



RESTRICT 2008054643
35 PGS

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
FULSHEAR CREEK CROSSING

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR FULSHEAR CREEK CROSSING**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FULSHEAR CREEK CROSSING (this "Declaration"), made as of the date hereinafter set forth by FULSHEAR LAND PARTNERS, LTD., a Texas limited partnership (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of two (2) tracts of land which have been platted as Fulshear Creek Crossing, Section One (1) and Fulshear Creek Crossing, Section Two (2) according to the maps or plats thereof recorded under Clerk's File Nos. 2008040589 and 2008040590, respectively, in the Plat Records of Fort Bend County, Texas (the "Initial Subdivisions"); and

WHEREAS, it is the desire and intention of Declarant to provide a common plan as to the use, permissible construction, and common amenities of the property in the Initial Subdivisions and such other property as may hereafter be annexed into the jurisdiction of the Association (as hereinafter defined) and, to this end to subject the Lots (hereinafter defined) within the Initial Subdivisions and within any other property which may hereafter be made subject to this Declaration to the covenants, conditions and restrictions hereinafter set forth for the benefit of all present and future owners thereof;

NOW, THEREFORE, Declarant hereby declares that the Lots within the Initial Subdivisions and within any other property which may hereafter be made subject to this Declaration shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with said Lots and shall be binding upon all parties having any right, title or interest in said Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1. "Accessory Building" shall mean and refer to any building or structure constructed or installed on a Lot other than the Primary Residence, including

without limitation, detached garages, guest houses, granny flats, cabanas and childrens recreational buildings.

SECTION 2. "Architectural Review Committee" shall mean and refer to the Fulshear Creek Crossing Architectural Review Committee created in Article VI hereof.

SECTION 3. "Area of Common Responsibility" shall mean the Common Area, together with those areas, if any, which by contract or agreement become the responsibility of the Association. Road rights-of-ways and drainage areas within or adjacent to the Properties may be part of the Area of Common Responsibility.

SECTION 4. "Association" shall mean and refer to the Fulshear Creek Crossing Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

SECTION 5. "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot for the purpose of selling or living in same.

SECTION 6. "Common Area" shall mean and refer to all properties and improvements, real or personal, owned, leased or used by the Association for the common use and enjoyment of the Members (hereinafter defined) of the Association, including without limitation an amenity center.

SECTION 7. "Conservation Areas" shall mean and refer to those portions of the Common Area which, at the option of Declarant in its sole discretion, are restricted by instrument recorded by the Declarant for use solely for conservation and passive recreation purposes.

SECTION 8. "Declarant" shall mean and refer to Fulshear Land Partners, Ltd., a Texas limited partnership, its successors or assigns, provided that an assign is designated in writing by the Declarant as an assign of all, or part, of the rights of the Declarant under this Declaration.

SECTION 9. "Home Occupation" means a business activity conducted in a Primary Residence on a Lot which is incidental to the principal residential use.

SECTION 10. "Homestead Plans" shall mean and refer to any or all of the following, as the same shall be submitted, revised, and/or resubmitted to the Architectural Review Committee for approval:

- (a) a "Site Plan" showing the location of the proposed residence, any accessory buildings and all other proposed improvements (including driveway, fences, swimming pools and patios) as well as proposed utility connections, drainage of the Lot and drainage from adjacent Lots and Common Areas;

(b) an "Exterior Elevations Plan", which shall show the dimensions and gross area of each structure, include drawings and detail of all building exterior elevations, including the roof (showing elevations) and describing the color and type of all proposed exterior construction materials;

(c) a "Landscaping Plan", which shall include a tree survey showing the location of all existing trees on the Lot with a caliper of 8 inches or more at the point one (1) foot above the ground which are within the footprint of or within twenty-five (25) feet of proposed improvements, including the driveway, and a drawing depicting the type, quantity, size, and placement of all exterior plant materials, including irrigation to support such landscaping; and

(d) a "Lighting Plan", which shall include the type, style, size, and foot candle power of all proposed exterior lighting fixtures.

SECTION 11. "Lake" shall mean and refer to any body of water within the Properties which is a portion of the Common Area.

SECTION 12. "Lakefront Lot" shall mean and refer to any Lot which is contiguous to a Lake.

SECTION 13. "Lot" shall mean and refer to any portion of the Properties, whether developed or undeveloped, upon which a Primary Residence has been constructed or it is intended by the Declarant that a Primary Residence be constructed, including Lots created by the platting of a reserve tract or the replatting of a Lot. "Lots" shall mean and refer to each Lot and all of them. In the case of a parcel of land within the Properties which has not been platted into Lots, the parcel shall be deemed to contain the number of Lots designated by the Declarant on the development plan for such parcel of land unless or until a different number of Lots is platted. The Owner of one or more adjacent Lots shall have the right to consolidate such Lots into one Primary Residence building site, in which case any applicable side setback lines shall be measured from the resulting side property lines of such building site rather than from the lot lines shown on the recorded plat. However, such consolidated adjacent Lots shall be considered as a single Lot for purposes of assessments levied by the Association pursuant to this Declaration (except for the contribution payable to the Association pursuant to Section 6 of Article III hereof) and for voting purposes only if they are replatted as a single Lot by the Owner thereof.

SECTION 14. "Member" shall refer to every person or entity which holds a membership in the Association.

SECTION 15. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract

sellers, but excluding any person or entity who holds an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 16. "Primary Residence" shall mean and refer to the dwelling constructed on a Lot which is intended to serve as a single family residence whose occupants reside in such dwelling the majority of the time.

SECTION 17. "Properties" shall mean and refer to the real property within the jurisdiction of the Association including the Initial Subdivisions and any additional property hereafter added to the jurisdiction of the Association as provided herein, if any.

SECTION 18. "Road" shall refer to any publicly dedicated or private street, drive, boulevard, road, alley, lane, avenue, or thoroughfare within or adjacent to the Properties.

SECTION 19. "Supplemental Declaration" shall mean and refer to a separate declaration of covenants, conditions and restrictions which is imposed on a portion of the property within the jurisdiction of the Association and which is administered by and may be enforced by the Association.

SECTION 20. "Waterway Lot" shall mean and refer to a Lot which is adjacent to a creek or other water course.

ARTICLE II

FULSHEAR CREEK CROSSING HOMEOWNERS ASSOCIATION, INC.

SECTION 1. ORGANIZATION. Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the restrictive covenants contained herein, and architectural control of the Lots.

SECTION 2. BOARD OF DIRECTORS. The Association shall act through a Board of Directors (the "Board") initially having three (3) members. The Board of Directors may be increased in size to a maximum of five (5) members at any time by amendment of the By-Laws. The Board shall manage the affairs of the Association as specified in this Declaration and the By-Laws of the Association.

SECTION 3. MEMBERSHIP. Every Owner of a Lot, including the Declarant, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

SECTION 4. VOTING RIGHTS. The Association shall initially have two (2) classes of membership as follows:

Class A. Class A Members shall be all persons or entities who own a Lot with the exception of the Declarant. After the Conversion Date (as hereinafter defined), the Declarant shall become a Class A Member with respect to the Lots it owns.

Class B. The Class B Member shall be the Declarant. The Class B membership shall cease and become converted to Class A membership on the Conversion Date.

Class A Members shall be entitled to one (1) vote for each Lot owned within the Properties and the Class B Member shall be entitled to five (5) votes for each Lot owned within the Properties. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Members, and the vote for the Lot owned by such Members shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot in which such Members own undivided interests

SECTION 5. CONVERSION DATE. The Conversion Date shall occur on the earlier of:

- (i) The date the total number of votes of the Class A Members equals the number of votes of the Class B Member; or
- (ii) December 31, 2030 or such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Fort Bend County, Texas.

During the period of time prior to the Conversion Date, the Declarant shall be entitled to appoint and remove any or all of the members of the Board of Directors and disapprove any action, policy or program of the Association, the Board or any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant or Builders or interfere with the development, construction or marketing of any portion of the Properties, or diminish the level of services being provided by the Association.

SECTION 6. RULES AND REGULATIONS. The Board may adopt, amend, repeal and enforce rules and regulations ("Rules"), fines and levies as may be deemed necessary or desirable with respect to the implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Area, and the use of any other property, facilities or improvements owned or operated by the Association.

SECTION 7. TERMINATION OF MEMBERSHIP. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

ARTICLE III
COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot which is subject to this Declaration, hereby covenants and each Owner of any such Lot, by acceptance of a deed therefor, whether or not it shall be expressed in the deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association the following:

- (i) annual assessments or charges; and
- (ii) special assessments for capital improvements,

such assessments or charges to be fixed, established and collected as hereinafter provided. These assessments and charges, together with interest thereon as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the Lot against which such assessments or charges are made. Each such assessment or charge, together with such interest, late charges, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them. However, successors in title shall nonetheless acquire title to the land subject to the lien securing the assessments and charges.

SECTION 2. PURPOSE OF ANNUAL ASSESSMENTS. The annual assessments levied by the Association shall be used for carrying out the purposes of the Association as stated in its Certificate of Formation and this Declaration. The judgment of the Board of Directors of the Association in determining the functions to be performed by the Association, in determining the amount of annual assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith. Such funds may be used to finance all or any of the following:

- (i) Operation, maintenance, repair, and improvement of the Area of Common Responsibility, including funding of appropriate reserves for future repair, replacement and improvement of same;
- (ii) Payment of taxes and premiums for insurance coverage in connection with the Common Area and for directors and officers liability insurance;
- (iii) Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Area;
- (iv) Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;
- (v) Installing, maintaining and replacing landscaping and fencing in the Area of Common Responsibility;
- (vi) Designing, purchasing and installing any improvements to the Area of Common Responsibility;
- (vii) Maintenance of the Area of Common Responsibility;
- (viii) Contracting for services beneficial to the Properties including, without limitation, street lights and insect and pest control services;
- (ix) Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
- (x) Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
- (xi) Employing watchmen and/or a security service;
- (xii) Carrying out the duties of the Board of Directors of the Association; and
- (xiii) Carrying out such purposes of the Association as generally benefit the Members of the Association.

As stated hereinabove, the Association shall not be obligated to perform all of the foregoing functions or any particular function listed. The judgment of the Board of Directors of the Association in establishing annual assessments and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS. The initial annual assessment shall be not more than \$1,200.00 per Lot. Each year thereafter, the annual assessment may be increased by the Board of Directors of the Association at its sole discretion. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

SECTION 4. SPECIAL ASSESSMENT FOR CAPITAL IMPROVEMENTS. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon the Common Area, including fixtures and personal property related thereto, provided that except as hereinafter specified any such assessment shall have the assent of a majority of the votes of the Members who are present in person or by proxy at a meeting duly called for this purpose. Special assessments may be collected on a monthly basis at the Board's election. Notwithstanding the foregoing, the Board shall have the power to levy a special assessment without approval by the Members as specified herein in order to obtain funds required to finance drainage and roadway improvements which the Board determines will benefit the Properties or which are required by governmental authority.

SECTION 5. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 above shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast ten percent (10%) of the eligible votes of the Association's membership shall constitute a quorum. If the required quorum is not present or represented, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 6. CAPITALIZATION OF ASSOCIATION. Upon acquisition of record title to a Lot by the first Owner thereof (who is not a Builder), a contribution shall be made by or on behalf of the purchaser to the Association in an amount equal to one hundred percent (100%) of the annual assessment on such Lot for that year. This amount shall be in addition to, not in lieu of, the annual assessment and shall not be considered an advance payment of annual assessments. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association.

SECTION 7. RATES OF ASSESSMENT. Both annual and special assessments on all Lots shall be fixed at uniform rates; provided, however, the rate

applicable to Lots owned by the Declarant shall be equal to one-half (½) of the assessment on Lots owned by other Owners and there shall be no assessment on unplatted Lots. The rate of assessment for a Lot shall change upon its conveyance by the Declarant, with an appropriate proration of the annual assessment for the year of the ownership change. Notwithstanding the foregoing to the contrary, the Declarant may elect on an annual basis to make subsidy payments to the Association (in lieu of paying assessments) equal to the difference between the amount of assessments collected on all Lots subject to assessment other than the Lots owned by the Declarant and the amount of the actual expenditures incurred to operate the Association during the year. The Board is specifically authorized to enter into subsidy agreements with the Declarant. Under no circumstances shall the Declarant be obligated to pay a subsidy in any year unless it elects to do so.

SECTION 8. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENTS. The initial annual assessment shall commence as to all Lots on such date as may be determined by the Board of Directors of the Association (the "Board"), shall be prorated according to the number of months remaining in the calendar year, and shall be due and payable thirty (30) days after notice of the assessment is sent to every Owner whose Lot is subject to assessment. Thereafter, on or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the rate at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer or authorized representative of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessments which are not paid in full by the date specified by the Board shall be delinquent. Any delinquent assessment shall commence to bear interest on the due date (or such later date as the Board may determine) at the rate of 18% per annum or such other interest rate as the Board may from time to time determine which is not in excess of the maximum lawful rate of interest. If the assessment is not paid when due, the lien herein retained and created against the affected Lot shall secure the assessment due, interest thereon as specified above, all costs of collection, including court costs and attorney's fees, and any other amount provided or permitted by law. In the event that the assessment remains unpaid after ninety (90) days, the Association may, as the Board shall determine, institute suit for collection against the Owner personally obligated to pay the assessment or foreclose the lien created and reserved hereby against the Lot of such Owner.

The Association's lien is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring his Lot, the Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of Directors of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to Section 51.002 of the Texas Property Code, and any applicable revision(s), amendment(s), or recodifications thereof in effect at the time of the exercise of such power of sale. The Association has the right to foreclose its lien judicially or by nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner to the Association. An Owner may not petition a court to set aside a sale solely because the purchase price at the foreclosure sale was insufficient to fully satisfy the Owner's debt. The Association may bid for and purchase the Lot at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Lot. The purchaser at any such foreclosure sale shall be entitled to sue for recovery of possession of the Lot by an action of forcible detainer without the necessity of giving any notice to the former owner or owners of the Lot sold at foreclosure. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Lot may avoid foreclosure by paying all amounts due the Association. Foreclosure of a tax lien attaching against a Lot shall not discharge the Association's lien under this paragraph for amounts becoming due to the Association after the date of foreclosure of the tax lien.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein by non-use of Common Area or abandonment of the property owned by such Owner. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to interest, and then to delinquent assessments.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. As herein above provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate

to the lien of any mortgage or deed of trust. Sale or transfer of any Lot shall not affect the lien in favor of the Association provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the sole discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

ARTICLE IV RIGHTS IN THE COMMON AREA

SECTION 1. OWNER'S RIGHTS OF ENJOYMENT. Subject to the further provisions hereof, every Member shall have a right of enjoyment in the Common Area, and such right shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Association:

- (a) The Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.
- (b) The Association shall have the right to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.
- (c) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.
- (d) The Association shall have the right to suspend the voting rights and enjoyment rights of any Member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days.
- (e) The Association shall have the right to establish reasonable rules and regulations governing the use and enjoyment of the Common Area, and to suspend the usage rights of any Member for a period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (f) The Association shall have the right to sell or convey all or any part of the Common Area and the right to grant or dedicate easements in portions of the Common Area to public or private utility companies or governmental entities.

- (g) The Association shall have the right to enter into agreements pursuant to which individuals who are not Members of the Association are granted the right to use the Common Area and the facilities located thereupon.
- (h) The use of Lakes by Members of the Association and their permitted guests shall be subject to such rules and regulations as the Association's Board of Directors may adopt from time to time. Such rules may, among other things, limit the use of Lakes to human powered and low speed electric craft only, prohibit fishing or permit only catch and release fishing, and prohibit swimming. The Board may also establish hours for the use of such Common Areas.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his right of enjoyment to the Common Area to the members of his family and to such other persons as may be permitted by the Association. An Owner shall be deemed to have made a delegation of all such rights to the tenant of any leased residence and such Owner shall not have the right to use the Common Area during such tenancy.

ARTICLE V USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot subject to this Declaration is hereby restricted to residential uses only. Except as otherwise hereinafter specified, no business, professional, commercial or manufacturing use shall be made of any Lot. No structure other than one (1) Primary Residence and Accessory Buildings approved by the Architectural Review Committee shall be constructed, placed on, or permitted to remain on any Lot.

Notwithstanding the foregoing, a residence on a Lot may be used for a Home Occupation provided that:

- (i) no person other than a full time occupant of the residence shall be engaged or employed in the Home Occupation at the residence;
- (ii) there shall be no visible storage or display of occupational materials or products;
- (iii) there shall be no exterior evidence of the conduct of a Home Occupation, such as deliveries, pickups or other work related activities, and no Home Occupation shall be conducted on the Lot outside of the residence or an approved Accessory Building;

- (iv) no additional parking shall be provided or required for the Home Occupation; and
- (v) there is no loading or unloading of materials at the residence which requires transportation in a truck larger than a ½ to 1-ton pickup truck or stepvan.

SECTION 2. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind shall be raised, bred, or kept for commercial purposes on any Lot. Consistent with its use as a residence, dogs, cats, other common household pets and such other animals as may be specifically approved by the Board may be kept in the Primary Residence or any Accessory Building on a Lot, provided, however, there shall not be more than two (2) dogs and two (2) cats kept anywhere on a Lot the majority of the time, which shall include without limitation, nighttime. Dogs shall at all times whenever they are outside a Lot be on a leash or otherwise confined in a manner acceptable to the Board. Without prejudice to the Board's right to remove any such household pets, no household pet that had caused damage or injury may be walked in the Properties. Animal control authorities shall be permitted to enter the Properties to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law. All dogs and cats must be of a recognized domestic variety.

SECTION 3. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which in the opinion of the Board may be or become an annoyance or nuisance to residents of the Properties.

SECTION 4. CONSTRUCTION ACTIVITIES. During the course of construction on a Lot, the Builder shall comply with the construction requirements established by the Architectural Review Committee regarding excavation, enclosure and protection of the construction site, storage of building materials, vehicle parking, temporary buildings, chemical toilets, clean up, signage, dust, noise, construction hours and days, odors and similar conditions. Builders shall take reasonable precautions to minimize interference with traffic and to protect the general public, and residents of Properties in particular, from injury from the movement of vehicular traffic in connection with construction on the Lots. In addition to and without limiting the generality of the foregoing, Builders shall comply with the following requirements:

- (i) Storage of Building Materials. Building materials stored to be used to construct a house or any other improvements on a Lot shall be kept in a neat condition so as not to detract from the appearance of the neighborhood and so as to give the visual impression from adjacent streets of a clean, orderly work site;

(ii) Scrap Materials and Trash. Builders shall keep scrap materials and trash produced in connection with the construction of a house or any other improvements on a Lot confined to a particular area of such Lot, preferably to the side or behind the house. Trash will be placed in a wire mesh or solid container within such area at the end of each work day and removed from the Lot frequently enough so that trash does not overflow from such container;

(iii) Clean Roads and Utilities. Builders shall protect pavements, curbs, gutters, swales or drainage courses, landscape areas, walls/fences, Roads, shoulders, utility structures and other property located on or adjacent to a Lot from damage and shall keep Road rights-of-way clean and clear of equipment, building materials, dirt, debris and similar materials. Any damage caused by a Builder or a Builder's agents, employees or contractors to the items set forth in this Subsection (iii) which are located within the Properties may be repaired or replaced by Declarant at the applicable Builder's sole cost and expense. Such Builder shall reimburse Declarant for all costs and expenses associated with such repair or replacement within five (5) days after written notice from Declarant;

(iv) Maintenance. Builders shall keep the interior and exterior of all improvements constructed on a Lot in good working condition and repair. Without limiting the generality of the foregoing, Builders shall promptly replace any glass, paint, roof materials, bricks, stone or other exterior building materials on any house which are damaged; and

(v) Noise. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 7:00 P.M. on Monday through Saturday.

SECTION 5. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened by planting or fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his or her Lot at regular intervals at his expense.

SECTION 6. DISPOSAL OF HAZARDOUS SUBSTANCES. Gasoline, motor oil, paint, paint thinner, pesticides, and other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and regulations shall not be disposed of on any Lot nor shall any such material be deposited into a storm sewer, sanitary sewer manhole, drainage channel or other drainage facility, or any creek, lake or waterway within the Properties, but rather all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental entity with jurisdiction.

SECTION 7. BUILDING MATERIALS. Unless otherwise approved by the Architectural Review Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements upon any Lot may be placed upon such Lot during construction by Builders. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on or within a Common Area or Road right-of-way, within a drainage easement or within five (5) feet from the side and rear boundary lines of a Lot.

SECTION 8. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

ARTICLE VI ARCHITECTURAL STANDARDS

SECTION 1. PURPOSE. In order to preserve the natural setting and beauty of the Properties, to establish and preserve a harmonious and aesthetically pleasing design for the Fulshear Creek Crossing project and to protect and promote the value of the Properties, the Lots in the Initial Subdivisions and within any other tract of land which may hereafter be made subject to this Declaration shall be subject to the restrictions set forth in this Article VI. Every grantee of any interest in a Lot within the Initial Subdivisions and any other tract of land which may hereafter be made subject to this Declaration by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

SECTION 2. ARCHITECTURAL REVIEW COMMITTEE.

(a) Architectural Review Committee. There is hereby established the Fulshear Creek Crossing Architectural Review Committee (herein called the

"Architectural Review Committee"), which shall have exclusive jurisdiction over all original construction on the Lots and over modifications, additions, or alterations made on or to improvements on the Lots within the Properties. The Architectural Review Committee may (i) adopt such standards and guidelines for the construction or alteration of improvements in the Properties ("Architectural Guidelines") and (ii) establish application procedures for its review of Homestead Plans. The Architectural Review Committee shall make such guidelines available to Owners and Builders who seek to engage in construction or modification of improvements upon a Lot and who shall conduct their operations strictly in accordance therewith. The Architectural Guidelines may impose different requirements for different portions of the Properties.

(b) Members of Architectural Review Committee. The Architectural Review Committee shall initially consist of three (3) members. Until the date on which it no longer owns any Lot within the Properties, the Declarant shall have the right to appoint all members of the Architectural Review Committee as well as the right to remove any member. There shall be no surrender of this right prior to that time, except by a written instrument executed by Declarant and recorded in the real property records of Fort Bend County, Texas. Upon the expiration of such right, the Board of Directors shall have the power to appoint and remove the members of the Architectural Review Committee. The Declarant, during the period it is entitled to appoint the members of the Architectural Review Committee, shall have the right to increase the size of the Architectural Review Committee. Thereafter, the Board of Directors shall have the right to increase the size of the Architectural Review Committee. The Architectural Review Committee is authorized, but not obligated, to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist them in performing their respective functions set forth herein.

SECTION 3. ARCHITECTURAL APPROVAL. To preserve the architectural and aesthetic appearance of the Fulshear Creek Crossing project, no construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced or maintained by an Owner with respect to any of the Lots in the Properties, including, without limitation, the construction or installation of sidewalks, driveways, parking areas, drainage facilities, mail boxes, decks, patios, courtyards, swimming pool related facilities that are located above ground, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servants' quarters, or other Accessory Buildings, nor shall any exterior addition to or change or alteration be made to any improvements (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the Homestead Plans therefor shall have been submitted to and approved in writing by the Architectural Review Committee as to the compliance of such Homestead Plans with this Declaration and the Architectural Guidelines promulgated hereunder and as to the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of the Homestead Plans submitted shall be retained in the records of the Architectural Review Committee, and the other copy

shall be returned to the Owner marked with an indication of the applicable approval status. The Architectural Review Committee may establish a reasonable fee sufficient to cover the expense of reviewing Homestead Plans to compensate any consulting architects, landscape architects, planners, inspectors, agents or attorneys retained in accordance with the terms hereof. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his improvements, or to paint the interior of the improvements on his property any color desired. The Architectural Review Committee shall have the sole discretion to determine whether Homestead Plans submitted for approval are acceptable to the Association on a case-by-case basis, and shall not be deemed to approve any plans based on prior approvals.

Upon approval of Homestead Plans by the Architectural Review Committee, no further approval under this Article VI shall be required with respect thereto, unless construction has not commenced within six (6) months of the approval of such plans and specifications or unless such Homestead Plans are altered or changed. Disapproval of Homestead Plans may be based by the Architectural Review Committee upon any ground which is consistent with the objects and purposes of this Declaration as determined by the Architectural Review Committee from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

SECTION 4. LANDSCAPING APPROVAL. To preserve the aesthetic appearance of the Fulshear Creek Crossing project, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Lot subject to this Declaration unless and until the Homestead Plans therefor have been submitted to and approved in writing by the Architectural Review Committee. In addition, in the event the construction of the initial improvements on a Lot necessitates the removal of a tree or trees and the Owner elects not to relocate the tree(s) on his Lot, such Owner shall give notice thereof to the Declarant who shall have the right, at its sole cost and expense, for a period of fourteen (14) days after its receipt of such notice to relocate the tree(s) from such Owner's Lot.

SECTION 5. APPROVAL NOT A GUARANTEE OR VARIANCE. The review and approval of Homestead Plans pursuant to this Article is made on the basis of aesthetic considerations only and no approval of Homestead Plans shall be construed as representing or implying that such Homestead Plans will, if followed, result in properly designed improvements. Such approval shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, the Architectural Review Committee, nor any of their respective officers, partners, directors or members, shall be responsible or liable in damages or otherwise to any Owner who submits Homestead Plans for approval by reason of mistake of judgment or negligence arising out of the approval or disapproval of any Homestead Plans, any loss or damage arising from the noncompliance of such

Homestead Plans with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such Homestead Plans. The purpose of such reviews primarily seeks to conform the aesthetic appearances of development within the Properties. The Owner of each Lot shall be responsible for complying with the specific restrictions of this Declaration and the approval of Homestead Plans pursuant to this Article shall not be deemed to be a variance from the specific restrictions of this Declaration or from the standards and guidelines adopted by the Architectural Review Committee. All variances must be issued in accordance with the provisions of Section 8 of this Article.

SECTION 6. RIGHT TO INSPECT. Any member of the Board of Directors or the Architectural Review Committee and their representatives shall have the right, but not the obligation during reasonable hours to enter upon and inspect any Lot with respect to which construction is underway to determine whether or not the Homestead Plans therefor have been approved and are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry. In the event the Architectural Review Committee shall determine that such Homestead Plans have not been approved or are not being complied with, such Architectural Review Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved Homestead Plans. In addition to any other remedies available to the Association, the Board may record in the appropriate land records a notice of violation naming the violating Owner.

SECTION 7. NO WAIVER OF FUTURE APPROVALS. The approval by the Architectural Review Committee of any Homestead Plans for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

SECTION 8. VARIANCES. The Architectural Review Committee may grant variances from compliance with the restrictions of this Declaration, Supplemental Declarations, and from its respective standards and guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, when the Architectural Review Committee determines, in its sole discretion, that a variance is in the best interest of the Properties. Such variances may only be granted, however, when unique circumstances dictate and no variance shall be effective unless in writing or estop the Architectural Review Committee from denying a variance in other circumstances. For purposes of this Section, the terms of any financing, shall not be considered a hardship warranting a variance.

SECTION 9. MEETINGS OF THE ARCHITECTURAL REVIEW COMMITTEE. The Architectural Review Committee shall meet from time to time as necessary to

perform its respective duties, and may from time to time, by resolution unanimously adopted in writing, designate a representative to take an action or perform any duties for and on behalf of the Architectural Review Committee. In the absence of such designation of a representative, the vote of the majority of the members of the Architectural Review Committee, or the written consent of the majority of the members of the Architectural Review Committee taken without a meeting, shall constitute and act of the Architectural Review Committee.

ARTICLE VII ARCHITECTURAL RESTRICTIONS

Each and every Lot shall be subject to the following specific restrictions:

SECTION 1. PRIMARY RESIDENCES. Only one (1) Primary Residence and Accessory Buildings approved by the Architectural Review Committee which complement the residence in color, materials and architectural style shall be built or permitted on a Lot. All structures shall be of new construction and no structure shall be moved from another location onto any Lot.

SECTION 2. LIVING AREA REQUIREMENTS. The total living area of the Primary Residence on each Lot in the Properties, exclusive of porches and garages, shall be not less than twenty-five hundred (2,500) square feet or such lesser or greater number of square feet as may be specified in a Supplemental Declaration applicable to the particular Lot.

SECTION 3. LOCATION OF RESIDENCE ON LOT. The location of each residence on a Lot will be approved by the Architectural Review Committee with its approval of the Homestead Plans for such residence. In some instances, a mandatory building line for the front wall of the residence on a Lot may be specified in a Supplemental Declaration or by the Architectural Review Committee. No building shall be located on any Lot nearer to a Road than the minimum building setback line shown on the applicable plat, specified in a Supplemental Declaration, or established by the Architectural Review Committee. In addition, the front wall of the residence on each Lot where a mandatory building line is established by a Supplemental Declaration or by the Architectural Review Committee shall be placed on such building line. No building shall be located on any easement (i) identified on the plat of the subdivision in which the applicable Lot is located, (ii) specified in a Supplemental Declaration, or (iii) set forth in any other instrument recorded in the public records of Fort Bend County, Texas.

SECTION 4. TYPE OF CONSTRUCTION. The exterior wall area of all residences, exclusive of doors and windows, shall be of masonry, brick veneer or such other material as may be approved by the Architectural Review Committee. The primary roof of each residence shall be constructed of metal, composite shingles, slate or simulated slate and, unless otherwise approved by the Architectural Review

Committee, have a minimum of six (6) feet of vertical rise for each twelve (12) feet of horizontal length. The Architectural Guidelines shall describe requirements for exterior materials and roofs in greater detail.

SECTION 5. TEMPORARY BUILDINGS. Unless otherwise approved by the Architectural Review Committee, temporary buildings or structures such as storage sheds shall not be permitted on any Lot. Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used by Builders in connection with the construction and sale of residences.

SECTION 6. SIDEWALKS. On the front of each Lot or the sides of each Lot (in the case of corner Lots) the Builder shall construct and the Owner shall maintain at his or her expense a sidewalk within the Road right-of-way on such Lot. Sidewalks must be constructed in accordance with the Architectural Guidelines.

SECTION 7. DRIVEWAYS. On each Lot the Builder shall construct and the Owner shall maintain at his or her expense a driveway to the Road at the front of the Lot, including the portion of the driveway in the Road right-of-way, and the Builder shall repair at his expense any damage to the Road occasioned by connecting the driveway thereto. Driveways must be constructed in accordance with the Architectural Guidelines, provide for proper drainage and be free of ponding areas.

SECTION 8. FENCES. The erection of chain link fences on any Lot is prohibited except for dog kennels located behind the residence and screened with landscaping approved by the Architectural Review Committee. Owners shall construct and maintain a fence or other suitable enclosure approved by the Architectural Review Committee to screen from public view outside yard equipment and other equipment which the Architectural Review Committee requires to be screened from view. The Architectural Guidelines will include a Fulshear Creek Crossing Fencing Design. Any Supplemental Declaration may, at Declarant's election, require the installation of fences along certain Lot lines or setbacks in accordance with prescribed specifications (which specifications may differ for different portions of the Properties), prohibit the installation of fences at certain locations, and designate other areas for fences as optional. Each Owner shall construct all fencing required by the Supplemental Declaration on his Lot, if any, and otherwise comply with the Fulshear Creek Crossing Fencing Design.

SECTION 9. SIGNS. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Primary Residence, fence or other improvement upon such Lot, or on the mailbox on or adjacent to the Lot, so as to be visible from public view except the following:

- (a) **For Sale Signs.** The Owner of a Lot may install one (1) sign on the Lot pertaining to the resale of the Primary Residence located thereon. Unless otherwise approved by the Declarant, an Owner may not install a sign for the resale of an unimproved Lot. Signs for the resale of

residences as permitted hereby shall not exceed 2' by 3' in size and shall be placed on a post supplied to the Owner by the Declarant or the Association. Open house signs are permitted only on the Lot where the open house is being held and may be placed on the Lot only on the day of the open house.

(b) **Declarant's Signs.** Declarant may erect and maintain a sign or signs it deems to be reasonable and necessary for the construction, development, operation, promotion, leasing and sale of the Lots and spec homes constructed by approved home building companies.

(c) **Builders' Signs.** A Builder may utilize one professional sign which complies with the specifications provided by the Declarant per Lot for advertising and sales promotion of the residence on such Lot.

(d) **Political Signs.** Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and shall be removed within ten (10) days after such election.

(e) **School Spirit Signs.** Signs containing information about one or more children residing in the Primary Residence on a Lot and the school they attend shall be permitted so long as the sign is not more than 36" x 36". There shall be no more than one sign for each child under the age of eighteen (18), residing in the Primary Residence. Banners are not permitted.

(f) **Security Signs/Stickers.** Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Fulshear Creek Crossing community shall be permitted so long as the sign is not more than 12" x 12" or the sticker is no more than 12" x 12" in size. There shall be no more than one sign per Lot and stickers on no more than fifty percent (50%) of the windows and one on the front door or front entry area.

In addition to the foregoing, unless otherwise approved by the Declarant or the Board, signs may not be placed within Road right-of-ways in the Fulshear Creek Crossing project or on Common Areas. The Declarant and the Association shall have the right to erect identifying signs and monuments within Road rights-of-way within the Fulshear Creek Crossing project and directional signs throughout the project. In addition to any other remedies provided for in this Declaration, the Board of Directors or its duly authorized agent shall have the power to remove any sign which violates this Section. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of Assessments. Notwithstanding the foregoing, any sign placed on a Lot

shall comply with all applicable codes, rules and ordinances of the governmental authorities with jurisdiction over the Fulshear Creek Crossing project.

SECTION 10. TRAFFIC SIGHT AREAS. No fence, wall, or planting which obstructs sight lines at elevations between two and six feet above the Road shall be permitted to remain on any corner Lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 11. EXTERIOR ANTENNAE. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by the regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board is empowered to adopt rules governing the types of antennae that are permissible in the Properties and to establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that receipt of an acceptable signal would not be impaired, an antenna permissible pursuant to the rules of the Board may only be installed in a side or rear yard location, not visible from the Road, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations.

SECTION 12. AIR CONDITIONERS. No window or wall type air conditioners shall be permitted in any residence, but the Architectural Review Committee, at its discretion, may permit window or wall type air conditioners to be installed if such unit or units will not be visible from a Road or adjacent Lot. All compressors and other exterior HVAC equipment shall be screened from view from Roads and adjacent Lots with fencing or landscaping.

SECTION 13. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Architectural Review Committee or the Board.

SECTION 14. CLOTHES LINES. No exterior clothes lines shall be placed on any Lot unless otherwise approved by the Architectural Review Committee.

SECTION 15. VEHICLES AND PARKING. The term "vehicles", as used herein, shall refer to all motorized vehicles including, without limitation, automobiles, trucks, tractors, motor homes, boats, trailers, motorcycles, minibikes, scooters, ATV's, golf carts, go-carts, campers, buses, and vans. No vehicle may be parked or left upon any Lot in the Properties, except in the garage or behind the residence or another screened area. Notwithstanding the foregoing, automobiles and small trucks may be

parked in the driveway on the Lot for temporary periods not exceeding seventy-two (72) hours. Any vehicle parked or left not in accordance with this section shall be considered a nuisance and may be removed by the Board at the owner's expense. No motorized vehicles shall be permitted on the Common Area, including trails and conservation areas except for public safety vehicles and vehicles authorized by the Board. Notwithstanding the foregoing, automobiles, trucks, motorcycles and other vehicles approved by the Board shall be permitted to park in designated parking areas of Common Area improvements. All vehicles within the Properties must be in a condition which meets the requirements of all state and local governmental authorities as to licensing, safety and equipment standards. The parking of vehicles on sidewalks or the areas between sidewalks and adjacent Roads at any time is prohibited.

SECTION 16. WEAPONS AND FIREWORKS. The use of fireworks, firearms and other weapons within the Properties is prohibited. The term "firearms" includes pellet guns, bows and firearms of all types. Nothing contained in this Declaration shall be construed to require the Association to take action to enforce this Section.

SECTION 17. MAILBOXES AND ADDRESS MARKERS. Each Lot shall have a uniform mailbox and a marker identifying its street address of a style prescribed in the Architectural Guidelines in keeping with the overall character and aesthetics of the community, unless provisions are made by the Declarant for the installation of cluster boxes in accordance with U.S. Postal Service requirements. No Owner of a Lot served by a cluster mailbox shall install a mailbox on his Lot.

SECTION 18. GAS TANKS. The use of propane, butane or any other non-liquid gas tanks within the Properties is prohibited, except for small tanks incidental to outdoor kitchens and grills. Nothing contained in this Declaration shall be construed to require the Association to take action to enforce this Section.

SECTION 19. ROOFTOP ELEMENTS. Whenever reasonably possible, stack vents and attic ventilators shall be located on the rear slopes of roofs and mounted perpendicular to the ground plane. All exposed roof stack vents, flashings, attic ventilators, etc. on each residence must be painted to match the color of the roof of the residence unless otherwise approved by the Architectural Review Committee. No solar collectors shall be allowed on any roof slope visible from a Road or Common Area.

SECTION 20. DECORATIONS. No decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any Road, unless such specific items have been approved in writing by the Board of Directors. Customary seasonal decorations for national holidays are permitted for a maximum of fifteen (15) days or forty-five (45) days, in the case of Christmas, without approval by the Board of Directors of the Association. In

addition, one (1) flagpole may be placed on a Lot provided it is not in excess of twenty-five (25) feet in height and is located within thirty (30) feet of the residence.

SECTION 21. PLAYGROUND EQUIPMENT. Unless otherwise approved by the Architectural Review Committee, all playground equipment on a Lot must be placed in the backyard of the Lot.

SECTION 22. WINDOW COVERINGS. Temporary or disposable window coverings not consistent with the aesthetics of the Properties, such as reflective materials, sheets, newspaper, shower curtains, fabric not sewn into finished curtains or draperies, paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for permanent window coverings in a development of the same caliber as the Properties are prohibited.

SECTION 23. LAKEFRONT LOTS. The following specific restrictions shall apply to all Lakefront Lots:

(a) In order to preserve the natural appearance of each Lake, no buildings or other improvements shall be constructed or placed in the Lake Maintenance Easement Areas (as defined in Section 3 of Article VIII hereof), unless approved in writing by the Architectural Review Committee. Fences may be erected and installed within the Lake Easement Area upon prior written approval by the Architectural Review Committee, provided, that the Association, in its sole discretion, shall have the right at any time to remove such fences. If the Association removes a fence, the Association and Architectural Review Committee shall not be liable or responsible for any cost or reimbursement associated with such removal. Slope paving, bulkheading, piers and other man-made alterations to the shoreline are prohibited; provided, however, the Architectural Review Committee may grant a variance to this restriction for alterations to the shoreline if in its judgment an alteration is necessary to prevent erosion or for safety reasons. The Architectural Review Committee may also, at its sole discretion, permit an Owner to construct a boat dock and may evidence such approval by an easement or other written instrument. The placement of any improvements within or any alteration of the natural condition of the Lake Maintenance Easement Areas must be approved by the Architectural Review Committee;

(b) The Owner of each Lakefront Lot shall be responsible for all temporary erosion control measures required during construction on his Lot to ensure that there is no erosion into the Lake and such Owner shall be responsible for any repair or maintenance required due to erosion caused by construction on his Lot;

- (c) Chemicals, fertilizers and pesticides may not be used within the Lake Maintenance Easement Areas;
- (d) No person shall withdraw water from or discharge water into a Lake except in accordance with Homestead Plans approved by the Architectural Review Committee;
- (e) No person shall dump or place refuse or any other material into a Lake;
- (f) No person shall release or introduce any wildlife, waterfowl, reptiles or fish into a Lake;
- (g) No fence shall be installed on a Lakefront Lot which unreasonably obstructs the view of the Lake from adjacent Lots. The Architectural Review Committee shall have the right to designate specifications for fencing on the Lakefront Lots to insure visibility of the Lake; and
- (h) No boats or other watercraft which are permitted under the Association's rules to be used on a Lake may be left on the Lake overnight or left at a location on a Lot where it is visible from any Road or other Lot unless it is tied to a boat dock approved by the Architectural Review Committee.

SECTION 24. ENFORCEMENT OF LOT MAINTENANCE. In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Association, or their agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

ARTICLE VIII
EASEMENTS

SECTION 1. GENERAL. Easements for drainageways and the installation and maintenance of utilities are reserved as shown and provided for on the plats of the Properties and/or as dedicated by separate instruments, including without limitation a Supplemental Declaration. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants. It may be necessary in the development of the Fulshear Creek Crossing project for a Lot to have any combination of a rear lot drainage easement, a side lot drainage easement, a rear lot utility easement and/or a side lot utility easement. Such easements, as well as front, side and rear setbacks on a Lot, shall be (i) identified on the plat of the subdivision in which the applicable Lot is located, (ii) specified in a Supplemental Declaration, or (iii) set forth in any other instrument recorded in the public records of Fort Bend County, Texas.

SECTION 2. EASEMENTS FOR UTILITIES AND PUBLIC SERVICES.

(a) Declarant hereby reserves for itself and grants to the Association, to the City of Fulshear, to Fort Bend County and to any other public authority or agency, utility district, or public or private utility company, a perpetual easement upon, over, under, and across the Common Area for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers, electrical, gas, telephone, water, and sewer lines, street lights, street signs and traffic signs.

(b) There is also hereby granted to the City of Fulshear, to Fort Bend County and or such other governmental authority or agency as shall from time to time have jurisdiction over the Properties (or any portion thereof) with respect to law enforcement and fire protection, the perpetual, non-exclusive right and easement upon, over and across all of the Properties for purposes of performing such duties and activities related to law enforcement and fire protection in the Properties as shall be required or appropriate from time to time by such governmental authorities under applicable law.

SECTION 3. EASEMENTS FOR ASSOCIATION.

(a) There is hereby granted to the Association, its agents and employees, a perpetual easement over the portion of each Lakefront Lot which is within twenty (20) feet shoreward of the average water line of the Lake for the purpose of maintaining such lake and performing any work related thereto (the "Lake Maintenance Easement Area").

(b) There is hereby granted a general right and easement to the Association, its directors, officers, agents, and employees, including, but not limited

to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner or tenant of the residence directly affected thereby.

(c) Easements for pedestrian trails and equestrian trails which may be used by all Members of the Association are reserved as shown and provided for on the plats of the Properties and/or as created by separate instruments, including Supplemental Declarations.

ARTICLE IX INSURANCE OBLIGATIONS OF OWNERS

SECTION 1. OBLIGATION TO REPAIR AND RESTORE. Each Owner shall maintain, at his expenses, casualty insurance on his residence in an amount not less than the replacement cost. In the event a residence shall be partially or entirely destroyed by fire or other casualty, such residence shall either be repaired and restored within a reasonable period of time or demolished and the Lot landscaped so that no damaged portion of the former structure remains visible. Subject only to the rights of an institutional holder of a first mortgage lien on a damaged or destroyed residence, the insurance proceeds from any insurance policy covering a damaged or destroyed residence shall be first applied to such repair, restoration or replacement of such residence, or to the demolition of such residence and landscaping of such Lot. Each Owner shall be responsible for the repair, restoration, replacement or demolition of the residence owned by such Owner pursuant to the terms of this Declaration. Any such repair, restoration or replacement shall (subject to advances and changes in construction techniques and materials generally used in such construction and then current generally accepted design criteria) be generally harmonious with the other residences in the Properties and reconstruction must be consistent with plans and specifications approved by the Architectural Review Committee.

SECTION 2. INSURANCE PROCEEDS. If the proceeds of the insurance available to the Owner of a damaged residence are insufficient to pay for the cost of repair, restoration or replacement following a casualty (or demolition and landscaping if the residence is to be demolished), the Owner of such residence shall be responsible for the payment of any such deficiency necessary to complete the repair, restoration, replacement or demolition.

ARTICLE X GENERAL PROVISIONS

SECTION 1. TERM. The provisions of this Declaration, as they may be amended in accordance with the provisions hereof, shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said provisions shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of a majority of the Lots covered by this Declaration has been recorded, agreeing to terminate this Declaration.

SECTION 2. ENFORCEMENT. Each Owner shall comply strictly with the covenants, conditions, and restrictions set forth in this Declaration, as may be amended from time to time, and with the Rules adopted by the Board. The Board may impose fines for the violation of its rules, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration or the Rules adopted by the Board shall be grounds for an action to recover sums due for damages, injunctive relief, or any other remedy available at law or in equity, maintainable by the Board on behalf of the Association, or by any Owner of a portion of the Properties. Failure of the Board or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall also have the right to enforce, by any proceeding at law or in equity, the provisions of each Supplemental Declaration imposed upon any portion of the Properties which by the terms of the instrument creating same grant the Association the power to enforce same, and failure of the Association to enforce such provisions shall in no event be deemed a waiver of the right to do so thereafter.

In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, its rules and regulations, or the Architectural Guidelines. Except in the case of emergency situations, and as otherwise specified herein, the Association shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

SECTION 3. AMENDMENT.

A. By Declarant. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (c) if such amendment is necessary to enable any governmental agency or reputable

private insurance company to insure mortgage loans on the property subject to this Declaration; or (d) for any other purpose, provided that the amendment has no material adverse effect upon the title to any Owner's property or upon any right of such Owner or the Owner so affected has consented thereto.

B. By Owners. This Declaration may be amended at any time by an instrument executed or approved by the Owners of a majority of the Lots encumbered by this Declaration; provided, however Declarant must consent to any amendment which is to be effective prior to the date on which Declarant has sold all of its Lots (whether developed or to be developed) within the Properties. Any such amendment shall become effective when it is filed for record in the Official Public Records of Real Property of Fort Bend County, Texas.

SECTION 4. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 5. GENDER AND GRAMMER. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 6. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 7. REPLATTING. Declarant shall have the right to replat any Lots as well as the right to subdivide any reserve tracts contained within the Properties into single family residential lots, by recorded plat or in any lawful manner. Lots created by the subdivision of a reserve tract shall be subject to these restrictions as if such Lots were originally platted as lots. The replatting of any portion of the Properties by an Owner other than the Declarant prior to the Conversion Date shall require the written consent of the Declarant.

SECTION 8. ANNEXATION.

A. By Declarant. The Declarant shall have the unilateral right, privilege, and option at any time to annex additional property to the jurisdiction of the Association by filing for record a declaration of annexation in respect to the property being annexed. Any such annexation by the Declarant shall not require approval by the Association or the Members and shall be effective upon the filing for record of such declaration. The rights reserved by Declarant herein to annex additional land shall not be implied or

construed so as to impose any obligation upon Declarant to annex additional land it owns.

B. By Other Owners. Upon request by an owner of land other than the Declarant, the Association may annex real property to its jurisdiction. Any such annexation shall require the approval by majority of the votes of the Members who are present in person or by proxy at a meeting duly called for such purpose and, as long as the Declarant owns any Lots within the Properties, the written consent of the Declarant. Annexation of land not owned by the Declarant shall be accomplished by filing of record in the public records of Fort Bend County, Texas, an annexation agreement describing the property being annexed. Such annexation agreement shall be signed by the President and the Secretary of the Association, by the owner of the property being annexed, and, as long as the Declarant owns any Lots within the Properties, by the Declarant.

C. Effect of Annexation. The Owners of Lots in property annexed into the jurisdiction of the Association shall be entitled to the use and benefit of all Common Area of the Association, provided that the annexed property shall be impressed with and subject to an annual maintenance assessment imposed by the Association on a uniform, per Lot basis with the annual assessment on all other property within the jurisdiction of the Association.

SECTION 9. MERGER; DISSOLUTION. The Association may be merged with another non-profit corporation or dissolved only with (i) the assent of a majority of the votes of the Members who are present in person or by proxy at a meeting duly called for such purpose, and (ii) the Declarant, as long as the Declarant owns any Lots within the Properties. In the event of a merger of the Association with another non-profit corporation organized for the same purposes, the Association's properties, rights, and obligations may be transferred to the surviving association, or alternatively, the properties, rights and obligations of the other association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving association shall administer the covenants, conditions and restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, this Declaration is executed this 20th day of May, 2008.

FULSHEAR LAND PARTNERS, LTD., a Texas limited partnership

By: Fulshear Land Partners GP, L.L.C., its general partner

By: *Douglas H. Konopka*
Douglas H. Konopka, Manager

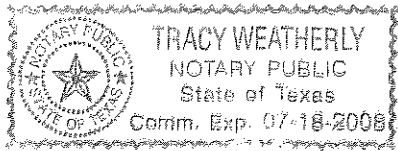
THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 20th day of May, 2008 by Douglas H. Konopka, Manager of Fulshear Land Partners GP, L.L.C., a Texas limited liability company, which is the general partner of Fulshear Land Partners, Ltd., a Texas limited partnership, on behalf of said limited partnership.

[SEAL]

Tracy Weatherly

Notary Public – State of Texas



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dianne Wilson

2008 May 21 12:02 PM

2008054643

TD \$147.00

Dianne Wilson COUNTY CLERK

FT BEND COUNTY TEXAS

RETURNED AT COUNTER TO:

Neah Werles - DNR Development, Inc
5005 Riverway, Suite 160
Houston, TX 77056