

**Henderson County  
Mary Margaret Wright  
County Clerk  
Athens, TX 75751**

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**Instrument Number:** 2024-00016948

**As**

**Recorded On:** 11/27/2024 08:49 AM **Recordings - Land**

**Parties:** 821 INVESTMENTS LLC

**To:** EMERALD BAY RESIDENTIAL

**Number of Pages:** 30 Pages

**Comment:**

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(Parties listed above are for Clerks reference only)

**\*\*Examined and Charged as Follows:\*\***

**Total Recording:** 137.00

**File Information:**

Document Number: 2024-00016948

Receipt Number: 2024-19834

Recorded Date/Time: 11/27/2024 08:49 AM

Recorded By: Marilet Zumaya

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**\*\*\*\*\*DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT\*\*\*\*\***

Any provision herein which restricts the Sale, Rental, or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

I hereby certify that this instrument was filed and duly recorded  
in the Official Records of Henderson County, Texas



A handwritten signature in cursive script, appearing to read "Mary Margaret Wright", is written over the printed name.

County Clerk  
Henderson County, Texas

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**Record and Return To:**

821 INVESTMENTS LLC  
6850 TPC DRIVE  
SUITE #104  
MCKINNEY, TX 75070



STATE OF TEXAS                   §  
                                          §       KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF HENDERSON       §

Declarant intends to subdivide the property into single-family lots.

## ARTICLE I

(c) “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.

(d) “Bylaws” shall mean and refer to the bylaws of the Association, as may be amended from time to time.

(e) “Common Properties” shall mean and refer these properties listed in Section 8.1 the easements, improvements or other property rights within the Properties which are known, described or designated or which shall subsequently become known, described or designated as Common Properties intended for or devoted to the common use and enjoyment of the Owners, together with any and all improvements that are now or may hereafter be constructed thereon.

(f) “Declarant” shall mean and refer to 821 Investments, LLC, a Texas limited liability company.

(g) “Declarant Period” shall mean the period of time commencing upon the recording of these Declarations and expiring on the date that the Declarant no longer owns any lots within the Addition.

(h) “Declaration” shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Emerald Bay.

(i) “Member” shall mean and refer to each Owner as provided in Article VII hereof.

(j) “Owner” shall mean and refer to every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject to the Declaration. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

(k) “Plat” shall mean and refer to the Plat recorded in the Plat Records of Henderson County, Texas.

(l) “Properties” shall mean and refer to all of that certain tract of land platted and described as Emerald Bay, an Addition to the City of Caney City, Texas, according to that Plat.

## **ARTICLE II**

### **CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS**

#### **Section 2.1    Residential Use.**

(a) All lots shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family residence per lot, which residence may not have a building height of more than thirty-five (35) feet or more than two and one-half (2.5) stories in height and a private garage as provided below. The Architectural Control Committee (the “Committee”) may give consideration to split level design in which a

portion of the house from the rear or side elevations may exceed two and one-half (2.5) stories or thirty-five (35) feet in height and have the ability to grant variances.

(b) Lease or rental of a home for residential purposes shall not be considered a violation of this Declaration so long as the lease is not less than the entire home and all improvements thereon and is for a term of at least twelve (12) months and in compliance with this declaration. Short term rentals of a home shall not be permitted. The Commercial lots fronting Barron Road do not apply to the residential height covenant requirements. Caney City will have jurisdiction for zoning and height restrictions for all of the Property.

Section 2.2 Single-Family Use. Each residence may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than three unrelated persons living together as a single housekeeping unit, together with any household servants.

Section 2.3 Garages. Each single-family residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles (minimum of 400 square feet). Upon the prior approval of the Committee, there may be erected a one-story accessory building which shall be used only as a detached private garage with a minimum of 300 square feet and connected to the main residence as part of the roof line of the main residence or a breeze way that connects the main residence to the accessory building. The interior walls of every garage shall be finished with taped, bedded and painted sheet rock or other material acceptable to the Committee.

Section 2.4 Restrictions on Re-subdivision. None of the lots shall be subdivided into smaller lots. However, subject to the consent of the Association, two lots may be combined into one lot, but such new combined lot will still be considered as two lots for purposes of assessments and voting rights of members.

Section 2.5 Driveways. All Driveway design must be included on the plot plan when the house plan is submitted to the Committee for approval. The approval of the house plan shall be contingent upon satisfactory design layout of the driveway and the mailbox. Any changes from the original plan shall require specific written approval. All driveways shall be completed at the time of construction for the primary dwelling.

Section 2.6 Uses Specifically Prohibited.

(a) No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos, which may be placed on a lot only in places which are not visible from any street on which the lot fronts) shall be permitted on any lot except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a given lot during construction of the residence in the Addition (any such improvements shall be neatly landscaped). No building material of any kind or character shall be placed or stored upon the property until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed

within the property lines of the lot upon which the improvements are to be erected. No above ground pools are allowed.

(b) No boat, marine craft, hover craft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street in the Addition, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence and must be kept in a garage. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity.

(c) Trucks with tonnage in excess of three-quarter (3/4) ton and any vehicle with painted advertisement shall not be permitted to park overnight within the Addition except those used by a builder during the construction of improvements.

(d) No vehicle of any size which transports inflammable or explosive cargo may be kept in the Addition at any time.

(e) No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building shall be used on any property at any time as a dwelling house; provided, however, any builder may maintain and occupy model houses, sales offices and construction trailers during the construction period.

(f) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Addition, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Addition. No derrick or other structure designed for using in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Addition.

(g) No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Addition except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the community. No more than four (4) pets will be permitted on each lot. Pets must be restrained or confined on the homeowner's back lot inside a fenced area or within the house. It is the pet Owner's responsibility to keep the lot clean and free of pet debris. All animals must be properly tagged for identification and must be on a leash if off the Owner's lot.

(h) No lot or other area in the Addition shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers in appropriate locations which may be specified by the Committee and, unless otherwise expressly permitted by the Committee, such containers shall be situated and enclosed or screened so as not to be visible from any residential street, private drive or adjacent lot. Any screens or other concealing structures used to conceal sanitary containers must first be approved by the Committee prior to installation. Materials incident to construction improvements may be stored on lots during construction so long as construction progresses without undue delay.

(i) No individual water supply system shall be permitted in the Addition.

(j) A sewer lateral line is provided to each lot. Each lot will be responsible for installing a two-tank system where one tank is grey water and is sent to the force main and the other tank for solid waste which will require to be pumped periodically at the expense of the homeowner.

(k) No garage, garage house, or other out-building (except for sales offices and construction trailers in use during the construction period) shall be occupied by any Owner, tenant, or other person.

(l) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed. All utility meters, equipment, air-conditioning compressors, air-conditioning and heating units and similar items must (to the extent reasonably practicable) be visually screened from the street and adjoining lots and must be located in areas acceptable to the Committee.

(m) No lot or improvement shall be used for business, professional, commercial, or manufacturing purposes of any kind; however, home offices are permitted so long as they do not require employee parking on a regular basis, or daily deliveries and pickups from any service. With the exception of the home office, no activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Addition, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as a sales office until such builder's last residence in the Addition is sold. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as tutoring or giving art or music lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowner's use and enjoyment of their residences and yard.

(n) Screening and Fences: (See Emerald Bay Design Guidelines)

(i) No fences, hedges, screens, barriers, or walls shall be erected or maintained on any Lot unless first approved by the Committee. No fence shall be erected, placed, or altered on any Lot nearer to any front street than the rear face of closer than 6' from the front elevation of the home constructed on the Lot. The architectural wrought iron fences shall be of standard design and color as stipulated by Declarant. Fences shall not exceed eight (8) feet in height on Lots 14-27 only and be constructed only of approved architectural metal materials. However, a limited use of visual screening panels constructed of wood may be considered and approved by the Committee. All fencing shall be constructed in a manner so as not to block or unreasonably interfere with any adjoining homeowner's views of the water.

(ii) Chain link, barbed wire, metal t-post and wire fences are strictly prohibited.

(o) Except for children's playhouses, dog houses, greenhouses, and gazebos, no building previously constructed elsewhere shall be moved onto any lot, it being the intention that only new construction be placed and erected thereon.

(p) Within easements on each lot, no structures, plantings, or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow within drainage channels, or which may obstruct or retard the flow of water through drainage channels.

(q) No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than six (6) square feet advertising the property for sale, or professional signs not exceeding six (6) square feet used by a builder to advertise the property during the construction and sales period. Any signs not permitted pursuant to the prior sentence may be allowed only at the sole discretion of the Committee. Declarant or its agents shall have the right to advertise the property during the construction and sales period. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing requirement, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. All signs are subject to the approval of the Committee and may be required by the Committee to be removed if, in the sole judgment of the Committee, the same are found to be inconsistent with the high standards of the Addition.

(r) The drying of clothes in full public view is prohibited. The Owners and occupants of any lot at the intersections of streets or adjacent to parks, playgrounds, or other facilities where the rear yard is visible to full public view shall construct a drying yard or other suitable enclosure to screen, from public view, high equipment that is incident to normal single-family residences, such as clothes drying equipment, yard equipment and storage piles.

(s) No carport shall be permitted on a lot.

(t) No abandoned, or inoperative vehicles may be stored or located on any lot unless visually screened from other lots and from any residential street.

**Section 2.7 Minimum Floor Area, Ceiling Heights, Accessory Buildings.**

(a) The total air-conditioned living area of the main residential structure as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory building, shall be not less than two thousand one hundred (2,100) square feet for the off-water lots number 14-27 (as shown on the Plat), two thousand three hundred (2,300) square feet for all the remaining off-water lots, and two thousand five hundred (2,500) square feet for all waterfront lots. The Owner must receive prior approval from the Committee in order to build a detached accessory building over one (1) story high.

(b) The ceiling height in all air-conditioned living areas of the main residential structure shall be a minimum of nine (9) feet in height.

(c) Except for as provided below in Section 2.7(d), a maximum of one (1) detached accessory building is permitted on each lot provided the structure: (i) is no more than one (1) story in height unless permitted by the Committee, (ii) contains a minimum of three hundred (300) square feet of usable area, and (iii) has the primary purpose as a garage, casita, or guest/bunkhouse. Accessory buildings must be constructed with materials consistent with the main residential structure, and the location of any such accessory building constructed on a lake front lot shall not unreasonably obstruct the lake views of an adjacent neighboring lot.

(d) Subject to the approval of the Tarrant Regional Water District ("TRWD"), Waterfront lots may be permitted to construct a dock, pier, or boathouse extending over the water provided that a permit is obtained by TRWD prior to construction and such structure is constructed and in accordance with the TRWD rules and regulations applicable to such structures. All boathouses must be covered with a roof containing a maximum pitch of 4/12 or a flat roof with railings and stair access (party deck). The location of any such structure must be approved by the Committee, prior to its installation. Boat slips are to be constructed horizontal to the lot water frontage on Lots 6, 7, 37-48, 74-76.

**Section 2.8 Building Materials.**

(a) At least fifty percent (50%) of the total outside wall areas of any home (including garage) erected on any lot shall be constructed of brick, stone, stone veneer, stucco type material, Hardy board, or other masonry materials ("Masonry Material"), all other exterior materials being subject to the approval of the Committee. Exposed portions of fireplace chimneys must be of a matching Masonry Material to the primary material used on the exterior of the home.

(b) Roofing color shall be approved by the Committee and be composed of man-made slate, tile, metal, or architectural composition shingles or other materials acceptable to the City and the Committee. Architectural Composition shingles, minimum thirty (30) year warranty, and be of random tab design. Installation of all types of exterior items and surfaces such as address numbers or external ornamentation, lights, mail chutes, mailboxes, exterior paint or stain, shall be subject to the prior approval of the Committee both as to design, materials, and location. Accessory Buildings shall be constructed of the same material as the main structure. Roof pitch shall be a minimum of 8/12 for traditional style homes. Other roof pitches will be considered based on the style of home and must be approved by the Committee. The Committee reserves the right to approve non-masonry materials for one hundred percent (100%) of the outside walls of any house if the Committee determines the quality and style of the structure are architecturally significant.

Section 2.9 Duplicity of Design. No house can be duplicated in any one block on either side of the street with a substantially similar exterior elevation.

Section 2.10 Setback Restrictions. No dwelling shall be located on any lot nearer to the front, rear, or side building lines than the more restrictive of (i) the minimum setback lines shown on the plat, (ii) the minimum setbacks required by the City, or (iii) the setback requirements as follows in Section 2.10. No structure shall be erected nearer than seven and one-half (7-1/2) feet to any side property boundary line, with the exception of Lots 4,5, 9, 13, 14, 28, & 37 which can be five (5) feet., Front yard set-backs shall be a minimum of twenty-five (25) feet to the front property and a maximum of 40 feet (roadside) line, and rear set backs twenty- five (25) feet to the 325 foot elevation line, except for docks, piers, or boathouses permitted under Section 2.7(d). For the purposes of these covenants, eaves, steps, and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

Section 2.11 Waiver of Front Setback Requirements. With the written approval of the Committee, any building may be located farther back from the front property line of a lot than provided above, where, in the opinion of the Committee, the proposed location of the building will add to the appearance and value of the lot, will not substantially detract from the appearance of the adjoining lots and will not be in violation of the Plat or any applicable ordinances.

Section 2.12 Fences and Walls. Except as allowed in Section 2.6(o)(i), solid wood fences are strictly prohibited except behind all interior non-water lots, on the condition fence is constructed in a manner not to extend beyond the main building's exterior walls and providing purchaser agrees to plant climbing roses, hedges, or other evergreen shrubbery along the outside of the fence so that the fence is totally and permanently screened throughout the year from public view and adjacent property. In all cases, fences and walls must have specific approval from the Committee prior to construction. No fence or wall (other than a necessary retaining wall) shall be permitted to extend nearer to any street closer than (six) 6' from the front building line of any residence. Retaining walls shall be of a standard design and masonry (stone) material designated by Declarant. Fences or walls erected by Declarant and defined in Section 8.1(a)(i) as Common Properties shall become the property of the Association and, as such, shall be maintained and

repaired by the Association to be formed in accordance with Articles VIII and XI hereof. No portion of any fence, wall, or landscape hedge shall extend higher than six (6) feet in height. No fences shall be allowed within the drainage easements. Owners of waterfront lots shall be solely responsible for the maintenance, repair, and replacement of the waterfront bulkhead or retaining walls following their purchase of a lot. All waterfront bulkheads or retaining walls must be primarily constructed and replaced with galvanized steel sheeting.

Section 2.13 Commencement of Construction. Each residence constructed on each lot and any other improvements thereto shall be commenced and completed with due diligence promptly after approval by the Committee of the plans and specifications prepared in connection with such construction. Construction must commence on any lot purchased within twenty-four (24) months from the date of purchase. The construction of any dwelling on any lot must be completed within twelve (12) months from the date of commencement. Should the construction on a lot fail to commence within (24) months of the date of purchase, the Owner of such lot shall be required to irrigate, landscape, and maintain such lot until construction is commenced. Any variances must have specific written approval from the Committee.

Section 2.14 Construction Site Maintenance and Upkeep. The homeowner shall have the primary and ultimate responsibility for keeping the construction site in an acceptable neat and orderly manner. "NEAT AND ORDERLY" shall be defined as "a worksite where debris is not unnecessarily unsightly, annoying, a nuisance, a distraction to the neighboring homes, or be an undue eyesore to any prospective buyer interested in the subdivision." This shall also include the responsibility for regular cleanup and the hauling off all unusable debris and construction materials, and to keep all materials on site anchored or stored to keep them from blowing onto neighboring properties during normal weather conditions. Any damage to the common areas or roadways caused by an Owner's construction activities must be immediately repaired by such Owner at that Owner's sole expense and to the specifications of such improvements as originally constructed.

(a) Construction site maintenance and upkeep have been a special problem in other subdivisions where certain groups of individuals and builders have not felt the commitment or obligation with regard to the nuisance and affect it caused to the neighboring homeowners. As a result, the Architectural Control Committee shall have the right to hire the work done on the site at the expense of the homeowner and/or builder. The Committee will immediately notify the purchaser or builder by phone at the time they are made aware of the problem, whether such awareness is from a homeowner complaint or observance by any Committee member. Should the problem not be corrected within three (3) days from the purchaser's or builder's receipt (whichever is earlier) of written notification via certified mail, return receipt requested, the Committee shall act immediately to correct the problem in the quickest and most practical manner, based on the sole judgment of the Committee. All such actions shall be at the expense of the owner and/or builder, and enforced by the mechanics lien if immediate retribution is not made.

(b) Portable toilet facilities shall be supplied at the beginning of construction for each site, and shall remain in place throughout the construction cycle. Should the

builder not make immediate and direct arrangements for such facilities, the Committee will phone the purchaser or builder to have portable facilities sent to the site. All costs incurred will be at the expense of the purchaser and/or builder as appropriate. Escrow funds will be applied and, if necessary, a mechanic's lien will be filed against the property to collect the funds committed by the Committee.

(c) The purchaser shall be responsible for ensuring the builder is knowledgeable of all the covenants related to the construction of the project and the conduct of the builder's employees.

(d) Any violations by of this Section 2.15 by the Owner, its builders or other contractors shall result in a warning to the Owner for which the Owners shall have two (2) weeks to cure such violation. If the violation is not cured within the designated two-week period, the Owner will be assessed an initial fine of \$50.00 and an additional fine of \$25.00 per day thereafter until Owner has cured such violation.

Section 2.15 Utilities. Except as to special lighting or other aerial facilities which may be required by the City or which may be required by the franchise of any utility company or which may be installed by the Declarant pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals, transformers and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed within the Addition whether upon individual lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity (including, but not limited to, water, sewer, gas, electricity and telephone). These utilities shall be buried underground unless otherwise required by a public utility. For each lot, all connections to utilities shall be run underground from the point of connection to the home. The Owner shall be responsible for paying all water and sewer tap fees associated with their respective lot to the Declarant.

Section 2.16 Landscaping Requirements.

(a) The general intent, plans, and approximate landscaping budget will be a part of the initial requirements by the Committee, and the plans for construction will only be approved based on a landscaping commitment by the purchaser, and an understanding of the landscaping intent and commitment by the Committee, as well as meeting the other requirements of these covenants.

(b) Landscaping of houses shall be completed within sixty (60) days following completion and occupancy permit from the city; however, under extenuating circumstances this may be extended an additional sixty (60) days.

(c) A landscape irrigation system covering the entire lawn and other landscaping installations must be installed on each lot within six (6) months from the completion of the construction of the home. For waterfront lots, Owners shall be permitted to install lake pumps to supply the irrigations system with water from Cedar Creek Lake, subject to any restrictions by the TRWD. Notwithstanding the foregoing, in the event that Declarant constructs a "spec" home on a lot for sale to a third-party

purchaser, Declarant shall not be subject to the foregoing requirement to install an irrigation system on the lot, but such obligation shall instead be assumed by the purchaser of the home from Declarant and shall be completed within six (6) months of the sale of the home. "Spec" builders' irrigation system requirements will be considered on a case by case basis through the Committee.

(d) Acceptable landscaping shall be described as that which is compatible with existing homes in the neighborhood/development as determined by the Committee.

(e) A detailed landscaping plan shall be submitted for discussion, review and approval sixty (60) days prior to completion of the construction. Initially, until the Homeowners Association becomes active, the review/approval process shall be conducted by the Committee, but the intent will be to ultimately have both a Homeowners Association representative and a Committee representative review and approve landscaping plans.

Section 2.18 Compliance with All Zoning Ordinances. Notwithstanding any provision contained herein to the contrary, all of the fences, landscaping and houses constructed on the lots shall be constructed in conformity with applicable zoning ordinances, the Plat and the restrictive covenants contained in this Declaration.

Section 2.19 Compliance with Tree Removal, Replacement and Protection Code. Notwithstanding any provision contained herein to the contrary, any building lot owner (an owner of a building lot on a tract of land within the corporate limits of the City) will comply with all City ordinances.

Section 2.20 Chimney Flues. Chimney flues on exterior walls shall be enclosed one hundred percent (100%) in brick or masonry material.

### **ARTICLE III**

#### **ARCHITECTURAL CONTROL COMMITTEE**

Section 3.1 Appointment. Declarant shall designate and appoint the members of the Committee composed of three individuals, each generally familiar with the residential community development design matters and knowledgeable about Declarant's concern for a high level of taste and design standards within the Addition. The Committee shall use its best efforts to promote and ensure a high level of taste, design quality, harmony and conformity throughout the Addition consistent with this declaration.

Section 3.2 Successors. In the event of the death, resignation, or removal by Declarant of any member of the Committee, the Declarant shall have full authority to designate and appoint a successor until all of the lots have been sold. Once all of the lots have been sold, the Association will have the full authority to designate and appoint a successor. No member of the Committee shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of services performed pursuant to this declaration.

Section 3.3 Authority. No building, fence, wall or other structure shall be commenced, erected, placed, maintained or altered on any lot, nor shall any exterior painting of, exterior addition to, or alteration of such items be made until all plans and specifications and a plot plan have been submitted to and approved in writing by a majority of the members of the Committee as to:

(a) quality of work and materials, adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets.

(b) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping in relation to the various parts of the proposed improvements and in relation to improvements on other lots in the Addition.

(c) location with respect to topography and finished grade elevation and effect of location and use on neighboring lots, improvements and drainage arrangements; and

(d) the other standards set forth within this declaration (and any amendments hereto) or matters in which the Committee has been vested with the authority to render a final interpretation and decision. The Committee is authorized and empowered to consider, review and approve any and all aspects of construction and landscaping which may, in the reasonable opinion of the Committee, adversely affect the living enjoyment of one or more lot Owners or the general value of lots in the Addition.

Section 3.4 Procedure for Approval. Final plans and specifications shall be submitted in duplicate to the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of all improvements. A plot plan showing the location of the major trees on the lot, the location of the house relative to the existing trees, any planned or proposed outbuildings, the pool location and size, if any, including the approximate type and location of the pool fence, the proposed location of the driveway, light posts, and mail box shall be approved by the Committee prior to the commencement of any construction or any modifications to the primary dwelling, outbuilding, fencing, pools and related construction and landscaping. On cul-de-sac and comer lots, the placement of improvements of the lots shall be subject to the special approval of the Committee. All roofing materials to be used on improvements constructed on lots shall be submitted to the Committee for approval. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this declaration. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and the other complete set of plans shall be marked as "Approved", signed by a majority of the Committee and returned to the lot Owner or his designated representative. If disapproved by the Committee, one set of such plans shall be returned marked "Disapproved" and shall be accompanied by a reasonable statement of the reasons for disapproval, which statement shall be signed by a majority of the Committee. Any modification of the approved set of plans and specifications must again be submitted to the Committee for its approval. The Committee's approval or disapproval, as required herein, shall be in writing. If the Committee fails to approve or disapprove such plans and specifications within

thirty (30) days after the date of submission, the applicant shall be responsible for the resubmittal of the plans to begin a new thirty-day review window. In case of a dispute about whether the Committee responded within such time period, the person submitting the plans shall have the burden of establishing that the Committee received the plans. The Committee's receipt of the plans may be established by a signed certified mail receipt.

Section 3.5 Standards. The Committee shall have the sole discretion with respect to taste, design and all standards specified herein. One objective of the Committee is to prevent unusual, radical, curious, odd, bizarre, peculiar, or irregular structures from being built in the Addition. The Committee shall also have the authority to require roof slope, to specify that fireplaces and chimney flues be covered with brick or masonry, to prohibit the use of lightweight composition roof material, to require the use of anodized aluminum divided light windows, and generally to require that any plans meet the standards of the existing improvements on neighboring lots. The Committee may from time-to-time publish and promulgate bulletins regarding architectural standards, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this declaration.

Section 3.6 Termination; Continuation. The Committee appointed by Declarant shall cease to exist on the earlier of (a) the date on which all the members of the Committee file a document declaring the termination of the Committee, or (b) the date on which residences have been constructed on all lots in the Addition. Notwithstanding the above provision, at any time after the termination of the Committee, the recorded Owners of a majority of the lots in the Addition shall have the authority to record an instrument which provides for a committee elected by the homeowners to continue the functions of the Committee, which instrument shall establish election or appointment procedures whereby the homeowners' committee members shall be chosen and a notice procedure whereby all homeowners in the Addition will receive notice of such procedures. If there is no elected Committee or homeowners' committee as provided herein, the sitting Board of Directors of the Association shall assume the responsibility of the Committee's functions and authority.

#### **ARTICLE IV**

#### **SPECIAL FENCING AND LANDSCAPING**

Section 4.1 Fences; Walls and Sprinkler Systems. After the recording of this document, Declarant shall have the right to erect, install, maintain, repair and/or replace fences, sidewalks, entry features, walls and/or sprinkler systems within the Common Properties.

Section 4.2 Landscaping. Declarant shall have the right to grade, plant and/or landscape and maintain, repair, replace, and/or change such grading, planting and landscaping for the Common Properties.

Section 4.3 Easement. Declarant shall have, and hereby reserves, the right and easement to enter upon the Common Properties for the purpose of exercising the discretionary rights set forth above.

Section 4.4 Declarant's Discretion. Notwithstanding any provisions herein to the contrary, Declarant shall never be obligated to erect, install, maintain, repair or replace any fences, sidewalks, entry features, walls, sprinkler systems, grading, planting or landscaping on any lots or within the Common Properties other than that required by the City as required by the zoning, special use permitting, and platting process.

## **ARTICLE V**

### **GENERAL PROVISIONS**

Section 5.1 Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. By acceptance of a deed to any lot, the Owner thereof covenants and agrees to mow weeds and grass and to keep and maintain, in a neat and clean condition, any easement which may traverse a portion of the lot.

Section 5.2 Recorded Plat or Zoning Ordinance. All dedications, limitations, restrictions and reservations shown on the plat or contained in any applicable zoning ordinance are incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by Declarant, conveying lots in the Addition, whether specifically referred to therein or not.

Section 5.3 Lot and Entrance Maintenance. The Owner and occupant of each lot shall cultivate an attractive ground cover or grass on all yards visible from the street, shall maintain the yards in a sanitary and attractive manner and shall edge the street/driveway curbs that run along the property line. Grass, weeds, and vegetation on each lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. No vegetables shall be grown in any yard that faces a street. No Owner shall permit weeds or grass to grow to a height of greater than six (6) inches upon his property. If, after ten (10) days' prior written notice, an Owner of a lot shall fail to: (a) control weeds, grass and/or other unsightly growth; (b) remove trash, rubble, building and construction debris; (c) exercise reasonable care and conduct to prevent or remedy an unclean, untidy or unsightly condition; or (d) otherwise satisfy the aforesaid maintenance requirements, then the Declarant or Association shall have the authority and right but not the obligation to go onto the subject lot for the purpose of mowing and cleaning said lot or to otherwise affect the aforesaid maintenance requirements and shall have the authority and right to assess and collect from the Owner of said lot the amount so expended by the Declarant or Association in connection with mowing, cleaning or maintenance. Failure of the Owner to reimburse the Association for such expended amounts when invoiced to the Owner shall entitle the Association to file a lien against such Owner's property.

Section 5.4 Maintenance of Improvements. Each lot Owner shall maintain the exterior of all buildings, fences, walls and other improvements on his lot in good condition and repair, and shall replace worn and rotten parts, and shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, down spouts, exterior walls, windows, doors, walks, driveways,

parking areas or other exterior portions of the improvements to deteriorate in an unattractive manner.

Section 5.5 Maintenance of Roadways. The Addition is a private, gated subdivision containing private streets and roadways that are not to be dedicated to the city. All maintenance, repair, and replacement responsibilities shall be shared equally by the lot Owners in the Addition. Should any maintenance, repair, or replacement of the private streets be required, the Association shall assess the Owners for such costs which shall be allocated as one equal share of the costs per non-Declarant owned lot, divided by the total number of lots in the Addition that are not owned by the Declarant at the time of such assessment. Declarant shall be exempt from contributing towards the costs of any street maintenance, reserves, repair, or replacement. Should any non-Declarant Owner fail to contribute their respective share of the street maintenance costs, then the Association shall be entitled to file a lien against such Owner's property until such time as all costs and associated fees and penalties have been paid in full by the non-contributing Owner.

Section 5.6 Mortgages. It is expressly provided that the breach of any of the foregoing conditions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to the same premises or any part thereof encumbered by such mortgage or deed of trust, but said conditions shall be binding thereto as to lots acquired by foreclosure, trustee's sale or otherwise, as to any breach occurring after such acquisition of title.

Section 5.7 Term. The foregoing covenants and restrictions shall run with and bind the land and shall remain in full force and effect for a term of fifty (50) years after this declaration is recorded. They shall be automatically extended for successive periods of twenty-five (25) years unless amended as provided herein or as allowed by applicable law.

Section 5.8 Severability. If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

Section 5.9 Binding Effect. Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Addition, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the Owner of the land except land in the Addition and the same shall inure to the benefit of Owners of land in the Addition and the Declarant, its successors and assigns. This instrument, when executed, shall be filed on record in the deed records of the County so that each and every Owner or purchaser of any portion of the Addition is on notice of the conditions, covenants, restrictions and agreements contained herein.

Section 5.10 Enforcement. The Owner of any lot in the Addition shall have the easement and right to have each and all of the foregoing restrictions, conditions and covenants herein faithfully carried out and performed with reference to each and every lot in the Addition, together with the right to bring suit or undertake any legal process that may be proper to enforce the performance thereof, it being the intention hereby to attach to each lot in the Addition, without reference to when it was sold, the right and easement to have such restrictions, conditions and

covenants strictly complied with, such right to exist with the Owner of each lot and to apply to all other lots in the Addition whether owned by the undersigned, its successors and assigns, or others. Failure by any Owner, including Declarant, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5.11 Other Authorities. If other authorities, such as the City or County, impose more demanding, expensive or restrictive requirements than those set forth herein, the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those set forth herein shall not supersede or diminish the requirements herein.

Section 5.12 Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as a Member or Owner on the records of the Association, or the Committee shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the address shown opposite the signature of the Declarant below or to such other address as is specified by the Association pursuant to an instrument recorded in the deed records of the County.

Section 5.13 Amendment. Until the conveyance by Declarant of all the lots in the Addition to third parties unrelated to the Declarant, the Declarant, its successors or assigns, at its discretion, may abolish or amend the covenants, conditions and restrictions set forth herein whole or in part without the consent of any other lot Owners. Following such conveyance, the covenants, conditions and restrictions set forth herein may be amended with the consent of sixty-seven percent (67%) of the then Owners (including Declarant) of the lots (with one vote to be cast for each lot so owned) evidenced by a document in writing bearing each of their signatures. Notwithstanding the above, so long as the Declarant is the Owner of at least one (1) lot, no amendment of the covenants, conditions and restrictions set forth herein shall be valid or effective without the joiner of the Declarant. However, no amendment or revocation of any provision of this Declaration shall be made or approved absent the prior written consent of the City if such amendment or revocation affects any right or authority of the City.

Section 5.14 Common Area Boat Slips. Boat slips for non-waterfront lots may be accessible through the Common Properties, subject to the approval of the TRWD, and will be owned and maintained by the Association. The right to use any such boat slip shall be restricted to the purchased lot, and the Owner shall not have the right to independently convey any rights they may have to the boat slip without also conveying title to the associated lot, and subject to the approval of the TRWD and the Association. Subject to the prior approval by the Committee, and further subject to the rules and regulations of TRWD, each Owner of a boat slip may be permitted to make limited improvements to their respective boat slip, such as the installation of a boat lift, boat protection padding, or such other desired improvements. The Association shall be responsible for the maintenance and upkeep of each boat slip out of the annual boat slip maintenance assessments paid by each boat slip Owner pursuant to Section 9.3(e).

Section 5.15 Annexation to Addition Subject to this Declaration by Declarant. Any property (the "Additional Property"), whether or not such real property is contiguous to the

Property, may be annexed to and become subject to this Declaration and subject to the functions, powers and jurisdictions of the Association at the election of the Declarant provided that a Supplemental Declaration (herein so called) covering the real property sought to be annexed, shall be executed and recorded in the office of the County Clerk of Henderson County Texas, by Declarant. The execution and recordation by Declarant of any such Supplemental Declaration shall constitute and effectuate the annexation of the real property described therein; making any such real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said annexed real property shall be a part of the Addition. Although Declarant shall have the ability to annex all or any portion of the Additional Property to this Declaration as provided above, Declarant shall not be obligated to annex all or any portion of such real property and such real property shall not become subject to this Declaration unless and until a Supplemental Declaration shall have been executed and recorded by Declarant as provided herein. Moreover, Declarant reserves the right to subject Additional Property or any part thereof to the plan of one or more separate declarations of covenants, conditions and restrictions.

## **ARTICLE VI**

### **FORMATION OF HOMEOWNERS ASSOCIATION**

The Association shall be governed by the terms and conditions of the Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and the Bylaws.

## **ARTICLE VII**

### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 7.1 **Membership.** Every Owner of a lot shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to the Declaration. Each member shall be entitled to one (1) vote for each lot in which they hold the interest required for membership. If an Owner purchases and combines two or more adjacent lots into a single lot, the Owner will be entitled to one (1) vote for each original lot so purchased. Declarant shall have 2x number of votes for each lot until all of the lots are sold.

#### **Section 7.2 Quorum; Notice and Voting Requirements.**

(a) Subject to the provisions of Paragraph (c) of this Section, an action taken at a meeting of the Members shall require the assent of the majority of all of the votes of those who are voting in person or by proxy, regardless of class, at a meeting duly called, written notice of which shall be given to all Members not less than ten (10) days nor more than sixty (60) days in advance.

(b) The quorum required for any action referred to in Paragraph (a) of this Section shall be as follows:

The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, a majority of the votes of all Members shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the bylaws or the Declaration or as provided by

the laws of the State of Texas. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirement herein set forth, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) As an alternative to the procedure set forth above, any action referred to in Paragraph (a) of this Section may be taken without a meeting if a consent in writing, approving of the action to be taken, shall be signed by all Members.

(d) Except as otherwise specifically set forth in the Declaration, notice, voting and quorum requirements for all actions to be taken by the Association shall be consistent with its Articles of Incorporation and Bylaws, as same may be amended from time to time.

## **ARTICLE VIII**

### **THE COMMON PROPERTIES AND PROPERTY RIGHTS THEREIN**

Section 8.1 Common Properties. For the purpose of these restrictions, Common Properties that are expected to be maintained by the Association include, but are not limited to, private pathways, playground areas, pool, pickleball courts, pavilion, recreational areas, roadways, ingress/egress, gates, and any other property within the Addition related to the mutual enjoyment of the Owner.

(a) In the event that the Association, the Committee or Declarant, including their respective successors and assigns (collectively, the "Association"), shall fail or refuse to adequately maintain the appearance and condition of the Common Properties which it is obligated to maintain hereunder or shall fail to exercise or enforce any other maintenance right or obligation, the City shall have the right and may assume the duty of performing all such maintenance obligations at any time, upon giving written notice to the Owners, or at any time after the expiration of ten (10) days after receipt by the Association of written notice from the City specifying in detail the nature and extent of the failure to maintain without such failure being remedied, whichever notice shall be deemed appropriate by the City. Upon assuming such maintenance obligations, the City may levy an assessment upon each Lot on a pro rata basis for the cost of such maintenance, notwithstanding any other provisions contained in this Declaration, which assessment shall constitute a lien upon the Lot against which each assessment is made. During the period the City has a right and assumes the maintenance obligations set forth herein, the Association shall have no obligation or authority with respect to such maintenance. The right and authority of the City to exercise its maintenance obligations shall cease and terminate when the Association shall present to the City such reasonable evidence of its willingness and ability to resume such maintenance. In the event the City assumes the duty of performing the maintenance obligations of the Association as provided herein, then the City, its agents, representatives, and employees shall have right of access to and over the Common Properties for the purpose of maintenance,

improvement, and preservation; and in no event, and under no circumstances, shall the City be liable to the Association or any Owner, resident, or Member, or their respective heirs, executors, administrators, devisees, personal representatives, successors, and assigns for negligent acts or construction relating in any manner to maintenance, improvement, and preservation; or to any Owner, resident, Member, the Association, or any other person for failure to perform such maintenance.

(b) The Declarant and/or the Association shall have the duty to enforce these Covenants and maintain all common areas on the land and shall have the right, power, and authority to do any act which is consistent with or required by the provisions of these Covenants or the Bylaws, whether the same be expressed or implied, including but not limited to the power to levy and collect Assessment (of whatever nature) for the maintenance, repair, or replacement of the common areas existing on the land.

(c) After the sale of the last lot in the Addition, or when delivered by the Declarant, maintenance of the landscaping easements will be conveyed to the Association.

(d) The provision hereof in regard to the duty of the Committee and/or the Association and/or its Board of Directors to maintain all the common areas as set out herein, to enforce the assessment procedure set out herein, and to enforce the rights extended to the City as set out herein with regard to the Common Properties of City Interest set out herein shall not be revoked or amended without the additional approval of the City. Furthermore, no amendment or revocation of any provision of this Declaration that in anyway affects the rights and authority of the City shall be made or approved without the prior written consent of the City.

Section 8.2 Members' Easements of Enjoyment. Subject to the provisions of Section 8.3 of this Article, every Member and every tenant of every Member, who resides on a lot, and each individual who resides with either of them, respectively, on such lot shall have a non-exclusive right and easement to use and enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title of every lot; provided, however, such easement shall not give such person the right to make alterations, additions or improvements to the Common Properties.

Section 8.3 Extent of Members' Easements. The rights and easements of enjoyment created by Section 8.2 shall be subject to and limited by the following:

(a) The right of the Association to prescribed regulations governing the use, operation and maintenance of the Common Properties.

(b) The right of the Association to enter into and execute contracts with parties (including the Declarant or an affiliate of the Declarant) for the purpose of providing maintenance for all or a portion of the Common Properties or providing materials or services consistent with the purposes of the Association.

(c) The right of the Association, as may be provided in its Bylaws, to suspend the voting rights of any member and to suspend the right of any individual to use any of the Common Properties for any period during which any assessment against a lot owned by such individual remains unpaid, and for any period not to exceed sixty (60) days for an infraction of its rules and regulations;

(d) With respect to any and all portions of the Common Properties, until formation and incorporation of the Association, Declarant shall have the right and option to alter, improve, landscape and/or maintain the Common Properties.

## **ARTICLE IX**

### **COVENANTS FOR ASSESSMENTS**

Section 9.1 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each lot owned by it, hereby covenants and agrees, and each purchaser of any lot by acceptance of a deed or other conveyance document creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the consideration and purchase money for the acquisition of the lot), to pay to the Association (or to an entity or collection agency designated by the Association) the annual maintenance assessments or charges (as specified in Section 9.3 hereof), such assessments to be fixed, established and collected from time to time as herein provided. The annual maintenance assessments described in this Section 9.1 (hereinafter, the "Assessment" or the "Assessments"), together with interest thereon, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each lot against which any such Assessment is made. The Assessments, together with interest thereon, attorneys' fees, court costs, and other costs of collection thereof shall also be the continuing personal obligation of the Owner of such lot at the time when the Assessment fell due. Further, no Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Commons Properties or abandonment of his lot. Existing obligations of an Owner to pay Assessments and other costs and charges shall not pass to bona fide first lien mortgagees which become Owners by reason of foreclosure proceedings or an action at law subsequent to the date the Assessment was due; provided, however, any such foreclosure proceeding or action at law shall not relieve such new Owner of such lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent Assessment.

Section 9.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for (i) improving, repairing, landscaping, maintenance and reserves for the Common Properties, (ii) paying the cost of labor, equipment and materials required for, and management and supervision of, the Common Properties; (iii) carrying out the power and duties of the Board of Directors of the Association as set forth in this Declaration and the Bylaws; (iv) carrying out the purposes of the Association as stated in its Articles of Incorporation; and (v) carrying out the powers and duties relating to the Architectural Control Committee, after Declarant has delegated or assigned such powers and duties to the Association.

Section 9.3 Annual Maintenance Assessments.

(a) The Board of Directors shall determine the amount of the annual maintenance assessments for each year, which assessments may include a reserve fund for working capital and for maintenance, repairs and replacements of the Common Properties.

(b) Subject to the provisions of Section 9.3(c) hereof, the rate of annual maintenance assessments may be increased by the Board. The Board may, after consideration of current maintenance, operational and other costs and the future needs of the Association, fix the annual maintenance assessments for any year at a lesser amount than that of the previous year.

(c) Following the later of (i) the sale of 75% of the Lots, or (ii) five (5) years from the date hereof, any increase in the rate of the annual maintenance assessments as authorized by Section 9.3(b) hereof in excess of ten percent (10%) of the preceding year's annual maintenance assessments must be approved by the Members in accordance with Section 7.2 hereof. The ten percent (10%) limitation shall not apply to the assessments levied for the boat slips for non-waterfront lots.

(d) When the annual maintenance assessment is computed for lots, all of such annual maintenance assessment shall be payable to the Association by the Member. The initial annual maintenance assessment will be due and payable for each lot on the date of initial sale of a lot from Declarant to any third-party.

(e) The annual maintenance assessment chargeable against any boat slip located in the Common Property, if permitted, and assigned to an Owner shall be determined and assessed each year for each boat slip. The Declarant shall be entitled to a fifty percent (50%) reduction in any assessments otherwise owed to the Association based on its continued ownership of any lots, and further, the Declarant shall be entitled to reduce the amount of any assessments owed by the amount of Declarant's expenditures for improvements and repairs made to the Common Properties of the Addition. Boat slip lifts installed in common boat slips will be the responsibility of the assigned for the boat slip lifts and maintenance.

(f) The annual maintenance assessments shall include a reasonable amount, as determined by the Members of the Board, collected as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Properties. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited in a separate bank account to be held in trust for the purposes for which they were collected and are to be segregated from and not commingled with any other funds of the Association. Assessments collected as reserves shall not be considered to be advance payments of regular annual maintenance assessments.

Section 9.4 Uniform Rate of Annual Maintenance Assessments. Annual maintenance assessments must be fixed at a uniform rate for all lots and be payable as set forth herein, with the exception of the non-waterfront lots where the right to use a boat slip is provided.

Section 9.5 Date of Commencement of Assessments; Due Dates; No Offsets. The annual maintenance assessments provided for herein shall commence on the date fixed by the Declarant to be the date of commencement and, except as hereinafter provided, shall be payable annually, in advance, on the first day of each calendar year for the payment period thereafter, unless such timing or frequency of payment is revised by the Board of Directors. The first annual maintenance assessment shall be made for the balance of the calendar year in which it is levied. The amount of the annual maintenance assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual maintenance assessment provided for in Section 9.3 hereof as the remaining number of months in that year bears to twelve; provided, however, that if the date of commencement falls on a day other than the first day of a month, the annual maintenance assessment for such month shall be prorated by the number of days remaining in the month. All Assessments shall be payable in the amount specified by the Association and no offsets against such amount shall be permitted for any reason.

Section 9.6 Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors shall fix the date of commencement and the amount of the annual maintenance assessment against each lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of all assessments shall be delivered or mailed to every Owner subject thereto. Such notice shall be sent to each Owner at the last address provided by each Owner, in writing, to the Association.

(c) The omission of the Board of Directors to fix the assessments within the time period set forth above for any year shall not be deemed a waiver or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

(d) The Board of Directors shall upon demand at any time furnish to any Owner liable for said assessment a certificate signed by an officer or agent of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificates.

Section 9.7 Non-Payment of Assessment.

(a) "Delinquency Date" as Specified in the Notice of Such Assessment. The payments of Assessments shall be considered delinquent beginning on the thirtieth (30th) day after the due date as defined in Section 9.5 hereof, said date being defined as the Delinquency Date. The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. If any Assessment or part thereof is not paid by the Delinquency Date, the unpaid amount of such Assessment shall bear interest from and after the Delinquency Date until paid at a rate equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum lawful rate.

(b) Lien. The unpaid amount of any Assessment not paid by the Delinquency Date shall, together with the interest thereon as provided in Section 9.7(a) hereof and the cost of collection thereof, including reasonable attorneys' fees, become a continuing lien and charge on the lot of the non-paying Owner, which shall bind such lot in the hands of the Owner, and his heirs, executors, administrators, devisees, personal representatives, successors and assigns. The lien shall be superior to all other liens and charges against the lot, except only for tax liens and the lien of any bona fide first mortgage or first deed of trust now or hereafter placed upon such lot. A subsequent sale or assignment of the lot shall not relieve the Owner from liability for any Assessment made prior to the date of sale or assignment and thereafter becoming due nor from the lien of any such Assessment. The Board shall have the power to subordinate the lien securing the payment of any Assessment rendered by the Association to any other lien. Such power shall be entirely discretionary with the Board. As herein before stated, the personal obligation of the Owner incurred at the time of such Assessment to pay such Assessment shall remain the personal obligation of such Owner and shall not pass to such Owner's successors in title unless expressly assumed by them in writing. Liens for unpaid Assessments shall not be affected by any sale or assignment of a lot and shall continue in full force and effect. No Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his lot. To evidence any lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the lot covered by such lien and a description of the lot covered by such lien. Such notice shall be executed by one of the officers of the Association and shall be recorded in the Office of the County Clerk of Henderson County, Texas.

(c) Remedies. The lien securing the payment of the Assessments shall attach to the lot belonging to such non-paying Owner with the priority set forth in this Section. Subsequent to the recording of a notice of the lien, the Association may institute an action at law against the Owner or Owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or Owners personally obligated to pay the Assessment there shall be added to the amount of any such Assessment:

- (i) the interest provided in this Section,
- (ii) the costs of preparing and filing the complaint in such action,
- (iii) the reasonable attorneys' fees incurred in connection with such action, and
- (iv) any other costs of collection; and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action. Each Owner, by acceptance of a deed to a lot, hereby expressly vests in the Association or its agents or trustees the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens, including nonjudicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association the private power of sale in connection with said liens. The Association may also suspend the Association membership and voting rights of any Owner who is in default on payment of any Assessment in accordance with the Declaration and/or the Bylaws.

(d) Notice to Mortgagees. The Association may, and upon the written request of any mortgagee holding a prior lien on any part of the Properties, shall report to said mortgagee any Assessments remaining unpaid for longer than thirty (30) days after the Delinquency Date of such Assessment.

Section 9.8 Subordination of the Lien to Mortgages. The lien securing the payment of the Assessment shall be subordinate and inferior to the lien of any bona fide first lien mortgage or deed of trust now or hereafter recorded against any lot; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale, whether public or private, of such property pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve the new Owner of such lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent assessment.

Section 9.9 Exempt Property. All of the Common Properties and properties dedicated and accepted by the local public authority and devoted to public use shall be exempted from the assessments, charges and liens created in Section 9.3.

Section 9.10 Estoppel Information from Board with Respect to Assessments. The Board shall upon demand at any time furnish to any Owner liable for an Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors of the Association for the issuance of such certificates.

**ARTICLE X**  
**GENERAL POWERS AND DUTIES**  
**OF**  
**BOARD OF DIRECTORS OF THE ASSOCIATION**

Section 10.1 Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors. The Board of Directors shall be selected in accordance with the Articles of Incorporation and Bylaws of the Association and shall have the powers and duties as set forth in this Declaration, the Articles of Incorporation and the Bylaws. Notwithstanding anything to the contrary, only the Declarant shall have the right to appoint or remove members of the Board of Directors at any time during the Declarant Period, which such right shall be exercised in Declarant's sole discretion.

**ARTICLE XI**  
**USE OF COMMON PROPERTIES**

The Common Properties may be occupied and used as follows:

Section 11.1 Restricted Actions by Owners. No Owner shall permit anything to be done on or in the Common Properties which would violate any applicable public law or zoning ordinance, or which will result in the cancellation of or increase of any insurance carried by the Association. No waste shall be committed in or on the Common Properties.

Section 11.2 Damage to the Common Properties. Each Owner shall be liable to the Association for any damage to the Common Properties caused by the negligence or willful misconduct of the Owner or such Owner's family, guests, pets, tenants or Invitees.

Section 11.3 Rules of the Board. All Owners and occupants shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorney's fees, incurred by the Association in connection therewith.

Section 11.4 Maintenance of Common Properties. All landscaping and improvements placed or erected on the Common Properties by Declarant shall be owned and maintained by the Association.

**ARTICLE XII**  
**EASEMENTS**

Section 12.1 Ingress and Egress by the Association. The Association shall, at all times, have full rights of ingress and egress over and upon each lot for the maintenance and repair of each lot and the Common Properties in accordance with the provisions hereof, and for the carrying out by the Association of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any lot shall be made with as little inconvenience to the Owner as

practical, and any damage caused by the Association's entry, other than damages caused by the Owner, shall be repaired by the Association at the expense of the Association.

Section 12.2 Reservation of Easements. Easements over the Common Properties for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby reserved by the Declarant, together with the right to grant and transfer same.

### **ARTICLE XIII** **GENERAL PROVISIONS**

Section 13.1 Enforcement by the Association. The Covenants and Restrictions of the Declaration shall inure to the benefit of and be enforceable by the Association, its legal representatives, heirs, successors and assigns. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.2 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 13.3 Notices to Mortgagees. If a holder of a mortgage on a lot shall notify the Association of its address and the identity of the lot and Owner covered by and granting such mortgage, then such holder(s) shall be entitled to receive, written notification from the Association of any default by the respective Owner in the performance of such Owner's obligations as established by the Declaration.

Section 13.4 Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions for the Declaration or the Bylaws of the Association shall be determined by the Board of Directors, whose determination shall be final and binding upon all Owners.

Section 13.5 Termination of and Responsibility of Declarant. If Declarant shall convey all of its right, title and interest in and to the Properties and assign all its rights, benefits and obligations as Declarant hereunder to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on  
\_\_\_\_\_ 2024.

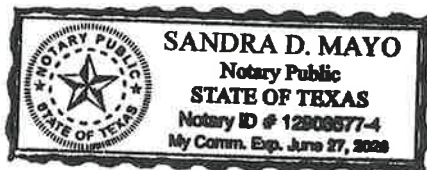
**DECLARANT:**

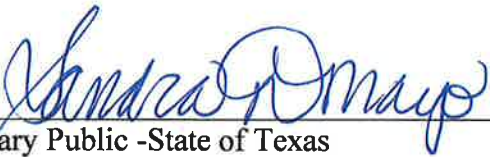
821 INVESTMENTS, LLC, a Texas limited liability company

By:   
David H. Craig, Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

This instrument was acknowledged before me on NOVEMBER 22 2024, by David H. Craig, Manager of 821 INVESTMENTS, LLC, a Texas limited liability company, on its behalf.



  
Notary Public -State of Texas

**Exhibit A**

BEING ALL OF LOTS 1 THROUGH 78 OF LEO'S LANDING SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN CABINET H, SLIDE 210, PLAT RECORDS OF HENDERSON COUNTY, TEXAS, AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEING ALL THAT CERTAIN LOT TRACT OR PARCEL OF LAND LOCATED IN THE M.M. SANCHEZ SURVEY, A-697, HENDERSON COUNTY, TEXAS, BEING ALL OF A CALLED 9.89 ACRE TRACT OF LAND DESCRIBED IN DEED TO 821 INVESTMENTS LLC, RECORDED IN DOC 2022-00008126, ALL OF A CALLED 4.20 ACRE TRACT OF LAND (TRACT A), ALL OF A CALLED 30.27 ACRE TRACT OF LAND (TRACT B), DESCRIBED IN DEED TO 821 INVESTMENTS LLC, RECORDED ON DOC 2022-00011173 OF THE DRHCT. SAID LOT TRACT OR PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**TRACT A:**

BEGINNING AT A ½" IRON ROD FOUND IN THE SOUTH LINE OF FM 1214, THE NORTHEAST CORNER OF THE CLAUDE RANDALL DAWSON ET AL 3.53 ACRE TRACT RECORDED IN VOLUME 2306, PAGE 286 OF THE DRHCT, BEING THE NORTHWEST CORNER OF THIS TRACT;

THENCE, N 88°37'58" E (CONTROL LINE), 347.56 FEET ALONG THE SOUTH LINE OF FM 1214 TO A ½" IRON ROD SET IN THE DEEDED 325' ELEVATION LINE OF CEDAR CREEK LAKE, BEING THE NORTHEAST CORNER OF THIS TRACT;

THENCE, ALONG THE DEEDED 325' LINE AS FOLLOWS: S 28°00'00" E, 109.72 FEET; S 48°39'51" W, 45.49 FEET; S 24°33'43" W, 39.99 FEET; S 36°32'49" W, 80.00 FEET; S 10°33'43" W, 49.99 FEET; S 26°32'59" W, 40.00 FEET; S 03°26'03" E, 30.00 FEET; S 36°33'02" W, 80.00 FEET; S 22°33'31" W, 50.01 FEET; S 38°33'08" W, 50.00 FEET; S 20°32'55" W, 80.00 FEET; S 00°26'28" E, 40.00 FEET; S 89°34'43" W, 15.00 FEET; S 05°33'10" W, 65.00 FEET;

S 19°33'00" W, 60.00 FEET; S 31°33'14" W, 90.00 FEET; S 14°33'07" W, 50.01 FEET; S 42°33'22" W, 47.50 FEET TO A POINT IN THE EAST LINE OF SAID 3.53 ACRE TRACT, BEING THE SOUTHWEST CORNER OF THIS TRACT, WHICH BEARS S 07°43'30" W, 15.95 FEET FROM A FENCE CORNER;

THENCE, N 01°04'01" W, 880.18 FEET ALONG THE COMMON LINE OF THE 3.53 ACRE TRACT AND THIS TRACT TO THE POINT OF BEGINNING AND CONTAINING 4.20 ACRES OF LAND MORE OR LESS.

TRACT B:

BEGINNING AT A ½" IRON ROD FOUND IN THE SOUTH LINE OF FM 1214 THE NORTHWEST CORNER OF THE CANEY CITY HALL, BEING THE NORTHERLY NORTHEAST CORNER OF THE 34.361 ACRE TRACT AND THIS TRACT;

THENCE, ALONG THE COMMON LINE OF THE CANEY CITY HALL AND THIS TRACT AS FOLLOWS: S 00°48'15" E (CONTROL LINE), 205.73 FEET TO A ½" IRON ROD FOUND; N 89°58'42" E, 105.81 FEET; N 88°30'45" E, 104.36 FEET TO A ½" IRON ROD FOUND IN THE WEST LINE OF BRIDGEVIEW ADDITION ACCORDING TO THE PLAT RECORDED IN VOLUME 4, PAGE 24, PRHCT, BEING THE NORTHEAST CORNER OF THE 34.361 ACRE TRACT AND THIS TRACT;

THENCE, ALONG THE COMMON LINE OF BRIDGEVIEW ADDITION AND THIS TRACT AS FOLLOWS: S 01°16'24" E, 1006.29 FEET TO A ½" IRON ROD FOUND; S 00°58'16" E, 119.76 FEET TO A POINT FOR CORNER IN NORTH RIGHT OF WAY LINE OF SMOTHERS ROAD, THE MOST EASTERLY SOUTHEAST CORNER OF THIS TRACT;

THENCE ALONG THE RIGHT OF WAY LINE OF SMOTHERS ROAD AS FOLLOWS: S 87°57'47" W, 360.83 FEET TO A ½" IRON ROD SET; S 00°58'13" E, 434.51 FEET TO A ½" IRON ROD SET IN THE NORTH LINE OF BRIDGEVIEW ADDITION, AT THE MOST SOUTHERLY SOUTHEAST CORNER OF THIS TRACT;

THENCE S 88°58'59" W, 418.39 FEET ALONG THE COMMON LINE OF BRIDGEVIEW ADDITION AND THIS TRACT TO A 1" IRON PIPE FOUND IN THE DEED 325' ELEVATION LINE OF CEDAR CREEK RESERVOIR, AT THE SOUTHWEST CORNER OF THIS TRACT;

THENCE ALONG THE DEEDED 325' ELEVATION LINE AS FOLLOWS: N 51°36'11" W, 44.99 FEET; N 56°29'13" W, 240.00 FEET; N 24°29'13" W, 100.00 FEET; N 41°29'13" W, 110.00 FEET; N 20°29'13" W, 80.00 FEET; N 37°05'22" W, 50.38 FEET; N 26°29'13" W, 100.00 FEET; S 81°30'47" W, 30.00 FEET; N 60°29'13" W, 25.00; N 17°59'56" W, 21.65 FEET; N 65°32'20" E, 40.01 FEET; N 48°27'20" W, 29.99 FEET; N 05°33'03" E, 145.00 FEET; N 27°25'28" W, 20.00 FEET; N 24°33'22" E, 70.00 FEET; S 89°34'15" W, 20.00 FEET; N 00°27'11" W, 20.00 FEET; N 37°33'01" E, 60.00 FEET; N 26°33'15" E, 150.00 FEET; N 12°26'50" W, 85.00 FEET; N 19°33'00" E, 40.00 FEET; N 20°27'09" W, 59.99 FEET; N 36°33'17" E, 140.01 FEET; N 10°32'24" E, 15.00 FEET; N 46°33'20" E, 70.00 FEET; N 21°27'22" W, 65.00 FEET; N 16°33'11" E, 50.00 FEET; N 60°33'16" E, 25.00 FEET; N 08°33'17" E, 80.00 FEET; N 32°33'20" E, 90.00 FEET; N 66°33'18" E, 49.99 FEET; N 30°26'43" W, 85.01 FEET; S 14°26'46" E, 70.01 FEET; S 69°32'40" W, 19.99 FEET; N 31°26'31" W, 60.01 FEET; N 43°27'01" W, 49.85 FEET TO A ½" IRON ROD SET IN THE SOUTH LINE OF FM 1214, BEING THE NORTHWEST CORNER OF THIS TRACT;

THENCE, N 88°37'58" E, 794.25 FEET ALONG THE SOUTH LINE OF FM 1214 AND THE NORTH LINE OF THIS TRACT TO THE POINT OF BEGINNING AND CONTAINING 40.16 ACRES OF LAND MORE OR LESS.