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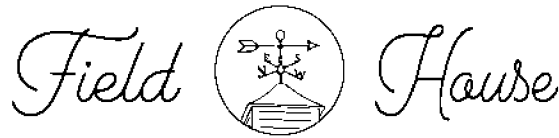
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**DECLARATION OF CONDOMINIUM REGIME
FOR FIELD HOUSE CONDOMINIUMS
(A Residential Condominium in Travis County, Texas)**

Declarant: Metcalfe Development LLC, a Texas limited liability company

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DECLARATION OF CONDOMINIUM REGIME FOR FIELD HOUSE CONDOMINIUMS

Metcalf Development LLC, a Texas limited liability company ("**Declarant**") is the owner of LOT 1, METCALFE TOWNHOMES, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO MAP OR PLAT THEREOF, RECORDED IN DOCUMENT NO. 201800011, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT THE PARKLAND DEDICATION LAND DESCRIBED ON ATTACHMENT 1 ATTACHED HERETO (the "**Land**"). The Land is hereby submitted to the terms and provisions of the Texas Uniform Condominium Act, Chapter 82 of the Texas Property Code, for the purpose of creating the Field House Condominiums.

NOW, THEREFORE, it is hereby declared that: (i) the Land will be held sold, conveyed, leased, occupied, used, insured, and encumbered with this Declaration, including the representations and reservations of Declarant, set forth on Appendix "A", attached hereto, which will run with the Land and be binding upon all parties having right, title, or interest in or to such property, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof; and (ii) each contract or deed which may hereafter be executed with regard to the Land, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

ARTICLE I. DEFINITIONS

Unless otherwise defined in this Declaration, terms defined in Section 82.003 of the Act have the same meaning when used in this Declaration. The following words and phrases, whether or not capitalized, have specified meanings when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1 "**Act**" means Chapter 82 of the Texas Property Code, the Texas Uniform Condominium Act, as it may be amended from time to time.

1.2 "**Applicable Law**" means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision. Statutes and ordinances specifically referenced in the Documents are "Applicable Law" on the date of the 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 superseded by one or more other statutes or ordinances.

1.3 "**Architectural Reviewer**" means Declarant during the Development Period. After expiration or termination of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Board.

1.4 **"Assessment"** means any charge levied against a Unit or Owner by the Association, pursuant to the Documents, the Act, or Applicable Law, including but not limited to Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments as defined in Article 5 of this Declaration.

1.5 **"Association"** means FIELD HOUSE CONDOMINIUM COMMUNITY, INC., a Texas non-profit corporation, the Members of which shall be the Owners of Units within the Regime. The term "Association" shall have the same meaning as the term "property" owners association" in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Certificate, the Bylaws, the Act, and Applicable Law.

1.6 **"Board"** means the Board of Directors of the Association.

1.7 **"Building"** means the building(s) described on the Plat and Plans, now existing or hereafter placed on the Property.

1.8 **"Bylaws"** mean the bylaws of the Association, as they may be amended from time to time.

1.9 **"Certificate"** means the Certificate of Formation of the Association filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

1.10 **"Common Elements"** mean all portions of the Property save and except the Units. All Common Elements are "General Common Elements" except if such Common Elements have been allocated as "Limited Common Elements" by this Declaration for the exclusive use of one or more but less than all of the Units.

1.11 **"Community Manual"** means the community manual, if any, which may be initially adopted and Recorded by the Declarant as part of the initial project documentation for the Regime. The Community Manual may include the Bylaws and Rules and policies governing the Association as the Board determines to be in the best interest of the Association, in its sole and absolute discretion. The Community Manual may be amended, from time to time, by a Majority of the Board; provided, however, that during the Development Period, any amendment to the Community Manual must be approved in advance and in writing by the Declarant.

1.12 **"Declarant"** means METCALFE DEVELOPMENT, LLC, a Texas limited liability company. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively or non-exclusively, any of its privileges, exemptions, rights and duties under this Declaration to any Person. Declarant may also, by Recorded written instrument, permit any other Person to participate in whole, in part, exclusively or non-exclusively, in any of Declarant's privileges, exemptions, rights and duties under this Declaration.

1.13 **"Declarant Control Period"** means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix "A" of this Declaration. The duration of Declarant Control Period expires one hundred and twenty (120) days after title to seventy-five percent (75%) of the maximum Units that may be created have been conveyed to Owners other than Declarant.

1.14 **"Declaration"** means this document, as it may be amended from time to time.

1.15 **"Development Period"** means the seven (7) year period beginning on the date this Declaration is Recorded, during which Declarant has certain rights as more particularly described on Appendix "A", attached hereto, including rights related to development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own any portion of the Property. Declarant may terminate the Development Period by Recording a notice of termination.

During the Development Period, Appendix "A" has priority over the terms and provisions of this Declaration.

1.16 **"Documents"** mean, singly or collectively as the case may be, this Declaration, the Plat and Plans, attached hereto as Exhibit "A", the Certificate, Bylaws, the Community Manual, and the Rules of the Association, as each may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is a part of that Document.

The Documents are subject to amendment or modification from time to time. By acquiring a Unit in the Field House Condominiums you agree to comply with the terms and provisions of the Documents, as amended or modified.

1.17 **"General Common Elements"** mean Common Elements which are not Limited Common Elements. General Common Elements refer to those portions of the Property that are designated as "GCE", "General Common Element", "General Common Area", "Common Area", or by the notation "General Common Elements", "GCE", "General Common Area", "Common Area", or "Common Areas" on Exhibit "A", attached hereto.

1.18 **"Improvement"** means every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, recreational facilities, swimming pools, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.19 **"Landscape Services"** mean the following services to be provided to the Yard Area of each Unit: (a) mowing and edging all turf areas at least once per week during the months of May through September of each year and on an as-needed basis during the months of October through April; (b) removing all organic debris (leaves, small downed branches, dead plants) from all turf areas and flower beds at least once per week primarily during the months of October through April and as-needed May through September; (c) removing small (under 4 inches in diameter) dead branches and trimming bushes up to a maximum height of six (6) feet (those not requiring a ladder for access or a chain saw for cutting); (d) applying fertilizer and pre-emergent weed killer to the turf area at least once per year (normally in the spring); (e) manually and mechanically/chemically controlling weeds as required to maintain a reasonably manicured appearance; (f) controlling fire ants in the turf areas with applications of chemical control agents as necessary; and (g) the irrigation of Yard Areas. "Landscape Services" shall not include: (i) soil preparation of flower or garden beds or the planting of seasonal flowers or maintenance of Yard Area flower beds beyond limited weeding and removal of dead plants as indicated above; (ii) the purchase, installation or replacement of new shrubs, trees or plants; (iii) trimming of bushes above a height of six (6) feet or removal of large limbs (over 4 inches in diameter or higher than six (6) feet from base of tree) or dead or damaged bushes or trees (over six (6) feet in height); or (iv) any aspects of the maintenance or installation of any vegetable garden or potted plants, if such is allowed by the Board, including but not limited to soil preparation, weeding, plant installation or removal, fertilization, or the replacement of an area previously converted to a vegetable garden with turf or flower beds, etc. Notwithstanding the foregoing, the Board will have the right to modify the Landscape Services provided hereunder from time to time.

1.20 **"Limited Common Elements"**, if any, mean those portions of the Property reserved for the exclusive use of one or more Owners to the exclusion of other Owners. Limited Common Elements are designated as "LCE", or "Limited Common Elements", or "Limited Common Areas" on the Plat and Plans and in Section 5.4 of this Declaration.

1.21 **"Majority"** means more than half.

1.22 **"Member"** means a member of the Association, each Member being an Owner of a Unit, unless the context indicates that member means a member of the Board or a member of a committee of the Association.

1.23 **"Mortgagee"** means a holder, insurer, or guarantor of a purchase money mortgage secured by a Recorded senior or first deed of trust lien against a Unit.

1.24 **"Owner"** means a holder of Recorded fee simple title to a Unit. Declarant is the initial Owner of all Units. Mortgagees who acquire title to a Unit through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure are Owners. 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.

1.25 **"Person"** means any individual or entity having the legal right to hold title to real property.

1.26 **"Plat and Plans"** means the plat and plans attached hereto as Exhibit "A" as changed, modified, or amended in accordance with this Declaration.

1.27 **"Property"** means the Land together with all Improvements thereon and all easements, rights, and appurtenances thereto, and includes every Unit and Common Element thereon.

1.28 **"Record", "Recordation" "Recorded", "or "Recording"** means recorded or to be recorded, respectively, in the Official Public Records of Travis County, Texas.

1.29 **"Regime"** means the Property, Units, General Common Elements, and Limited Common Elements that comprise the condominium regime established under this Declaration.

1.30 **"Resident"** means an occupant or tenant of a Unit, regardless of whether the person owns the Unit.

1.31 **"Rules"** means rules and regulations of the Association adopted in accordance with the Documents or the Act. The initial Rules may be adopted by Declarant (as part of the Community Manual, or otherwise) for the benefit of the Association.

1.32 **"Sales Restriction Period"** means a period commencing on the date that a Unit is conveyed to an Owner by Declarant and ending on the earlier of (i) one year after the date of the conveyance of such Unit to the Owner by Declarant or (ii) the date the last of the Units with the same floorplan type as such Unit is conveyed to an Owner by Declarant.

1.33 **"Underwriting Lender"** means a national institutional mortgage lender, insurer, underwriter, guarantor, or purchaser on the secondary market, such as Federal Home Administration (FHA) Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), the Veterans Administration, or Government National Mortgage Association (Ginnie Mae), singularly or collectively. Use of the term "Underwriting Lender" in this Declaration, and the specific instructions listed in this definition, may not be construed as a limitation on an Owner's financing options or as a representation that the Property is approved by any specific institution.

1.34 **"Unit"** means a physical portion of the Property designated by this Declaration for separate ownership, the boundaries of which are shown on the Plat and Plans attached hereto as Exhibit A, as further described in *Section 5.2* of this Declaration.

1.35 "Yard Area" means yard or green space located within any Limited Common Element assigned exclusively to a Unit.

ARTICLE II. PROPERTY SUBJECT TO DOCUMENTS

2.1 **Subject To Documents.** The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including the reservations and rights set forth on Appendix "A", attached hereto, which run with the Property, bind all Persons having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

2.2 **Additional Property.** Additional real property may be annexed into the Regime and subjected to the Declaration and the jurisdiction of the Association with the approval of Owners holding at least sixty-seven percent (67%) of the total votes in the Association, or, during the Development Period, unilaterally by Declarant as permitted in Appendix "A". Annexation of additional property is accomplished by the Recording of a declaration of annexation, which will include a description of the additional real property. The declaration of annexation may include a description of the Units added to the Regime. Upon the annexation of such real property into the Regime such land will be considered part of the Property.

2.3 **Recorded Easements and Licenses.** In addition to the easements and restrictions contained in this Declaration, the Property is subject to all easements, licenses, leases, and encumbrances of record, including those described in the attached Exhibit "E", and any shown on a Recorded plat, each of which is incorporated herein by reference. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by prior-recorded easements, licenses, leases, and encumbrances. Each Owner further agrees to maintain any easement that crosses the Owner's Unit and for which the Association does not have express responsibility.

2.4 **Common Elements.** The Common Elements of the Property consist of all of the Property, save and except the Units.

2.4.1 **Ownership & Maintenance.** The designation of Common Elements is determined by this Declaration. The Declarant may install, construct, or authorize certain Improvements on Common Elements in connection with the development of the Property, and the cost thereof is not a common expense of the Association. Thereafter, all costs attributable to Common Elements, including maintenance, insurance, and enhancements, are automatically the responsibility of the Association, unless this Declaration elsewhere provides for a different allocation for a specific Common Element.

2.4.2 **Acceptance.** By accepting an interest in or title to a Unit, each Owner is deemed: (i) to accept the Common Elements of the Property, and any Improvement thereon, in its then-existing condition; (ii) to acknowledge the authority of the

Association, acting through its Board, for all decisions pertaining to the Common Elements; and (iii) to acknowledge that transfer of a Common Element's title (if any) to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association.

ARTICLE III. PROPERTY EASEMENTS, RIGHTS AND RESTRICTIONS

3.1 **General.** In addition to other easements, rights and restrictions established by the Documents, the Property is subject to the easements, rights and restrictions contained in this Article.

3.2 **Owner's Easement of Enjoyment.** Every Owner is granted a right and easement of enjoyment over the General Common Elements and use of Improvements therein, subject to other limitations, rights and easements contained in the Documents. An Owner who does not occupy a Unit delegates this right of enjoyment to the Residents of the Owner's Unit, and is not entitled to use the General Common Elements. In addition, every Owner is granted an easement over the General Common Elements, to the extent necessary, to provide access to an Owner's Unit and for utilities serving the Owner's Unit. The right of access for necessary ingress and egress to an Owner's Unit cannot be suspended by the Board for violations of the Documents or nonpayment of Assessments.

3.3 **Owner's Maintenance Easement.** Each Owner is hereby granted an easement over and across any adjoining Unit and Common Elements to the extent reasonably necessary to maintain or reconstruct such Owner's Unit, subject to the consent of the Board and the consent of the Owner of the adjoining Unit, or the consent of the Board in the case of Common Elements, and provided that the Owner's use of the easement granted hereunder does not damage or materially interfere with the use of the adjoining Unit or Common Element. Requests for entry into an adjoining Unit must be made to the Board and the Owner of such Unit in advance. The consent of the adjoining Unit Owner will not be unreasonably withheld; however, the adjoining Unit Owner may require that access to its Unit be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. Access to the Common Elements for the purpose of maintaining or reconstructing any Unit must be approved in advance and in writing by the Board. The consent of the Board will not be unreasonably withheld; however, the Board may require that access to the Common Elements be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. In addition, the Board may require that the Owner abide by additional reasonable rules with respect to use and protection of the Common Elements and Units during any such maintenance or reconstruction. If an Owner damages an adjoining Unit or Common Element in exercising the easement granted hereunder, the Owner will be required to restore the Unit or Common Element to the condition which existed prior to any such damage, at such Owner's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Owner is notified in writing of the damage by the Board or the Owner of the damaged Unit.

The Board will be permitted to require each Owner performing any maintenance and/or reconstruction to deliver to the Board prior to commencement of such work, in form satisfactory to the Board:

- (i) releases of the Board and the Association for all claims that such Person may assert in connection with such work;
- (ii) indemnities of the Board and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Elements or other Units;
- (iii) certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board; and
- (iv) all other information and assurances which the Board may reasonably require.

3.4 **Owner's Encroachment Easement.** Every Owner is granted an easement for the existence and continuance of any encroachment by the Owner's Unit on any adjoining Unit or Common Element now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a Building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the Improvement stands. The easement granted herein is not intended to permit the continuance of any Improvement installed by an Owner not otherwise approved in advance by the Architectural Reviewer.

3.5 **Easement Of Cooperative Support.** Each Owner is granted an easement of cooperative support over each adjoining Unit and Limited Common Element assigned thereto (if any) as needed for the common benefit of the Property, or for the benefit of Units in a Building, or Units that share any aspect of the Property that requires cooperation. By accepting an interest in or title to a Unit, each Owner: (i) acknowledges the necessity for cooperation in a condominium; (ii) agrees to try to be responsive and civil in communications pertaining to the Property and to the Association; (iii) agrees to provide access to the Owner's Unit and Limited Common Elements when needed by the Association to fulfill its duties; and (iv) agrees to refrain from actions that interfere with the Association's maintenance and operation of the Property.

3.6 **Association's Access Easement.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Areas and the Owner's Unit and all Improvements thereon for the following purposes:

- (i) to perform inspections and/or maintenance that is permitted or required of the Association by the Documents or by Applicable Law.

- (ii) to perform maintenance that is permitted or required of the Owner by the Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance.
- (iii) to enforce the Documents.
- (iv) to exercise self-help remedies permitted by the Documents or by Applicable Law.
- (v) to respond to emergencies.
- (vi) to grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- (vii) to perform any and all functions or duties of the Association as permitted or required by the Documents or by Applicable Law.

The Association is expressly permitted to exercise the rights granted to it pursuant to this *Section 3.6*, without liability for trespass.

3.7 Utility Easement. Declarant during the Development Period, and the Association thereafter, may grant permits, licenses, and easements over the Common Elements for utilities, and other purposes reasonably necessary for the proper operation of the Regime. Declarant during the Development Period, and the Association thereafter, may grant easements over and across the Units and Common Elements to the extent necessary or required to provide utilities to Units; provided, however, that such easements will not unreasonably interfere with the use of any Unit for residential purposes. A company or entity, public or private, furnishing utility service to the Property, is 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; provided, however, this easement may not be exercised without prior notice to the Board and may not unreasonably interfere with the residential use of a Unit. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, cable television, and security.

NOTICE

PLEASE READ CAREFULLY THE FOLLOWING PROVISIONS ENTITLED "SECURITY" AND "INJURY TO PERSON OR PROPERTY". THE PROVISIONS LIMIT THE RESPONSIBILITY OF DECLARANT AND THE ASSOCIATION FOR CERTAIN CONDITIONS AND ACTIVITIES.

3.8 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 in or on the Property. Each Owner and Resident acknowledges and agrees that Declarant, 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 that it is the sole responsibility of the Owner or Resident to provide security for their own person and property, and each Owner and Resident assumes all risks for loss or damage to same. Each Owner and Resident further acknowledges that Declarant, 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, burglary, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner and Resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of any failure to provide adequate security or the ineffectiveness of security measures undertaken.

3.9 Injury to Person or Property. Neither the Association nor Declarant, or their respective directors, officers, committees, agents, and employees have a duty or obligation to any Owner, Resident or their guests: (i) to supervise minor children or any other Person; (ii) to fence or otherwise enclose any Limited Common Element, General Common Element, or other Improvement; or (iii) to provide security or protection to any Owner, Resident, or their guests, employees, contractors, and invitees from harm or loss. By accepting title to a Unit, each Owner agrees that the limitations set forth in this Section are reasonable and constitute the exercise of ordinary care by the Association and Declarant. Each Owner agrees to indemnify and hold harmless the Association and Declarant, and Declarant's agents from any claim of damages, to Person or property arising out of an accident or injury in or about the Regime to the extent and only to the extent caused by the acts or omissions of such Owner, Owner' tenant, his guests, employees, contractors, or invitees to the extent such claim is not covered by insurance obtained by the Association at the time of such accident or injury.

3.10 Easement to Inspect and Right To Correct. For a period of ten (10) years after the expiration of the Development Period, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, builder, and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, Improvement, or condition that may exist on any portion of the Property, including the Units, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. The party exercising the easement reserved hereunder, 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 utility panel may be warranted by a change of circumstance, imprecise siting or desire to comply more fully with Applicable Law. This Section may not be construed to create a duty for Declarant or the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant, and the Declarant's architect, engineer, other design professionals, builder's, and general contractor an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Elements and each Unit for the purposes contained in this Section.

3.11 **Parking.** Declarant reserves the right to designate and assign portions of the General Common Elements as parking for the exclusive use of any Owner. The assignment of parking spaces within the General Common Elements not specifically designated by the Declarant for the exclusive use of an Owner will be under the exclusive control and administration of the Declarant until the expiration or termination of the Development Period. The Association may thereafter assign parking spaces to any Owner or may use such parking spaces in a manner determined by the Board, but subject to any assignment previously made by the Declarant. Any designation and assignment of General Common Elements as parking will be memorialized by a written "assignment of parking" executed by an authorized representative of the Declarant (or the Association upon expiration or termination of the Development Period) which shall identify the parking space(s) and the Unit assigned thereto. Any designation and assignment of General Common Elements as parking shall be made a part of the corporate records of the Association, will be considered an agreement between the Association and such Owner with regard to use of the parking spaces so assigned, and may not be terminated or modified without the consent of the Declarant (or a Majority of the Board if the Development Period has expired or been terminated) and the Owner of the Unit to which the parking space was assigned.

ARTICLE IV. DISCLOSURES

This Article discloses selective features of the Regime that may not be obvious to potential Owners and Residents. Because features may change over time, no disclosure in this Article should be relied upon without independent confirmation.

4.1 **Contract Service Disclosure.** The Units may have been wired or fitted for one or more services to be provided by vendors to the Owner on a contract basis, such as intrusion monitoring and cable television. In exchange for such installations, Declarant may have contracted on behalf of the Owner for a period of service to the Owner's Unit. In that event, whether or not an Owner chooses to use the service, the Owner may be required to pay the Unit's share of the contract for the contract period. The Association may serve as the conduit for the service fees and payments, which may be considered Regular Assessments or Individual Assessments. However, the Association is not the service provider and has no responsibility or liability for the availability or quality of the service, or for the maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service.

4.2 **Adjacent Thoroughfares.** The Property is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

4.3 **Detention Facilities.** The Common Elements may include one or more detention facilities which serve all or a portion of the Property. Access to the detention facilities is limited to Persons engaged by the Association to periodically maintain such facilities. Each Owner is advised that entry into the detention facilities may result in injury and is a violation of the Rules.

4.4 **Adjacent Land Use.** Declarant makes no representations of any kind as to current or future uses, actual or permitted, of any land that is adjacent to or near the Property.

4.5 **Zoning.** No representations are made regarding the zoning of adjacent property. The zoning and use of adjacent property may change in the future.

4.6 **Outside Conditions.** Since in every neighborhood there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Property that an Owner or Resident may find objectionable, and it shall be the sole responsibility of an Owner or Resident to become acquainted with neighborhood conditions which could affect the Property and Unit.

4.7 **Construction Activities.** Declarant will be constructing portions of the Regime and engaging in other construction activities related to the construction of Units and Common Elements. Such construction activities may, from time to time, produce certain conditions on the Regime, including, without limitation: (a) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (b) smoke; (c) noxious, toxic or corrosive fumes or gases; (d) obnoxious odors; (e) dust, dirt or flying ash; (f) unusual fire or explosion hazards; (g) temporary interruption of utilities; and/or (h) other conditions that may threaten the security or safety of Persons on the Regime. Notwithstanding the foregoing, all Owners and Residents agree that such conditions on the Regime resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

4.8 **Moisture.** The Unit may trap humidity created by general use and occupancy. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and Residents, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially, mildew and/or mold. **Mold and/or mildew can grow in any portion of the Property that is exposed to elevated levels of moisture.** *(See Section 9.7).*

4.9 **Water Accumulation.** The Property may be subject to erosion and/or flooding during unusually intense or prolonged periods of rain. In addition, water may pond on various portions of the Property having impervious surfaces, such as roofs, parking areas, terraces, and balconies.

4.10 **Codes and Permits.** The Buildings were constructed pursuant to plans and specifications prepared by licensed professionals and permits issued by applicable regulatory authority. During the course of the construction of any Building, variations from the original plans and specifications, some of which add scope, some of which reduce scope, and some of which alter scope, are inevitable and can, do, and did occur as a matter of intention and/or as a matter of necessity. Each Owner is advised that some practices and/or code requirements may

have changed during the interim period between design or permitting and construction which were not incorporated into the design of the Buildings.

4.11 **Name of Regime.** "Field House" is a commonly used word and may have been used by third parties in connection with many different types of real estate properties. As a result, there is a risk that one or more third parties may assert that the term "Field House" has trademark significance and may assert claims for trademark infringement against the Declarant claiming a likelihood of confusion, and may attempt to force Declarant to change the name or recover for damages for trademark infringement. Declarant believes that it has reasonable defenses to such claims on the grounds, *inter alia*, that the term is merely descriptive, primarily geographically descriptive, and/or dilute, to the extent that no third party can claim exclusive rights in use of the term in connection with real estate development projects, including but not limited to the Regime, or that the overall circumstances of use of the term by Declarant is in different channels of commerce, such that there is no likelihood of confusion with any third party's use of the term. It is believed that due to the fact that the name is not known to be used Austin, Texas, in connection with a residential condominium community, the term "Field House" cannot be lawfully appropriated as a trademark by any third party and is not protectable as a trademark under federal or state law; provided, however, that: (A) Declarant shall have no liability should the Regime be forced to change its name; (B) Declarant shall have no duty to contest any claim asserting that the name should be changed; and (C) each Owner, by taking title to a Unit, acknowledges that the name "Field House" was in no way an inducement to purchase, to not sell after purchase, or to expend funds in detrimental reliance on the name remaining "Field House". During the Declarant Control Period, Declarant shall have the right in its sole discretion to change the name of the Regime without notice to any person.

4.12 **Encroachments.** Improvements may have been constructed on adjoining lands that encroach onto the Property. Declarant gives no representations or warranties as to property rights, if any, created by any such encroachments.

4.13 **Budgets.** Any budget prepared by or on behalf of the Association is based on estimated expenses only without consideration for the effects of inflation. The estimated expenses reflected on a budget may increase or decrease significantly when the actual expenses become known.

4.14 **Light and Views.** The natural light available to and views from a Unit can change over time due to among other things, additional development and the removal or addition of landscaping. **NATURAL LIGHT AND VIEWS ARE NOT PROTECTED.**

4.15 **Schools.** No representations are being made regarding which schools may now or in the future serve the Unit.

4.16 **Sounds.** No representations are made that the Unit is or will be soundproof or that sound and/or vibrations may not be transmitted from one Unit to another or from the Common Elements (including, but not limited to, any amenity areas) to a Unit. Sound

transmissions and/or vibrations between Units and Common Elements are inherent in attached condominium construction and are not construction defects. The sounds and vibrations can also be generated from sources located within a Unit or the Common Elements including heating and air conditioning equipment, pump rooms, other mechanical equipment, dogs barking and the playing of certain kinds of music. The equipment, plumbing and concrete, tile, and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise and vibrations to another Unit, and such noise and vibrations shall not constitute a use of a Unit that interferes with or causes disruption to the use and quiet enjoyment of another Unit by its respective Owner and/or Resident.

NOT SOUNDPROOF

The Units are not soundproof. Noise transmission between adjoining Units will occur.

4.17 **Urban Environment.** The Property is located in an urban environment. Land adjacent or near the Property may currently contain, or may be developed to contain in the future, residential and commercial uses. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking loudly, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in an urban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living.

4.18 **Unit Plans and Dimensions.** Any advertising materials, brochures, renderings, drawings, and the like, furnished by Declarant to Owner which purport to depict the Unit to be constructed or any portion thereof, are merely approximations and do not necessarily reflect the actual as-built conditions of the same. Room dimensions, Unit size and elevations may vary due to the nature of the construction process and site conditions. If the Owner is concerned about any representations regarding room dimensions, Unit size and elevations, the Owner should conduct its own investigation of such matters prior to contracting for the purchase of a Unit.

4.19 **Unit Systems.** No representations are made that the systems in the Unit including, by way of example only, heating and air conditioning and electrical systems will operate or perform at a level or standard greater than the minimum specifications of the manufacturer. In addition, the performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Unit in relation to the sun. Declarant has no obligation other than to install a heating and cooling system in the Units which has been sized and designed based on industry standards for the type and size of a particular Unit to be constructed.

4.20 **Upgrades.** The cost of upgrades may not necessarily result in a commensurate increase in the value of a particular Unit.

4.21 **Location of Utilities.** Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

4.22 **Wood.** Natural wood has considerable variation due to its organic nature. There may be shades of white, red, black or even green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination. Wood floors may require more maintenance than some man made materials. Owners of Units with wood floors should educate themselves about wood floor care.

4.23 **Stone.** Veins and colors of any marble, slate or other stone in the Unit, if any, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, granite, slate and other stone and it is the Owner's responsibility to properly maintain these materials. Marble, granite and other stone surfaces may scratch, chip or stain easily. Such substances, as part of their desirable noise attenuating properties, may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

4.24 **Concrete.** Minor cracks in poured concrete, including foundations, garage floors, sidewalks, driveways and porches, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of the building. Such minor cracking in poured concrete may not warrant repair.

4.25 **Chemicals.** The Buildings and Units contain products that have water, powders, solids and industrial chemicals, used in construction. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Declarant is not responsible for any illness or allergic reactions that a person may experience as a result of mold, mildew, fungus

or spores. It is the responsibility of the Owner and/or Resident to keep the Unit clean, dry, well ventilated and free of contamination.

4.26 **Paint.** Due to the large quantity of paint used in the Buildings and Units, Owner should be aware that slight variations in paint shade may exist. Due to the properties within today's paints, Owner should expect paint to yellow or fade with time. This is a normal occurrence and is neither a construction defect nor a warrantable item. Avoid washing or scrubbing painted walls. Lightly soiled areas may be cleaned using a sponge with water and lightly wiping over the soiled areas.

4.27 **Fixtures.** Certain materials used for fixtures in the Unit (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are subject to discoloration and/or corrosion over time. This is a normal occurrence and this is neither a construction defect nor a warrantable item.

4.28 **Marketing.** Declarant's use of a sales center and/or model Units or reference to other construction by Declarant is intended only to demonstrate the quality of possible finish details, the basic floor plans and styles of Units available for purchase. The Unit may not conform to any model Unit in any respect, or contain some or all of the amenities featured, such as furnishings and appliances. Likewise, any model Unit is intended only to demonstrate the size and basic architectural features of the project. The project or an individual Unit may not conform to the models displayed by Declarant. Declarant may have shown prospective purchasers model homes, floorplans, sketches, drawings, and scale models of Units or the project (collectively "**Promotional Aids**"). Owner understands and agrees that the Promotional Aids are conceptual, subject to change, for display purposes only, and may not be incorporated into the Project or a Unit. Declarant retains the right to obtain and use photography of the Property (including a Unit) for publication and advertising purposes.

4.29 **Driveways and Parking Areas.** The streets located outside the Property are public streets and maintained by applicable governmental authorities. Driveways and parking areas within the Property are private.

4.30 **Rules and Regulations.** By acquiring a Unit in the Regime, each Owner acknowledges and agrees that use of the parking areas or driveways will be subject to all applicable Rules. The Association, acting through the Board has the express authority to adopt, amend, repeal, and enforce Rules for use of driveways and parking areas, including but not limited to:

- (i) Identification of vehicles used by Owners and Residents and their guests.
- (ii) Designation of no-parking areas, and loading/unloading zones.
- (iii) Limitations or prohibitions on driveway parking.
- (iv) Removal or prohibition of vehicles that violate applicable Rules.

- (v) Fines for violations of applicable Rules.

ARTICLE V.

UNITS; LIMITED COMMON ELEMENTS & ALLOCATIONS

5.1 **Submitted Units and Maximum Number of Units.** The Regime consists of twenty-four (24) Units and the maximum number of Units in the Regime is twenty-four (24). No assurance is given as to the dispersion of new Units, total number of new Units, or size of such Units.

5.2 **Unit Boundaries.** The boundaries and identifying number of each Unit are shown on the Plat and Plans attached as **Exhibit "A"**. The boundaries are further described as follows:

5.2.1 **Lower Boundary of Unit.** The top surface of the concrete slab foundation is the horizontal plane defining the Unit's lower boundary. The actual concrete slab foundation is a General Common Element. Anything on or affixed to the top of the foundation is part of the Unit.

5.2.2 **Upper Boundary of Unit.** The bottom or inside surface of the roof sheathing is the horizontal plane defining the Unit's upper boundary.

5.2.3 **Lateral Boundaries – Exterior Walls of Unit.** On perimeter walls, the Unit's lateral boundaries are the planes defined by the inside-facing surfaces of the material comprising the outermost component of the exterior wall and by the outside-facing surfaces of the outermost component of doors and windows in the perimeter walls. For example, if the outermost material is stone veneer, the Unit extends to the inside-facing surface of the stone veneer, and includes the entire wall cavity. All doors and windows servicing a single Unit are part of that Unit.

5.2.4 **Lateral Boundaries – Interior Walls of Unit.** If a Unit is attached to another Unit (i.e., walls between 2 units), then the Unit's lateral boundaries are the planes defined by the midpoints of the interior wall. The Unit on each side of an interior wall extends to the middle of the interior wall.

5.2.5 **Garages.** Any garage that is attached to a Unit is part of that Unit.

5.2.6 **Balconies and Patios.** Any balcony, patio, porch or deck that is attached to the living area of a Unit and which is accessed via the Unit's living area is part of the Unit unless assigned as LCE on the Plat and Plans. The boundaries of the balcony, patio or deck portion of a Unit are the outermost construction materials of the walls, floors, railings, and ceilings (if any) of the balcony, patio, porch or deck area, including, for example, wood decking, wood siding, stucco walls, metal railings, and fabric awnings.

NOTICE

The individually owned Units created by this Declaration include some portions of the building outside of the traditional air-conditioned living areas. For example, the garage, attic area, firebox and fireplace flue (if any), wall cavities, windows, doors, and some components of the roof and exterior walls are included within the Unit's boundaries.

5.3 What a Unit Includes. Each Unit includes the spaces and Improvements within the above-described vertical and horizontal boundaries, including without limitation, any windows, window screens and frames, exterior doors and door hardware, garage and garage door, attic area, firebox and fireplace flue (if any). Each Unit also includes improvements, fixtures, and equipment serving the Unit exclusively, whether located inside or outside the Unit, whether or not attached to or contiguous with the Unit, including but not limited to, the following (if any): chimneys, water heaters, solar systems, air conditioners, utility meters, fuse boxes, electrical switches, wiring, pipes, ducts, conduits, smoke detectors, security systems, television antennas, lighting fixtures, telephone and electrical receptacles, and skylights.

5.3.1 Exclusions. Except as specifically included above, each Unit excludes the spaces and improvements lying outside of the vertical and horizontal boundaries. Each Unit also excludes any chute, pipe, flue, duct, wire, or conduit running through a Unit for the purpose of furnishing utility and similar services to other Units and/or Common Elements.

5.3.2 Inconsistency with Plans. If the foregoing description of Unit boundaries is inconsistent with the Plat and Plans, then this Section will control.

5.3.3 Representations of Size. The space contained within the Unit's vertical and horizontal boundaries is not related to the size of the Unit's living areas. Similarly, the Units are initially marketed on the basis of a limited number of representational floorplans, each of which is marked with a rounded and estimated size of air-conditioned space, taken from pre-construction architectural drawings. Those marketing sizes may vary from the size of the actual space contained within the Unit's vertical and horizontal boundaries and the actual area contained within the air conditioned space of the Unit.

SIZE OF UNIT

The size of a Unit may be measured different ways for different purposes, such as for tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under roof, or the air conditioned space, or the area within the Unit's legal boundaries. The Unit's partition wall cavities and/or its perimeter wall cavities may or may not be included. The Unit's garage area, attic area, front porch, and/or balcony space, if any, may or may not be included.

5.4 **Initial Designations of Limits Common Elements.** The following portions of the Common Elements are Limited Common Elements assigned to the Units.

5.4.1 **Shown on Plat and Plans.** Portions of the Common Elements may be allocated as Limited Common Elements on the Plat and Plans, attached hereto as **Exhibit "A"**, by use of "LCE" and the identifying number of the Unit to which the Limited Common Element is appurtenant, or by use of a comparable method of designation.

5.4.2 **Established by Declaration.** Portions of the Common Elements are designated as Limited Common Elements pursuant to the terms of the Declaration.

5.5 **Subsequent Allocation of Limited Common Elements.** A Common Element not allocated by this Declaration as a Limited Common Element may be so allocated only in accordance with the Act or the provisions of this Declaration. Declarant has reserved the right as set forth in **Appendix "A"** of this Declaration, to create and assign Limited Common Elements within the Property.

5.6 **Common Interest Allocation.** The percentage of interest in the Common Elements (the "**Common Interest Allocation**") is allocated to each Unit is set forth on **Exhibit "B"**. The Common Interest Allocation set forth on **Exhibit "B"** has been assigned to each Unit in accordance with a ratio of the square footage of each Unit to the total square footage of all Units. The same formula is to be used in the event the Common Interest Allocation is reallocated as a result of any increase or decrease in the number of Units subject to this Declaration. In the event an amendment or notice of annexation to this Declaration is filed which reallocates the Common Interest Allocation as a result of any increase or decrease in the number of Units, the reallocation will be effective on the date such amendment or notice of annexation is Recorded.

5.7 **Common Expense Liability.** The percentage of liability for Common Expenses assigned to each Unit and levied pursuant to *Article 5* is equal to the Common Interest Allocation assigned to each Unit in accordance with *Section 5.6*. The percentage of liability for common expenses allocated to each Unit and levied pursuant to *Article 6* is equivalent to the Common Interest Allocation assigned to the Unit.

5.8 **Votes.** One (1) vote is allocated to each Unit. The one vote appurtenant to each Unit is weighted equally for all votes, regardless of the other allocations appurtenant to the Unit. In other words, the one vote appurtenant to each Unit is uniform and equal to the vote appurtenant to every other Unit.

ARTICLE VI.

COVENANT FOR ASSESSMENTS

6.1 **Purpose of Assessments.** The Association will use Assessments for the general purposes of preserving and enhancing the Regime, and for the benefit of Owners and Residents, including but not limited to maintenance of the Regime management, and operation of the Association, and any expense reasonably related to the purposes for which the Property was

developed. If made in good faith, the Board's decision with respect to the use of Assessments is final.

6.2 **Personal Obligation.** An Owner is obligated to pay Assessments levied by the Board against the Owner or the Owner's Unit. Payments are made 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 the Documents pertain. No Owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the Common Elements or by abandonment of his Unit. An Owner's obligation for Assessments is not subject to offset by the Owner, nor is it contingent on the Association's performance or lack thereof. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Unit.

6.3 **Types of Assessments.** There are five (5) types of Assessments: Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments.

6.4 **Regular Assessments.**

6.4.1 **Purpose of Regular Assessments.** Regular assessments are used for common expenses related to the recurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- (i) Maintenance, repair, and replacement, as necessary, of the Common Elements, and Improvements, equipment, signage, and property owned by the Association.
- (ii) Maintenance examination and report, as required by *Article 9*.
- (iii) Utilities billed to the Association.
- (iv) Pest control and other services obtained by the Association.
- (v) Taxes on property owned by the Association and the Association's income taxes.
- (vi) Management, legal, accounting, auditing, and professional fees for services to the Association.
- (vii) Services obtained by the Association and available to or provided to all Units, including Landscape Services.
- (viii) Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.

- (ix) Insurance premiums and deductibles.
- (x) Contributions to the reserves.
- (xi) Any other expense which the Association is required by Applicable Law or the Documents to pay, or which in the opinion of the Board, is necessary or proper for the operation and maintenance of the Regime or for enforcement of the Documents.

6.4.2 Annual Budget – Regular Assessments. The Board will prepare and approve an annual budget with the estimated expenses to be incurred by the Association for each fiscal year. The budget will take into account the estimated income and common expenses of the Association for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or a summary of the budget available to the Owner of each Unit, although failure to receive a budget or budget summary will not affect an Owner's liability for Assessments. The Board will provide copies of the budget to Owners who make written request and pay a reasonable copy charge.

6.4.3 Basis of Regular Assessments. The Board will prepare and approve an annual budget with the estimated expenses to be incurred by the Association for each fiscal year. The budget will take into account the estimated income and common expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or a summary of the budget available to the Owner of each Unit, although failure to receive a budget or budget summary will not affect an Owner's liability for Assessments. The Board will provide copies of the budget to Owners who make written request and pay a reasonable copy charge.

6.4.4 Supplemental Increases. If during the course of a year the Board determines that Regular Assessments are insufficient to cover the estimated common expenses of the Association 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. Supplemental increases will be apportioned among the Units in the same manner as Regular Assessments.

6.5 Special Assessments. The Board may levy one or more Special Assessments against all Units for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special Assessments may be used for the same purposes as Regular Assessments. Special Assessments do not require the approval of the Owners, except that Special Assessments for the following purposes must be approved by Owner's representing at least a Majority of the votes in the Association: Special Assessments will be apportioned among the Units in the same manner as Regular Assessments.

6.6 Utility Assessments. This Section applies to utilities serving the individual Units and consumed by the Residents that are billed to the Association by the utility provider, and

which may or may not be submetered by or through the Association. In addition to Regular Assessments, the Board may levy a Utility Assessment against each Unit. If the Units are submetered for consumption of a utility, the Utility Assessment will be based on the submeter reading. If the Units are not submetered, the Board may allocate the Association's utility charges among the Units by any conventional method for similar types of properties. The levy of a Utility Assessment may include a share of the utilities for the Common Elements (charges for utilities serving the Common Elements may be included in Regular Assessments), as well as administrative and processing fees, and an allocation of any other charges that are typically incurred in connection with utility or submetering services. The Board may, from time to time, change the method allocation, provided the same type of method or combination of methods is used for all Units.

6.7 **Individual Assessments.** The Board may levy an Individual Assessment against an Owner and the Owner's Unit. Individual Assessments may include, but are not limited to: (i) interest, late charges, and collection costs on delinquent Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner's Unit into compliance with the Documents; (iii) fines for violations of the Documents; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and copies of the Documents; (vi) insurance deductibles; (vii) reimbursement for damage or waste caused by willful or negligent acts of the Owner, Resident, or their agents; (viii) Common Expenses that benefit fewer than all of the Units, which may be assessed according to benefit received as reasonably determined by the Board; (ix) fees or charges levied against the Association on a per-Unit basis; and (x) "pass through" expenses for services to Units provided through the Association and to be paid by each Unit according to benefit received as reasonably determined by the Board.

6.8 **Deficiency Assessments.** The Board may levy a Deficiency Assessment against the Units for the purpose of defraying, in whole or in part, the cost maintenance, repair, and replacement, as necessary, performed by the Association or its permittees if insurance proceeds or condemnation awards prove insufficient. Deficiency Assessments will be apportioned among the Units in the same manner as Regular Assessments.

6.9 **Working Capital Fund.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner, and transfers from one Owner to a subsequent Owner), a working capital fee in an amount equal to two (2) months of Regular Assessments will be paid by the transferee of the Unit to the Association for the Association's working capital fund. Upon termination of the Development Period (and only at such time), the Board will be permitted to modify any working capital fund assessment payable on the transfer of a Unit. Each working capital contribution will be collected upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers will not be subject to the working capital contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent; (iv) any grantee who is the domestic partner or former spouse of the grantor; (v) any grantee that is a

wholly owned entity of the grantor; and (vi) any grantee to whom a Unit is conveyed by a will or through the law of intestacy. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Declarant may not use working capital fees collected hereunder to pay the operational expenses of the Association until the Declarant Control Period terminates. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any working capital fund contribution attributable to a Unit (or all Units) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

6.10 **Reserve Fund Contribution.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner and transfers from one Owner to a subsequent Owner), a fee equal to two (2) months of Regular Assessments will be paid by the transferee of the Unit to the Association for the Association's replacement reserve funds. Upon termination of the Development Period (and only at such time), the Board will be permitted to modify any reserve fund assessment payable on the transfer of a Unit. Each reserve fund contribution will be collected from the transferee of the Unit upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers will not be subject to the reserve fund contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent; (iv) a grantee who is the domestic partner or former spouse of the grantor; (v) any grantee that is a wholly owned entity of the grantor; and (vi) any grantee to whom a Unit is conveyed by a will or through the law of intestacy. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Declarant may not use the reserve fund contribution collected hereunder to pay the operational expenses of the Association until the Declarant Control Period terminates. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any reserve fund contribution attributable to a Unit (or all Units) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

6.11 **Due Date.** Regular Assessments are due annually, with monthly installments of the total annual Regular Assessments to be paid on the first calendar day of each month or on such other date or frequency as the Board may designate in its sole and absolute discretion, and are delinquent if not received by the Association on or before such date. Utility, Special, Individual, and Deficiency Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within ten (10) days after notice of the Utility, Special, Individual, or Deficiency Assessment is given.

6.12 **Reserve Funds.** The Association may maintain reserves for operations at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including deductibles on insurance policies maintained by the Association. The Association will maintain replacement and repair reserves at a level that

anticipates the scheduled replacement or major repair of components of the General Common Elements.

6.13 **Declarant's Right To Inspect And Correct Accounts.** For a period of ten (10) years after termination or expiration 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 financial records and accounts established during 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 re characterize an expense or payment to conform to Declarant's obligations under the Documents or Applicable Law. This Section may not be construed to create a duty for Declarant or a right for the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant a right of access to the Association's books and records that is independent of Declarant's rights during the Declarant Control Period and Development Period.

6.14 **Association's Right to Borrow Money.** The Association is granted the right to borrow money, subject to the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, or pledge 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.

6.15 **Limitations of Interest.** The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the Applicable Law. Notwithstanding anything to the contrary in the 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 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 Applicable Law, the excess amount will be applied to the reduction of Assessments, or reimbursed to the Owner if those Assessments are paid in full.

6.16 **Audited Financial Statements.** The Association shall have an audited financial statement for the preceding full fiscal year of the Association prepared and made available within one hundred and twenty (120) days after the Association's fiscal year-end.

ARTICLE VII.

ASSESSMENT LIEN

7.1 **Assessment Lien.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and

Deficiency Assessments to the Association. Each Assessment is a charge on the Unit and is secured by a continuing lien on the Unit. Each Owner, and each prospective Owner, is placed on notice that title to such Owner's Unit may be subject to the continuing lien for Assessments attributable to a period prior to the date the Owner purchased its Unit. An express lien on each Unit is hereby granted and conveyed by Declarant to the Association to secure the payment of Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments.

7.2 Superiority of Assessment Lien. The Assessment lien is superior to all other liens and encumbrances on a Unit, except only for: (i) real property taxes and assessments levied by governmental and taxing authorities; (ii) a Recorded deed of trust lien securing a loan for construction or acquisition of Improvements upon the original Unit; (iii) a deed of trust or vendor's lien Recorded before this Declaration; or (iv) a first or senior purchase money vendor's lien or deed of trust lien Recorded before the date on which the delinquent Assessment became due. The Assessment lien is superior to any Recorded assignment of the rights to insurance proceeds on the Unit, unless the assignment is part of a superior deed of trust lien.

7.3 Effect of Mortgage's Foreclosure. Foreclosure of a superior lien extinguishes the Association's claim against the Unit for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for Assessments coming due from and after the date of the sale.

**IF YOU FAIL TO PAY ASSESSMENTS TO THE ASSOCIATION, YOU MAY
LOSE TITLE TO YOUR UNIT IF THE ASSOCIATION FORECLOSES ITS
ASSESSMENT LIEN AGAINST YOUR UNIT.**

7.4 Notice and Release of Notice. The Association's lien established hereby for Assessments 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 is required. However, in the exercise of its lien rights, the Association may, at its option, cause a notice of the lien to be Recorded. Each lien filed by the Association must be prepared and filed by an attorney licensed to practice law in the State of Texas. If the debt is cured after a notice has been Recorded, the Association will Record a release of the notice at the expense of the curing Owner. The Association may require reimbursement of its costs of preparing and Recording the notice before granting the release.

7.5 Power of Sale. By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of sale in connection with its 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. Any such appointment must be in writing and may be in the form of a resolution duly adopted by the Board.

7.6 **Foreclosure of Lien.** The Assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure 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 Applicable Law. In any foreclosure, the Owner will be required to pay all costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at a foreclosure sale initiated by it and to acquire, hold, lease, mortgage, and convey same.

ARTICLE VIII. **EFFECT OF NONPAYMENT OF ASSESSMENTS**

8.1 **Generally.** An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Association, acting through the Board, is responsible for taking action to collect all delinquent Assessments. From time to time, the Association may delegate some or all of its collection procedures and remedies, as it in its sole discretion deems appropriate, to a manager, an attorney, or a debt collector. Neither the Association nor the Board, 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 may have pursuant to the Documents or Applicable Law.

8.2 **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 the lesser of eighteen percent (18%) per annum or the maximum permitted by law. If the Board fails to establish a rate, the rate is ten percent (10%) per annum.

8.3 **Late Fees.** Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the Board.

8.4 **Collection Expenses.** The Owner of a Unit 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.

8.5 **Acceleration.** If an Owner defaults in paying an Assessment that is payable in installments, the Association may accelerate the remaining installments on ten (10) days' written notice to the defaulting Owner. The entire unpaid balance of the Assessment becomes due on the date stated in the notice.

8.6 **Suspension of Vote.** Subject to the below-described limitations and Applicable Law, if an Owner's account has been delinquent for at least thirty (30) days, the Association may suspend the right to vote appurtenant to the Unit during the period of delinquency. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay Assessments. When the Association suspends an Owner's right to vote, the suspended Owner may nevertheless participate as a Member of the Association for the following activities: (i) be counted towards a

quorum; (ii) attend meetings of the Association; (iii) participate in discussion at Association meetings; (iv) be counted as a petitioner for a special meeting of the Association; and (v) vote to remove a Director and for the replacement of the removed Director. If the number of suspended Members exceeds 20 percent of the total Members (Co-Owners of a Unit constituting one member), all Members are eligible to vote. These limitations are imposed to prevent a Board from disenfranchising a large segment of the membership and to preserve the membership's right to remove and replace Directors.

8.7 **Assignment Of Rents.** Every Owner hereby grants to the Association a continuing assignment of rents to secure the payment of assessments to the Association. If a Unit's account become delinquent during a period in which the Unit is leased, the Association may direct the tenant to deliver rent to the Association for application to the delinquent account, provided the Association gives the Owner notice of the delinquency, a reasonable opportunity to cure the debt, and notice of the Owner's right to a hearing before the Board. The Association must account for all monies received from a tenant and must remit to the Owner any rents received in excess of the past-due amount. A tenant's delivery of rent to the Association under the authority hereby granted is not a breach of the tenant's lease with the Owner and does not subject the tenant to penalties from the Owner.

8.8 **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 lien for Assessments.

8.9 **Notice to Mortgagee.** The Association may notify and communicate with any holder of a lien against a Unit regarding the Owner's default in the payment of Assessments.

8.10 **Application of Payments.** The Association may adopt and amend policies regarding the application of payments. After the Association notifies the Owner of a delinquency, any payment received by the Association may be applied in the following order: Individual Assessments, Deficiency Assessments, Special Assessments, Utility Assessments, and (lastly) Regular Assessments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the Owner attaches conditions or directions contrary to the Association's policy for applying payments. The policies of the Association's may provide that endorsement and deposit of a payment does not constitute acceptance, and that acceptance occurs when payment is posted to the Owner's account.

ARTICLE IX.

MAINTENANCE AND REPAIR OBLIGATIONS

9.1 **Overview.** Generally, the Association maintains the Common Elements, and the Owner maintains the Owner's Unit. If any Owner fails to maintain its Unit, the Association may perform the work at the Owner's expense. The respective maintenance obligations of the Association and each Owner are set forth in this *Article 9* and are summarized on Exhibit F;

however, to the extent of any conflict between the provisions of this *Article 9* and the summary set forth on Exhibit F, the provisions of this *Article 9* will control.

9.2 **Association Maintains.** The Association's maintenance obligations will be discharged when and how the Board deems appropriate. Except as otherwise provided herein, the Association maintains, repairs and replaces, as a common expense, all General and Limited Common Elements, including the exterior materials of the buildings, including (if any) roof systems, foundations, sealants and fillers, and exterior wall materials, such as stone veneer, stucco, or siding. Notwithstanding the foregoing, or any provision in this Declaration to the contrary, in the event that a provision of the Documents allocates to any party other than the Association the responsibility for maintaining any General or Limited Common Elements, the Association will nonetheless be entitled (but not obligated) to assume the responsibility for maintaining such General or Limited Common Elements. The Association also maintains, as a common expense, any component of a Unit delegated to the Association by this Declaration.

9.3 **Inspection Obligations.**

9.3.1 **Contract for Services.** In addition to the Association's maintenance obligations set forth in this Declaration, the Association may contract with or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Regime.

9.3.2 **Schedule of Inspections.** Inspections will take place in accordance with prudent business practices. A Guide to Association's Examination of Common Elements is attached to this Declaration as Exhibit C. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board shall report the contents of such written reports to the Members of the Association at the next meeting of the Members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of the Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

9.3.3 **Notice to Declarant.** During the Development Period, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

9.3.4 **Limitation.** The provisions of this Section shall not apply during the Declarant Control Period unless otherwise directed by the Declarant.

9.4 **Owner Responsibility.** Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:

- (i) To maintain, repair, and replace the Owner's Unit and any and all Limited Common Elements assigned *exclusively* thereto, except for components expressly assigned to the Association by this Declaration.
- (ii) The routine cleaning of any balcony, patio, porch, or deck area of the Owner's Unit or within LCE assigned exclusively to an Owner's Unit and the routine cleaning of any Yard Area assigned to a Unit, keeping the same in a neat, clean, odorless, orderly, and attractive condition.
- (iii) To maintain, repair, and replace all portions of the Property for which the Owner is responsible under this Declaration or by agreement with the Association.
- (iv) To 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 thereof, or impair any easement or real property right thereto.
- (v) To be responsible for such Owner's own willful or negligent acts and those of the Owner or the Resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of Common Elements, the property of another Owner, or any component of the Property for which the Association has maintenance or insurance responsibility.

9.5 **Disputes.** If a dispute arises regarding the allocation of maintenance responsibilities by the Documents, the dispute will be resolved by the Board. Unit maintenance responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this Article that all components and areas not expressly delegated to the Association are the responsibility of the individual Owners.

9.6 **Sheetrock.** Notwithstanding anything to the contrary in the Documents, the Association is not responsible for the repair and replacement of sheetrock in any Unit, or for any surface treatments on the sheetrock, regardless of the source of damage and the availability of insurance. This provision is provided for the benefit of the Association and is warranted by the difficulty of scheduling interior sheetrock work and the possibility that the Owner may not be satisfied with the quality or appearance of spot repairs. If the Association receives insurance proceeds for sheetrock damage to a Unit and chooses to not perform the repairs, the Owner of the damaged Unit is entitled to the proceeds in exchange for written confirmation of the damage and a release from future claims for such damage.

9.7 **Mold.** In the era in which this Declaration is written, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. This Section addresses that environment. For more information about mold and mold prevention, an Owner should consult a reliable source, such as the U.S. Environmental Protection Agency.

9.7.1 **Owner's Duties.** To reduce the risks associated with concentrations of mold, Owners should be proactive in preventing circumstances conducive to mold, identifying mold, and eliminating mold. Towards that end, each Owner is responsible for:

- (i) regularly inspecting the Unit for evidence of water leaks or penetrations or other conditions which may lead to mold growth;
- (ii) repairing promptly any water leaks, breaks, or malfunctions of any kind in the Unit that may cause damage to another Unit or Common Element;
- (iii) regularly inspecting the entire Unit for visible surface mold and promptly removing same using appropriate procedures; and
- (iv) reporting promptly to the Association any water leak, penetration, break, or malfunction in any portion of the Unit or any adjacent Common Elements for which the Association may have maintenance responsibility.

9.7.2 **Insurance.** Many insurance policies do not cover damages related to mold. The Association is not required to maintain insurance coverage applicable to mold damage with respect to any Unit, and may not have obtained such coverage. Accordingly, an Owner who wants insurance coverage with respect to mold and mold-related damages is advised to separately purchase such insurance coverage.

9.8 **Balconies and Patios.** Except for routine cleaning, which is the Owner's responsibility pursuant to *Section 9.4*, the Association is responsible for the maintenance, repair, and replacement of balconies and patios (if any) which are part of a Unit or assigned to a Unit as Limited Common Element exclusive to a Unit; provided that the Association's duty to maintain balconies and patios does not extend to repairing or replacing cosmetic scratches, cracking, chipping or staining located on the balcony, porch, or patio floor. If the outside components of the Unit are most easily accessed through the Unit, the Owner will cooperate in providing access to the outside components for the Association's agents and contractors. If requested by the Association, the Owner will remove all personal property from the outside components of the Unit to facilitate the required maintenance, repair, or replacement. The Owner is liable to the Association for any additional expense incurred by the Association due to an Owner's failure or refusal to cooperate with reasonable requests for access or removal. This Section may not be construed to prevent an Owner at the Owner's sole expense, without right of reimbursement from the Association, from maintaining, repairing, and replacing components of the Unit's balcony, porch, or patio (if any), subject to compliance with *Article 10* below.

9.9 **Warranty Claims.** If the Owner is the beneficiary of a warranty against defects of the Common Elements, the Owner irrevocably appoints the Association, acting through the Board, as his attorney-in-fact to file, negotiate, receive, administer, and distribute the proceeds of any claim against the warranty that pertains to Common Elements.

9.10 **Owner's Default In Maintenance.** If the Board determines that an Owner has failed to properly discharge such Owner's 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 the 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 the Owner's expense, which will be considered an Individual Assessment against the Owner and the Owner's Unit. 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 such action being the Owner's expense.

ARTICLE X.

ARCHITECTURAL COVENANTS AND CONTROL

10.1 **Purpose.** Because the Units are part of a single, unified community, the Architectural Reviewer has the right to regulate the appearance of all Improvements in order to preserve and enhance the Property's value and architectural harmony. The Architectural Reviewer has the right to regulate every aspect of proposed or existing Improvements on the Property, including replacements or modifications of original construction or installation. During the Development Period, primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

10.2 **Architectural Reviewer.** Until expiration or termination of the Development Period, the Architectural Reviewer shall mean Declarant or its designee. Upon expiration of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Board or a committee appointed by the Board.

Architectural Control by Declarant.

10.3.1 **Declarant as Architectural Reviewer.** During the Development Period, the Architectural Reviewer shall mean Declarant or its designee, and neither the Association or the Board, nor a committee appointed by the Association or the Board (no matter how the committee is named) may involve itself with the review and approval of any Improvements. Declarant may designate one or more Persons from time to time to act on its behalf as Architectural Reviewer in reviewing and responding to applications pursuant to this Article.

10.3.2 **Declarant's Rights Reserved.** Each Owner, by accepting an interest in or title to a Unit, 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 Units in the Regime or in Declarant's other developments. Accordingly, each Owner agrees that during the Development Period, no Improvements will be started or progressed without the prior written approval of the Architectural Reviewer, which approval may be granted or withheld at the Architectural Reviewer's sole discretion. In reviewing and acting on an application for approval, the Architectural Reviewer may act solely in its self-interest and owes no duty to any other Person or any organization.

10.3.3 Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its rights as Architectural Reviewer to the Board or a committee appointed by the Board comprised of Persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral right of Declarant to: (a) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (b) veto any decision which Declarant, in its sole discretion, determines to be inappropriate or inadvisable for any reason.

UNTIL THE EXPIRATION OF THE DEVELOPMENT PERIOD. ONLY THE DECLARANT HAS THE AUTHORITY TO MAKE DECISIONS REGARDING ARCHITECTURAL CONTROL IN THE ASSOCIATION - INCLUDING ALL TASTE, DESIGN AND STANDARDS.

10.4 Architectural Control by Association. Upon Declarant's delegation, in writing, of all or a portion of its reserved rights as Architectural Reviewer to the Board, or upon the expiration or termination of the Development Period, the Association will assume jurisdiction over architectural control and will have the powers of the Architectural Reviewer hereunder and the Board, or a committee appointed by the Board, is the Architectural Reviewer and shall exercise all architectural control over the Property.

10.5 Limits on Liability Neither the Declarant, nor the Board, or their directors, officers, committee members, employees or agents will have any liability for decisions made as Architectural Reviewer in good faith, and which are not arbitrary or capricious. Neither the Declarant, nor the Board, or their directors, officers, committee members, employees or agents are responsible for: (i) errors in or omissions from the plans and specifications submitted to the Board; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws. Approval of a modification or Improvement may not be deemed to constitute a waiver of the right to withhold approval of similar proposals, plans or specifications that are subsequently submitted.

10.6 **Prohibition of Construction, Alteration and Improvement.** Without the Architectural Reviewer's prior written approval, no Person may commence or continue any construction, alteration, addition, Improvement, installation, modification, redecoration, or reconstruction of or to the Property, or do anything that affects the appearance, use, or structural integrity of the Property.

**YOU CANNOT CHANGE THE EXTERIOR OF ANY IMPROVEMENTS
WITHIN YOUR UNIT UNLESS YOU HAVE THE SIGNED CONSENT OF
THE ARCHITECTURAL REVIEWER.**

10.7 **No Deemed or Verbal Approval.** Approval by the Architectural Reviewer may not be deemed, construed, or implied from an action, a lack of action, or a verbal statement by the Declarant, Declarant's representative or designee or the Association, an Association director or officer, a member or chair of the Declarant or Board-appointed architectural control committee, the Association's manager, or any other representative of the Association. To be valid, approval of the Architectural Reviewer must be: (i) in writing; (ii) on a form or letterhead issued by the Architectural Reviewer; (iii) signed and dated by a duly authorized representative of the Architectural Reviewer, designated for that purpose; (iv) specific to a Unit; and (v) accompanied by detailed plans and specifications showing the proposed change. If the Architectural Reviewer fails to respond in writing - negatively, affirmatively, or requesting information - within sixty (60) days after the Architectural Reviewer's actual receipt of the Owner's application, **the application is deemed denied. Under no circumstance may approval of the Architectural Reviewer be deemed, implied or presumed.** If the Architectural Reviewer approves a change, the Owner or the Architectural Reviewer may require that the architectural approval be Recorded, with the cost of Recordation borne by the Owner. Architectural Reviewer approval of an architectural change automatically terminates if work on the approved Improvement has not started by the commencement date stated in the Architectural Reviewer's approval and thereafter diligently prosecuted to completion, or, if no commencement date is stated, within ninety (90) days after the date of Architectural Reviewer approval.

10.8 **Application.** To request Architectural Reviewer approval, an Owner must make written application and submit two (2) identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. If the application is for work that requires a building permit from a municipality or other regulatory authority, the Owner must obtain such permit and provide a copy to the Architectural Reviewer in conjunction with the application. The Architectural Reviewer may return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "Submit Additional Information." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Association's files. The Architectural Reviewer has the right, but not the duty, to evaluate every aspect of construction and property use that may alter or adversely affect the general value of appearance of the Property.

10.9 **Owner's Duties.** If the Architectural Reviewer approves an Owner's application, the Owner may proceed with the Improvement, provided:

- (i) The Owner complies with *Section 3.3*.
- (ii) The Owner must adhere strictly to the plans and specifications which accompanied the application.
- (iii) The Owner must initiate, diligently prosecute, and complete the Improvement in a timely manner.
- (iv) If the approved application is for work that requires a building permit from a municipality or other regulatory authority, the Owner must obtain the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that such plans and specifications comply with a municipality or other regulatory authority's requirements. Alternatively, approval by municipality or other regulatory authority does not ensure Architectural Reviewer approval.

ARTICLE XI.

USE RESTRICTIONS

11.1 **Variance.** The use of the Regime is subject to the restrictions contained in this Article, and subject to the Rules. The Declarant may grant a variance or waiver of a restriction or Rule during the Development Period. The Board, with the Declarant's written consent during the Development Period, may grant a variance or waiver of a restriction or Rule on a case by case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing and executed by the Declarant and/or a Majority of the Board, as applicable. The grant of a variance shall not constitute a waiver or estoppel of the right to deny a variance in other circumstances.

11.2 **Association's Right To Promulgate Rules and Amend Community Manual.** The Association, acting through the Board, is granted 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 Association, acting through a Majority of the Board, is further granted the right to amend, repeal, and enforce the Community Manual, setting forth therein such policies governing the Association as the Board determines to be in the best interest of the Association, in its sole and absolute discretion; provided, however, that during the Development Period, any modification, amendment or repeal to the Community Manual or the Rules, and each new policy or Rule, must be approved in advance and in writing by the Declarant.

EVERY RESIDENT MUST COMPLY WITH RULES ADOPTED BY THE BOARD OF DIRECTORS
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11.3 **Rules and Regulations.** In addition to the restrictions contained in this Article, each Unit is owned and occupied subject to the right of the Board to establish Rules, and penalties for infractions thereof, governing:

- (i) Use of Common Elements.
- (ii) Hazardous, illegal, or annoying materials or activities on the Property.
- (iii) The use of Property-wide services provided through the Association.
- (iv) The consumption of utilities billed to the Association.
- (v) The use, maintenance, and appearance of anything visible from the street, Common Elements, or other Units.
- (vi) The occupancy and leasing of Units.
- (vii) Animals.
- (viii) Vehicles.
- (ix) Disposition of trash and control of vermin, termites, and pests.
- (x) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Residents.

11.4 **Ages of Residents.** No person under the age of **18** years may occupy a Unit unless he lives with a Resident who is his spouse, parent, legal guardian, or a designee of his parent or legal guardian. Upon request by the Association, an Owner must provide satisfactory proof of the ages and relationships of the occupants of his Unit.

11.5 **Animals - Household Pets.** Except for fish, there shall be allowed no more than four household pets in a Unit; and *provided, further*, that said pets may consist only of domesticated dogs, cats, fish and/or birds and may not be kept, bred, or maintained for any commercial purpose and not become a nuisance or annoyance to neighbors. All pets must be registered and approved in writing by the Board, which approval may be given or withheld in the sole discretion of the Board. Owners must immediately pick up all solid waste of their pets and dispose of such waste appropriately. All individual pets, including cats, must be leashed at all times when outside a Unit except within the dog park or within fenced Yard Area. Pets may not be kept on a balcony, porch or patio. No reptiles or other forms of wildlife shall be kept in or on the Regime (including Units). Without limiting the generality of this *Section 11.5*, violations of the provisions of this *Section 11.5* will entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Owners and/or to require, through order of the Board, any pet to be permanently removed from the Regime. No one other than an Owner or an Owner's tenant is permitted to keep any pet.

11.6 **Annoyance.** No Unit or Limited Common Element may be used in any way that: (i) may reasonably be considered annoying to neighbors; (ii) may be calculated to reduce the desirability of the Property as a residential neighborhood; (iii) may endanger the health or safety of Residents; (iv) may result in the cancellation of insurance on any portion of the Property; (v) violates any Applicable Law; or (vi) creates noise or odor pollution. The Board has the sole authority to determine what constitutes an annoyance.

11.7 **Appearance.** Both the exterior and the interior of the Units must be maintained in a manner so as not be unsightly when viewed from the street, Common Elements, or neighboring Units. The Board will be the arbitrator of acceptable appearance standards.

11.8 **Declarant Privileges.** In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Owners and Residents, as provided in **Appendix "A"** of this Declaration. Declarant's exercise of a Development Period right that appears to violate a Rule or a Use Restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

11.9 **Drainage.** No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

11.10 **Driveways.** Sidewalks, driveways, and other passageways may not be used for any purpose that interferes with their ongoing use as routes of vehicular or pedestrian access.

11.11 **Fire Safety.** No person may use, misuse, cover, disconnect, tamper with, or modify the fire and safety equipment of the Property, including the sprinkler heads and water lines in and above the ceilings of the Unit (if any), or interfere with the maintenance and/or testing of same by persons authorized by the Association or by public officials.

11.12 **Garages.** The original garage area of a Unit may not be enclosed or used for any purpose that would prohibit the parking of operable vehicles therein, without the Board's written authorization. The automatic garage door opener is to be maintained by the Owner. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

11.13 **Landscaping.** No person other than Declarant may perform landscaping, planting, or gardening anywhere upon the Property without the Board's prior written authorization; provided, however, without Board approval, Owners may place potted plants and/or planter boxes on the balconies, porch, deck area within an Owner's Unit and also within a Unit's Yard Area. Any such potted plants or planter boxes are subject to Rules established by the Association from time to time.

11.14 **Noise and Odor.** A Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely

to disturb or annoy Residents of neighboring Units. The Rules may limit, discourage, or prohibit noise-producing activities and items in the Units and on the Common Element.

11.15 **Occupancy.** The Board may adopt Rules regarding the occupancy of Units. If the Rules fail to establish occupancy standards, no more than 2 persons may occupy a bedroom and no more than 4 persons may occupy a Unit, subject to the exception for familial status. The Association's occupancy standard for Residents who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (*i.e., the fewest people per Unit*) permitted by the U.S. Department of Housing and Urban Development. A person may not occupy a Unit if the person constitutes a direct threat to the health or safety of other persons, or if the person's occupancy would result in substantial physical damage to the property of others.

11.16 **Residential Use.** The use of a Unit is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a Resident from using the Unit for personal business or professional pursuits provided that: (i) the uses are incidental to the use of the Unit as a residential dwelling; (ii) the uses conform to applicable governmental ordinances; (iii) there is no external evidence of the uses; (iv) the uses do not entail visits to the Unit by employees or the public; and (v) the uses do not interfere with Residents' use and enjoyment of neighboring Units. Other than the air conditioned part of a Unit, no thing or structure on the Property may be occupied as residence at any time by any person. This provision applies, without limitation, to the garage.

11.17 **Signs.** No sign of any kind, including signs advertising Units for sale, for rent or for lease, may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Units unless approved in advance by the Architectural Reviewer. Real estate agent signs are expressly prohibited. 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. The Architectural Reviewer may, but is not required to, authorize a sign, and such authorization may specify the location, nature, dimensions, number, and time period of a sign. This prohibition against signs also applies to any object visible from a street or driveway which the Architectural Reviewer or Board deems to be unsightly or inappropriate. The Association may cause the immediate removal of any sign or object that violates this Section or which the Architectural Reviewer or Board deems inconsistent with Property standards without liability for trespass or any other liability connected with the removal. As provided in Appendix A, Declarant has reserved the right to maintain signs and other items on the Property for the purpose of promoting, identifying and marketing the Property and off-site developments of Declarant or its assigns.

Notwithstanding the foregoing, a religious item on the entry door or door frame of a Unit (which may not extend beyond the outer edge of the door frame) is permitted, provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty five (25) square inches.

11.18 Energy Efficient Roofing and Solar Panels. The roof components of each Building located in the Regime are Common Elements and the Owner of a Unit is not authorized to cause to be constructed or replaced any Improvements (including roofing or solar panels) on Common Elements without the advance written consent of the Architectural Reviewer. The Architectural Reviewer will not unreasonably withhold approval of the installation of solar panels above an Owner's Unit (i.e., the roof directly above an Owner's Unit); provided, however that the installation thereof must be performed by a contractor on the Association's approved contractor list and otherwise in accordance with the Architectural Reviewer's policies and conditions for solar panel installations within the Regime. The Association will have no obligation to maintain, repair, or replace any solar panels installed by an Owner, and any such Owner installing solar panels will indemnify the Association and will be responsible for any damage to the Common Elements caused by the installation thereof, including any damage to a Building's roof.

11.19 Rainwater Harvesting Systems. No rain barrel may be installed on any portion of the Common Elements without the advance written approval of the Architectural Reviewer.

11.20 Flag Display and Flagpole Installation. No flag or flagpole may be installed on any portion of the Common Elements without the advance written approval of the Architectural Reviewer.

11.21 Structural Integrity. No person may directly or indirectly impair the structural soundness or integrity of a Building or other Unit, nor do any work or modification that will impair an easement or real property right.

11.22 Antenna. Except as expressly provided below, no exterior radio, television or communications antenna or aerial or satellite dish or disc, nor any solar energy system (collectively, an "**Antenna/Dish**"), shall be erected, maintained, or placed on a Unit without the prior written approval of the Board.

11.22.1 Dishes Over One Meter Prohibited. Unless otherwise approved by the Board, an Antenna/Dish which is over one meter in diameter is prohibited within the Regime.

11.22.2 Notification. An Owner or Resident who wishes to install an Antenna/Dish one meter or less in diameter (a "**Permitted Antenna**") must submit a written notice to the Board or its designee, which notice must include the Owner or Resident's installation plans for the satellite dish.

11.22.3 One Dish Limitation. Unless otherwise approved by the Board, only one Permitted Antenna per Unit is permitted. In the event an acceptable quality signal for video programming or wireless communications cannot be received from one satellite dish, the Owner must provide written notification to the Board or its designee. Upon notification, the Owner will be permitted to install an additional Permitted Antenna if a single Permitted Antenna is not sufficient for the reception of an acceptable quality signal

and the use of an additional Permitted Antenna results in the reception of an acceptable quality signal.

11.22.4 Permitted Installation Locations. An Owner or Resident may erect a Permitted Antenna (after written notification has been provided to the Board or its designee) if the Owner or Resident has an exclusive use area in which to install the antenna. An "exclusive use area" of a Unit is an area in which only the Owner or Resident may enter and use to the exclusion of all other Owners and Residents. Unless otherwise approved by the Board or its designee, the Permitted Antenna must be entirely within the exclusive use area of the Owner's Unit. For example, if a Permitted Antenna is erected on a balcony, the Permitted Antenna may not protrude or extend outside of a balcony. **UNLESS EXPRESSLY APPROVED IN ADVANCE AND IN WRITING BY THE BOARD. NO OWNER MAY INSTALL OR ERECT A SATELLITE DISH ON THE ROOF OR EXTERIOR WALL OF ANY UNIT.**

A Permitted Antenna or the use of a Permitted Antenna may not interfere with satellite or broadcast reception to other Units or the Common Elements, or otherwise be a nuisance to Residents of other Units or to the Association. A Permitted Antenna exists at the sole risk of the Owner and/or occupant of the Unit. The Association does not insure the Permitted Antenna and is not liable to the Owner or any other person for any loss or damage to the Permitted Antenna from any cause. The Owner will defend and indemnify the Association, its directors, officers, and Members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from the Owner's Permitted Antenna. The Board of Directors may determine what constitutes a nuisance to the Association. The Board may, from time to time, modify, amend, or supplement the rules regarding installation and placement of a Permitted Antenna.

11.22.5 Cable. The draping of cable wires on the exteriors of buildings, or the installation of additional conduits are prohibited without the Board's prior written consent.

11.22.6 Prohibited Act. Any other installation pertaining to an Antenna/Dish is prohibited without the prior written consent of the Board.

11.22.7 Association Controls. To the extent permitted by Applicable Law, the Association may adopt and amend reasonable standards for the color, appearance, location, method of installation, maintenance, camouflaging, screening, and use of an Antenna/Dish.

11.23 Vehicles. All vehicles on the Property, whether owned or operated by the Residents or their families and guests, are subject to this Section and any Rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may prohibit any vehicle from which the Board deems to be a nuisance, unsightly, or

inappropriate. The Board may prohibit sales, storage, washing, repairs, or restorations of vehicles on the Property. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the Property. The Association may effect the removal of any vehicle in violation of this Section or the Rules without liability to the owner or operator of the vehicle.

11.24 **Window Treatments.** The Regime is designed to have a uniform window appearance for all the Units. Therefore, the color and condition of all window panes, window screens, and window treatments must conform to standards adopted by the Declarant during the Development Period and thereafter the Board. All window treatments within the Unit, that are visible from the street or another Unit, must be maintained in good condition and must not detract from the appearance of the Property. Declarant during the Development Period and thereafter the Board may require an Owner to change or remove a window treatment, window film, window screen, or window decoration that the Declarant or Board, as applicable, determines to be inappropriate, unattractive, or inconsistent with the Property's window standard. The Declarant or the Board, as applicable, may prohibit the use of certain colors or materials for window treatments.

11.25 **Door Locks.** Owners must allow representatives of the Association and other emergency personnel access to their Units in case of emergencies. In the case of any emergency originating in, or threatening, any Unit, regardless of whether the Owner is present at the time of such emergency, the Board, the manager or any other person authorized by the Board or Manager shall have the right to enter into such Unit for the purpose of remedying or abating the cause of such emergency and such right of entry shall be immediate. To facilitate entry in the event of such an emergency, each Owner, if required by the Board, shall deposit a key to such Owner's Unit with the Board.

11.26 **No Piercing of Walls.** In addition to and without limiting the provisions set forth in *Article 10* of this Declaration, an Owner or other Person authorized by such Owner shall not pierce any of the Unit walls with any type of nail, screw, drill bit or other similar item in excess of 3/4 inch in length without first obtaining the consent of the Architectural Reviewer as set forth in *Article 10*. Additionally, in no event may any Owner breach or alter a firewall.

11.27 **Balconies, Patios, Decks and Yard Area.** No articles other than Board-approved patio-type furniture and suitable plants shall be placed on any balconies, patios, decks, or Yard Area. No linens, cloths, clothing, towels, bathing suits or swimwear, curtains, rugs, mops or laundry of any kind, or other articles, shall be stored, shaken or hung from or on any of the windows, doors, balconies, patios, decks or other portions of the Regime. The Board will have the authority to require an Owner or Resident to remove any article from a window, door, terrace, balcony, porch, patio, deck or Yard Area, if in the sole and exclusive discretion of the Board, the article is unsightly, offensive, or constitutes an annoyance.

11.28 Wireless Internet Systems. A wireless Internet communication network ("**WiFi System**") may be installed or otherwise used in a Unit provided precautions are taken to insure against interfering with, disturbing, or intercepting computer, communications, or other permitted electronic signals, networks, or systems installed in other portions of the Regime. The Association may establish reasonable requirements relating to the installation of WiFi Systems that must be complied with, including, without limitation, requiring assurance from the installation of the system that proper precautions are being taken. Notwithstanding the foregoing, compliance with requirements relating to the installation of WiFi Systems is not a guarantee that any WiFi System installed or otherwise used in a Unit will not interfere with, disturb, or intercept other signals, networks, or systems within the Regime. The Association may require that any WiFi System found to cause such problems be terminated. The Association, Declarant, and their respective current and former partners, members, directors, officers agents employees, affiliates, and committee members, shall not in any way be considered insurers or guarantors of the proper operation or use of any WiFi Systems in the Regime, nor shall the Association, Declarant, and their respective current and former partners, members, directors, officers agents, affiliates, and committee members be held liable for any loss or damage relating to the use or operation of WiFi Systems within the Regime.

11.29 Restriction on Resale of Units During Sales Restriction Period. No Owner shall offer any Unit for sale or advertise or otherwise market or attempt to market a Unit for sale in any way during the Sales Restriction Period. Each Owner agrees that the breach of this provision during the Sales Restriction Period shall entitle Declarant or the Association to exercise the remedy of specific performance or damages against the Owner. This restriction shall not apply to any (i) foreclosure, (ii) conveyances-in-lieu of foreclosure, (iii) exercise of the power of sale by any Mortgagee, or (iv) resales of Units after any of the events set forth in (i) through (iii) above. In addition, this restriction shall not apply to any Mortgagee.

ARTICLE XII.

UNIT LEASING AND RESTRICTION ON MARKETING

12.1 Leasing Generally. In order to preserve the character of the Regime as predominantly Owner-occupied, and to comply with the eligibility requirements for financing in the secondary mortgage market, the leasing of Units shall be governed by the restrictions imposed by this Article. Except as provided herein, the leasing of Units shall be prohibited. "**Leasing**," for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any Person other than the Owner. For purposes hereof, occupancy by (i) a roommate of an Owner who occupies the Unit as such Owner's primary residence; or (ii) Owner's family member or Owner's employee shall not constitute Leasing hereunder.

12.1.1 General. Owners desiring to lease their Units may do so only if they have applied for and received from the Board either a "**Leasing Permit**" or a "**Hardship Leasing Permit.**" Declarant is also expressly permitted to issue a "Leasing

Permit” or a “Hardship Leasing Permit” to a prospective purchaser of a Unit, if such prospective purchaser and the seller thereof have executed a binding contract therefor, provided that, in such event, the “Leasing Permit” or a “Hardship Leasing Permit” (as the case may be) will be effective only after the prospective purchaser has acquired the Unit. Such a permit, upon its issuance, will allow an Owner to lease his or her Unit provided that such Leasing is in strict accordance with the terms of the permit and this Article. The Board shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All Leasing Permits and Hardship Leasing Permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners, but shall be transferable to successors in title to the same Unit.

12.1.2 Leasing Permits. An Owner’s request for a Leasing Permit shall be approved if current, outstanding Leasing Permits have not been issued for more than 49% of the total number of Units (excluding Units owned by Declarant) in the Regime. A Leasing Permit shall be automatically revoked upon the happening of any of the following events: (i) the sale or transfer of the Unit to a third party (excluding sales or transfers to (a) an Owner’s spouse, (b) a Person cohabitating with the Owner, and (c) a corporation, partnership, company, or legal entity in which the Owner is a principal); (ii) the failure of a Unit Owner to lease his or her Unit within 180 days of the Leasing Permit having been issued; (iii) the failure of a Unit Owner to have his or her Unit leased for any consecutive 180 day period thereafter; or (iv) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit. If current Leasing Permits have been issued for more than 49% of the total number of Units (excluding Units owned by Declarant), no additional Leasing Permits shall be issued (except for Hardship Leasing Permits) until the number of outstanding current Leasing Permits falls below 49% of the total number of Units (excluding Units owned by Declarant) in the Regime. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued the same if they so desire when the number of current outstanding Leasing Permits issued falls to 49% or less of the total Units (excluding Units owned by Declarant) in the Regime. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

12.1.3 Hardship Leasing Permits. If the failure to lease will result in a hardship, then the Owner may seek to lease on a hardship basis by applying to the Board for a Hardship Leasing Permit. The Board shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (i) the nature, degree, and likely duration of the hardship, (ii) the harm, if any, which will result to the Regime if the permit is approved, (iii) the number of Hardship Leasing Permits which have been issued to other Owners, (iv) the Owner’s ability to cure the hardship, and (v) whether previous Hardship Leasing Permits have been issued to the Owner. A “hardship” as described herein shall

include, but not be limited to the following situations: (i) a Unit Owner must relocate his or her residence outside the greater Austin metropolitan area and cannot, within six months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (ii) where the Owner dies and the Unit is being administered by his or her estate; and (iii) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit. Hardship Leasing Permits shall be valid for a term not to exceed one year. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a Leasing Permit.

12.2 **Leasing Provisions.** Leasing which is authorized pursuant to a permit granted pursuant to this Article shall be governed by the following provisions:

12.2.1 **Notice.** At least seven days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with this Declaration and any rules and regulations adopted pursuant thereto. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed tenant; the Board's approval or disapproval shall be limited to the form of the proposed lease.

12.2.2 **General.** Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than six months (i.e., a lease continuing on a month-to-month basis after an initial six month period is permitted), except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the tenant and all other people occupying the Unit. The Owner must provide the tenant copies of this Declaration, the Bylaws, and the Rules.

12.2.3 **Liability for Assessments, Use of Common Elements and Compliance with Documents.** Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) Compliance with Documents. The tenant shall comply with all provisions of the Documents and shall control the conduct of all other Residents and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all Residents of his or her Unit to comply with the Documents, and shall be responsible for all violations by such Residents, notwithstanding the fact that such Residents of the Unit are fully liable and may be sanctioned for any such violation. If the tenant, or a Person living with the tenant, violates the Documents or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the tenant, and such fine may be assessed against the tenant in accordance with this Declaration. If the fine is not paid by the tenant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the tenant's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

(ii) Enforcement by Association. Any violation of the Documents by the tenant, any Resident, or any guest of tenant, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the tenant in accordance with Applicable Law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the tenant for breaches resulting from the violation of the Documents, including the power and authority to evict the tenant as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the tenant, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Unit.

(iii) Use of Common Elements. The Owner transfers and assigns to the tenant, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements.

(iv) Liability for Assessment. When a Unit Owner who is leasing his or her Unit fails to pay any Assessment or any other charge against the Unit for a period of more than 30 days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency to the Association, and, upon request by the Board, tenant shall pay to the Association all unpaid Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by tenant. However, tenant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by tenant shall reduce, by the same amount, tenant's obligation to make monthly rental payments to landlord. If tenant fails to comply with the Board's request to pay assessments or other charges, tenant shall pay to the Association all amounts authorized under this Declaration as if tenant were an Owner. The above provision shall not be

construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible

12.3 Owner Occupancy. For purposes of this Article, a Unit is considered "Owner occupied" if at least one Resident of an occupied Unit is an Owner of the Unit or if the Unit is vacant; provided, however, that a Unit being offered for lease may not be considered "Owner occupied" even though the Unit is then-vacant or then-occupied by an Owner. In calculating occupancy, Units are counted uniformly regardless of size.

12.4 Eviction of Tenants. Every lease agreement on a Unit, whether written or oral, express or implied, is subject to and is deemed to include the following provisions:

12.4.1 Violation Constitutes Default. Failure by the tenant or his invitees to comply with the Documents or Applicable Law is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or Applicable Law for the default, including eviction of the tenant, subject to the terms of this Section.

12.4.2 Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Documents by the Association, each Owner appoints the Association as his attorney-in-fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the Documents against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf.

12.4.3 Association Not Liable for Damages. The Owner of a leased Unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenant.

12.5 Exemption. Notwithstanding the above, this Article shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after the expiration of the Development Period), the Association, or the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Such parties shall be permitted to lease a Unit without first obtaining a permit in accordance with this Article, and such Units shall not be considered as being leased in determining the maximum number of Units that may be leased in accordance with this Article.

12.6 **Unit Marketing Restrictions.** Unless otherwise approved in writing and in advance by Declarant, which approval may be withheld in the sole discretion of Declarant, an Owner may in no event offer the Unit for sale, including but, not limited to, listing the Unit or advertising the Unit for sale in any real estate listing service and/or publication, on any online electronic medium and on any newspaper, radio, television or any other medium for advertising, or otherwise market or attempt to market the Unit for sale in any way prior to such time as Owner has acquired fee title to the Unit.

ARTICLE XIII. ASSOCIATION OPERATIONS

13.1 **Board.** Unless the Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the "Association" may be construed to mean "the Association acting through a Majority of its Board of Directors."

13.2 **The Association.** The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a condominium association and 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 Documents. The Association comes into existence on issuance of its corporate charter. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

13.3 **Name.** A name is not the defining feature of the Association. Although the initial name of the Association is Field House Condominium Community, Inc., the Association may operate under any name that is approved by the Board and (1) filed with the Travis County Clerk as an assumed name, or (2) filed with the Secretary of State of Texas as the name of the filing entity. The Association may also change its name by amending the Documents, except no amendment shall be required in the event the corporate charter has been revoked and the name "Field House Condominium Community, Inc." is no longer available. In such event, the Board will cause a notice to be Recorded stating the current name of the Association. 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. The name "Field House Condominiums" is not a trade name.

13.4 **Duration.** The Association was formed on as of the date the Certificate was filed with the Secretary of State of Texas. 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.

13.5 **Governance.** The Association will be governed by a board of directors elected by the Members. Unless the Bylaws or Certificate provide otherwise, the Board will consist of at

least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the Bylaws. Unless the Documents provide otherwise, any action requiring approval of the Members may be approved in writing by Owners representing at least a Majority of the total votes in the Association, or at a meeting by Owners' representing at least a Majority of the votes in the Association that are represented at the meeting.

13.6 **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 the Owners holding at least two-thirds (2/3) of the votes allocated to Units. On the 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 corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants and restrictions established on any other 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.

13.7 **Membership.** Each Owner is a Member of the Association, ownership of a Unit being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Unit. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Unit is owned by more than one person or entity, each co-owner is a Member of the Association and may exercise the membership rights appurtenant to the Unit.

13.8 **Manager.** The Board may delegate the performance of certain functions to one or more managers or managing agents of the Association. To assist the Board in determining whether to delegate a function, a Guide to Association's Major Management & Governance Functions is attached to this Declaration as **Exhibit "D"**. The Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Guide, however, may not be construed to create legal duties for the Association and its officers, directors, members, employees, and agents that are not justified by the needs of the Association. Rather, the Guide is intended as a tool or an initial checklist for the Board to use periodically when considering a delegation of its functions. As a list of functions that owners associations commonly delegate to a manager, the Guide should not be considered as a complete list of the Board's duties, responsibilities, or functions. Notwithstanding any delegation of its functions, the Board is ultimately responsible to the Members for governance of the Association.

13.9 **Books and Records.** The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to the requirements of Applicable Law. The Association, upon the request of a prospective purchaser of a Unit, will provide the prospective purchaser with a copy of the Documents and the most recent audited financial

statements of the Association. The Association will be permitted to charge a reasonable fee for copies of such Documents and statements in accordance with *Section 13.9*.

13.10 Indemnification. The Association indemnifies every officer, director, 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 any threatened or pending action, suit, or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a common expense, the Association may maintain general liability and directors and officers' liability insurance to fund this obligation.

13.11 Obligations of Owners. Without limiting the obligations of Owners under the Documents, each Owner has the following obligations:

13.11.1 Information. Within thirty (30) days after acquiring an interest in a Unit, within thirty (30) days after the Owner has notice of a change in any information required by this Subsection, and on request by the Association from time to time, an Owner will provide the Association with the following information: (i) a copy of the Recorded deed by which Owner has acquired title to the Unit; (ii) the Owner's address, phone number, and driver's license number, if any; (iii) any Mortgagee's name, address, and loan number; (iv) the name and phone number of any Resident other than the Owner; and (v) the name, address, and phone number of Owner's managing agent, if any.

13.11.2 Pay Assessments. Each Owner will pay Assessments properly levied by the Association against the Owner or such Owner's Unit and will pay Regular Assessments without demand by the Association.

13.11.3 Compliance with Documents. Each Owner will comply with the Documents as amended from time to time.

13.11.4 Reimburse for Damages. Each Owner will pay for damage to the Property caused by the negligence or willful misconduct of the Owner, a Resident of the Owner's Unit, or the Owner or Resident's family, guests, employees, contractors, agents, or invitees.

13.11.5 Liability for Violations. Each Owner is liable to the Association for violations of the Documents by the Owner, a Resident of the Owner's Unit, or the Owner or Resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

13.12 Unit Resales. This Section applies to every sale or conveyance of a Unit or an interest in a Unit by an Owner other than Declarant:

13.12.1 Resale Certificate. An Owner intending to sell his Unit will notify the Association and will request a condominium resale certificate from the Association.

13.12.2 No Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling Owner to convey the Owner's Unit to the Association.

13.12.3 Other Transfer-Related Fees. A number of independent fees may be charged in relation to the transfer of title to a Unit, including but not limited to, fees for resale certificates, estoppel certificates, copies of Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against regular or special assessments. Transfer-related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's assessment lien, and are not payable by the Association. This Section does not obligate the Board or the manager to levy transfer-related fees. This exclusion may be waived by a party to a conveyance who requests transfer-related services or documentation for which fees are charged.

13.12.4 Exclusions. The requirements of this Section do not apply to the following transfers: (i) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's Assessment lien; (ii) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (iii) transfer to, from, or by the Association; or (iv) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent; (v) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; (vi) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; or (vii) a disposition by a government or governmental agency. The requirements of this Section do not apply to the initial conveyance of a Unit from the Declarant to a third party.

ARTICLE XIV.

ENFORCING THE DOCUMENTS

14.1 Notice And Hearing. Before levying a fine for violation of the Documents (other than nonpayment of Assessments), or before levying an Individual Assessment for property damage, the Association will give the Owner written notice of the levy and an opportunity to be heard, to the extent required by Applicable Law. The Association's written notice must contain a description of the violation or property damage; the amount of the proposed fine or damage charge; a statement that not later than the thirtieth (30th) day after the date of the notice, the Owner may request a hearing before the Board to contest the fine or charge; and a stated date by which the Owner may cure the violation to avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months. The

Association may also give a copy of the notice to the Resident. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine or damage charge. The Owner may attend the hearing in person, or may be represented by another Person or by a written communication. The Board may adopt additional or alternative procedures and requirements for notices and hearings, provided they are consistent with the requirements of Applicable Law.

14.2 **Remedies.** The remedies provided in this Article for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by Applicable Law, the Association has the following rights to enforce the Documents:

14.2.1 **Nuisance.** The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by Applicable Law against a nuisance, either public or private, is applicable against the violation.

14.2.2 **Fine.** The Association may levy reasonable charges, as an Individual Assessment, against an Owner and the Owner's Unit if the Owner or Resident, or the Owner or Resident's family, guests, employees, agents, or contractors violate a provision of the 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 Documents.

14.2.3 **Suspension.** The Association may suspend the right of Owners and Residents to use General Common Elements (provided that the rights of ingress and egress and utility services are not impaired) for any period during which the Owner or Resident, or the Owner or Resident's family, guests, employees, agents, or contractors violate the Documents for a period not to exceed sixty (60) days, unless such rights are suspended for failure to pay Assessments, in which case such rights may be suspended until the Assessments are fully paid. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Documents.

14.2.4 **Self-Help.** The Association has the right to enter a Common Element or Unit to abate or remove, using force as may reasonably be necessary, any Improvement, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Unit and Owner as an Individual Assessment. Unless an emergency situation exists in the good faith opinion of the Board, the Board will give the violating Owner fifteen (15) days' notice of its intent to exercise self-help. Notwithstanding the foregoing, the Association may not alter or demolish an item of construction on a Unit without judicial proceedings.

14.2.5 Suit. Failure to comply with the 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.

14.3 Board Discretion. The Board may use its sole discretion in determining whether to pursue a violation of the 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: (i) the Association's position is not sufficiently strong to justify taking any or further action; (ii) the provision being enforced is or may be construed as inconsistent with Applicable Law; (iii) 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 (iv) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

14.4 No Waiver. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any Owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter.

14.5 Recovery of Costs. The costs of curing or abating a violation are the expense of the Owner or other Person responsible for the violation. If legal assistance is obtained to enforce any provision of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

14.6 Right of Action by Owners; Release. The Owners, acting collectively or individually, shall have the right to maintain actions against the Association for its willful failure to comply with the provisions of the Act, this Declaration or the Bylaws or its willful failure to perform its duties and responsibilities hereunder; provided, however, except as otherwise provided by the Documents, no other action shall be brought against the Association or its affiliates, parents, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties, by the Owners, or the Association. Subject to the Association's obligations under this Declaration, except as otherwise provided by the Documents, each Owner hereby releases, acquits and forever discharges the Association, and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns and agrees to hold such Persons harmless of and from any and all claims, damages, liabilities, costs and/or expenses (including reasonable attorneys' fees) relating to the construction of, repair or restoration of, or the sale to the Owners of the Units, or the Common Elements. This release shall release and forever discharge the Association and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers,

sureties and assigns, from all claims and causes of action, whether statutory or under the common law, known or unknown, now accrued, or that arise in the future.

14.7 Right of Action by Association. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Unit Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 20.1.1* below, relating to the design or construction of a Unit (whether one or more). The foregoing sentence is expressly intended to remove from the power of the Association the right, under Section 82.102 of the Act, to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings on behalf of two (2) or more Unit Owners on matters affecting the Regime. This *Section 14.7* may not be amended or modified without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument.

ARTICLE XV. INSURANCE

15.1 General Provisions. The broad purpose of this Article is to require that the Property be insured with the types and amounts of coverage that are customary for similar types of properties and that are acceptable to mortgage lenders, guarantors, or insurers that finance the purchase or improvement of Units. Because the insurance requirements of mortgage underwriters are subject to change, as are State-promulgated insurance regulations and policies, this Article tries to balance the need for certain minimum insurance requirements with the desire to adapt to a periodically changing insurance environment. The Board will make every reasonable effort to comply with the requirements of this Article.

15.1.1 Unavailability. The Association, and its directors, officers, and managers, will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if the failure is due to the unavailability of a particular coverage from reputable insurance companies, or if the coverage is available only at demonstrably unreasonable cost.

15.1.2 No Coverage. Even if the Association and the Owner have adequate amounts of recommended and required insurance coverage, the Property may experience a loss that is not covered by insurance. In such event, the Association is responsible for restoring the Common Elements as a common expense, and the Owner is responsible for restoring the Owner's Unit at such Owner's sole expense. This provision does not apply to the deductible portion of an insurance policy.

15.1.3 Requirements. The cost of insurance coverage and bonds maintained by the Association is a common expense. 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. The Association's policies should

contain the standard mortgage clause naming either the Mortgagee or its servicer followed by "its successors and assigns." The loss payee clause should show the Association as trustee for each Owner and Mortgagee. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner. The Association's insurance policies will not be prejudiced by the act or omission of any Owner or Resident who is not under the Association's control.

15.1.4 Association as Trustee. Each Owner irrevocably appoints the Association, acting through its Board, as such Owner's trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

15.1.5 Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. The Board will give to Mortgagees, at least ten (10) days prior notice of cancellation, termination, expiration, or material modification.

15.2 Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, and the amount thereof may not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the coverage limits required by this Declaration or an Underwriting Lender. In the event of an insured loss, the deductible is treated as a common expense of the Association in the same manner as the insurance premium. However, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner or Resident or their invitee, then the Board may levy an Individual Assessment against the Owner and the Owner's Unit for the amount of the deductible that is attributable to the act or omission, provided the Owner is given notice and an opportunity to be heard in accordance with Section 14.1 of this Declaration.

15.3 Property Insurance. The Association will obtain property insurance in accordance with Section 82.111(a) of the Act. The insurance must be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. All hazard and flood insurance policies which include any Units must also have the standard mortgagee clause.

15.3.1 Common Property Insured. The Association will insure: (i) General Common Elements; (ii) Limited Common Elements; and (iii) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

15.3.2 Units Insured by Association. In addition to insuring the Common Elements against casualty loss, the Association will maintain property insurance on the Units as originally constructed. The Association may insure betterments and

Improvements installed by current or previous Owners, but will have no obligation to insure such items. In insuring Units, the Association may be guided by types of policies customarily available for similar types of properties.

15.3.3 Endorsements. To the extent reasonably available, the Association will obtain endorsements to its property insurance policy if required by an Underwriting Lender.

15.4 **Liability Insurance**. The Association will maintain a commercial general liability insurance policy over the Common Elements - expressly excluding the liability of each Owner and Resident within the Owner's Unit for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Elements. The amount of coverage should be at least that required by an Underwriting Lender, to the extent reasonably available. The purpose of this requirement is, in part, to assure mortgage companies that the Association maintains at least minimum levels of insurance coverage. 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.

15.5 **Worker's Compensation**. The Association may maintain worker's compensation insurance if and to the extent necessary to meet the requirements of Applicable Law or if the Board so chooses.

15.6 **Fidelity Coverage**. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of: (i) the estimated maximum funds, including reserve funds, in the Association's custody while the policy is in force; or (ii) an amount equal to three (3) months of Regular Assessments on all Units. A management agent that handles Association funds should be covered by a separate fidelity insurance policy with the same coverages. If the Property has more than twenty (20) Units, the Association must maintain fidelity coverage to the extent reasonably available.

15.7 **Directors and Officers Liability**. The Association may 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.

15.8 **Other Policies**. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association.

15.9 **Owner's Responsibility for Insurance**.

15.9.1 Insurance by Owners. The Board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually

obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an Individual Assessment.

15.9.2 HO-6 Policy. Notwithstanding any provision in this Declaration to the contrary, if required by any Underwriting Lender, each Owner of a Unit will be required to procure insurance covering the interior of the Unit, including replacement of interior improvements and betterment coverage to insure improvements the Owner may make to the Unit, commonly referred to as HO-6 insurance.

15.9.3 Owners' Responsibilities. The Owner will give the Board written notification of any and all structural changes, additions, betterments, or Improvements to the Owner's Unit, and any other information the Board may require to maintain adequate levels of insurance coverage. Each Owner will comply with reasonable requests by the Board for periodic inspection of the Unit for purposes of insurance appraisal. Each Owner, at such Owner's expense, will maintain any insurance coverages required by the Association pursuant to this Article.

15.9.4 Association Does Not Insure. The Association does not insure an Owner or Resident's personal property. Each Owner and Resident is solely responsible for insuring his personal property in his Unit and on the Property, including furnishings, vehicles, and stored items. THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH OWNER AND RESIDENT PURCHASE AND MAINTAIN INSURANCE ON HIS PERSONAL BELONGINGS.

ARTICLE XVI.

RECONSTRUCTION OR REPAIR AFTER LOSS

16.1 Subject To Act. The Association's response to damage or destruction of the Property will be governed by Section 82.111 of the Act. The following provisions apply to the extent the Act is silent.

16.2 Restoration Funds. For purposes of this Article, "**Restoration Funds**" include insurance proceeds, condemnation awards, Deficiency Assessments, Individual Assessments, and other funds received on account of or arising out of injury or damage to the Property. All funds paid to the Association for purposes of repair or restoration will be deposited in a financial institution in which accounts are insured by a federal agency. Withdrawal of Restoration Funds requires the signatures of at least two (2) Association directors or that of an agent duly authorized by the Board.

16.2.1 Sufficient Proceeds. If Restoration Funds obtained from insurance proceeds or condemnation awards are sufficient to repair or restore the damaged or destroyed Property, the Association, as trustee for the Owners, will promptly apply the funds to the repair or restoration.

16.2.2 Insufficient Proceeds. If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the Board, the Board may levy a Deficiency Assessment against the Owners to fund the difference.

16.2.3 Surplus Funds. If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows: If Deficiency Assessments were a source of Restoration Funds, the surplus will be paid to Owners in proportion to their contributions resulting from the Deficiency Assessment levied against them; provided that no Owner may receive a sum greater than that actually contributed by him, and further provided that any Delinquent Assessments owed by the Owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing paragraph will be common funds of the Association to be used as directed by the Board in the Board's sole and absolute discretion.

16.3 Costs And Plans.

16.3.1 Cost Estimates. Promptly after the loss, the Board will obtain reliable and detailed estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the Board deems necessary, to assist in estimating and supervising the repair.

16.3.2 Plans and Specifications. Unless otherwise approved by the Board, Common Elements will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Unless otherwise approved by the Board, Units will be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and Improvements made by Owners, in which case the Units will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either Common Elements or Units must be approved by the Board and by certain Mortgagees if so required by the Mortgagee Protection article of this Declaration.

16.4 Owner's Duty to Repair.

16.4.1 Uninsured Loss. Within sixty (60) days after the date of damage, the Owner will begin repair or reconstruction of any portion of his Unit not covered by the Association's blanket insurance policy, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof.

16.4.2 Insured Loss. If the loss to a Unit is covered by the Association's insurance policy, the Owner will begin repair or restoration of damage on receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association to supervise, approve, or disapprove the repair or restoration during the course thereof.

16.4.3 Failure to Repair. If an Owner fails to repair or restore damage as required by this Section, the Association may effect the necessary repairs and levy an Individual Assessment against the Owner and Unit for the cost thereof, after giving an Owner of the Unit reasonable notice of the Association's intent to do so

16.5 **Owner's Liability For Insurance Deductible.** If repair or restoration of Common Elements or Units is required as a result of an insured loss, the Board may levy an Individual Assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

ARTICLE XVII. TERMINATION AND CONDEMNATION

17.1 **Association As Trustee.** Each Owner hereby irrevocably appoints the Association, acting through the Board, as trustee to deal with the Property in the event of damage, destruction, obsolescence, condemnation, or termination of all or any part of the Property. As trustee, the Association will have full and complete authority, right, and power to do all things reasonable and necessary to effect the provisions of this Declaration and the Act, including, without limitation, the right to receive, administer, and distribute funds, awards, and insurance proceeds; to effect the sale of the Property as permitted by this Declaration or by the Act; and to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner.

17.2 **Termination.** Termination of the terms of this Declaration and the Regime will be governed by Section 82.068 of the Act and *Section 18.4* below

17.3 **Condemnation.** The Association's response to condemnation of any part of the Property will be governed by Section 82.007 of the Act. On behalf of Owners, but without their consent, the Board may execute and Record an amendment of this Declaration to reallocate allocated interests following condemnation and to describe the altered parameters of the Property. If the Association replaces or restores Common Elements taken by condemnation by obtaining other land or constructing additional Improvements, the Board may, to the extent permitted by Applicable Law, execute and Record an amendment without the prior consent of Owners to describe the altered parameters of the Property and any corresponding change of facilities or Improvements.

ARTICLE XVIII. MORTGAGEE PROTECTION

18.1 **Introduction.** This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. A provision of the Documents requiring the approval of a specified percentage of Mortgagees will be based on the number of Units subject to mortgages held by Mortgagees. For example, "51 percent of Mortgagees" means Mortgagees of fifty-one percent (51%) of the Units that are subject to mortgages held by Mortgagees.

18.2 **Notice of Mortgagee.** As provided in this *Article 18*, the Association is required to provide each Mortgagee with written notice upon the occurrence of certain actions as described in *Section 18.8*, or to obtain the approval of Mortgagees in the event of certain amendments to this Declaration as described in *Section 18.9* or the termination of this Declaration as described in *Section 18.4*. To enable the Association to provide the notices and obtain such approval, each Owner must provide to the Association the complete name and address of such Owner's Mortgagee, including the loan number and such additional information concerning the Owner's Mortgagee as the Association may reasonably require. In the event an Owner fails to provide the Association with the information required by this *Section 18.2* after the expiration of thirty (30) days after the Association's written request, the Owner's failure to provide such information will be considered a violation of the terms and provisions of this Declaration.

18.3 **Amendment.** This Article establishes certain standards for the benefit of Underwriting Lenders, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the Board, without approval of Owners or mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender.

18.4 **Termination.** Termination of the terms of this Declaration and the condominium status of the Regime will be governed by Section 82.068 of the Act, subject to the following provisions. In the event of condemnation of the entire Regime, an amendment to terminate may be executed by the Board without a vote of Owners or Mortgagees. Any election to terminate this Declaration and the condominium status of the Regime under circumstances other than condemnation of the entire Regime shall require the consent of: (i) Owners representing at least eighty percent (80%) of the total votes in the Association; (ii) Declarant during the Development Period; and (iii) sixty-seven percent (67%) of Mortgagees.

18.5 **Implied Approval.** The approval of a Mortgagee is implied when the Mortgagee fails to respond within sixty (60) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

18.6 **Other Mortgagee Rights.**

18.6.1 **Inspection of Books.** The Association will maintain current copies of the Documents and the Association's books, records, and financial statements. Mortgagees may inspect the Documents and records, by appointment, during normal business hours.

18.6.2 **Financial Statements.** A Mortgagee may have an audited statement prepared at its own expense.

18.6.3 **Attendance at Meetings.** A representative of a Mortgagee may attend and address any meeting which an Owner may attend.

18.6.4 Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling Owner to convey the Owner's Unit to the Association. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

18.6.5 Management Contract. If professional management of the Association is required by this Article, the contract for professional management may not require more than ninety (90) days' notice to terminate the contract, nor payment of a termination penalty.

18.6.6 Audit. A majority of Mortgagees shall be entitled to demand an audit of the Association's financial records.

18.7 Insurance Policies. If an Underwriting Lender that holds a mortgage on a Unit or desires to finance a Unit has requirements for insurance of condominiums, the Association must try to obtain and maintain the required coverage, to the extent reasonably available, and must try to comply with any notifications or processes required by the Underwriting Lender. Because underwriting requirements are subject to change, they are not recited here.

18.8 Notice of Actions. The Association will send timely written notice to Mortgagees of the following actions:

- (i) Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Unit and any eminent domain proceeding affecting the General Common Elements which would result in a loss of more than ten percent (10%) of the estimated operational and reserve expenses as reflected on the then-current annual budget of the Association.
- (ii) Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of the mortgaged Unit.
- (iii) A lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- (iv) Any proposed action that requires the consent of a specified percentage of Mortgagees.
- (v) Any proposed amendment of a material nature, as provided in this Article.
- (vi) Any proposed termination of the condominium status of the property or dissolution of the Association at least thirty (30) days prior to the proposed termination or dissolution, as applicable.

18.9 **Amendments of a Material Nature.** A Document amendment of a material nature must be approved by owners representing at least sixty-seven percent (67%) of the votes in the Association, and by at least fifty-one percent (51%) of Mortgagees. **THIS APPROVAL REQUIREMENT DOES NOT APPLY TO AMENDMENTS FILED BY THE DECLARANT AS PERMITTED IN APPENDIX "A" ATTACHED HERETO.** A change to any of the provisions governing the following would be considered material:

- (i) Voting rights.
- (ii) Assessment liens or the priority of assessment liens.
- (iii) Reductions in reserves for maintenance, repair, and replacement of Common Elements.
- (iv) Responsibility for maintenance and repairs.
- (v) Reallocation of interests in the General Common Elements or Limited Common Elements, or rights to their use; except that when Limited Common Elements are reallocated by Declarant pursuant to any rights reserved by Declarant pursuant to Appendix "A", by agreement between Owners (only those Owners and only the Mortgagees holding mortgages against those Units need approve the action).
- (vi) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, then only those owners and the Mortgagees holding mortgages against the Unit or Units need approve the action.
- (vii) Convertibility of Units into Common Elements or Common Elements into Units.
- (viii) Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property.
- (ix) Property or fidelity insurance requirements.
- (x) Imposition of any restrictions on the leasing of Units.
- (xi) Imposition of any restrictions on Owners' right to sell or transfer their Units.
- (xii) Restoration or repair of the Regime, in a manner other than that specified in the Documents, after hazard damage or partial condemnation.

- (xiii) Any provision that expressly benefits mortgage holders, insurers, or guarantors.

ARTICLE XIX. AMENDMENTS

19.1 **Consents Required.** As permitted by the Act or by this Declaration, certain amendments to this Declaration may be executed by Declarant acting alone, or by certain Owners acting alone, or by the Board acting alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least sixty seven percent (67%) percent of the votes in the Association.

19.2 **Method of Amendment.** This Declaration may be amended by any method selected by the Board from time to time, pursuant to the Bylaws, provided the method gives the Owner of each Unit the substance if not exact wording of the proposed amendment, a description in layman's terms of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment. For amendments requiring the consent of Mortgagees, the Association will send each Mortgagee a detailed description, if not the exact wording, of any proposed amendment. Notwithstanding any provisions in this Declaration to the contrary, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) provision of this Declaration that benefits the Declarant; (ii) rights, privileges, easements, protections, or defenses of the Declarant; or (iii) rights of the Owners or the Association in relationship to the Declarant, without the written consent of the Declarant attached to and Recorded with such amendment. In addition, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) permissible use of a Unit absent the consent of the Owner(s) of the Unit affected by the change in permissible use; or (ii) any license, easement or other contractual rights contained in this Declaration, including, without limitation, any easement, right and license benefiting or in favor of the Declarant.

19.3 **Effective.** To be effective, an amendment must be in the form of a written instrument: (i) referencing the name of the Property, the name of the Association, and the Recording data of this Declaration and any amendments hereto; (ii) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners and, if required, Mortgagees; provided, however, this subsection (ii) will not apply for amendments which may be unilaterally prosecuted by Declarant pursuant to any rights reserved by Declarant under this Declaration or **Appendix "A"**; and (iii) Recorded.

19.4 **Declarant Provisions.** Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in **Appendix "A"**. An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration or the Act without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument. Because **Appendix "A"** of this Declaration is destined to become obsolete, beginning seven (7) years after the date this Declaration is first Recorded, the Board

may restate, rerecord, or publish this Declaration without **Appendix "A"**. The automatic expiration and subsequent deletion of **Appendix "A"** does not constitute an amendment of this Declaration. This Section may not be amended without Declarant's written and acknowledged consent.

ARTICLE XX. **DISPUTE RESOLUTION**

20.1 **Introduction and Definitions.** The Association, the Owners, Declarant, 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 and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all Claims as hereafter defined. This Article 20 may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding 100% of the votes in the Association. As used in this Article only, the following words, when capitalized, have the following specified meanings:

20.1.1 **"Claim"** means:

Claims relating to the rights and/or duties of Declarant, the Association, or an Owner, under the Documents or the Act.

Claims relating to the acts or omissions of the Declarant or the Association during control and administration of the Association, any claim asserted against the Architectural Reviewer, and any claims asserted against a the Board or a Person serving as a Board member or officer of the Association, or the Architectural Reviewer.

Claims relating to the design or construction of the Units, Common Elements or any Improvement located within the Regime.

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

20.1.3 **"Respondent"** means any Party against which a Claim has been asserted by a Claimant.

20.2 **Mandatory Procedures.** Claimant may not initiate any proceeding before any administrative tribunal seeking redress of resolution of its Claim until Claimant has complied with the procedures of this Article. As provided in *Section 20.8* below, a Claim will be resolved by binding arbitration.

20.3 **Claim by the Association – Common Elements.** In accordance with *Section 14.7* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Unit Owner (whether one or more); or (ii) pertaining to a Claim, as defined in

Section 20.1.1 above, relating to the design or construction of a Unit (whether one or more). In the event the Association asserts a Claim related only to the Common Elements, as a precondition to providing the Notice defined in *Section 20.4*, initiating the mandatory dispute resolution procedures set forth in this *Article 20*, or taking any other action to prosecute a Claim, the Association must:

20.3.1 Independent Report on the Condition of the Common Elements. Obtain an independent third-party report (the “**Common Area Report**”) from a licensed professional engineer which: (i) identifies the Common Elements subject to the Claim including the present physical condition of the Common Elements; (ii) describes any modification, maintenance, or repairs to the Common Elements performed by the Unit Owner(s) and/or the Association; (iii) provides specific and detailed recommendations regarding remediation and/or repair of the Common Elements subject to the Claim. For the purposes of this section, an independent third-party report is a report obtained directly by the Association and paid for by the Association and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Association in the Claim. The Association, as a precondition to providing the Notice described in *Section 20.4*, must have provided at least ten (10) days prior written notice of the inspection to each party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Common Area Report, the specific Common Elements to be inspected, and the date and time the inspection will occur. Each party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Common Area Report shall be provided to each party subject to a claim. In addition, before providing the Notice described in *Section 20.4*, the Association shall have permitted each party subject to a Claim the right, for a period of ninety (90) days, to inspect and correct, any condition identified in the Common Area Report.

20.3.2 Owner Meeting and Approval. Obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to provide the Notice described in *Section 20.4*, initiate the mandatory dispute resolution procedures set forth in this *Article 20*, or take any other action to prosecute a Claim, which approval from Members must be obtained at a special meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Area Report; (iii) a copy of any proposed engagement letter, with the terms of such engagement, between the Association and an attorney to be engaged by the Association to assert or provide assistance with the Claim (the “**Engagement Letter**”); (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which it may be liable if it is not the prevailing party or that the Association will be required, pursuant to the Engagement Letter or otherwise, to pay if the Association elects to not to proceed with the Claim; (v) a summary of the steps previously taken, and proposed to be taken, by the Board to

resolve the Claim; (vi) an estimate of the impact on the value of each Unit if the Claim is prosecuted and estimate of the impact on the value of each Unit after resolution of the Claim; (vii) an estimate of the impact on the marketability of each Unit if the Claim is prosecuted and during prosecution of the Claim, and an estimate of the impact on the value of each Unit during and after resolution of the Claim; (viii) the manner in which the Association proposes to fund the cost of prosecuting the Claim; (ix) the impact on the finances of the Association, including the impact on present and projected reserves, in the event the Association is not the prevailing party. The notice required by this paragraph must be prepared and signed by a person other than, and not employed by or otherwise affiliated with, the attorney or law firm that represents or will represent the Association in the Claim. In the event Members approve providing the Notice described in *Section 20.4*, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

20.4 Notice. Claimant must notify Respondent in writing of the Claim (the “Notice”), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this Section. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 20.5* below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 20.5*, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. *Section 20.5* does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty (120) day period for mediation set forth in *Section 20.6* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 20.6* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association or the Claim pertains to the Common Area, the Notice will also include: (i) a true and correct copy of the Common Area Report; (ii) a copy of the Engagement Letter; (iii) copies of all reports, studies, analyses, and recommendations obtained by the Association related to the Common Area which forms the basis of the Claim; (iv) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 20.3.2* above; and (v) and reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice.

20.5 Negotiation. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (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. If the Claim involves all or any portion of the Property, then 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.

20.6 Mediation. If the parties negotiate, but do not resolve the Claim through negotiation within one-hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (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 five (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 Claim to mediation within the 30-day period, Respondent will submit the Claim to mediation in accordance with this *Section 20.6*.

20.7 Termination Of Mediation. If the Parties do not settle the Claim within thirty (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 arbitration proceedings on the Claim, as appropriate and permitted by this Article.

20.8 Binding Arbitration-Claims. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 20.8*.

20.8.1 Governing Rules. If a Claim has not been resolved after Mediation as required by *Section 20.6*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 20.8* and the rules and procedures of the American Arbitration Association ("AAA") or, if the AAA is unable or unwilling to act as the arbitrator, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Williamson County, Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA's "Construction Industry Dispute Resolution Procedures" and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer-Related Disputes. If such Rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any Claim, if the AAA has, by the time of Claim, identified different rules that would specifically apply to the Claim, then those rules will apply instead of the rules identified above. In the event of any inconsistency between any such applicable rules and this *Section 20.8*, this *Section 20.8* will control. Judgment

upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

- (1) one arbitrator shall be selected by Respondent, in its sole and absolute discretion;
- (2) one arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and
- (3) one arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

20.8.2 Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 20.8* will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

20.8.3 Statute of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 20.8*.

20.8.4 Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the applicable substantive law. The arbitrator may grant any remedy or relief that the arbitrator deem just and equitable and within the scope of this *Section 20.8*; provided, however, that for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code. The arbitrator may also grant such ancillary relief as is necessary to make effective the award. In all arbitration proceedings the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that

have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of federal or state law; or (iv) a cause of action or remedy not expressly provided under existing state or federal law. In no event may an arbitrator award speculative, consequential, or punitive damages for any Claim.

20.8.5 Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration by notice from either party to the other. Arbitration proceedings hereunder shall be conducted in Travis County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and applicable law. The arbitrator shall have the power to award recovery of all costs and fees (including attorney's fees, administrative fees, and arbitrator's fees) to the prevailing party. Each party agrees to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by applicable law or regulation. In no event shall any party discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

20.9 Allocation Of Costs. Except as otherwise provided in this Article, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

20.10 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.

20.11 Period of Limitation.

20.11.1 For Actions by an Owner or Resident of a Unit. The exclusive period of limitation for any of the Parties to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of a Unit, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner or Resident discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design, four (4) years and one (1) day from the date that the Owner or Resident discovered or reasonably should have discovered evidence of the Claim.

20.11.2 For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim, including, but not limited to, a Claim of construction

defect or defective design of the Common Elements, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Association or its agents discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design of the Common Elements, four (4) years and one (1) day from the date that the Association discovered or reasonably should have discovered evidence of the Claim.

20.11.3 Funding Arbitration and Litigation. The Association must levy a Special Assessment to fund the estimated costs of arbitration conducted pursuant to this *Article 20* or any judicial action initiated by the Association. The Association may not use its annual operating income or reserve funds or savings to fund arbitration or litigation, unless the Association's annual budget or a savings account was established and funded from its inception as an arbitration and litigation reserve fund.

ARTICLE XXI. GENERAL PROVISIONS

21.1 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either by electronic mail, personally or by mail. Such notice shall be deemed delivered at the time of personal or electronic delivery, and if delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the Person at the address given by such Person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such Person to the Association.

21.2 Compliance. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and Applicable Laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasigovernmental entity having jurisdiction over the Association or Property.

21.3 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Regime and of promoting and effectuating the fundamental concepts of the Regime set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

21.4 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 Applicable Law.

21.5 Captions. In all 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.

21.6 Construction. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections, or articles hereof. Throughout this Declaration there appears text enclosed by a box. These boxed notices are used to aid in the reader's comprehension of certain provisions of this Declaration and are not to be construed as defining or modifying the text. In the event of a conflict between the text enclosed by a box and any provision of this Declaration, the provision of the Declaration will control.

21.7 Declarant as Attorney in Fact and Proxy. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to **Appendix "A"** and elsewhere in this Declaration, each Owner, by accepting a deed to a Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Unit within the Regime, and any other Person, by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Unit in the Regime, shall thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and Person's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to **Appendix "A"** or elsewhere in this Declaration. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee, and/or Person, shall be deemed, conclusively, to be coupled with an interest and shall survive the dissolution, termination, insolvency, bankruptcy, incompetency, and death of an Owner, Mortgagee, and/or Person and shall be binding upon the legal representatives, administrators, executors, successors, heirs, and assigns of each such party. In addition, each Owner, by accepting a deed to a Unit, and each Mortgagee, by accepting the benefits of a Mortgage against a Unit in the Regime, and any Person, by accepting the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien, and/or any other security interest against any Unit in the Regime, shall thereby appoint Declarant the proxy of such Owner, Mortgagee, or Person, with full power of substitution in the premises, to do and perform each and every act permitted or required pursuant to **Appendix "A"** or elsewhere in this Declaration, and which may otherwise be reasonably necessary in connection therewith, including without limitation, to cast a vote for such Owner, Mortgagee, or Person at any meeting of the Members for the purpose of approving or consenting to any amendment to this Declaration in order to effect and perfect any such act permitted or required pursuant to **Appendix "A"** or elsewhere in this Declaration and to execute and record amendments on their behalf to such effect; and the power hereby reposed in Declarant, as the attorney-in-fact for each such Owner, Mortgagee, or Person includes, without limitation, the authority to execute a proxy as the act and deed of any Owner, Mortgagee, or Person and, upon termination or revocation of any Owner's proxy as permitted by the Texas Non-profit Corporation Act, the authority to execute successive proxies as the act and deed of any Owner, Mortgagee, or Person authorizing

Declarant, or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. Furthermore, each Owner, Mortgagee, and Person upon request by Declarant, will execute and deliver a written proxy pursuant to Section 82.110(b) of the Act, including a successive written proxy upon the termination or revocation as permitted by the Act of any earlier proxy, authorizing Declarant, or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. All such appointments and successive proxies shall expire as to power reserved by Declarant pursuant to **Appendix "A"** or elsewhere in this Declaration on the date Declarant no longer has the right to exercise such rights. All such proxies shall be non-revocable for the maximum lawful time and upon the expiration of non-revocable period, new proxies shall again be executed for the maximum non-revocable time until Declarant's right to require such successive proxies expires.

21.8 **Appendix/Exhibits.** The following appendixes and exhibits are attached to this Declaration and are incorporated herein by reference.

Attachment "1"	Parkland Dedication Land
Exhibit "A"	Plat and Plans
Exhibit "B"	Schedule of Allocated Interests
Exhibit "C"	Guide to Association's Examination of Common Elements
Exhibit "D"	Guide to Association's Major Management and Governance Functions
Exhibit "E"	Encumbrances
Exhibit "F"	Maintenance Responsibility Chart
Appendix "A"	Declarant Representations and Reservations

[SIGNATURE PAGE FOLLOWS]

EXECUTED on this 16 day of August, 2019.

DECLARANT:

Metcalfe Development LLC, a Texas limited liability company

By: 

Printed Name: SUNIL LAVANI

Title: _____

THE STATE OF Texas §

COUNTY OF Travis §

This instrument was acknowledged before me this 16 day of August, 2019, by Sunil Lavani, EX of Metcalfe Development LLC, a Texas limited liability company, on behalf of said company.

(SEAL)



Notary Public Signature



CONSENT OF MORTGAGEE

The undersigned, being the sole owner and holder of the lien created by a Deed of Trust dated May 11, 2018, recorded as Document No. 2018072946 in the Official Public Records of Travis County, Texas, securing a note of even date therewith, (the "Lien"), executes this Declaration solely for the purpose of evidencing the consent required pursuant to Section 82.051(b) of the Texas Property Code. This Consent shall not be construed or operate as any release of lien or security interest owned and held by undersigned or any part thereof.

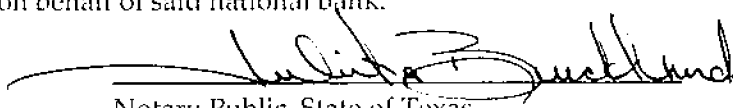
COMMERCE NATIONAL BANK, A BRANCH
OF LUBBOCK NATIONAL BANK

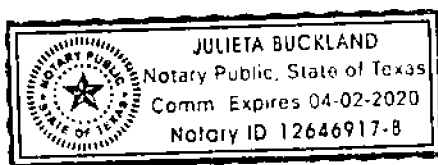
By: Printed Name: Curtis L. StormTitle: VP - Lending

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 10 day of Sept, 2019
by Curtis L. Storm, VP - Lending, of Commerce National Bank, a
Branch of Lubbock National Bank, on behalf of said national bank.

(seal)


Notary Public, State of Texas



ATTACHMENT 1**PARKLAND DEDICATION LAND**

(Parkland Dedication)
Lot 1, Metcalfe Townhomes

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.9423 ACRE, (41,048 SQUARE FEET), BEING OUT OF THE SANTIAGO DEL VALLE GRANT ABSTRACT NO. 24, IN TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF LOT 1, METCALFE TOWNHOMES, A SUBDIVISION IN TRAVIS COUNTY, TEXAS RECORDED IN DOCUMENT NO. 201800011 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.) AS CONVEYED TO METCALFE DEVELOPMENT, LLC IN DOCUMENT NO. 2017187056 OF THE (O.P.R.T.C.T.), SAID 0.9423 ACRES TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1-inch iron pipe found in the west right-of-way line of Metcalfe Road (60' right-of-way), and being the southeast corner of a called 2.44 acres tract conveyed to Country Club Creek, LLC in Document No. 2017175714 of the (O.P.R.T.C.T.), and being the northeast corner of said Lot 1, and being the northeast corner and **POINT OF BEGINNING** hereof;

THENCE, with the west right-of-way line of said Metcalfe Road and the east line of said Lot 1, **S17°40'24"W**, a distance of **166.68** feet to the a 1/2-inch iron rod with "4Ward-Boundary" cap set for the southeast corner hereof, from which a 1-inch iron pipe found for an angle point in the west right-of-way line of said Metcalfe Road and the east line of said Lot 1 bears, **S17°40'24"W**, a distance of 3.93 feet;

THENCE, leaving the west right-of-way line of said Metcalfe Road, over and across said Lot 1 the following eight (8) courses and distances:

- 1) **N62°54'59"W**, a distance of **64.05** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;
- 2) **N27°05'01"E**, a distance of **8.54** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;
- 3) **N62°54'59"W**, a distance of **99.37** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;
- 4) **N06°44'02"E**, a distance of **16.33** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;
- 5) **N27°05'01"E**, a distance of **34.05** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;
- 6) **N50°59'12"W**, a distance of **124.91** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;
- 7) **S39°00'48"W**, a distance of **16.87** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for an angle point hereof;

- 8) N61°20'00"W, a distance of 37.40 feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for the southwest corner hereof, being in the west line of said Lot 1, and being in the east line of Edgewick Condominiums, a condominium plat recorded in Document No. 2017037351 of the (O.P.R.T.C.T.), from which a 1-inch iron pipe found for the southwest corner of said Lot 1, being an interior ell-corner in the east line of said Edgewick Condominiums bears, S27°08'07"W, a distance of 256.43 feet;

THENCE, with the west line of said Lot 1 and the east line of Edgewick Condominiums, **N27°08'07"E**, a distance of **103.13** feet to a 1/2-inch iron rod with "4Ward-Boundary" cap set for the northwest corner hereof, being the northwest corner of said Lot 1, and being in the south line of said Country Club Creek 2.444 acre tract;

THENCE, with the north line of said Lot 1, and the south line of said Country Club Creek 2.444 acre tract, **S61°36'38"E**, a distance of **304.93** feet to the **POINT OF BEGINNING** and containing 0.9423 Acres, (41,048 Sq. Ft.) of land more or less.

Notes:

All bearings are based on the Texas State Plane Coordinate System, Grid North, Central Zone (4203); all distances were adjusted to surface using a combined scale factor of 1.000054026284. See attached sketch (reference drawing: 00652_Parkland.dwg.)

EXHIBIT A

CONDOMINIUM PLAT AND PLANS

The plat and plans, attached hereto as **Exhibit "A"** contains the information required by the Texas Uniform Condominium Act.

Printed Name: Steven M. Duarte

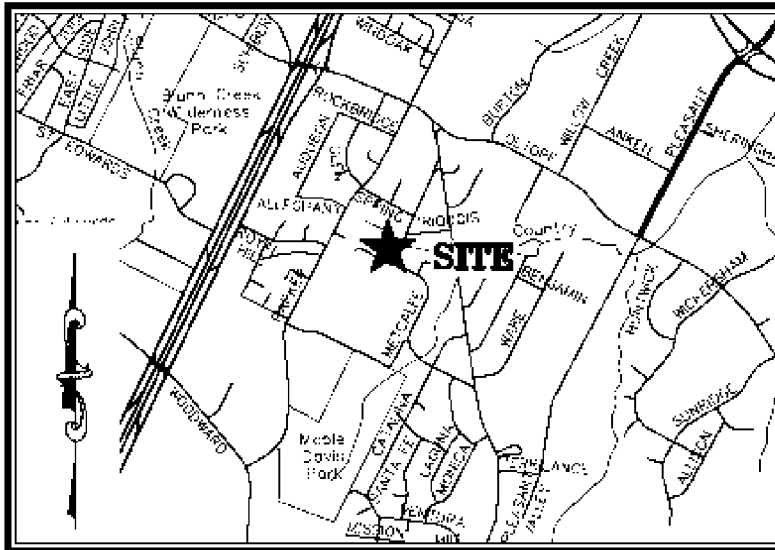
RPLS or License No. 5940

BOUNDARIES OF UNIT

The legal boundaries of each Unit are established by the Declaration and the Plat and Plans attached hereto. However, each Owner acknowledges that the Unit may be measured and depicted in a manner which differs from the legal boundaries of a Unit. For example, the Unit may be measured or depicted differently for tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under roof, or the air conditioned space, or the area within the Unit's legal boundaries. The Unit's partition wall cavities and/or its perimeter wall cavities may or may not be included. The Unit's garage area, attic area, front porch, and/or balcony space may or may not be included.

VICINITY MAP

SCALE: 1" = 2000'

**SHEET INDEX:**

1. COVER PAGE/GENERAL NOTES
2. LEGAL DESCRIPTION
3. OVERALL BOUNDARY
4. OVERALL ENCUMBRANCES
5. LEGEND
6. ENCUMBRANCES
7. OVERALL DETAIL SHEET
8. BUILDING AREA DETAIL
9. BUILDING AREA DETAIL
10. BUILDING AREA DETAIL
11. BUILDING AREA DETAIL
12. BUILDING/UNIT DETAIL
13. BUILDING/UNIT DETAIL
14. BUILDING/UNIT DETAIL
15. BUILDING/UNIT DETAIL
16. BUILDING/UNIT DETAIL
17. BUILDING/UNIT DETAIL

CONDOMINIUM NOTES:

1) ALL IMPROVEMENTS AND LAND REFLECTED ON THE PLAT ARE DESIGNATED AS GENERAL COMMON ELEMENTS, SAME AND EXCEPT PORTIONS OF THE RESERVE DESIGNATED AS LIMITED COMMON ELEMENTS OR UNITS. (I) IN THE CONDOMINIUM DECLARATION; OR (II) ON THE PLAT AND PLANS INCLUDED HEREWITH

2) OWNERSHIP AND USE OF CONDOMINIUM UNITS IS SUBJECT TO THE RIGHTS AND RESTRICTIONS CONTAINED IN THE CONDOMINIUM DECLARATION

3) EACH UNIT, BUILDING, LIMITED COMMON ELEMENT AND GENERAL COMMON ELEMENT IS SUBJECT TO SPECIAL RIGHTS RESERVED BY THE DECLARANT AS PROVIDED IN THE CONDOMINIUM DECLARATION. PURSUANT TO SUCH PROVISIONS, AMONG OTHER THINGS, DECLARANT HAS RESERVED THE RIGHT TO: (I) COMPLETE OR MAKE IMPROVEMENTS INDICATED ON THE PLAT AND PLANS; (II) EXERCISE ANY DEVELOPMENT RIGHT PERMITTED BY THE TEXAS UNIFORM CONDOMINIUM ACT (THE "ACT") AND THE CONDOMINIUM DECLARATION; (III) USE UNITS OR COMMON ELEMENTS FOR OPERATION, SALES AND MARKETING PURPOSES; AND (IV) APPOINT OR REMOVE ANY DECLARANT-APPOINTED OFFICER OR DIRECTOR OF THE ASSOCIATION DURING THE DECLARANT CONTROL PERIOD (AS DEFINED IN THE CONDOMINIUM DECLARATION) CONSISTENT WITH THE ACT. SEE THE CONDOMINIUM DECLARATION FOR A COMPLETE DESCRIPTION OF THE RIGHTS RETAINED BY THE DECLARANT. DECLARANT HAS FURTHER RETAINED CERTAIN EASEMENTS FOR THE BENEFIT OF THE ASSOCIATION, THE OWNERS, AND CERTAIN THIRD-PARTIES ALL AS DESCRIBED IN THE CONDOMINIUM DECLARATION. THE ENTIRE RESERVE IS SUBJECT TO DECLARANT'S DEVELOPMENT RIGHTS

BEARING BASIS

ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, GRID NORTH, CENTRAL ZONE (4203), NAD83. ALL DISTANCES WERE ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.000054026264

SURVEY CONTROL:

STATE PLANE GRID CONTROL FOR THIS SURVEY IS BASED ON A 1/2" IRON ROD WITH '4WARD CONTROL' CAP SET. GNS COORDINATES AND ELEVATIONS SHOWN HEREON WERE DERIVED FROM THE GNS CPUS (GLOBAL POSITIONING USER SERVICE) ON DATE JANUARY 26, 2018.

**FIELD HOUSE
CONDOMINIUMS**
City of Austin, Travis
County, Texas

4WARD
Land Surveying
A Limited Liability Company

PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPLS FIRM #10174300

Date:	9/2/2018
Project:	00852
Scale:	N.T.S.
Reviewer:	PRB
Tech:	FM
Field Crew:	JY/JD
Survey Date:	JAN. 2018
Sheet:	1 OF 17

\\00552\0052\00852_Govds_Plat.dwg

LEGAL DESCRIPTION:

LOT 1, METCALFE TOWNHOMES, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN DOCUMENT NO. 201800011 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT:

A TRACT OF LAND CONTAINING 0.9423 ACRES, (41,048 SQUARE FEET), BEING OUT OF THE SANTIAGO DEL VALLE GRANT ABSTRACT NO. 24, IN TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF LOT 1, METCALFE TOWNHOMES, A SUBDIVISION IN TRAVIS COUNTY, TEXAS RECORDED IN DOCUMENT NO. 201800011 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.) AS CONVEYED TO METCALFE DEVELOPMENT, LLC IN DOCUMENT NO. 2017187056 OF THE (O.P.R.T.C.T.), SAID 0.9423 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, AT A 1-INCH IRON PIPE FOUND IN THE WEST RIGHT-OF-WAY LINE OF METCALFE ROAD (60' RIGHT-OF-WAY), AND BEING THE SOUTHEAST CORNER OF A CALLED 2.44 ACRE TRACT CONVEYED TO COUNTRY CLUB CREEK, LLC IN DOCUMENT NO. 2017175714 OF THE (O.P.R.T.C.T.), AND BEING THE NORTHEAST CORNER OF SAID LOT 1, AND BEING THE NORTHEAST CORNER AND POINT OF BEGINNING HEREOF;

THENCE, WITH THE WEST RIGHT-OF-WAY LINE OF SAID METCALFE ROAD AND THE EAST LINE OF SAID LOT 1, S77°40'24"W, A DISTANCE OF 156.68 FEET TO THE A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR THE SOUTHEAST CORNER HEREOF, FROM WHICH A 1-INCH IRON PIPE FOUND FOR AN ANGLE POINT IN THE WEST RIGHT-OF-WAY LINE OF SAID METCALFE ROAD AND THE EAST LINE OF SAID LOT 1 BEARS, S17°40'24"W, A DISTANCE OF 3.93 FEET;

THENCE, LEAVING THE WEST RIGHT-OF-WAY LINE OF SAID METCALFE ROAD, OVER AND ACROSS SAID LOT 1 THE FOLLOWING EIGHT (8) COURSES AND DISTANCES:

- 1) N62°54'39"W, A DISTANCE OF 64.05 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 2) N27°08'07"E, A DISTANCE OF 8.54 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 3) N62°54'39"W, A DISTANCE OF 99.37 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 4) N08°44'02"E, A DISTANCE OF 16.33 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 5) N27°08'07"E, A DISTANCE OF 34.03 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 6) N50°50'12"W, A DISTANCE OF 124.91 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 7) S59°00'48"W, A DISTANCE OF 16.87 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR AN ANGLE POINT HEREOF;
- 8) N61°20'00"W, A DISTANCE OF 37.40 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR THE SOUTHWEST CORNER HEREOF, BEING IN THE WEST LINE OF SAID LOT 1, AND BEING IN THE EAST LINE OF EDGEWICK CONDOMINIUMS, A CONDOMINIUM PLAT RECORDED IN DOCUMENT NO. 2017037351 OF THE (O.P.R.T.C.T.), FROM WHICH A 1-INCH IRON PIPE FOUND FOR THE SOUTHWEST CORNER OF SAID LOT 1, BEING AN INTERIOR "ELL-CORNER" IN THE EAST LINE OF SAID EDGEWICK CONDOMINIUMS BEARS, S27°08'07"W, A DISTANCE OF 256.43 FEET;

THENCE, WITH THE WEST LINE OF SAID LOT 1 AND THE EAST LINE OF EDGEWICK CONDOMINIUMS, N27°08'07"E, A DISTANCE OF 153.13 FEET TO A 1/2-INCH IRON ROD WITH "WARD-BOUNDARY" CAP SET FOR THE NORTHWEST CORNER HEREOF, BEING THE NORTHWEST CORNER OF SAID LOT 1, AND BEING IN THE SOUTH LINE OF SAID COUNTRY CLUB CREEK 2.444 ACRE TRACT;

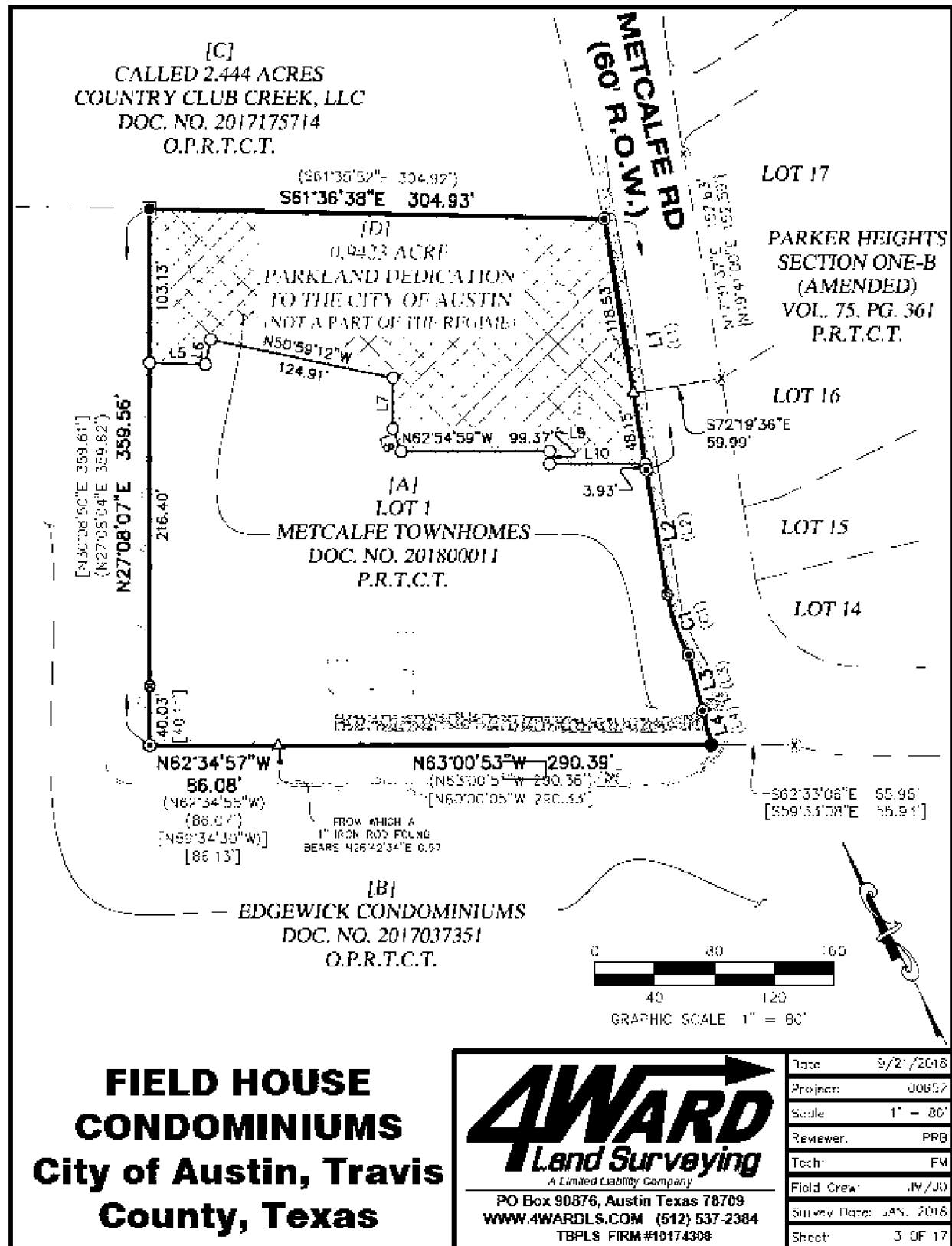
THENCE, WITH THE NORTH LINE OF SAID LOT 1, AND THE SOUTH LINE OF SAID COUNTRY CLUB CREEK 2.444 ACRE TRACT, S61°36'48"E, A DISTANCE OF 304.83 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.9423 ACRES, (41,048 SQ. FT.) OF LAND MORE OR LESS.

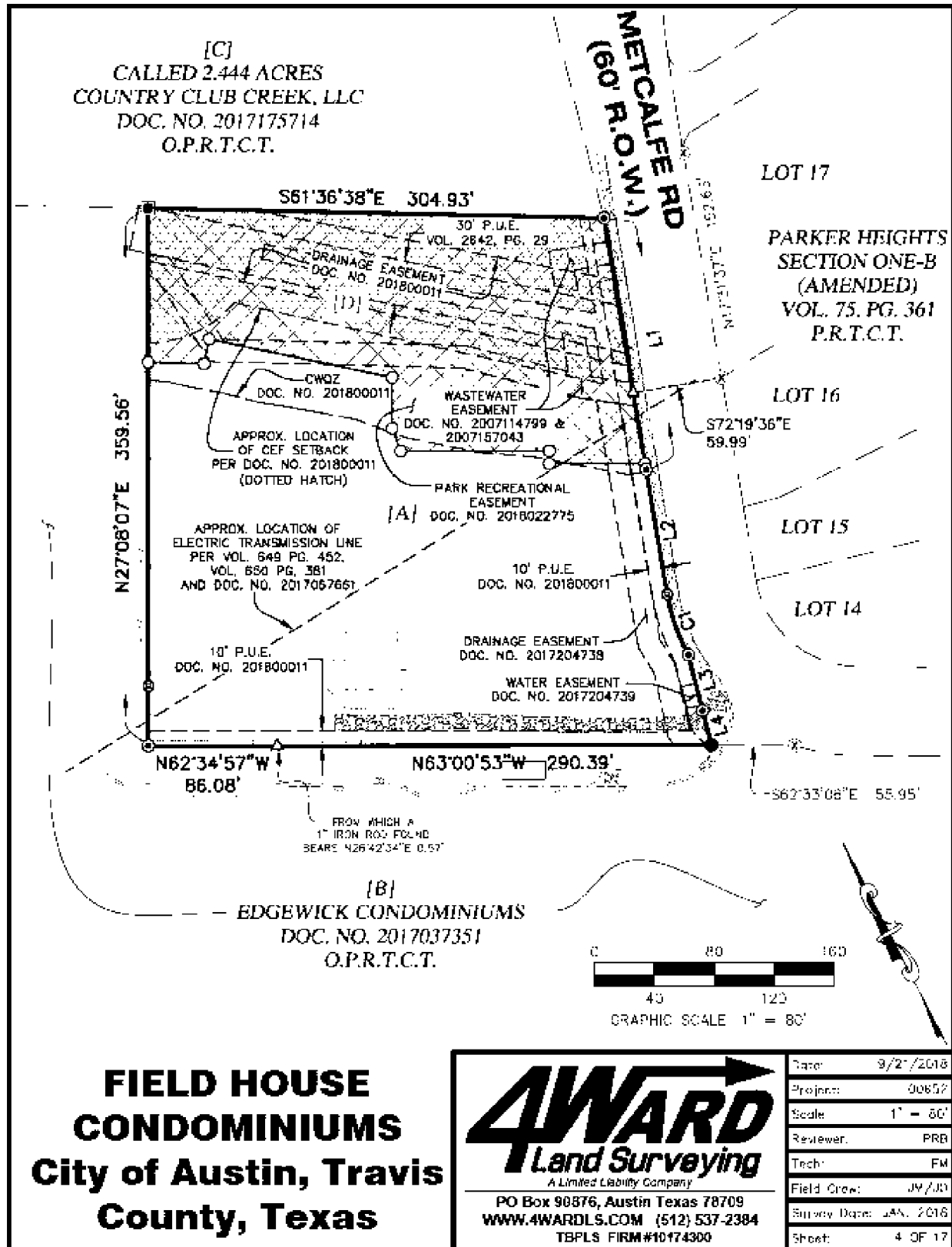
**FIELD HOUSE
CONDOMINIUMS**
City of Austin, Travis
County, Texas

4WARD
Land Surveying
A Limited Liability Company
PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPLS FIRM #10174300

Date:	9/2/2018
Project:	00852
Scale:	N.T.S.
Reviewer:	PRD
Tech:	FM
Field Crew:	JV/JD
Survey Date:	JAN. 2018
Sheet:	2 OF 17

\\005521\dwg\00852_Curds_Plat.dwg





LEGEND

	PROPERTY LINE
	EXISTING PROPERTY LINES
	PROPOSED FENCE (AS-BUILT)
	1/2" IRON ROD WITH "4WARD-BOUNDARY" CAP SET
	1" IRON ROD FOUND
	1" IRON PIPE FOUND
	IRON ROD WITH "KBOE" CAP FOUND
	X CUT FOUND
	CALCULATED POINT
DOC. NO.	DOCUMENT NUMBER
VOL./PG.	VOLUME, PAGE
R.O.W.	RIGHT-OF-WAY
P.L.T.C.T.	PLAT RECORDS, TRAVIS COUNTY, TEXAS
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS
(.....)	RECORD INFORMATION PER PLAT DOC NO. 201800011
[...]	RECORD INFORMATION PER CONDO PLAT DOC NO. 2017015401
{.....}	RECORD INFORMATION PER PLAT VOL. 75, PG. 35*

G.C.E.: GENERAL COMMON ELEMENTS
L.C.E.: LIMITED COMMON ELEMENTS
 ASSIGNED TO UNIT IN PARENTHESIS ()

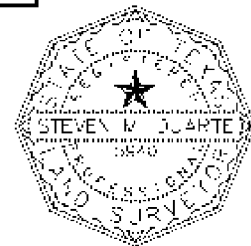
ALL IMPROVEMENTS IN THE PROPERTY OUTSIDE THE UNITS AND LIMITED COMMON ELEMENT AREAS ARE GENERAL COMMON ELEMENTS.

THIS CONDOMINIUM PLAT CONTAINS THE INFORMATION REQUIRED BY SECTION 82.059 OF THE TEXAS UNIFORM CONDOMINIUM ACT

THE PLAT AND PLANS ATTACHED HERETO CONTAIN ALL INFORMATION REQUIRED BY SECTION 82.059 OF THE TEXAS UNIFORM CONDOMINIUM ACT, AS APPLICABLE.

STEVEN M. DUARTE
 R.P.L.S. NO. 6940

12/7/2017

**LINE TABLE**

LINE #	DIRECTION	LENGTH
L1	S17°40'24"W	170.61'
L2	S17°30'46"W	84.65'
L3	S12°50'31"W	38.61'
L4	S12°57'30"W	23.66'
L5	N61°20'00"W	37.40'
L6	S39°00'48"W	16.87'
L7	N27°05'01"E	34.05'
L8	N06°44'02"E	16.33'
L9	N27°05'01"E	8.54'
L10	N62°54'59"W	64.05'

RECORD LINE TABLE

LINE #	DIRECTION	LENGTH
L1	(S17°40'32"W)	(170.59')
L2	(S17°30'14"W)	(84.66')
L3	(S12°48'39"W)	(38.53')
L4	(S13°06'22"W)	(23.75')

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA	BEARING	DISTANCE
C1	43.03'	129.99'	18°57'59"	S07°55'08"W	42.83'

RECORD CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA	BEARING	DISTANCE
(C1)	(43.02')	(129.99')	(18°57'37")	(S07°54'57"W)	(42.82')

**FIELD HOUSE
 CONDOMINIUMS**
 City of Austin, Travis
 County, Texas



PO Box 90876, Austin Texas 78709
 WWW.4WARDLS.COM (512) 537-2384
 TBPLS FIRM #10174300

Date:	9/2/2018
Project:	00652
Scale:	1" = 80'
Reviewer:	PRD
Tech:	FM
Field Crew:	JV/JD
Survey Date:	JAN. 2018
Sheet:	5 OF 17

* \\00602\Draw\00652_Curbs Plat.dwg

ENCUMBRANCES SHOWN ON SHEET 4 OF 17
 ARE FROM THE PLAT RECORDED IN
 DOCUMENT NO. 201800011 OF THE
 OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY AND FROM A COMMITMENT FOR TITLE INSURANCE PREPARED
 BY CHICAGO TITLE INSURANCE COMPANY IN COMMITMENT NO. AUT18003021, CF NO.
 AUT-60-661-AUT18003021TDC, EFFECTIVE DATE: MARCH 29, 2018, ISSUED APRIL 6, 2018.

ENCUMBRANCES

RESTRICTIVE COVENANTS RECORDED IN DOCUMENT NO. 201800011 (PLAT), OFFICIAL PUBLIC RECORDS
 OF TRAVIS COUNTY, TEXAS.

A BUILDING SET-BACK LINE, AS DISCLOSED BY SAID MAP/PLAT OF RECORD IN DOCUMENT NO.
 201800011 (PLAT).

EASEMENT TO TEXAS POWER & LIGHT COMPANY RECORDED IN VOLUME 649, PAGE 452, AS AFFECTED
 BY DOCUMENT NO. 2017067661, OFFICIAL PUBLIC RECORDS DEED RECORDS OF TRAVIS COUNTY, TEXAS;
 AND AS SHOWN ON THE PLAT RECORDED IN DOCUMENT NO. 201800011, OFFICIAL PUBLIC RECORDS OF
 TRAVIS COUNTY, TEXAS.

EASEMENT TO THE CITY OF AUSTIN RECORDED IN VOLUME 650, PAGE 381, DEED RECORDS; AS
 AFFECTED BY DOCUMENT NO. 2017067661, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS;
 AND AS SHOWN ON THE PLAT RECORDED IN DOCUMENT NO. 201800011, OFFICIAL PUBLIC RECORDS
 OF TRAVIS COUNTY, TEXAS.

PUBLIC UTILITY EASEMENT 10 FEET IN WIDTH ALONG THE SOUTHERLY (CARLSON DR.) PROPERTY LINE
 RECORDED IN DOCUMENT NO. 201800011, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

PUBLIC UTILITY EASEMENT 10 FEET IN WIDTH ALONG THE EASTERLY (METCALFE RD.) PROPERTY LINE
 RECORDED IN DOCUMENT NO. 201800011, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

EASEMENT TO THE CITY OF AUSTIN RECORDED IN VOLUME 2642, PAGE 29, DEED RECORDS OF TRAVIS
 COUNTY, TEXAS; AND AS SHOWN ON THE PLAT RECORDED IN DOCUMENT NO. 201800011, OFFICIAL
 PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

EASEMENT TO THE CITY OF AUSTIN RECORDED IN DOCUMENT NO. 2007114799, OFFICIAL PUBLIC
 RECORDS OF TRAVIS COUNTY, TEXAS.

EASEMENT TO THE CITY OF AUSTIN RECORDED IN DOCUMENT NO. 2007157043, OFFICIAL PUBLIC
 RECORDS OF TRAVIS COUNTY, TEXAS.

EASEMENT TO THE CITY OF AUSTIN RECORDED IN DOCUMENT NO. 2017204738, OFFICIAL PUBLIC
 RECORDS OF TRAVIS COUNTY, TEXAS.

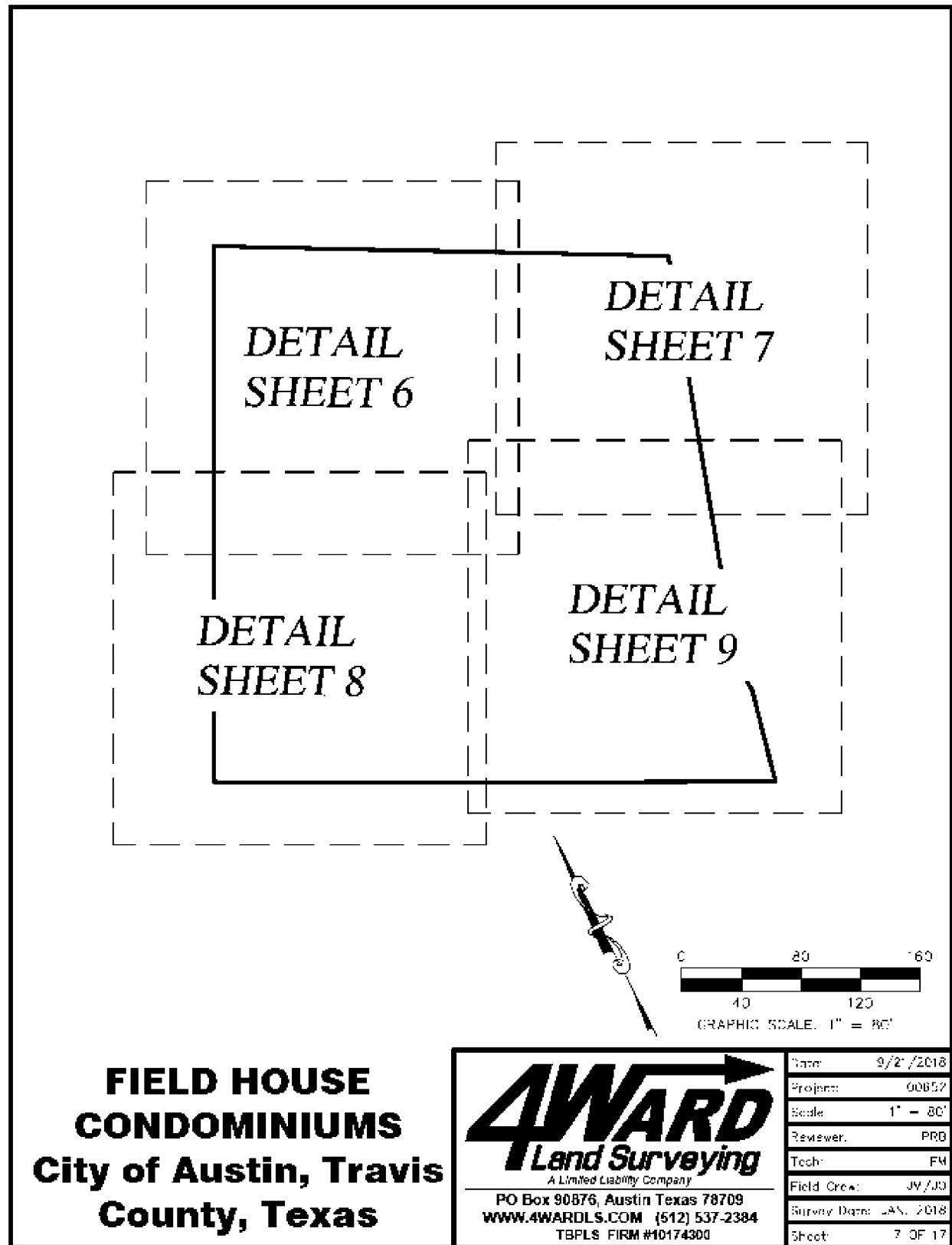
EASEMENT TO THE CITY OF AUSTIN RECORDED IN DOCUMENT NO. 2017204739, OFFICIAL PUBLIC
 RECORDS OF TRAVIS COUNTY, TEXAS.

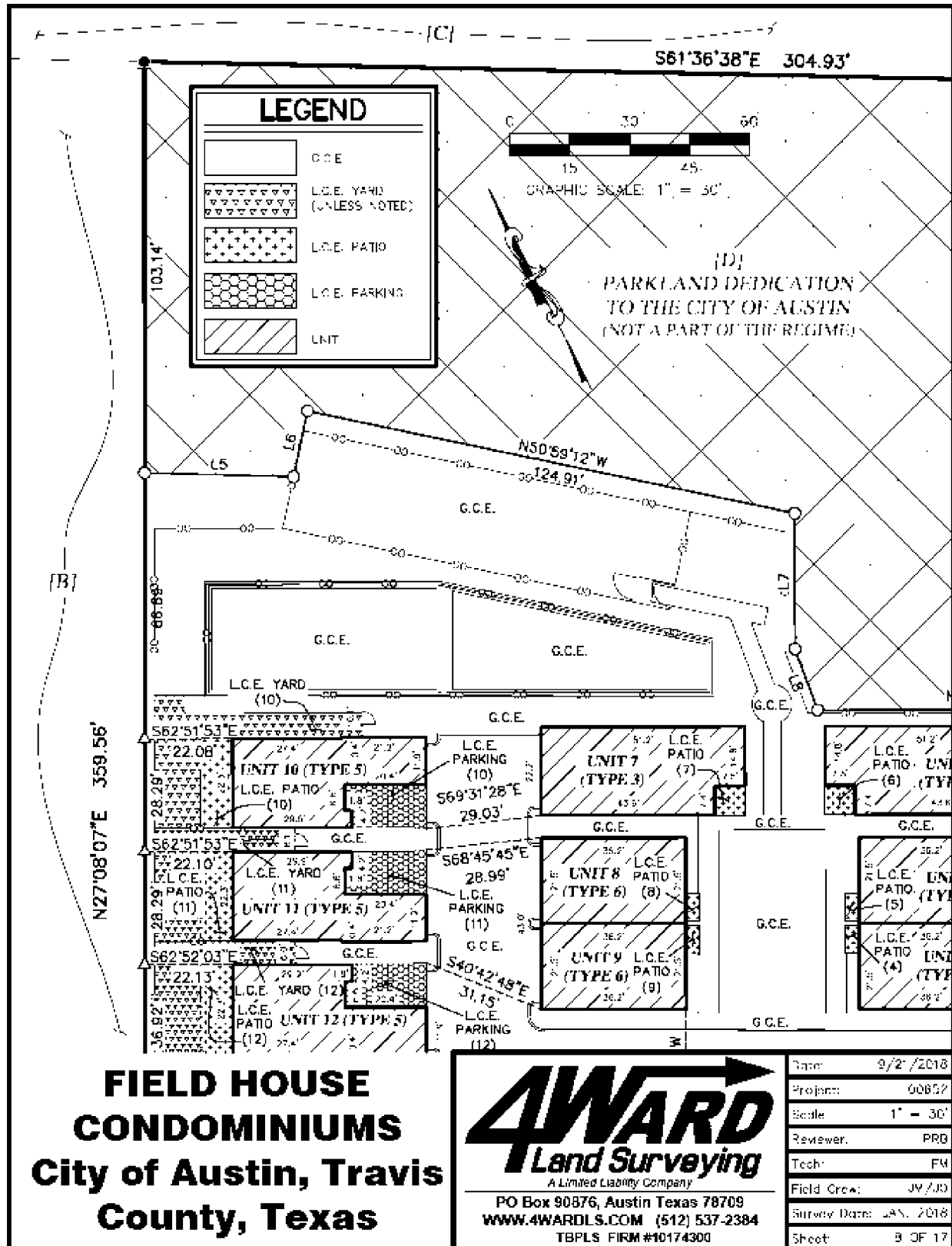
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 RECORDS OF TRAVIS COUNTY, TEXAS.

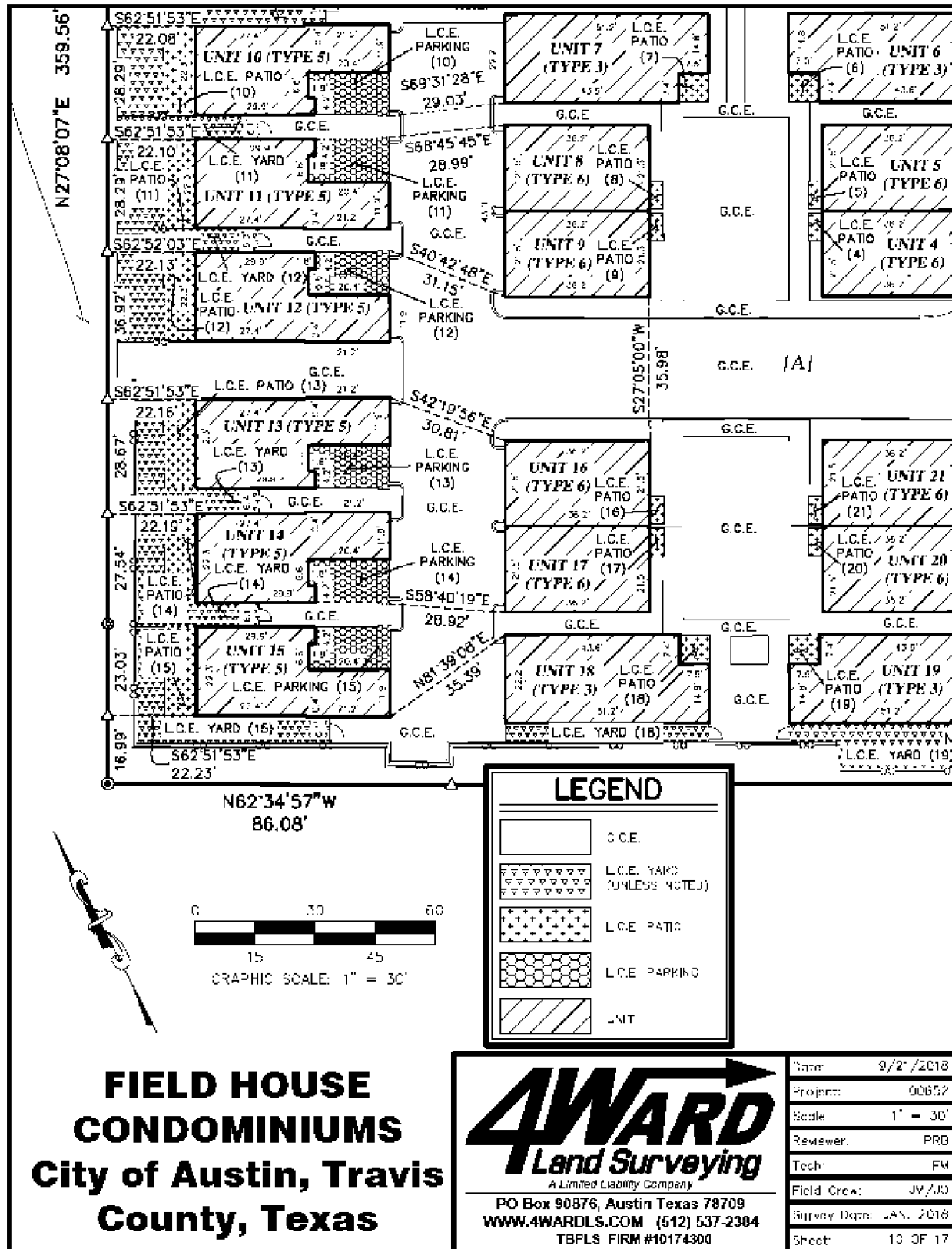
**FIELD HOUSE
 CONDOMINIUMS
 City of Austin, Travis
 County, Texas**

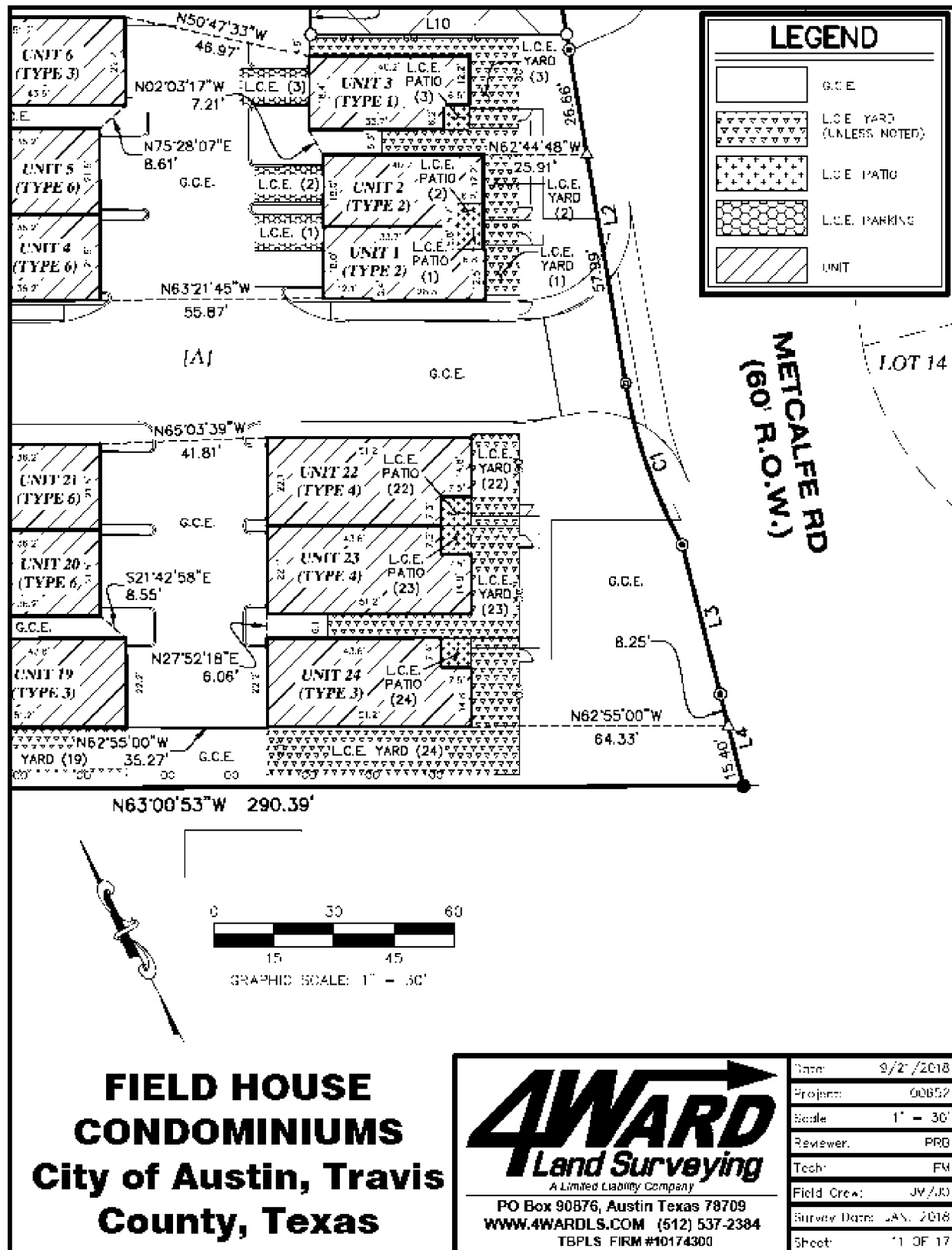
 <p>4WARD <i>Land Surveying</i> <small>A Limited Liability Company</small></p> <p>PO Box 90876, Austin Texas 78709 WWW.4WARDLS.COM (512) 537-2384 TBPLS FIRM #10174300</p>	Date:	9/2/2018
	Project:	00652
	Scale:	1" = 80'
	Reviewer:	PRD
	Tech:	FM
	Field Crew:	JV/JD
Survey Date:	JAN. 2018	
Sheet:	6 OF 17	

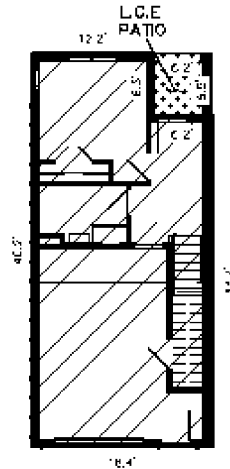
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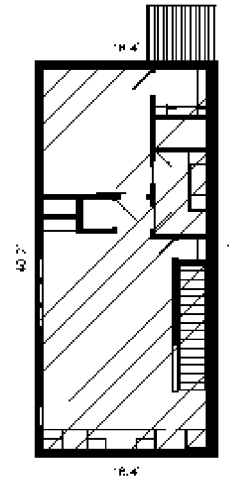






BUILDING TYPE 1

UNIT 3:
FIRST LEVEL



UNIT 3:
SECOND LEVEL

UNIT 3 ELEVATIONS ARE FROM AN ELEVATION OF 548.50' TO 569.50'.

LEGEND	
	O.C.E.
	L.C.E. YARD (UNLESS NOTED)
	L.C.E. PATIO
	L.C.E. PARKING
	UNIT

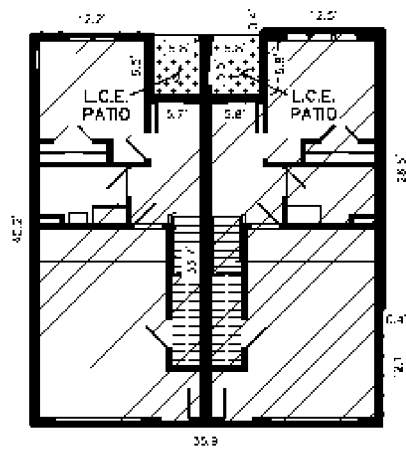
**FIELD HOUSE
CONDOMINIUMS**
City of Austin, Travis
County, Texas

4WARD
Land Surveying
A Limited Liability Company

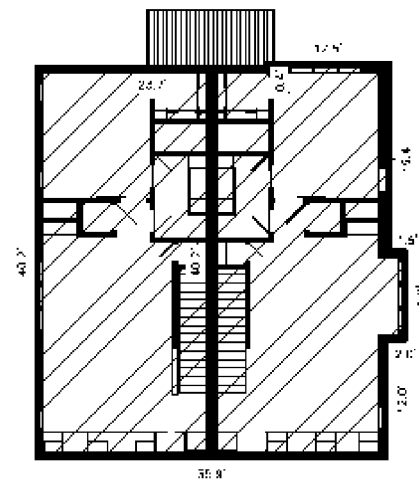
PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPLS FIRM #10174300

Date:	9/27/2018
Project:	00852
Scale:	NTS
Reviewer:	PRD
Tech:	FM
Field Crew:	JV/JD
Survey Date:	JAN. 2018
Sheet:	12 OF 17

" \\00852\Draw\00852_Surds Plot.dwg

BUILDING TYPE 2

UNIT 1, 2:
FIRST LEVEL



UNIT 1, 2:
SECOND LEVEL

UNIT 1 & 2 ELEVATIONS ARE FROM AN ELEVATION OF 549.50' TO 577.50'.

LEGEND	
	G.C.E.
	L.C.E. YARD (UNLESS NOTED)
	L.C.E. PATIO
	L.C.E. PARKING
	UNIT

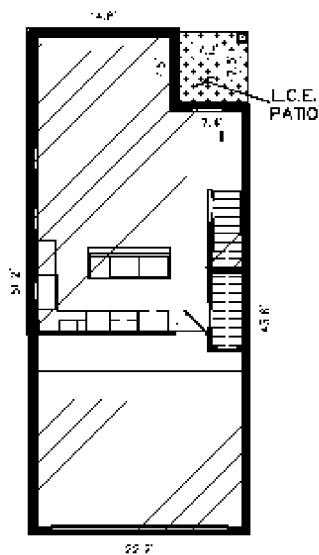
**FIELD HOUSE
CONDOMINIUMS**
**City of Austin, Travis
County, Texas**

4WARD
Land Surveying
A Limited Liability Company

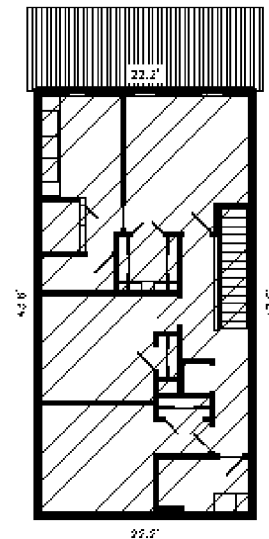
PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPLS FIRM #10174300

Date:	9/2/2018
Project:	00652
Scale:	NTS
Reviewer:	PRB
Tech:	FM
Field Crew:	JV/JD
Survey Date:	JAN. 2018
Sheet:	13 OF 17

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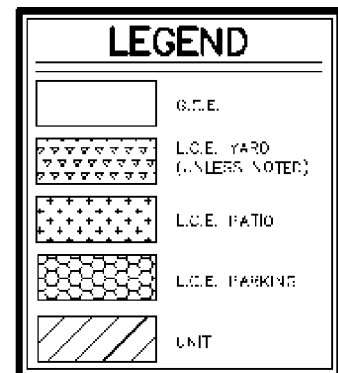
BUILDING TYPE 3

UNIT 6, 7, 18, 19, 24:
FIRST LEVEL



UNIT 6, 7, 18, 19, 24:
SECOND LEVEL

UNIT 6 & 7 ELEVATIONS ARE FROM AN ELEVATION OF 548.50' TO 576.50'.
UNIT 18 & 19 ELEVATIONS ARE FROM AN ELEVATION OF 553.00' TO 578.00'.
UNIT 24 ELEVATIONS ARE FROM AN ELEVATION OF 552.50' TO 580.50'.

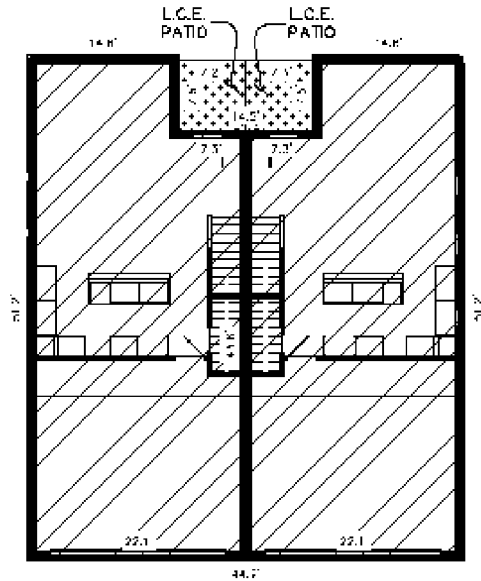


**FIELD HOUSE
CONDOMINIUMS**
City of Austin, Travis
County, Texas

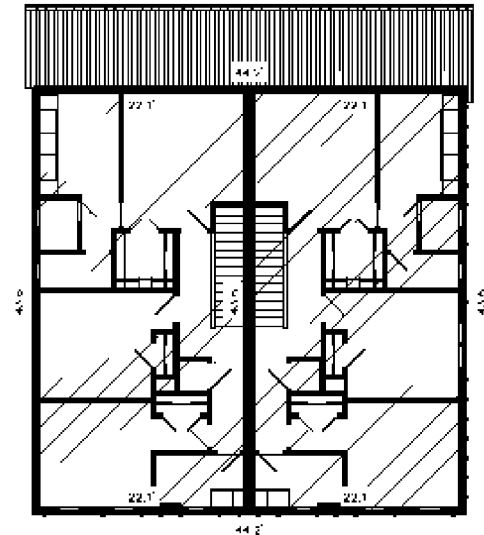
4WARD
Land Surveying
A Limited Liability Company
PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPLS FIRM #10174300

Date:	9/2/2018
Project:	00652
Scale:	NTS
Reviewer:	PRO
Tech:	FM
Field Crew:	JV/JJ
Survey Date:	JAN. 2018
Sheet:	14 OF 17

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BUILDING TYPE 4

UNIT 22, 23:
FIRST LEVEL



UNIT 22, 23:
SECOND LEVEL

UNIT 22 ELEVATIONS ARE FROM AN ELEVATION OF 551.00' TO 581.00'.
UNIT 23 ELEVATIONS ARE FROM AN ELEVATION OF 551.50' TO 581.50'.

LEGEND	
	G.C.E.
	L.C.E. YARD (UNLESS NOTED)
	L.C.E. PATIO
	L.C.E. PARKING
	UNIT

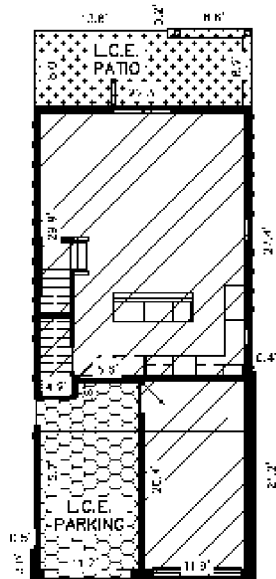
**FIELD HOUSE
CONDOMINIUMS**
**City of Austin, Travis
County, Texas**

4WARD
Land Surveying
A Limited Liability Company

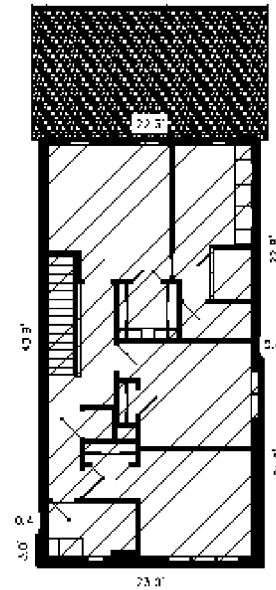
PO Box 90876, Austin Texas 78709
WWW.4WARDLS.COM (512) 537-2384
TBPLS FIRM #10174300

Date:	9/21/2018
Project:	00052
Scale:	N.T.S.
Reviewer:	PRB
Tech:	FM
Field Crew:	JY/JD
Survey Date:	JAN. 2018
Sheet:	15 OF 17

\\00052\Drawings\00052_Surds Plot.dwg

BUILDING TYPE 5

UNIT 10, 11, 12, 13, 14, 15:
FIRST LEVEL



UNIT 10, 11, 12, 13, 14, 15:
SECOND LEVEL

UNIT 10 ELEVATIONS ARE FROM AN ELEVATION OF 548.50' TO 576.50'.
 UNIT 11 ELEVATIONS ARE FROM AN ELEVATION OF 549.50' TO 574.50'.
 UNIT 12 ELEVATIONS ARE FROM AN ELEVATION OF 550.50' TO 576.50'.
 UNIT 13 ELEVATIONS ARE FROM AN ELEVATION OF 552.00' TO 577.00'.
 UNIT 14 ELEVATIONS ARE FROM AN ELEVATION OF 552.50' TO 577.50'.
 UNIT 15 ELEVATIONS ARE FROM AN ELEVATION OF 553.00' TO 578.00'.

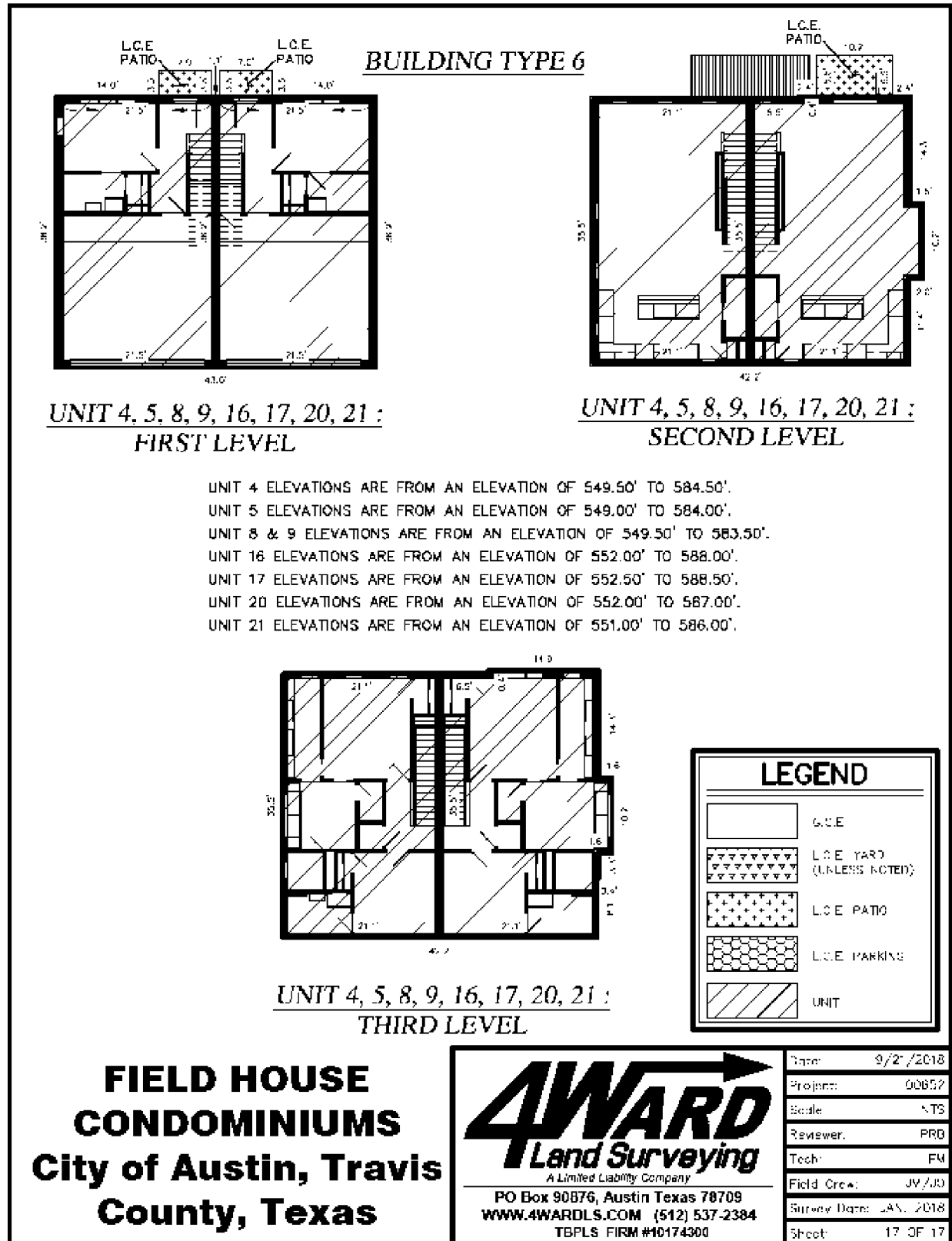
LEGEND	
	G.C.E.
	L.C.E. YARD (UNLESS NOTED)
	L.C.E. PATIO
	L.C.E. PARKING
	UNIT

**FIELD HOUSE
 CONDOMINIUMS**
**City of Austin, Travis
 County, Texas**

4WARD
 Land Surveying
 A Limited Liability Company
 PO Box 90876, Austin Texas 78709
 WWW.4WARDLS.COM (512) 537-2384
 TBPLS FIRM #10174300

Date:	9/2/2018
Project:	00652
Scale:	N.T.S.
Reviewer:	PRD
Tech:	FM
Field Crew:	JV/JD
Survey Date:	JAN. 2018
Sheet:	15 OF 17

\\006521\Draw\00652_Corridor Plat.dwg



TAX CERTIFICATE
 Bruce Elfant
 Travis County Tax Assessor-Collector
 P.O. Box 1748
 Austin, Texas 78767
 (512) 854-9473

NO 2273321

ACCOUNT NUMBER: 03-9804-0105-0000

PROPERTY OWNER:

PROPERTY DESCRIPTION:

METCALFE DEVELOPMENT LLC
 6700 BRIDGE HILL CV
 AUSTIN, TX 78746-1338

2.7500 ACRES LIGGINS HOMESTEAD

ACRES 2.7500 MIN% .000000000000 TYPE

SITUS INFORMATION: 2624 METCALFE RD

This is to certify that after a careful check of tax records of this office, the following taxes, delinquent taxes, penalties and interests are due on the described property of the following tax unit(s):

YEAR	ENTITY	TOTAL
2018	AUSTIN ISD	*ALL PAID*
	CITY OF AUSTIN (TRAVI	*ALL PAID*
	TRAVIS COUNTY	*ALL PAID*
	TRAVIS CENTRAL HEALTH	*ALL PAID*
	ACC (TRAVIS)	*ALL PAID*
TOTAL SEQUENCE 9		*ALL PAID*
TOTAL TAX:		*ALL PAID*
UNPAID FEES:		* NONE *
INTEREST ON FEES:		* NONE *
COMMISSION:		* NONE *
TOTAL DUE -->		*ALL PAID*

TAXES PAID FOR YEAR 2018 \$9,921.06

ALL TAXES PAID IN FULL PRIOR TO AND INCLUDING THE YEAR 2018 EXCEPT FOR UNPAID YEARS LISTED ABOVE.
 The above described property may be subject to special valuation based on its use, and additional rollback taxes may become due. (Section 23.55, State Property Tax Code).
 Pursuant to Section 31.08 of the State Property Tax Code, there is a fee of \$10.00 for all Tax Certificates.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS DATE OF 08/01/2019

Fee Paid: \$10.00

Bruce Elfant
 Tax Assessor-Collector

By: 

BOLINGE printed on 08/01/2019 @ 09:30:08:00

Page# :

EXHIBIT "B"**COMMON INTEREST ALLOCATION AND VOTES**

The Percentage of Common Interest and Share of Common Expense Liability for each Unit is set forth below. Each Unit is allocated one (1) vote.

Unit Number	Unit Type	Common Interest Allocation
1	B1	2.88%
2	B1	2.88%
3	B1	2.88%
4	C2	4.69%
5	C2	4.69%
6	C1	4.14%
7	C1	4.14%
8	C2	4.69%
9	C2	4.69%
10	C1A	4.14%
11	C1A	4.14%
12	C1A	4.14%
13	C1A	4.14%
14	C1A	4.14%
15	C1A	4.14%
16	C2	4.69%
17	C2	4.69%
18	C1	4.14%
19	C1	4.14%
20	C2	4.69%
21	C2	4.69%
22	C1	4.14%
23	C1	4.14%
24	C1	4.14%
TOTAL		100%

EXHIBIT "C"**GUIDE TO THE ASSOCIATION'S EXAMINATION OF COMMON ELEMENTS**

This Guide provides information to assist the Board in conducting an annual examination of the Common Elements for the purpose maintaining replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the General Common Elements maintained by the Association. The annual examination is required by *Section 9.3* of the Declaration and is a necessary prerequisite to establishing sufficient reserves as required by *Section 6.12* of the Declaration. Additional information on conducting the examination may be obtained from the Community Associations Institute and their publication, *The National Reserve Study Standards of the Community Associations Institute*. See www.caionline.org. In addition, the Community Associations Institute provides certification for qualified preparers of reserve studies, known as a "Reserve Professionals Designation" (R.S.). Neither this Declaration nor current law requires that the Board engage an individual holding a Reserve Professional Designation for the purpose of conducting the annual examination of the Common Elements. Because laws and practices change over time, the Board should not use this Guide without taking into account applicable changes in law and practice.

Developing a Plan

In developing a plan, the age and condition of Common Elements maintained by the Association must be considered. The possibility that new types of material, equipment, or maintenance processes associated with the repair and/or maintenance of Common Elements should also be taken into account. The individual or company who prepares the examination calculates a suggested annual funding amount and, in doing so, may consider such factors as which components are included, estimated replacement costs of the components, useful lives of the components, inflation, and interest on reserve account balances or other earnings rates. Annual contributions to the replacement fund from annual assessments are based on this examination or reserve study. A reserve study generally includes the following:

- Identification and analysis of each major component of Common Elements maintained by the Association
- Estimates of the remaining useful lives of the components
- Estimates of the costs of replacements or repairs
- A cash flow projection showing anticipated changes in expenditures and contributions over a time period generally ranging between 20 and 30 years

- The "Funding Goal" which is generally one of the following:
 - i. Component Full Funding: Attaining, over a period of time, and maintaining, once the initial goal is achieved, a cumulative reserve account cash balance necessary to discharge anticipated expenditures at or near 100 percent; or
 - ii. Threshold Funding: Maintaining the reserve account cash balance above a specified dollar or percent funded amount.

Note that Threshold Funding will increase the likelihood that special assessments will be required to fund major repairs and replacements. For example, one study has shown that a Threshold Funding goal of 40 to 50% results in a 11.2% chance that the Association will be unable to fund repairs and replacement projects in the next funding year. See "Measuring the Adequacy of Reserves", *Common Ground*, July/August 1997. The same study found that Component Full Funding reduces this likelihood to between .09 and 1.4%

Finding Common Element Component Replacement Information

Common Element component replacement information may be obtained from contractors, suppliers, technical specialists (IT, cable, fiber optics, etc), a "Reserve Study" specialist or from using tables in technical manuals on useful lives of various components. As provided in *Section 9.3* of the Declaration, the Board must reevaluate its funding level each year based upon changes to the Common Elements as well as changes to replacement costs and component conditions. The specific components of Common Elements include, but are not limited to, roofing, electrical systems, plumbing, information technology equipment, floor coverings, air conditioning systems, heating and hot water equipment, roads, recreational facilities, and furniture and equipment owned or maintained by the Association. Components covered by maintenance contracts may be excluded if the contracts include maintenance and replacement of the components. The Board must also include within their overall budget a deferred maintenance account for those components requiring periodic maintenance which does not occur annually. Typically, the deferred maintenance account would include such components as painting, staining, and caulking.

EXHIBIT "D"**GUIDE TO ASSOCIATION'S MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS**

This Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Association's Board of Directors may, from time to time, use this Guide to consider what functions, if any, to delegate to one or more managers, managing agents, employees, or volunteers. Because laws and practices change over time, the Association and/or the Board should not use this Guide without taking account of applicable changes in law and practices.

MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS	Performed by Assoc. officers or directors	Delegated to Assoc. employee or agent
<p><u>FINANCIAL MANAGEMENT</u></p> <p>To adopt annual budget and levy assessments, per Declaration.</p> <p>Prepare annual operating budget, periodic operating statements, and year-end statement.</p> <p>Identify components of the property the Association is required to maintain. Estimate remaining useful life of each component. Estimate costs and schedule of major repairs and replacements, and develop replacement reserve schedule for 5, 10, and 20-year periods. Annually update same.</p> <p>Collect assessments and maintain Association accounts.</p> <p>Pay Association's expenses and taxes.</p> <p>Obtain annual audit and income tax filing.</p> <p>Maintain fidelity bond on whomever handles Association funds.</p>		

Report annually to members on financial status of Association.		
<p><u>PHYSICAL MANAGEMENT</u></p> <p>Inspect, maintain, repair, and replace, as needed, all components of the property for which the Association has maintenance responsibility.</p> <p>Contract for services, as needed to operate or maintain the property.</p> <p>Prepare specifications and call for bids for major projects.</p> <p>Coordinate and supervise work on the property, as warranted.</p>		
<p><u>ADMINISTRATIVE MANAGEMENT</u></p> <p>Receive and respond to correspondence from owners, and assist in resolving owners' problems related to the Association.</p> <p>Conduct hearings with owners to resolve disputes or to enforce the governing documents.</p> <p>Obtain and supervise personnel and/or contracts needed to fulfill Association's functions.</p> <p>Schedule Association meetings and give owners timely notice of same.</p> <p>Schedule board meetings and give directors timely notice of same.</p> <p>Enforce the governing documents.</p> <p>Maintain insurance and bonds as required by the governing documents or state law, or as customary for similar types of property in the same geographic area.</p>		

Maintain Association books, records, and files.		
Maintain Association's corporate charter and registered agent & address.		
<u>OVERALL FUNCTIONS</u> Promote harmonious relationships within the community. Protect and enhance property values in the community. Encourage compliance with governing documents and Applicable Law and ordinances. Act as liaison between the community of owners and governmental, taxing, or regulatory bodies. Protect the Association and the property from loss and damage by lawsuit or otherwise.		

EXHIBIT "E"**ENCUMBRANCES**

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception): those recorded in Document No. 201800011 (plat), Official Public Records of Travis County, Texas.

2. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records of Travis County, Texas.

3. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Texas Power & Light Company

Purpose: As provided in said instrument

Recording Date: May 27, 1940

Recording No: Volume 649, Page 452, Deed Records of Travis County, Texas; and as affected by Document No. 2017067661, Official Public Records Deed Records of Travis County, Texas; and as shown on the plat recorded in Document No. 201800011, Official Public Records of Travis County, Texas

4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin

Purpose: As provided in said instrument

Recording Date: May 28, 1940

Recording No: Volume 650, Page 381, Deed Records of Travis County, Texas; and as affected by Document No. 2017067661, Official Public Records of Travis County, Texas; and as shown on the plat recorded in Document No. 201800011, Official Public Records of Travis County, Texas

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: public utility

Affects: 10 feet in width along the southerly (Carlson Dr.) property line

Recording No: Document No. 201800011, Official Public Records of Travis County, Texas

6. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: public utility

Affects: 10 feet in width along the easterly (Metcalfe Rd.) property line
 Recording No: Document No. 201800011, Official Public Records of Travis County, Texas

7. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin
 Purpose: As provided in said instrument
 Recording Date:
 Recording No: Volume 2642, Page 29, Deed Records of Travis County, Texas; and as shown on the plat recorded in Document No. 201800011, Official Public Records of Travis County, Texas

8. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin
 Purpose: As provided in said instrument
 Recording Date: June 22, 2007
 Recording No: Document No. 2007114799, Official Public Records of Travis County, Texas

9. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin
 Purpose: As provided in said instrument
 Recording Date: August 22, 2007
 Recording No: Document No. 2007157043, Official Public Records of Travis County, Texas

10. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin
 Purpose: As provided in said instrument
 Recording Date: December 28, 2017
 Recording No: Document No. 2017204738, Official Public Records of Travis County, Texas

11. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin
 Purpose: As provided in said instrument
 Recording Date: December 28, 2017

Recording No:
Texas

Document No. 2017204739, Official Public Records of Travis County,

12. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Austin

Purpose: As provided in said instrument

Recording Date: February 15, 2018

Recording No: Document No. 2018022775, Official Public Records of Travis County,
Texas

EXHIBIT "F"

MAINTENANCE RESPONSIBILITY CHART

"All aspects" includes maintenance, repair, and replacement, as needed.

COMPONENT OF PROPERTY	ASSOCIATION RESPONSIBILITY	OWNER RESPONSIBILITY
Retaining walls around perimeter of property, fences, and screening walls	All aspects.	None.
Exterior lighting	All aspects.	None.
Mailboxes & exterior street addresses or Unit numbers	Cluster mailboxes located within the General Common Elements.	Any non-cluster mailbox exclusively serving a Unit.
Exterior Landscaping	All aspects within the General Common Elements and Landscaping Services for each Unit's Yard Area, but excluding any landscaping not installed by Declarant or the Association.	None except for landscaping placed by the Unit Owner (including potted plants or planter boxes) on an Owner's Unit or within Limited Common Element assigned exclusively to an Owner's Unit.
Roofs and roof facilities	All aspects.	None.
Exterior Building components	All aspects.	None.
Building Foundation	All aspects.	None.
Unit interior, including improvements, fixtures, partition walls and floors within Unit	None.	All aspects.
Sheetrock within Unit & treatments on walls	None.	All aspects.

COMPONENT OF PROPERTY	ASSOCIATION RESPONSIBILITY	OWNER RESPONSIBILITY
Exterior Unit doors and garage doors.	None.	All aspects (but any alterations or replacement is subject to Article X of the Declaration).
Windows	All aspects, including annual window cleaning. But excluding costs associated with repair or replacement, which shall be a Unit Owner expense.	The cost of repair and/or replacement which shall be levied as an Individual Assessment.
Water, wastewater, electrical lines & systems.	All aspects of common lines & systems serving more than one Unit, none for those serving an individual Unit.	All aspects of lines, pipes, fixtures, and appliances serving only that Owner's Unit.
HVAC System	None.	All aspects if serving the Owner's Unit exclusively.
Intrusion alarms smoke/heat detectors, monitoring equipment.	None for those exclusively serving an individual Unit.	All aspects for those exclusively serving an individual Unit.

NOTE 1: The components listed in the first column are applicable only if they exist, and may not be construed to create a requirement to have such a component.

NOTE 2: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, the Association may perform the work after giving required notices to the Owner.

NOTE 3: *Set forth above is a summary of the maintenance obligations imposed upon the Association and the Owners generally as described more fully in this Declaration. Please note that the information set forth in this Exhibit F is a summary only and is not intended to modify any of the provisions of this Declaration. Accordingly, in the event of a conflict between the summary set forth in this Exhibit F and any provision set forth in the Declaration above, the provision set forth in the Declaration above will control.*

APPENDIX "A"

DECLARANT RESERVATIONS AND REPRESENTATIONS

1. General Provisions.

1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling certain Declarant-related provisions in this Appendix.

1.2. General Reservation and Construction. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of a conflict between this Appendix "A" and any other Document, this Appendix "A" controls. This Appendix may not be amended without the prior written consent of Declarant. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and Declarant Control Period to ensure a complete and orderly sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees. The "Development Period", as specifically defined in Section 1.15 of the Declaration, means the seven (7) year period beginning on the date this Declaration is Recorded, unless such period is earlier terminated by Declarant's Recordation of a notice of termination. Declarant Control Period is defined in Section 1.13 of the Declaration.

2. Declarant Control Period Reservations. For the benefit and protection of Owners and Mortgagees, and for the purpose of ensuring a complete and orderly build-out and sellout of the Property, Declarant will retain control of the Association, subject to the following:

2.1. Association Budget. During the Declarant Control Period, the Declarant-appointed Board will establish a projected budget for the Property as a fully developed, fully constructed, and fully occupied residential community with a level of services and maintenance that is typical for similar types of developments in the general area of the

Property, using cost estimates that are current for the period in which the budget is prepared. The Association budget may not include enhancements voluntarily provided by Declarant to facilitate the marketing of new homes in the Property.

2.2. Officers and Directors. 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 following limitations: (i) within one hundred and twenty (120) days after fifty percent (50%) of the total number of Units that may be created have been conveyed to Owners other than Declarant, at least one-third of the Board must be elected by the Owners other than Declarant; and (ii) within one hundred and twenty (120) days after seventy-five percent (75%) of the total number of Units that may be created have been conveyed to Owners other than Declarant, all Board members must be elected by all Owners, including the Declarant.

2.3. Obligation for Assessments. For each Unit owned by Declarant, Declarant is liable for Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments in the same manner as any Owner. Regarding Regular Assessments, Declarant at Declarant's option may support the Association's budget by either of the following methods: (i) Declarant will pay Regular Assessments on each Declarant owned Unit in the same manner as any Owner; or (ii) Declarant will assume responsibility for the difference between the Association's actual operational expenses as they are paid and the Regular Assessments received from Owners other than Declarant. On the earlier to occur of three (3) years after the first conveyance of a Unit by the Declarant or termination of the Declarant Control Period, Declarant must begin paying Assessments on each Declarant owned Unit.

2.4. Obligation for Reserves. During the Declarant Control Period, neither the Association nor Declarant may use the Association working capital or reserve funds to pay operational expenses of the Association.

2.5. Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any Common Element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the Common Element will be free of encumbrance except for the property taxes, if any, accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.

3. **Development Period Rights.** Declarant reserves the following rights during the Development Period:

3.1. **Annexation.** The Property is subject to expansion by phasing for up to seven (7) years from the date this Declaration is recorded. During the Development Period, Declarant may annex additional property into the Regime, and subject such property to this Declaration and the jurisdiction of the Association by Recording an amendment or supplement of this Declaration executed by Declarant, in the Official Public Records of Travis County, Texas.

3.2. **Creation of Units.** When created, the Property contains twenty-four (24) Units.

3.3. **Changes in Development Plan.** During the Development Period, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, the subdivision or combination of Units, changes in the sizes, styles, configurations, materials, and appearances of Units, and Common Elements.

3.4. **Architectural Control.** Declarant has the absolute right of architectural control.

3.5. **Transfer Fees.** Declarant will not pay transfer-related and resale certificate fees.

3.6. **Website & Property Name.** During the Development Period, Declarant has the unilateral right to approve or disapprove uses of any website purporting to serve the Property or the Association, all information available on or through the Property website, if any, and all uses of the property name by the Association.

3.7. **Statutory Development Rights.** As permitted by the Act, Declarant reserves the following Development Rights which may be exercised during the Development Period: (i) to add real property to the Regime; (ii) to create Units, General Common Elements, and Limited Common Elements within the Property; (iii) to subdivide Units or convert Units into Common Elements; and (iv) to withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights," provided that no Unit in the portion to be withdrawn has been conveyed to an Owner other than Declarant.

3.8. **Development Rights Reserved.** Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved" or "Subject to Development

Rights," if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

3.9. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other Owners or any mortgagee, for the following purposes:

- (i) to meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.
- (ii) to correct any defects in the execution of this Declaration or the other Documents.
- (iii) to add real property to the Property, in the exercise of statutory Development Rights.
- (iv) to create Units, General Common Elements, and Limited Common Elements within the Property, in the exercise of statutory Development Rights.
- (v) to subdivide, combine, or reconfigure Units or convert Units into Common Elements, in the exercise of statutory Development Rights.
- (vi) to withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights" in the exercise of statutory Development Rights.
- (vii) to resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- (viii) to change the name or entity of Declarant.
- (ix) For any other purpose, provided the amendment has no material adverse effect on any right of any owner.

3.10. Special Declarant Rights. As permitted by the Act, Declarant reserves the following described Special Declarant Rights, to the maximum extent permitted by Applicable Law, which may be exercised, where applicable, anywhere within the Property during the Development Period.

- (i) the right to complete or make Improvements indicated on the Plat and Plans.
- (ii) the right to exercise any Development Right permitted by the Act and this Declaration.
- (iii) the right to use Units owned or leased by Declarant or Common Elements as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property.
- (iv) for purposes of promoting, identifying, and marketing the Property, Declarant reserves 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. 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 Units.
- (v) Declarant has an easement and right of ingress and egress in and through the Common Elements and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under the Act and this Declaration.
- (vi) the right to appoint or remove any Declarant-appointed officer or director of the Association during Declarant Control Period consistent with the Act.
- (vii) the right to construct Improvements within the Regime without requiring approval of the Board.

3.11. Additional Easements and Rights. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, for the duration of the Development Period:

- (i) An easement and right to erect, construct, and maintain on and in the Common Elements and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property.
- (ii) Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained elsewhere in this Declaration or the other Documents.
- (i) The right of entry and access to all Units to perform warranty-related work, if any, for the benefit of the Unit being entered, adjoining Units, or Common Elements. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.
- (ii) An easement and right to make structural changes and alterations on Common Elements and Units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered Common Elements and Units to conform to the architectural standards of the Property. The restoration will be done within one hundred and twenty (120) days after termination of the Development Period. An easement over the entire Property, including the Units, to inspect the Common Elements and all Improvements thereon and related thereto to evaluate the maintenance and condition of the Common Element Improvements.
- (iii) The right to provide a reasonable means of access and parking for prospective Unit purchasers in connection with the active marketing of Units by Declarant.

3.12. 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 for the duration of the Development Period, even though Declarant may have completed the marketing of Units in the Property. Additionally, Declarant - at Declarant's sole option and discretion - may extend the effect of this Section for up to twelve (12) months after the end of the Development Period by paying the Association \$1,000.

3.13. Common Elements. Because the Common Elements are owned by the owners, collectively and in undivided interest, the Common Elements are not capable of being separately conveyed. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of the ownership of the Common Elements. Because ownership of the Common Elements is not conveyed by Declarant to the Association, there is no basis for the popular misconception that Owners may "accept" or "refuse" the Common Elements.

3.14. Successor Declarant. Declarant may designate one or more Successor Declarants for specified designated purposes and/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 Successor Declarant, and Recorded. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. 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.