side of the retaining wall hereby grants to the owner of the parcel on the other side of the retaining wall the following easements across his parcel:

D.2.1. Access Easement. The owner of the Lower Parcel and the owner of the Higher Parcel hereby grant each other a reciprocal access easement across their respective lots for maintenance, repair, replacement, or reconstruction of the retaining wall, as necessary to effect the purposes and provisions of this Appendix.

D.2.2. Encroachment Easement. The owner of the Lower Parcel and the owner of the Higher Parcel hereby grant each other an easement for the existence and continuance of any encroachment by the retaining wall as a result of construction, repair, shifting, settlement, or movement in any portion of the retaining wall, so that the encroachment may remain undisturbed as long as the retaining wall stands.

D.2.3. Use Easement. The owner of the Higher Parcel hereby grants to the owner of the Lower Parcel a non-exclusive and perpetual right and easement of enjoyment and use over (1) the exterior surface of the retaining wall for use as a perimeter wall or fence of the Lower Parcel, and (2) any portion of the Higher Parcel that is at or near the elevation of the Lower Parcel. The owner of the Lower Parcel hereby grants to the owner of the Higher Parcel a non-exclusive and perpetual right and easement of enjoyment and use over any portion of the Lower Parcel that is at or near the elevation of the Higher Parcel.

D.3. MAINTENANCE, REPAIR & ALTERATION. In addition to this Appendix, owners must comply with Retaining Wall Maintenance Specifications in the Owners Manual and any other AGC promulgated rules specific to retaining walls.

D.3.1. Continuous Retaining Walls. A parcel owner is responsible for only the segment of a continuous retaining wall that abuts the owner's parcel. Owners of parcels with segments of a continuous retaining wall are expected to cooperate in performing maintenance, repair, and reconstruction ~ if and when needed.

D.3.2. Duty & Right to Repair. Whomever damages a retaining wall pays for the damage. The owner of a parcel, at the owner's sole expense, has a duty to repair all actual and consequential damage to the retaining wall emanating from an act, condition, or omission on or pertaining to the owner's parcel. The owner of either parcel has the right to repair or rebuild a damaged or destroyed retaining wall to its previous condition, and the owners of both parcels, their successors and assigns, have the right to the full use of the repaired or rebuilt retaining wall, subject to rights (if any) of reimbursement or contribution by the owner of the other parcel.

D.3.3. Maintenance Costs. The owner of each parcel is solely responsible for the cost of performing its duties under the Retaining Wall Maintenance Specifications. The owner of the Higher Parcel is solely responsible for the costs of repair, reconstruction, or replacement of the retaining wall, subject to the right of reimbursement or contribution from the owner of the other parcel under any rule of law regarding liability for negligence or willful acts or omissions or breach of duty. If an owner fails or refuses to pay his share of costs of repair or replacement of the retaining wall, the owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Tarrant County, Texas. The right of an owner to contribution from another owner is appurtenant to the land and passes to the owner's successors in title. The Association may (but is not required to) perform or fund the defaulting owner's share of the work on the retaining wall, the cost of which may be levied against the defaulting owner and his parcel as an individual assessment.

D.3.4. Variations by Agreement. Nothing in this Declaration or the Owners Manual may be construed to prevent owners of parcels that share a retaining wall from agreeing in writing to a different allocation of responsibilities or costs between themselves. Such an agreement is not binding on subsequent owners of either parcel unless the agreement is in the form of a deed restriction or mutual covenant, signed by the owners of both parcels, and recorded in the Real Property Records of Tarrant County, Texas.

D.3.5. Alterations. A retaining wall may not be altered in a manner that affects the use, condition, or appearance of the retaining wall to the other parcel without the prior written consent of the Architectural Authority and the owner of the other parcel.

D.3.6. Materials. Unless the Architectural Authority grants a variance, the material used to repair or reconstruct an existing retaining wall must substantially match the original retaining wall in quality and appearance. If the repair or reconstruction is on a segment of a continuous wall, an effort must be made to blend the work with the continuous wall of which it is part. The surfaces of new retaining walls that are visible from a street, common area, or adjacent parcel must be made of stone or other masonry material approved in writing by the Architectural Authority. Wood, including railroad ties, may not be used for retaining walls.

D.4. PERIMETER RETAINING WALLS. A retaining wall on the perimeter of the subdivision or along a public street within the subdivision is not automatically the responsibility of the Association. Even if a publicly recorded document, such as a plat, assigns responsibility to the Association, the Association may delegate that duty to owners of certain lots. Generally, the Association is not responsible for any aspect of a Perimeter Retaining Wall that supports or is supported by a Marine Creek Ranch East lot.

D.4.1. Outsiders. This Appendix does not and cannot create an obligation for the owner of a parcel that is not subject to this Declaration, such as a parcel on the far side of a Perimeter Retaining Wall.

D.4.2. Important Notice. Notice is hereby given that a Marine Creek Ranch East parcel with a Perimeter Retaining Wall may have no lawful right to access the adjacent parcel for purposes of inspecting, maintaining, repairing, and reconstructing the Perimeter Retaining Wall, if and when needed. If such access is needed, the Marine Creek Ranch East parcel owner is solely responsible for obtaining permission to lawfully access the adjacent parcel. By acquiring an ownership interest in a Higher Parcel with a Perimeter Retaining Wall, each owner acknowledges that if access to the adjacent Lower Parcel is not available, other options for repairing or replacing the Perimeter Retaining Wall may result in excavation and removal of soil from the Higher Parcel, the practical loss of portions of the elevated and usable surface of the Higher Parcel, and substantially more expense than if the owner of the Higher Lot had unfettered access to the adjacent Lower Parcel to perform the required work.

(End of Appendix)

APPENDIX E
DESCRIPTION OF SPECIFIC LAND THAT MAY BE ANNEXED

In addition to the real property defined in the Declaration as "Additional Land," during the Expansion Period, Declarant has the right - but not the duty - to annex (from time to time) any or all of the following parcels of land, or one or more portions of any of the parcels.

PARCEL A - 74.539 ACRES (*West of Huffines Blvd. and South of Cromwell Marine Creek Rd.*)

BEING A 74.539 ACRE TRACT OF LAND LOCATED IN THE JOSEPH BOMAN SURVEY, ABSTRACT NO. 79, IN THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, BEING A PORTION OF A CALLED 964.473 ACRE TRACT OF LAND AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO HAYCO REALTY, LTD., A TEXAS LIMITED PARTNERSHIP, FILED FOR RECORD IN VOLUME 14192, PAGE 644, DEED RECORDS, TARRANT COUNTY, TEXAS (DRTCT), SAID 74.539 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES & BOUNDS AS FOLLOWS:

BEGINNING AT A PK NAIL FOUND FOR THE NORTHWEST CORNER OF SAID J. BOMAN SURVEY, ABSTRACT NO. 79 (PER VESTING DEED), SAME BEING THE NORTHWEST CORNER OF SAID CALLED 964.473 ACRE TRACT OF LAND, AND BEING AT THE APPARENT INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF CROMWELL MARINE CREEK ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, AND THE WEST RIGHT-OF-WAY LINE OF BOWMAN ROBERTS ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, FROM WHICH A 1/2 INCH IRON ROD FOUND (FOR REFERENCE) ON THE SOUTH RIGHT-OF-WAY LINE OF SAID CROMWELL MARINE CREEK ROAD, BEARS SOUTH 62 DEGREES 24 MINUTES 49 SECONDS WEST, A DISTANCE OF 29.93 FEET, SAID BEGINNING POINT HAVING A NAD 83 TEXAS COORDINATE SYSTEM POSITION (GRID) OF N:6994735.3 E:2300852.4 (BEARINGS & COORDINATE VALUES SHOWN HEREON ARE IN REFERENCE TO THE NAD 83 - TEXAS COORDINATE SYSTEM - NORTH CENTRAL ZONE, 4202, BASED ON GPS OBSERVATIONS UTILIZING THE LEICA GPS REFERENCE NETWORK);

THENCE NORTH 89 DEGREES 37 MINUTES 09 SECONDS EAST, ALONG THE NORTH LINE OF SAID CALLED 964.473 ACRE TRACT OF LAND, A DISTANCE OF 1907.52 FEET, TO A PK NAIL FOUND ON THE WEST RIGHT-OF-WAY LINE OF HUFFINES BOULEVARD, AN 80' PUBLIC RIGHT-OF-WAY AT THIS POINT, BEING THE NORTHERNMOST NORTHWEST CORNER OF MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 12800, PLAT RECORDS, TARRANT COUNTY, TEXAS (PRTCT), FROM WHICH AN "X" CUT FOUND FOR THE NORTHERNMOST NORTHEAST CORNER OF SAID MARINE CREEK RANCH, BEARS NORTH 89 DEGREES 37 MINUTES 03 SECONDS EAST, A DISTANCE OF 80.00 FEET;

THENCE SOUTH 00 DEGREES 06 MINUTES 53 SECONDS EAST, ALONG THE WEST RIGHT-OF-WAY LINE OF SAID HUFFINES BOULEVARD, AT A DISTANCE OF 10.94 FEET, PASSING A 5/8 INCH CAPPED IRON ROD FOUND STAMPED "TRANSYSTEMS INC.", AND CONTINUING IN ALL A TOTAL DISTANCE OF 303.46 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1150 FEET;

THENCE ALONG SAID CURVE TO THE LEFT, AND IN A SOUTHEASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 03 DEGREES 29 MINUTES 15 SECONDS, AN ARC LENGTH OF 70.00 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 01 DEGREES 51 MINUTES 30 SECONDS EAST, A CHORD LENGTH OF 69.99 FEET, TO A POINT FOR CORNER, BEING AN EXTERIOR BOUNDARY CORNER OF SAID MARINE CREEK RANCH, AND BEING ON A CURVE TO THE LEFT HAVING A RADIUS OF 1150.00 FEET;

THENCE SOUTHERLY, DEPARTING SAID WEST RIGHT-OF-WAY LINE, AND ALONG THE FUTURE WEST RIGHT-OF-WAY LINE OF SAID HUFFINES BOULEVARD, THE FOLLOWING CALLS:

ALONG SAID CURVE TO THE LEFT, AND IN A SOUTHEASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 26 DEGREES 40 MINUTES 11 SECONDS, AN ARC LENGTH OF 535.29 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 16 DEGREES 56 MINUTES 13 SECONDS EAST, A CHORD LENGTH OF 530.47 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 990.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A SOUTHEASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 06 DEGREES 19 MINUTES 41 SECONDS, AN ARC LENGTH OF 109.34 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 27 DEGREES 06 MINUTES 28 SECONDS EAST, A CHORD LENGTH OF 109.29 FEET, TO A POINT FOR CORNER;

SOUTH 23 DEGREES 56 MINUTES 37 SECONDS EAST, A DISTANCE OF 177.17 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 975.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A SOUTHEASTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 05 DEGREES 23 MINUTES 01 SECONDS, AN ARC LENGTH OF 91.61 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 26 DEGREES 38 MINUTES 08 SECONDS EAST, A CHORD LENGTH OF 91.58 FEET, TO A POINT FOR CORNER;

SOUTH 29 DEGREES 19 MINUTES 38 SECONDS EAST, A DISTANCE OF 283.60 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 1025.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A SOUTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 61 DEGREES 29 MINUTES 36 SECONDS, AN ARC LENGTH OF 1100.09 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 01 DEGREES 24 MINUTES 52 SECONDS WEST, A CHORD LENGTH OF 1048.05 FEET, TO A POINT FOR CORNER;

SOUTH 32 DEGREES 10 MINUTES 31 SECONDS WEST, A DISTANCE OF 88.91 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 975.00 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A SOUTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 05 DEGREES 34 MINUTES 36 SECONDS, AN ARC LENGTH OF 94.90 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 30 DEGREES 01 MINUTES 50 SECONDS WEST, A CHORD LENGTH OF 94.86 FEET, TO A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "JBI";

SOUTH 27 DEGREES 14 MINUTES 32 SECONDS WEST, A DISTANCE OF 187.56 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 900.00 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A SOUTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 05 DEGREES 10 MINUTES 39 SECONDS, AN ARC LENGTH OF 81.33 FEET, AND HAVING A LONG CHORD WHICH BEARS SOUTH 29 DEGREES 49 MINUTES 52 SECONDS WEST, A CHORD LENGTH OF 81.30 FEET, TO A POINT FOR CORNER;

SOUTH 32 DEGREES 25 MINUTES 11 SECONDS WEST, A DISTANCE OF 104.07 FEET, TO A POINT FOR CORNER, BEING ON THE NORTHEAST RIGHT-OF-WAY LINE OF TEXAS SHINER DRIVE, A 60.00' PUBLIC RIGHT-OF-WAY;

THENCE NORTH 57 DEGREES 34 MINUTES 26 SECONDS WEST, ALONG SAID NORTHEAST RIGHT-OF-WAY LINE, A DISTANCE OF 449.97 FEET, TO A POINT FOR CORNER, BEING THE SOUTHEAST CORNER OF LOT 1, BLOCK G, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 10187, PRTCT;

THENCE NORTHERLY, DEPARTING SAID NORTHEAST RIGHT-OF-WAY LINE, AND ALONG THE EAST AND NORTH LINES OF SAID MARINE CREEK RANCH (A-10187) THE FOLLOWING CALLS:

NORTH 18 DEGREES 33 MINUTES 47 SECONDS EAST, A DISTANCE OF 86.06 FEET, TO A POINT FOR CORNER;

NORTH 50 DEGREES 20 MINUTES 04 SECONDS WEST, A DISTANCE OF 100.00 FEET, TO A POINT FOR CORNER;

NORTH 27 DEGREES 33 MINUTES 46 SECONDS EAST, A DISTANCE OF 46.87 FEET, TO A POINT FOR CORNER;

NORTH 86 DEGREES 51 MINUTES 29 SECONDS EAST, A DISTANCE OF 100.00 FEET, TO A POINT FOR CORNER;

NORTH 80 DEGREES 04 MINUTES 57 SECONDS EAST, A DISTANCE OF 100.00 FEET, TO A POINT FOR CORNER;

NORTH 29 DEGREES 57 MINUTES 46 SECONDS EAST, A DISTANCE OF 100.00 FEET, TO A POINT FOR CORNER;

NORTH 12 DEGREES 39 MINUTES 48 SECONDS EAST, A DISTANCE OF 150.82 FEET, TO A POINT FOR CORNER, BEING AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 367.50 FEET;

ALONG SAID CURVE TO THE RIGHT, AND IN A NORTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 05 DEGREES 13 MINUTES 06 SECONDS, AN ARC LENGTH OF 33.47 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 01 DEGREES 18 MINUTES 39 SECONDS WEST, A CHORD LENGTH OF 33.46 FEET, TO A POINT FOR CORNER;

NORTH 01 DEGREES 17 MINUTES 55 SECONDS EAST, AT A DISTANCE OF 55.70 FEET, PASSING A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "RPLS 5439", AT A DISTANCE OF 240.65 FEET, PASSING A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "RPLS 5439", AT A DISTANCE OF 393.93 FEET, PASSING A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "GEODATA", AND CONTINUING IN ALL A TOTAL DISTANCE OF 457.79 FEET, TO A POINT FOR CORNER;

NORTH 12 DEGREES 28 MINUTES 15 SECONDS WEST, AT A DISTANCE OF 58.68 FEET, PASSING A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "GEODATA" FOR THE SOUTHEAST CORNER OF LOT 25, BLOCK G, OF SAID MARINE CREEK RANCH (A-10187), AND CONTINUING IN ALL A TOTAL DISTANCE OF 228.67 FEET, TO A POINT FOR CORNER;

NORTH 08 DEGREES 21 MINUTES 21 SECONDS WEST, A DISTANCE OF 95.49 FEET, TO A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "GEODATA", BEING AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 352.50 FEET;

ALONG SAID CURVE TO THE LEFT, AND IN A NORTHWESTERLY DIRECTION, THROUGH A CENTRAL ANGLE OF 23 DEGREES 31 MINUTES 55 SECONDS, AN ARC LENGTH OF 144.78 FEET, AND HAVING A LONG CHORD WHICH BEARS NORTH 47 DEGREES 19 MINUTES 45 SECONDS WEST, A CHORD LENGTH OF 143.76 FEET, TO A 1/2 INCH CAPPED IRON ROD FOUND STAMPED "GEODATA";

NORTH 59 DEGREES 05 MINUTES 42 SECONDS WEST, AT A DISTANCE OF 51.33 FEET, PASSING A PK NAIL FOUND FOR THE NORTHERNMOST CORNER OF LOT 31, BLOCK G, OF SAID MARINE CREEK RANCH (A-10187), AND CONTINUING IN ALL A TOTAL DISTANCE OF 72.63 FEET, TO A POINT FOR CORNER;

NORTH 79 DEGREES 09 MINUTES 49 SECONDS WEST, A DISTANCE OF 217.88 FEET, TO A POINT FOR CORNER;

NORTH 10 DEGREES 50 MINUTES 11 SECONDS EAST, A DISTANCE OF 43.50 FEET, TO A 5/8 INCH CAPPED IRON ROD FOUND STAMPED "EHR&A" FOR THE NORTHEAST CORNER OF LOT 36, BLOCK G, OF SAID MARINE CREEK RANCH (A-10187);

NORTH 79 DEGREES 09 MINUTES 29 SECONDS WEST, A DISTANCE OF 470.02 FEET, TO A 5/8 INCH CAPPED IRON ROD FOUND STAMPED "EHR&A" FOR THE NORTHERNMOST NORTHWEST CORNER OF LOT 43, BLOCK G, OF SAID MARINE CREEK RANCH (A-10187);

SOUTH 10 DEGREES 50 MINUTES 20 SECONDS WEST, A DISTANCE OF 20.07 FEET, TO A POINT FOR CORNER;

NORTH 79 DEGREES 09 MINUTES 19 SECONDS WEST, A DISTANCE OF 1017.47 FEET, TO A 1/2 INCH CAPPED IRON ROD FOUND FOR NORTHWEST CORNER OF LOT 92, BLOCK G, OF SAID MARINE CREEK RANCH (A-10187), BEING ON THE EAST RIGHT-OF-WAY LINE OF SAID BOWMAN ROBERTS ROAD;

THENCE NORTH 79 DEGREES 09 MINUTES 19 SECONDS WEST, OVER AND ACROSS SAID BOWMAN ROBERTS ROAD, A DISTANCE OF 50.86 FEET, TO A POINT FOR CORNER, BEING ON THE WEST LINE OF SAID CALLED 964.473 ACRE TRACT OF LAND;

THENCE NORTH 00 DEGREES 16 MINUTES 07 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 1005.02 FEET, TO THE **POINT OF BEGINNING**, AND CONTAINING 74.539 GROSS ACRES (3,246,911 SQUARE FEET) OF LAND, SAVE & ACCEPT 0.028 ACRES OF LAND (1239 SQUARE FEET) FOR LOT 1, BLOCK A, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 388-218, PAGE 72, PRCT, LEAVING **A NET AREA OF 74.510 ACRES** (3,245,672 SQUARE FEET) OF LAND, MORE OR LESS.

PARCEL B - 11.471 ACRES (*West of Huffines Blvd. and North of Ten Mile Bridge Rd*)

BEING ALL THAT TRACT OF LAND IN THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, A PART OF THE JOSEPH BOWMAN SURVEY, ABSTRACT NO. 79, A PART OF THE B.B.B. & C. RR. CO. SURVEY, ABSTRACT NO. 201, A PART OF THE WILLIAM DOSHER SURVEY, ABSTRACT NO. 417, AND BEING A PART OF THAT 964.473 ACRE TRACT OF LAND CONVEYED TO HAYCO REALTY, LTD. AS RECORDED IN VOLUME 14192, PAGE 644, TARRANT COUNTY DEED RECORDS, AND BEING FURTHER DESCRIBED AS FOLLOWS (ALL CALLS IN THIS DESCRIPTION ARE BASED ON A SURVEY OF A 34.469 ACRE TRACT OF LAND AS SHOWN ON A SURVEY BY JONES & BOYD, INC., LAST REVISED FEBRUARY 26, 2007):

BEGINNING AT A FIVE-EIGHTHS INCH CAPPED IRON ROD FOUND AT THE SOUTH CORNER OF LOT 55, BLOCK 7, MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN CABINET A, SLIDE 8731, TARRANT COUNTY PLAT RECORDS, SAID POINT BEING IN THE WEST LINE OF HUFFINES BOULEVARD (100 FOOT RIGHT-OF-WAY);

THENCE WITH THE WEST LINE OF HUFFINES BOULEVARD AS FOLLOWS:

SOUTHWESTERLY, 281.64 FEET WITH A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 16 DEGREES 12 MINUTES 05 SECONDS, A RADIUS OF 996.00 FEET, A TANGENT OF 141.76 FEET, WHOSE CHORD BEARS SOUTH 19 DEGREES 26 MINUTES 40 SECONDS WEST, 280.70 FEET TO A ONE-HALF INCH IRON ROD WITH "JBI" YELLOW CAP SET FOR CORNER;

SOUTH 27 DEGREES 32 MINUTES 42 SECONDS WEST, 97.10 FEET TO A POINT FOR CORNER, SAID POINT BEING IN THE SOUTHWEST LINE OF SAID 964.473 ACRE TRACT, SAID POINT BEING IN THE APPROXIMATE CENTER OF TEN MILE BRIDGE ROAD (VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 62 DEGREES 27 MINUTES 18 SECONDS WEST, 1480.71 FEET WITH THE SOUTHWEST LINE OF SAID 964.473 ACRE TRACT AND WITH TEN MILE BRIDGE ROAD TO A PK NAIL FOUND FOR CORNER, SAID POINT BEING THE SOUTH LINE OF SAID MARINE CREEK RANCH;

THENCE WITH THE SOUTH LINE OF SAID MARINE CREEK RANCH AS FOLLOWS:

NORTH 27 DEGREES 32 MINUTES 42 SECONDS EAST, 60.00 FEET, TO A FIVE-EIGHTHS INCH CAPPED IRON ROD FOUND FOR CORNER;

NORTH 84 DEGREES 12 MINUTES 42 SECONDS EAST, AT 316.82 FEET PASSING A ONE-HALF INCH IRON ROD FOUND FOR CORNER, IN ALL A TOTAL OF 666.82 FEET TO A ONE-HALF INCH IRON ROD FOUND FOR CORNER, SAID POINT BEING IN THE SOUTH LINE OF MARINE CREEK RANCH, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN CABINET A, SLIDE 10501, TARRANT COUNTY PLAT RECORDS;

THENCE WITH THE SOUTH LINE OF MARINE CREEK RANCH RECORDED IN CABINET A, SLIDE 10501 AS FOLLOWS:

SOUTH 89 DEGREES 14 MINUTES 20 SECONDS EAST, 39.33 FEET TO A ONE-HALF INCH IRON ROD FOUND FOR CORNER;

SOUTH 72 DEGREES 15 MINUTES 55 SECONDS EAST, 38.10 FEET TO A ONE-HALF INCH IRON ROD FOUND FOR CORNER;

SOUTH 55 DEGREES 00 MINUTES 29 SECONDS EAST, 42.47 FEET TO A ONE-HALF INCH IRON ROD FOUND FOR CORNER;

SOUTH 49 DEGREES 38 MINUTES 57 SECONDS EAST, 114.81 FEET TO A ONE-HALF INCH IRON ROD FOUND FOR CORNER;

SOUTH 63 DEGREES 08 MINUTES 38 SECONDS EAST, 119.20 FEET TO A FIVE-EIGHTHS INCH IRON ROD FOUND FOR CORNER, SAID POINT BEING IN A SOUTH LINE OF SAID MARINE CREEK RANCH RECORDED IN CABINET A, SLIDE 8731;

THENCE WITH A SOUTH LINE OF SAID MARINE CREEK RANCH RECORDED IN CABINET A, SLIDE 8731 AS FOLLOWS:

SOUTH 30 DEGREES 31 MINUTES 20 SECONDS EAST, 87.20 FEET, TO A FIVE-EIGHTHS INCH IRON ROD FOUND FOR CORNER;

SOUTH 62 DEGREES 27 MINUTES 18 SECONDS EAST, 464.12 FEET, TO THE **POINT OF BEGINNING**, AND CONTAINING 499,658 SQUARE FEET OR **11.471 ACRES OF LAND**.

PARCEL C - 34.469 ACRES (*East of Huffines Blvd. and North of Ten Mile Bridge Rd.*)

BEING ALL THAT TRACT OF LAND IN THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, A PART OF THE B.B.B. & C. RR. CO. SURVEY, ABSTRACT NO. 201, A PART OF THE L.H. BROWN SURVEY, ABSTRACT NO. 213, A PART OF THE I. & G.N. RR. CO. SURVEY, ABSTRACT NO. 835, A PART OF THE ALEXANDER ALBRIGHT SURVEY, ABSTRACT NO. 1849, AND BEING A PART OF THAT 964.473 ACRE TRACT OF LAND CONVEYED TO HAYCO REALTY, LTD. AS RECORDED IN VOLUME 14192, PAGE 644, TARRANT COUNTY DEED RECORDS, AND BEING FURTHER DESCRIBED AS FOLLOWS (ALL CALLS IN THIS DESCRIPTION ARE BASED ON A SURVEY OF A 34.469 ACRE TRACT OF LAND AS SHOWN ON A SURVEY BY JONES & BOYD, INC., LAST REVISED FEBRUARY 26, 2007):

BEGINNING AT A ONE-HALF INCH IRON ROD WITH "JBI" YELLOW CAP SET AT THE SOUTHWEST CORNER OF MARINE CREEK RANCH RECREATION CENTER, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN CABINET A, SLIDE 8752, TARRANT COUNTY PLAT RECORDS, SAID POINT BEING IN THE EAST LINE OF HUFFINES BOULEVARD (100 FOOT RIGHT-OF-WAY);

THENCE WITH THE SOUTH LINE OF SAID MARINE CREEK RANCH RECREATION CENTER AS FOLLOWS:

NORTH 71 DEGREES 43 MINUTES 38 SECONDS EAST, 175.00 FEET TO A FIVE-EIGHTHS INCH CAPPED IRON ROD FOUND FOR CORNER;

EAST, AT 1131.12 FEET PASSING A FIVE-EIGHTHS INCH CAPPED IRON ROD FOUND, IN ALL A TOTAL OF 1151.12 FEET TO A POINT FOR CORNER, SAID POINT BEING IN THE EAST LINE OF SAID 964.473 ACRE TRACT;

THENCE WITH THE EAST LINE OF SAID 964.473 ACRE TRACT AS FOLLOWS:

SOUTH 11 DEGREES 31 MINUTES 26 SECONDS EAST, 100.08 FEET TO A CONCRETE MONUMENT FOUND FOR CORNER;

SOUTH 00 DEGREES 45 MINUTES 16 SECONDS WEST, 288.81 FEET TO A CONCRETE MONUMENT FOUND FOR CORNER;

SOUTH 50 DEGREES 50 MINUTES 07 SECONDS EAST, 150.88 FEET TO A CONCRETE MONUMENT FOUND FOR CORNER;

SOUTH 40 DEGREES 01 MINUTES 11 SECONDS EAST, 359.47 FEET TO A CONCRETE MONUMENT FOUND FOR CORNER;

SOUTH 32 DEGREES 07 MINUTES 34 SECONDS EAST, 480.37 FEET TO A FIVE-EIGHTHS INCH CAPPED IRON ROD FOUND FOR CORNER;

SOUTH 24 DEGREES 46 MINUTES 54 SECONDS EAST, 290.10 FEET TO A POINT FOR CORNER;

NORTH 61 DEGREES 56 MINUTES 57 SECONDS WEST, 636.32 FEET TO A 60D NAIL FOUND FOR CORNER;

SOUTH 28 DEGREES 57 MINUTES 04 SECONDS EAST, 259.01 FEET TO A PK NAIL FOUND FOR CORNER, SAID POINT BEING THE APPROXIMATE CENTER OF TEN MILE BRIDGE ROAD (VARIABLE WIDTH RIGHT-OF-WAY);

THENCE NORTH 62 DEGREES 27 MINUTES 18 SECONDS WEST, 1996.43 FEET WITH THE SOUTHWEST LINE OF SAID 964.473 ACRE TRACT AND WITH TEN MILE BRIDGE ROAD TO A PK NAIL FOUND FOR CORNER, SAID POINT BEING IN THE EAST LINE OF HUFFINES BOULEVARD;

THENCE WITH THE EAST LINE OF HUFFINES BOULEVARD AS FOLLOWS:

NORTH 27 DEGREES 32 MINUTES 42 SECONDS EAST, 97.10 FEET, TO A FIVE-EIGHTHS INCH CAPPED IRON ROD FOUND FOR CORNER;

NORTH 29 DEGREES 29 MINUTES 46 SECONDS WEST, A DISTANCE OF 400.97 FEET, TO A POINT FOR CORNER;

NORTHEASTERLY, 309.47 FEET WITH A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 16 DEGREES 10 MINUTES 42 SECONDS, A RADIUS OF 1096.00 FEET, A TANGENT OF 155.77 FEET, WHOSE CHORD BEARS NORTH 19 DEGREES 27 MINUTES 21 SECONDS EAST, 308.45 FEET, TO THE **POINT OF BEGINNING**, AND CONTAINING 1,501,453 SQUARE FEET OR **34.469 ACRES OF LAND**.

(End of Description of Specific Land That May Be Annexed)

APPENDIX E NOTES

NOTE 1: ENGINEER'S NOTE: EACH OF THE FOREGOING PARCEL DESCRIPTIONS IS PRELIMINARY AND FOR PLANNING PURPOSES ONLY AND DOES NOT CONSTITUTE AN ON-THE-GROUND BOUNDARY SURVEY; AND SHOULD NOT BE USED, VIEWED, OR RELIED UPON AS A BOUNDARY SURVEY; AND SHOULD NOT BE USED TO ESTABLISH OR CONVEY RIGHTS TO, OR INTEREST IN REAL PROPERTY.

NOTE 2: The acreage in the 3 above-described parcels totals 120.479 acres (more or less)

Parcel A - 74.539 acres
Parcel B - 11.471 acres
Parcel C - 34.469 acres

NOTE 3: The parcels of land described in this Appendix E may not be adjacent to one another, and may not be adjacent to the real property described in Appendix A of the Declaration.

NOTE 4: From time to time, this Appendix E may be amended, corrected, restated, and supplemented by Declarant in the exercise of rights reserved by and granted to Declarant in this Declaration, particularly in Appendix B.

NOTE 5: Additional real property may be subjected to this Declaration by methods described in this Declaration.

(End of Appendix E)

APPENDIX F
CONSENTS TO
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
FOR
MARINE CREEK RANCH EAST

APPENDIX F-1

BY HAYCO REALTY, LTD.
AS OWNER OF REAL PROPERTY

APPENDIX F-2

BY M & C DEVELOPMENT, LTD.,
AS OWNER OF REAL PROPERTY

APPENDIX F-3

BY WESTOVER DEVELOPMENT, LTD.
AS OWNER OF REAL PROPERTY

APPENDIX F-4

LIENHOLDER CONSENT AND SUBORDINATION
BY SOUTHSIDE BANK

**CONSENT TO DECLARATION
BY HAYCO REALTY, LTD.
AS OWNER OF REAL PROPERTY**

Hayco Realty, Ltd., a Texas limited partnership, hereby consents to the Declaration of Covenants, Conditions & Restrictions for Marine Creek Ranch East, and acknowledges, agrees, understands, and desires that all real property that (1) is owned by Hayco Realty, Ltd., and (2) is part of the land described in Appendix A of the Declaration, will become subject to the Declaration when the Declaration is recorded in the Real Property Records of Tarrant County, Texas, and as it may be amended, supplemented, or restated from time to time. Hayco Realty, Ltd., further understands that when its real property becomes subject to the Declaration it automatically becomes subject to the Owners Manual of Rules & Regs for Marine Creek Ranch East, the other Governing Documents, and the jurisdiction of the Association.

SIGNED the date stated in the acknowledgment below.

HAYCO REALTY, LTD., a Texas limited partnership

By: HARRISON REALTY INVESTMENTS, LLC, a Texas limited liability company, its General Partner

By: _____
John Cockerham, its Manager

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on this _____ day of July 2018 by John Cockerham, Manager of Harrison Realty Investments, LLC, a Texas limited liability company, on behalf of the company in its capacity as general partner of Hayco Realty, Ltd., a Texas limited partnership, on behalf of the limited partnership.

Notary Public, The State of Texas

**CONSENT TO DECLARATION
BY M & C DEVELOPMENT, LTD.,
AS OWNER OF REAL PROPERTY**

M & C Development, Ltd., a Texas limited partnership, hereby consents to the Declaration of Covenants, Conditions & Restrictions for Marine Creek Ranch East, and acknowledges, agrees, understands, and desires that all real property that (1) is owned by M & C Development, Ltd., and (2) is part of the land described in Appendix A of the Declaration, will become subject to the Declaration when the Declaration is recorded in the Real Property Records of Tarrant County, Texas, and as it may be amended, supplemented, or restated from time to time. M & C Development, Ltd., further understands that when its real property becomes subject to the Declaration it automatically becomes subject to the Owners Manual of Rules & Regs for Marine Creek Ranch East, the other Governing Documents, and the jurisdiction of the Association.

SIGNED the date stated in the acknowledgment below.

M & C DEVELOPMENT, LTD., a Texas limited partnership

By: HARRISON REALTY INVESTMENTS, LLC, a Texas limited liability company, its General Partner

By: _____
John Cockerham, its Manager

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on this _____ day of July 2018 by John Cockerham, Manager of Harrison Realty Investments, LLC, a Texas limited liability company, on behalf of the company in its capacity as general partner of M & C Development, Ltd., a Texas limited partnership, on behalf of the limited partnership.

Notary Public, The State of Texas

**CONSENT TO DECLARATION
BY WESTOVER DEVELOPMENT, LTD.
AS OWNER OF REAL PROPERTY**

Westover Development, Ltd., a Texas limited partnership, hereby consents to the Declaration of Covenants, Conditions & Restrictions for Marine Creek Ranch East, and acknowledges, agrees, understands, and desires that all real property that (1) is owned by Westover Development, Ltd., and (2) is part of the land described in Appendix A of the Declaration, will become subject to the Declaration when the Declaration is recorded in the Real Property Records of Tarrant County, Texas, and as it may be amended, supplemented, or restated from time to time. Westover Development, Ltd., further understands that when its real property becomes subject to the Declaration it automatically becomes subject to the Owners Manual of Rules & Regs for Marine Creek Ranch East, the other Governing Documents, and the jurisdiction of the Association.

SIGNED the date stated in the acknowledgment below.

WESTOVER DEVELOPMENT, LTD., a Texas limited partnership

By: THM, INC., a Texas corporation, its General Partner

By: _____
Sam Brous, its President

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on this _____ day of July 2018 by Sam Brous, President of THM, Inc., a Texas corporation, on behalf of the corporation in its capacity as General Partner of Westover Development, Ltd., a Texas limited partnership, on behalf of the limited partnership.

Notary Public, The State of Texas

**LIENHOLDER CONSENT AND SUBORDINATION
BY SOUTHSIDE BANK**

1. Authority. Southside Bank is a Texas state charter bank (formerly known as OmniAmerican Bank) whose mailing address is 1201 S Beckham Avenue, Tyler, Texas 75701 ("**Lienholder**"). By signing below, Lienholder represents and warrants that Lienholder has the necessary authority to execute this Lienholder Consent and Subordination. Also, that the person signing below on behalf of Lienholder is duly authorized to sign.

2. Lien. Lienholder holds one or more promissory notes secured by one or more deed of trust liens (collectively, the "**Southside Lien**") against real property that includes the property described in Appendixes A and E of this Declaration of Covenants, Conditions & Restrictions for Marine Creek Ranch East (the "**Declaration**"). The Southside Lien is contained in one or more deeds of trust recorded in the Real Property Records of Tarrant County, Texas, such as (without limitation) the instruments recorded as Document Nos. D217164077 and D218002753, as renewed, modified, or extended from time to time.

3. Consent. By signing this instrument, Lienholder consents and agrees to execution of the Declaration by (1) Crystal Lake Development, LLC, (2) Hayco Realty, Ltd., (3) M & C Development, Ltd., and (4) Westover Development, Ltd., in their respective capacities as Declarant and land owners, which executions do not constitute an event of default under any security instrument affecting the Property and benefitting Lienholder. Lienholder also consent to public recording of the Declaration in the Real Property Records of Tarrant County, Texas. Southside Bank further understands that when the real property subject to its lien becomes subject to the Declaration it automatically becomes subject to the Owners Manual of Rules & Regs for Marine Creek Ranch East, the other Governing Documents, and the jurisdiction of the Association.

4. Subordination. By signing this instrument, Lienholder agrees that - with one exception - the Southside Lien is and will be subject, subordinate, and inferior to the Declaration, as the Declaration may be amended, supplemented, or restated from time to time. **Exception:** The Southside Lien is not and will not be subordinate to the assessment lien contained in the Declaration for the benefit of the property owners association.

5. Effect of Foreclosure. If Lienholder, or any successor or assign of Lienholder, acquires the real property by foreclosure of the Southside Lien or otherwise, Lienholder (or its successor or assign) takes the real property described in the Declaration subject, in all respects, to the Declaration, which will not be extinguished by foreclosure of the Southside Lien or any lien assigned to or for the benefit of Lienholder, or its affiliates, successors, trustees, or assigns.

SIGNED on the date stated in the acknowledgment below.

SOUTHSIDE BANK, a Texas state charter bank

By: _____

Printed Name: _____

Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of July 2018 by _____
_____, _____ of Southside Bank, a Texas state charter bank, on behalf of the bank.

Notary Public, The State of Texas

**APPENDIX G
TRANSFER-RELATED FEES DURING SELL-OUT**

TO DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR MARINE CREEK RANCH EAST

AT OR PRIOR TO CLOSING, PAYABLE TO:	TYPE OF TRANSFER			
	NEW HOME SALE Conveyance from Builder to Homeowner	LAND/LOT SALE Conveyance from Builder to Builder	LAND/LOT SALE Conveyance from Declaration Signer to Builder	Conveyance between Declaration Signers
Association	\$250.00 per lot as a non-refundable contribution to the Association's operating funds, or for any other use or uses determined by the board, in its sole discretion, from time to time.	None.	None.	None.
HOA manager or Association for administrative functions - transfer and resale certificate fees	Customary resale certificate fee per final platted lot.	\$50.00 per platted residential lot or for each unplatted land parcel (regardless of size) to change ownership records and to issue assessment estoppel certificate	\$50.00 per platted residential lot or for each unplatted land parcel (regardless of size) to change ownership records and to issue assessment estoppel certificate	None.
Association for regular assessments	Full assessments per final platted lot, prorated to date of closing.	Full assessments per lot - final platted or preliminary platted - from date of closing.	Full assessments per lot - final platted or preliminary platted - beginning first day of month following month of closing.	None.

Note 1. This Appendix does not pertain to home resales - homes that have been previously owned. See Article 17 of the Declaration for HOA Sale Fees on used homes.

Note 2. This Appendix pertains to the sale of unplatted land, a vacant lot, a vacant lot with a contract for construction of the first dwelling, and a lot that is improved with a newly constructed dwelling (a New Home Sale). See Sections C.13 and C.14 of Appendix C of this Declaration for additional information about these transfers.

Note 3. The request for or issuance of a "resale certificate" does not convert a New Home Sale or a Lot/Land Sale into a Home Resale for purposes of this Declaration.

(End of Appendix G)