

**AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR ORCHARD PLACE**

STATE OF TEXAS §

COUNTY OF HARRIS §

This First Amendment To The Declaration Of Covenants, Conditions And Restrictions for Orchard Place (the "Declaration"), is made on the date hereinafter set forth by Harris County, a body politic of the State of Texas, hereinafter referred to as the "Declarant".

WITNESSED:

WHEREAS, Declarant is the owner of certain real property situated in Harris County, Texas platted as Orchard Place, a subdivision of 8.425 acres according to the map or plat thereof, filed on the 10th day of July 2023, under Clerks file No. RP-2023-256562 in the Map Records of Harris County, Texas and the "Subdivision", "Property", and/or "Orchard Place" are made subject to this Amendment, as defined hereafter; and

WHEREAS, Declarant desires to make this First Amendment to the Declaration to clarify certain maintenance obligations of the Community Association of Orchard Place. Once executed by the Declarant, this First Amendment is intended to be recorded in the Real Property Records of Harris County Texas; and

WHEREAS, Article XV of the Declaration grants authority to the Declarant to unilaterally amend the Declaration; and

NOW, THEREFORE, Declarant hereby agrees to the terms and conditions of the Declaration as the same is modified hereby.

TERMS AND CONDITIONS:

1. ARTICLE VII. COMMON AREA AND AREA OF COMMON RESPONSIBILITY, subsection (c) is hereby modified to read as follows:
 “(c) landscaping and any rollover curbs (approx. 4” x 12”) within public rights-of-way or abutting Orchard Place to the extent that reasonable governmental authorities do not maintain them to the Community-Wide Standard;”
2. All other terms of the Declaration shall remain in full force and effect as originally written and subsequently amended.
3. It is expressly understood and agreed that the Declaration is incorporated herein by reference. In the event of any conflict between the terms and provisions of this First Amendment, or any portion thereof, and the terms and provisions of any other part or portion of the Declaration, as previously amended, this First Amendment shall control.

4. Execution, Multiple Counterparts: This First Amendment may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Amendment.

IN WITNESS WHEREOF, the Declarant hereby executes this First Amendment to the Declaration this _____ day of _____, 2024.

HARRIS COUNTY:

By: The Harris County Community Services Department

By: _____
Thao Costis, Executive Director

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____, 2024, by Thao Costis, Executive Director of the Harris County Community Services Department.

NOTARY PUBLIC, in and for the
State of Texas

AFTER RECORDING RETURN TO:

Harris County Community Services Department (HCCSD)
8410 Lantern Point Drive
Houston, Texas 77054

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the County of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ORCHARD PLACE

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lesley Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED THAT:

1. The Executive Director of the Harris County Community Department, is authorized to execute on behalf of Harris County the attached First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Orchard Place, also known as Vista.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.



Harris County, Texas

1001 Preston St., Suite 934
Houston, Texas 77002

Commissioners Court

Request for Court Action

File #: 23-2729

Agenda Date: 5/16/2023

Agenda #: 180.

Department: Community Services

Department Head/Elected Official: Thao Costis, Interim Executive Director

Regular or Supplemental RCA: Regular RCA

type of Request: Plat/Replat

Project ID (if applicable): N/A

Vendor/Entity Legal Name (if applicable): N/A

MWDBE Contracted Goal (if applicable): N/A

MWDBE Current Participation (if applicable): N/A

Justification for 0% MWDBE Participation Goal: N/A - Goal not applicable to request

Table with 4 columns: Name, YES, NO, ABSTAIN. Rows include Judge Lina Hidalgo, Comm. Rodney Ellis, Comm. Adrian Garcia, Comm. Tom S. Ramsey, and Comm. Lesley Briones.

Request Summary (Agenda Caption):

Request for approval for the Interim Executive Director of the Harris County Community Services Department to execute, on behalf of Harris County, Homeowners Association ("HOA") documents, including Articles of Incorporation, By-Laws and Documents encumbering the property through Deed Restrictions for Orchard Place, also known as Vista; and to approve recorded Plat for Orchard Place.

Background and Discussion:

Orchard Place is a fifty-four (54) home single-family development initiative funded through Community Development Block Grant - Disaster Recovery (CDBG-DR) dollars. This project is the first of four single-family home initiatives the County is developing to fulfill key recovery objectives following Hurricane Harvey. A leading objective is to increase the supply of decent, safe, affordable housing.

This item authorizes the Harris County Community Services Department (HCCSD) Executive Director to execute homeowners association documents and approve recorded plat for Orchard Place.

Expected Impact:

Orchard Place aims to provide fifty-four (54) newly constructed affordable homes for income eligible families, primarily those earning below 80% of the Area's Median Income. By doing so, the project will help address the area's significant need for affordable housing.

Alternative Options:

If these homes are not constructed for the SFNC program, HCCSD will be less able to provide affordable newly constructed homes to LMI homebuyers that were directly or indirectly impacted by Hurricane Harvey and face financial challenges to become a homeowner.

Alignment with Goal(s):

Presented to Commissioners Court

May 16, 2023

Approve: G/E

- Justice and Safety
- Economic Opportunity
- Housing
- Public Health
- Transportation
- Flooding
- Environment
- Governance and Customer Service

Prior Court Action (if any):

Date	Agenda Item #	Action Taken

Location:

Address (if applicable): N/A

Precinct(s): Precinct 2

Fiscal and Personnel Summary			
Service Name			
	FY 23	FY 24	Next 3 FYs
Incremental Expenditures (do NOT write values in thousands or millions)			
Labor Expenditures	\$	\$	\$
Non-Labor Expenditures	\$	\$	\$
Total Incremental Expenditures	\$	\$	\$
Funding Sources (do NOT write values in thousands or millions)			
Existing Budget			
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
Total Current Budget	\$	\$	\$
Additional Budget Requested			
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
Choose an item.	\$	\$	\$
Total Additional Budget Requested	\$	\$	\$
Total Funding Sources	\$	\$	\$
Personnel (Fill out section only if requesting new PCNs)			

Current Position Count for Service	-	-	-
Additional Positions Requested	-	-	-
Total Personnel	-	-	-

Anticipated Court Date: May 16, 2023

Anticipated Implementation Date (if different from Court date): N/A

Emergency/Disaster Recovery Note: Not an emergency, disaster, or COVID-19 related item

Contact(s) name, title, department: David Chang, Director - Single Family New Construction, HCCSD

Attachments (if applicable): Order of Commissioner Court

Articles of Incorporation

Bylaws of Orchard Place

Declaration of Covenants, Conditions and Restrictions for Orchard Place

Orchard Place Plat

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the County of Houston, Texas, on May 16, 2023, with all members present except none.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING (I) EXECUTION OF ARTICLES OF INCORPORATION, BY-LAWS AND DOCUMENTS ENCUMBERING PROPERTY THROUGH INCLUSION OF THE ATTACHED DEED RESTRICTIONS AND (II) APPROVING THE RECORDED PLAT FOR ORCHARD PLACE, A SINGLE FAMILY NEW CONSTRUCTION DEVELOPMENT IMPLEMENTED BY THE COMMUNITY SERVICES DEPARTMENT.

Commissioner Garcia introduced an order and moved that Commissioners Court adopt the order. Commissioner Ellis seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom R. Ramsey, P.E.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lesley Briones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED THAT:

1. The Executive Director of the Harris County Community Department, is authorized to execute on behalf of Harris County the attached Articles of Incorporation, By-Laws and Documents encumbering property through inclusion of the attached Deed Restrictions for the Orchard Place, also known as Vista. Orchard Place is a single-family housing development implemented by the Harris County Community Department through the Single-Family New Construction Program.
2. Harris County hereby approves the attached recorded plat documents for Orchard Place.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.

Presented to Commissioners Court

May 16, 2023

Approve: G/E

**ARTICLES OF INCORPORATION OF
ORCHARD PLACE
HOMEOWNERS ASSOCIATION, INC.**

The undersigned, being a natural person of the age of eighteen (18) years or more, and a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Non-profit Corporation Act, adopt the following Articles of Incorporation for Orchard Place Homeowners Association, Inc. (the "Association")

- I. Corporate Name. The name of the corporation is Orchard Place Homeowners Association, Inc.
- II. Corporate Address and Agent. The street address of the Association's initial registered office is _____, and the name of its initial registered agent is _____.
- III. Corporate Status. The Association is a non-profit corporation and is not formed for pecuniary profit. No part of the income or assets of the Association is distributable to or for the benefit of its members, directors, or officers, except to the extent permissible under law without altering or jeopardizing either the non-profit status of the Association or any recognized status authorized by the Internal Revenue Service.
- IV. Purpose of the Association. The Association is formed for the purposes of providing for community, civic and social welfare of the owners, residents and occupants of the dwellings which may at any time be subject to certain Declaration of Covenants, Conditions, and Restrictions (the "Declaration") applicable to all or portions of the Orchard Place Residential Development (the "Development") as described in Exhibit "A" attached hereto and made a part hereof, with such Declaration to be recorded in the Official Public Records of Real Property of Harris County, Texas, and to promote the health, safety and welfare of the owners, residents, and occupants, and for the purposes to:
 - a) Provide and maintain the common areas, facilities, and services of benefit to owners, residents, and occupants;
 - b) Exercise all the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration;
 - c) Fix, levy, collect, and enforce payment by lawful means of all assessments pursuant to the terms of the Declaration;
 - d) Pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes, and governmental charges levied or imposed against the property of the Association.
 - e) Exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Act of the State of Texas by law now or hereafter may have or exercise.

V. Membership. Every person or entity who is a record owner of fee simple title to any property subject to assessment by the Association shall be a member of the Association. Persons or entities who hold an interest in any property subject to assessment merely as security for the performance of any obligation shall not, however, be members. Membership shall be appurtenant to and may not be separated from property ownership, which shall be the sole qualification to be a Member.

VI. Voting Rights. The Development presently contains fifty-four (54) fee lots, being Lots 1-24, Block 1 and Lots 1-30, Block 2 inclusive of Orchard Place Subdivision, Pasadena, Texas.

One (1) vote is granted to a Member for each Lot owned.

Multiple Owners of any single Lot must vote in agreement (under any method they devise among themselves), but in no case will such multiple Owners cast portions of votes. The vote attributable to any single Lot must be voted in the same manner (i.e., all Owners of the Lot for, or all Owners of the Lot against a particular issue) but in no event can there be more than one vote cast per Lot. In the event multiple owners are unable to vote unanimously either for or against any particular measure, such vote will be deemed an abstention.

Although Membership may not be separated from property ownership, the right to vote for a Member may be delegated to a proxy via written designation, executed by the Member and notarized, for a Term not in excess of one (1) year. Legal Guardians of Members subject to a court-approved guardianship may vote on behalf of a Member in accordance with the terms and conditions of the Guardianship.

VII. Duration. The Association shall exist perpetually.

VIII. Dissolution. The Association may be dissolved upon approval by 2/3 majority of the total interest of Members in the Association.

IX. Board of Directors. The number of Directors constituting the Board of Directors of the Corporation shall be determined by the Bylaws of the Corporation.

X. Indemnification. Except in the event fraud or intentional misconduct, the Association shall fully indemnify any person who was, or is, threatened to be named a defendant or respondent in any legal proceeding who was acting in his/her capacities as a Director of the Association; the incorporator; and the current and future registered agents for the corporation.

XI. Director/Agent Liability. To the fullest extent permitted by applicable law, no Director of the Association, the incorporator and/or the current/future registered agents shall be liable to the Association for monetary damages for an act or omission in their capacity as a Director or agent of or for the Association, unless the Director or agent of or for the Association is found liable for the following:

- a) A breach of duty of loyalty to the Association.
- b) An act or omission not in good faith that constitutes a breach of duty to the Association, or an act or omission that involves intentional misconduct or a knowing violation of the law.
- c) An act or omission for which the liability of is expressly provided for by statute.

Such indemnification shall be to the fullest extent that a corporation may grant indemnification to a Director under the Texas Non-Profit Association Act, as the same exists or may hereafter be amended. Such right shall be a contract right and shall include the right to be reimbursed by the Association expenses incurred in defending any such proceeding in advance of its final disposition to the maximum extent permitted under the Texas Non Profit Association Act, as the same exists or may be amended, as well as any collection expenses incurred in collecting the reimbursable amounts from the Association.

- XII. By-Laws. The Board of Directors shall adopt By-laws consistent with these Articles of Incorporation and the Declaration. Those by-laws may be amended by the Members at a regular or special meeting of the Members by a vote of the Members holding a majority vote.

I, the undersigned, being the sole incorporator of this corporation, have executed these Articles of Incorporation on this ____ day of _____, 2023, for the purpose of forming this corporation under the laws of the State of Texas.

BYLAWS OF ORCHARD PLACE

ARTICLE I

GENERAL PROVISIONS: REFERENCES AND DEFINITIONS

Section 1.1. References. Reference is made for all purposes to the Declaration of Covenants, Conditions and Restrictions for Orchard Place (the "Development") recorded in the office of the County Clerk of Harris County, Texas (said Declaration and any amendments or Supplemental Declarations thereto being herein collectively called the "Declaration").

Section 1.2. Association. This corporation is the corporation which is referred to as the "Association" in the Declaration. This corporation (hereinafter, the "Association") shall have all the rights, powers, privileges, and authority vested in it under the Declaration and shall carry out all the functions and responsibilities therein assigned and those which may hereafter be assigned to the Association under the Declaration or otherwise.

Section 1.3. Definitions. Except as otherwise defined in these Bylaws, all terms which are defined in the Declaration shall, when used herein, have the same meaning as that set forth in the Declaration.

ARTICLE II

FUNCTIONS OF THE ASSOCIATION

Section 2.1. Purposes. The purposes for which the Association is formed are to promote maintenance, administration and preservation of the Lots and other portions of the Properties; to exercise the duties and prerogatives provided for the Association in the Declaration; to have and to exercise any and all powers, rights, and privileges which a non-profit corporation organized under the Texas Business Organizations Code of the State of Texas may now or hereafter have or exercise; and, to the extent permitted by law, to do any and all other things necessary to implement or accomplish the purposes set forth in the Declaration and these Bylaws. To carry out said purposes properly, the Association shall, to the extent permitted or required by the Declaration, at the discretion of its Board of Directors, perform the following functions, and the exercise of such functions shall be deemed to be within the scope of activities contemplated by the Certificate of Formation and the Declaration:

(a) Accept conveyances of, own, sell, and encumber land and improvements which will be available for the use and enjoyment of all occupants of the Development, otherwise known as the Common Area, subject to the terms of the Declaration and these Bylaws.

(b) Exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration and Certificate of Formation and pay all expenses incidental thereto.

(c) Enforce the decisions and rulings of the Association.

(d) Enforce all restrictions, covenants, easements, and liens provided in the Declaration, and pay all of the expenses in connection therewith.

(e) Reimburse the Declarant under the Declaration for all costs and expenses incurred or paid by it in connection with the enforcement of any of the conditions, covenants, restrictions, charges, Assessments, fees, or terms set forth in the Declaration.

(f) Lease, provide, control, maintain, and operate the Common Area.

(g) Create, construct, and maintain private streets, alleys, road, rights-of-way, and easements.

(h) Do all things necessary for the upkeep, repair, and maintenance of all Common Area and other areas within the Development not otherwise delineated as a residential lot (the "Area of Common Responsibility") and the placement of improvements, fixtures, and equipment thereon, including the replacement of obsolete or damaged improvements, fixtures, and equipment.

(i) Provide for the landscaping of the Common Area necessary to provide a uniform scheme of landscaping for the Properties as a whole.

(j) Do all things necessary for the upkeep, repair, and maintenance of the Common Area. The Association may obtain an agreement with any appropriate governmental entity to assume the maintenance obligation for the public streets within the development.

(k) Pay legal and other expenses incurred in connection with the enforcement of all recorded charges, covenants, restrictions, and conditions affecting property to which the Assessments apply.

(l) May provide patrol services, including but not limited to, the employment of courtesy officers, supplemental municipal services; and/or may provide and operate a communications system.

(m) Do all things necessary to enforce the provisions of the Declaration, including but not limited to provide for the enforcement of exterior maintenance of all Residences, to the

extent provided for by the Declaration, and send invoices or take other necessary action to collect the cost of such exterior maintenance from the Owner of the Lot or Tract.

(n) Fix, levy, collect, and enforce payment by any lawful means, of all charges, fees and assessments (including, but not limited to, the Assessments) pursuant to the terms of the Declaration, including, but not limited to, the right to foreclose the lien against any Lot(s) or Tract(s); pay all expenses in connection therewith and all administrative and other expenses incident to conducting the business of the Association, including all licenses, taxes, assessments, or other governmental charges levied or imposed against the Properties of the Association.

(o) Participate in, and enforce the results of the Architectural Review Committee, ARC, to the extent provided in the Declaration.

(p) Do all other things necessary or desirable in the opinion of the Association to keep the Properties in neat and good order, or which it considers of general benefit to the Owners of the Lots and/or Tracts, it being understood that the judgment of the Association with respect to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

(q) Set and establish the amount of the Assessments or charges or fees which may be imposed by the Association pursuant to the Declaration and hold and administer the funds generated by such Assessments and other charges in the manner and for the purposes contemplated by and in accordance with the terms and provisions of the Declaration and these Bylaws.

(r) Acquire by gift, purchase, or otherwise own, hold, improve upon, build, enjoy, operate, maintain, convey, sell, lease, transfer, mortgage, dedicate for public use, or otherwise dispose of, real or personal property in connection with the business of the Association, subject to the terms of the Declaration and these Bylaws.

(s) Participate in mergers and consolidations with other non-profit associations organized for the same purposes.

(t) Exercise jurisdiction and control over any property made subject to the jurisdiction of the Association in accordance with the terms of the Declaration.

Section 2.2. Area. The activities of the Association shall be limited to (i) the Properties, Common Area and Area of Common Responsibility, and (ii) such other areas as may hereafter voluntarily or through the operation of conditions, covenants, restrictions, Supplemental Declaration, easements, reservations, or charges pertaining to the same be placed under or submitted to the jurisdiction of the Association.

ARTICLE III

MEMBERSHIP

Section 3.1. Membership. Every Owner of a Lot or Tract in Orchard Place, a subdivision set forth on a Map or Plat thereof recorded in the office of the County Clerk of Harris County, Texas, and areas annexed thereto pursuant to the recorded Declaration, shall be a Member of the Association.

Section 3.2. Suspension of Membership. A Member must be current in the payment of the Assessments and any duly adopted special assessment to validate the Membership and entitle the Member to all rights and privileges of same. During any period in which a Member shall be in default in the payment of any Annual or Special assessment levied by the Association, the voting rights (unless prohibited by law) and right to use of the recreational facilities of such Member may be suspended by the Board of Directors until such Assessment has been paid. Such other rights of a Member may also be suspended pursuant to the Declaration, for a period not to exceed sixty (60) days, for a single violation, or for a longer period in the case of any continuing violation, of the Declaration, these Bylaws, or any Rules and Regulations of the Association.

Article IV

Reserved.

ARTICLE V

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 5.1. Number. The affairs of the Association shall be managed by a Board of at least 3 but no more than 5 directors, who need not be Members of the Association. The initial Board of Directors shall consist of 3 persons.

Section 5.2. Election Term. Declarant retains the authority to appoint all members of the Board until not later than the fifth (5th) anniversary of the date this Declaration was recorded in the Official Public Records of Harris County, Texas, at which time one-third (1/3) of the Board members (who must be Members of the Association) must be elected by the Owners other than the Declarant, as set forth in the Bylaws. After such anniversary, Declarant will retain the authority to appoint the remaining two-thirds (2/3) of the members of the Board until such time as Declarant no longer owns any residential lots within the Development. The Declarant may assign to the Association its authority to appoint some or all (as applicable) members of

the Board, with such assignment evidenced by an instrument recorded in the Official Public Records of Harris County, Texas.

Upon termination of Declarant's authority to appoint two-thirds (2/3) of the members of the Board, Declarant will retain two (2) Member positions on the Board. Notwithstanding anything contained herein to the contrary, the Declarant may assign, temporarily or permanently, all or a portion of its rights as Declarant to any person(s).

Section 5.3. Removal. During the period of Declarant control, i.e., the period set forth in 5.2 above, a director appointed by Declarant may only be removed by Declarant. Thereafter, any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation, or removal of a director, his successors shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 5.4. Compensation. Reimbursement. No director shall receive any compensation from the Association for acting as a Board member. such Provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 6.1. Regular Meetings. Meetings of the Board of Directors shall be held at such intervals, place, and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, that meeting shall be held at the same time on the next day which is not a legal holiday. Any such meeting, whether regular or special, may be held by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting in such manner shall constitute presence in person at such meeting.

Section 6.2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 6.3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 6.4. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Section 6.5. Meeting Organization. At each meeting of the Board, the president, or if he or she is absent therefrom, the vice president, or if he or she is absent therefrom, a director chosen by a majority of the directors present, shall act as Chair and preside over such meeting. The secretary, or if he or she is absent, the person whom the Chair of such meeting shall appoint, shall act as secretary of such meeting and keep the minutes thereof.

ARTICLE VII

NOMINATION AND ELECTION OF DIRECTORS; RESIGNATIONS OR VACANCIES

Section 7.1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting.

Section 7.2. Election. Election to the Board of Directors shall be by secret written ballot cast at the annual meeting. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 7.3. Resignations. Any director may resign at any time by giving written notice of his or her resignation to the Association. Any such resignations shall take effect at the time specified therein, or, if the time when it shall become effective is not specified therein, it shall take effect immediately upon its receipt by the president or the secretary; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.4. Vacancies on the Board.

(a) Any vacancy occurring in the Board of Directors after Declarant may be filled by the affirmative vote of the majority of the remaining directors though less than a quorum or by a sole remaining director, and any director so chosen shall hold office until the

next election of directors when his or her successor is elected and qualified. Any newly created directorship shall be deemed a vacancy. When one (1) or more directors resign from the Board, effective at a future time, a majority of the directors then in office, including those who have so resigned, may fill such vacancy, vote on the vacancy to take effect when such resignation becomes effective. If by reason of death, resignation, or otherwise, the Association has no directors in office, any officer or Member may call a special meeting of Members for the purpose of electing the Board of Directors.

(b) Should an elected director fail to assume office by reason of death, disability, declination prior to the beginning date of the term to which elected, then the unsuccessful candidate in such election receiving the next highest number of votes shall be deemed elected in his or her stead.

ARTICLE VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 8.1. Powers. The Board of Directors shall have the power:

(a) To take the appropriate action in furtherance of those powers of the Association enumerated in Article II of these Bylaws;

(b) To adopt and publish rules and regulations governing the use of the Common Area and/or Area of Common Responsibility and facilities located on either one, and the personal conduct of the Members and their guests thereon, and to establish penalties and fines for the infraction thereof;

(c) To exercise for the Association all power, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws and the Certificate of Formation;

(d) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors without just cause having been furnished to and accepted by the Board;

(e) To establish, disburse, and maintain such petty cash fund as necessary for efficiently carrying on the business of the Association; and

(f) To engage the services of a manager, an independent contractor, or such employees as it deems necessary, and to prescribe the conditions, compensation, and duties of

their work. Such power shall include authority to enter into management agreements with other parties to manage, operate, or perform all or any part of the affairs and business of the Association.

Section 8.2. Duties. It shall be the duty of the Board of Directors:

(a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the Members or at any special meeting, when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

(b) To supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;

(c) To establish annually a budget and membership fees or assessments;

(d) To procure and maintain adequate liability and hazard insurance on property owned by the Association;

(e) To cause all officers, employees, or agents, having fiscal responsibility to be bonded, as it may deem appropriate;

(f) To cause the Common Area and Area of Common Responsibility to be maintained; and

(g) Perform such other duties as may be established by the Membership from time to time or set forth in these Bylaws, the Certificate of Formation, or the Declaration.

ARTICLE IX

COMMITTEES

Section 9.1. The Board of Directors may appoint committees as deemed appropriate in carrying out its purposes, which may include for example, but not by way of limitation, the following:

(a) A Nominating Committee as provided for in Section 7.1 of these Bylaws;

Section 9.2. It shall be a function of each committee to receive complaints from members on any matter involving Association duties and activities within its field of

responsibility. It shall make a recommendation and refer all information to the Board of Directors for action and/or disposition.

ARTICLE X

MEETINGS OF MEMBERS

Section 10.1. Annual Meetings. The first annual meeting of the Members shall be held at a time to be designated by the Board of Directors, and each subsequent regular annual meeting of the Members shall be held in the same month of each year thereafter, the place and time to be provided by the Board of Directors by giving written notice to the Members in accordance with the Texas Business Organizations Code. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. Until such time as Declarant has relinquished control of the Association, the annual meeting of the Membership shall be of a purely informal and informational nature and not for purposes of electing directors. Upon transfer of control of the Board of Directors to Owners other than Declarant, the annual Membership meeting shall, among other things, be used for the purpose of electing directors and conducting other official business of the Association. Notwithstanding anything to the contrary in this Section 10.1, the Association shall hold semi-annual meetings of the Members.

Section 10.2. Special Meetings. Special meetings of the Members may be called at any time by the president or by a majority of the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the entire membership.

Section 10.3. Notice of Meetings. Except as otherwise provided in the Certificate of Formation, or these Bylaws, or by statute, written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 10 days but not more than 60 days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member designating an alternate address to the Association for the purpose of notice or by electronic communication, to the last know email address supplied by each Member to the Association. Such notice shall specify the place, day, and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 10.4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast ten percent (10%) of the votes, shall constitute a quorum. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote

thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or be represented, however at each re-adjourned meeting the quorum requirement shall be reduced by one-half of the previous requirement at the adjourned meeting.

Section 10.5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon cessation of membership or restriction of the Member's voting rights.

Section 10.6. Canvas in Lieu of Meeting. In the event that a quorum of Members is not achieved at any scheduled meeting, the Board of Directors may authorize a door-to-door canvas of all Members whose votes shall be duly recorded, and any action so taken shall have the same force and effect as if taken at a meeting at which a quorum of Members was present. Any such canvas must be completed within 30 days of the Board's decree.

Section 10.7. Majority Vote; Withdrawal of Quorum. When a quorum is present at any meeting of the Members, the vote of the holders of a majority of the votes, present in person or represented by proxy, shall be sufficient to take action and decide any question validly brought before such meeting unless the question is one upon which by express provision of the statutes, the Certificate of Formation, or these Bylaws, a different vote is required, in which case such express provision shall govern and control the deciding of such question. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 10.8. Voting.

(a) Voice Vote. A voice or standing vote or show of hands of Members shall prevail on all matters of business, except the following items which require a ballot vote:

- (i) The election of all directors.
- (ii) When a majority of the Board of Directors requests a ballot vote.
- (iii) When a ballot is requested by a majority vote of the eligible Members of the Association attending the meeting.

(b) Ballot Vote. When a ballot vote is required, the following will apply:

- (i) Voting shall proceed under the supervision of the Board of Directors.

- (ii) At least two (2) of the Board of Directors and/or agents for the Association shall be in attendance at all times during voting and they shall determine eligibility of all voters, issue all official ballots, and witness the casting of the ballots.
- (iii) Ballots shall be opened and tabulated in the presence of at least three (3) Members of the Board of Directors and/or agents for the Association. Upon completion of the tabulation of ballots, the results shall be certified by the Board of Directors and kept at the offices of the Association.
- (iv) Any Member may be present as an observer at the tabulation of votes.

(c) Mail Vote. Electronic Means.

- (i) A majority of the Board of Directors may authorize use and implementation of a mail-in ballot or electronic means on any election or issue it deems appropriate, including the election of directors.
- (ii) When mail-in ballots are authorized by the Board, said ballots shall be prepared and mailed to the Members no later than twenty (20) days prior to the date of the election, the date set for the tabulation of the ballots shall be stated on the ballot. When electronic means are authorized by the Board, ballots shall be sent to the email addresses for each Member on record with the Association no later than ten (10) days prior to the date of the election, the date set for the tabulation of the ballots shall be stated on the ballot. Ballots received on or after the date set for tabulation of the ballots shall not be counted.
- (iii) The determination of eligibility and tabulation of votes shall proceed under the supervision of the Board of Directors and/or its agent, manager, etc.
- (iv) Following tabulation, all ballots will be sealed and stored for a period of thirty (30) days in the custody of the Board of Directors or in the office where the records of the Association are maintained.

(d) Tie Votes. Except for the votes in connection with the election of directors, a tie vote shall be decided by lot. In the event of a tie vote in the election of directors, the director candidates receiving the same number of votes (unless such tie vote does not affect the outcome of the election) shall be submitted to a second ballot vote. If a tie vote occurs at the second ballot vote (unless such tie vote does not affect the outcome of the election), the election of such director candidates receiving the same number of votes will be decided by lot.

ARTICLE XI

OFFICERS AND THEIR DUTIES

Section 11.1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall, at all times after the Declarant stops appointing Directors, be Members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create. The treasurer need not be a Member of the Association. Two officer positions may be held by the same individual, except that the same individual may not be president and secretary.

Section 11.2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 11.3. Term. The officers of this Association shall be elected annually by the Board and shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 11.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 11.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein; the acceptance of such resignation shall not be necessary to make it effective. The Board may declare an office vacant in the event three (3) meetings in a row are missed.

Section 11.6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election of officers. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 11.7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 11.8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out, shall sign all easements, contracts, leases, mortgages, deeds, and other written instruments; and shall co-sign all checks and promissory notes.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses and shall perform such other duties as required by the Board. At any time the Board of Directors is comprised of three (3) members, the roles, duties and responsibilities of Secretary and Treasurer will be combined and assigned to one member.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the Members. At any time the Board of Directors is comprised of three (3) members, the roles, duties and responsibilities of Secretary and Treasurer will be combined and assigned to one member.

ARTICLE XII

ASSESSMENTS

Section 12.1. Assessments in Accordance with the Declaration. The Declaration sets forth the obligation of each Member to pay to the Association Assessments. The payment of such Assessments is secured by a lien upon each Member's Lot against which the Assessment is made, and the Association's rights pertaining to such lien may be enforced in the manner provided for in the Declaration. No Owner may exempt himself from payment of Assessments by waiver of the use or enjoyment of all or any portion of the Common Area or abandonment of his Lot or Tract. In no event will Assessments be (a) charged in a non-uniform or discriminatory manner to Members of the Development or (b) increase by more than five percent (5%) over the Assessments from the prior Fiscal Year.

ARTICLE XIII

BOOKS AND RECORDS

The books, records, and papers of the Association shall, during normal business hours, be subject to inspection by any Member upon reasonable notice to the Association, but in no event sooner than one (1) business days' notice to the Association. The Certificate of Formation and the Bylaws of the Association shall be available for inspection by any Members at the principal office of the Association, during normal business hours, where copies may be purchased at reasonable cost.

ARTICLE XIV

FISCAL YEAR

The Fiscal Year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XV

AMENDMENTS

Section 15.1. Prior to the conveyance of the first Lot or Tract, Declarant may unilaterally amend these By-Laws. Thereafter, these Bylaws may be amended, by the affirmative vote or written consent, or any combination thereof, of a majority of the votes in the Association.

Section 15.2. In case of any conflict between the Certificate of Formation and these Bylaws, the Certificate of Formation shall control. In case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XVI

GENDER AND GRAMMAR

The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provision hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XVIII

CERTIFICATE OF ADOPTION OF BYLAWS

The undersigned Secretary of Orchard Place, a Community Association, hereby certifies that these Bylaws are the true and correct Bylaws of the Association voted upon and adopted at the Organizational Meeting of the Association.

Secretary of Association

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ORCHARD PLACE

STATE OF TEXAS §

COUNTY OF HARRIS §

This Declaration of Covenants, Conditions and Restrictions for Orchard Place, is made on the date hereinafter set forth by Harris County, Texas, a body politic of the State of Texas, hereinafter referred to as the "Declarant."

WITNESSED:

WHEREAS, Declarant is the owner of certain real property situated in Harris County, Texas, platted as Orchard Place, a subdivision of 8.425 acres according to the map or plat thereof, filed on the ___ day of _____, 20___, under Clerk's File No. _____ in the Map Records of Harris County, Texas and (the "Subdivision," "Property" and/or "Orchard Place", are made subject to this Declaration, as defined hereinafter); and

WHEREAS, Declarant desires to develop the Property as a single-family, residential use subdivision, and to provide and adopt a general plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern the Property, as applicable; and

WHEREAS, Declarant has deemed it desirable, for the efficient administration of the amenities in said Subdivision and enforcement of the Dedicatory Instruments (hereinafter defined), to create an Association (hereinafter defined) to which has been or will be delegated and assigned the authority to administer and enforce these assessments, conditions, covenants, easements, reservations, and restrictions, including levying, collecting, and disbursing the Assessments (hereinafter defined); and

WHEREAS, there has been or will be incorporated one or more non-profit corporations created under the laws of the State of Texas, including the first being the Community Association of Orchard Place, Declarant is hereby authorized to incorporate one or more entities to provide the functions of the Association. The directors of which Association either have or will establish certain Bylaws by which the Association will be governed through its Board of Directors, for the purpose of exercising the functions aforesaid and any other duties as set out in the Bylaws and/or other Dedicatory Instruments (hereinafter defined).

NOW, THEREFORE, Declarant hereby declares that the Property is subject to the jurisdiction of the Association, and will be developed, improved, sold, used, and enjoyed in accordance with, and subject to the following plan of development, including the applicable Assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and are covenants running with the land and be binding on all parties, now and at any time hereinafter having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and will inure to the benefit of each Owner of any part of the Property.

The Property is located within the City of Pasadena ("City") and Harris County ("County") and subject to this Declaration, which may be amended and/or supplemented from time to time. Additionally, the Property is subject to the Dedicatory Instruments. If any conflict exists between all or any portion of the Declaration and any Dedicatory Instrument, the more restrictive provision will control. Notwithstanding the foregoing, in the event of a conflict between a Dedicatory Instrument and any amendment thereto, the amendment will control.

ARTICLE I. DEFINITION OF TERMS

The following words when used herein will have the following meanings when capitalized (unless the context requires otherwise and then the term is not capitalized):

- A. "ARC" means the Architectural Review Committee established for the Property as set forth in this Declaration.
- B. "Area of Common Responsibility" means all of the properties and facilities for which the Association may have responsibility under the Dedicatory Instruments, or for which the Association otherwise agrees to assume responsibility, regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may, by way of illustration and not limitation, also include Lots or portions of Lots and property dedicated to the public, such as public rights-of-way.
- C. "Assessment" means the assessments levied against all Lots including but not limited to annual assessments, special assessments, and capitalization fees pursuant to this Declaration, a Supplemental Amendment, or other Dedicatory Instrument, for the purposes set out herein/therein or any other charge authorized by this Declaration or other Dedicatory Instrument.
- D. "Association" means one or more non-profit corporations, including its successors, assigns, or replacements, created under the laws of the State of Texas, with the first being the Community Association of Orchard Place, Inc. Declarant is hereby authorized to incorporate one or more entities to provide the functions of the Association. No more than one such non-profit corporation will be in existence at any one time, provided however, the formation of a sub-association is permitted. The Association is a Texas non-profit corporation that has jurisdiction over all properties located within the Subdivision, as same may be amended from time to time. For purposes of clarity, when "Association" is used herein, that term includes the authority, rights, remedies, and obligations of the nonprofit corporation, and the authority of the Board, as defined herein, to carry out the authority, rights, remedies, and obligations of the Association.
- E. "Board" means the Board of Directors of the Association as provided within the Bylaws.
- F. "Builder" means an individual or entity that purchases a single or multiple Lots from the Declarant or its affiliates for the purpose of constructing Dwellings thereon, which Dwellings will be offered for sale to purchasers. "Builder" does not include Declarant. Additionally, "Builder" does not include an individual or entity constructing additions onto a Dwelling already in existence; performing repairs or maintenance or re-constructing or replacing a Dwelling after demolition or destruction, either partial or complete.

- G. "Bylaws" mean the Bylaws of the Association, as they may be amended from time to time.
- H. "Common Area" means all real property owned in fee or held in easement, lease, or license by the Association and any improvements thereon, including real property in which it otherwise holds possessory or use rights, for the common use and/or enjoyment of the Owners and includes areas designated by the Declarant to be conveyed by deed or easement to the Association.
- I. "Community Wide Standard" means the standard of conduct, maintenance, or other activity generally prevailing throughout the Subdivision. Such standards may be defined in the Guidelines or rules and regulations. Such standards may be specifically determined, and modified, by the Board, with the approval of Declarant during the Development Period.
- J. "Declarant" means Harris County, a body politic of the State of Texas, its successors and assigns as same may be evidenced by a written instrument recorded in the Official Public records of Harris County, Texas.
- K. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Orchard Place, which encumbers the Property, and any other property brought under the control of this Declaration, or any Supplemental Amendment, Annexation Agreement and/or amendment thereto.
- L. "Dedictory Instruments" mean each document governing the establishment, maintenance, and operation of the Subdivision, including but not limited to the Declaration, Bylaws, Certificate of Formation, and similar instruments governing the administration or operation of the Association, as well as any and all rules, Guidelines and policies, and any supplements or amendments to such documents, enforceable by the Association.
- M. "Deed Restriction Violation" means any damage that an Owner or Occupant has caused to the Common Area or a condition on a Lot or an improvement located upon a Lot that does not comply with the terms and conditions of the Dedictory Instruments covering the appearance, establishment, maintenance, and operation of the Subdivision. Additionally, failure to pay all amounts due and owing on a Lot will also be considered a Deed Restriction Violation.
- N. "Development Period" means the period of time that Declarant reserves the right to facilitate the development, construction and marketing of the Subdivision or the right to direct the size, shape, and composition of the Subdivision, which retained rights are vested in the Declarant until Declarant no longer owns any portion of the Property or such time as Declarant assigns or relinquishes all of its retained rights created herein and/or in any other Dedictory Instrument.
- O. "Dwelling" means a main residential structure constructed on a Lot or Homesite intended for single-family residential use.
- P. "Guidelines" means general, architectural, and/or builder guidelines, and application and review procedures, if any, that may set forth various standards relating to exterior harmony of any and all improvements placed upon or constructed on any Lot and/or construction types and esthetics. There is no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive. Guidelines are enforceable by the Board.

- Q. "Hardscape" includes but is not limited to such items as rocks, landscape timbers, railroad ties, fountains, statuary, sculpture, terracing materials, lawn swings, and yard art.
- R. "Homesite" means one or more Lots upon which a single-family Dwelling may be erected subject to this Declaration.
- S. "Imagination Zones" means a mix of affordable, workforce and market-rate housing with design options that include a variety of housing types, mixed-use developments, multi-modal transportation, compatibility and connectivity, resiliency, and green stormwater infrastructure (GSI), along with hike and bike trail connectivity to schools, shopping, and employment centers, where feasible. Parks and open space will include urban gardens within the communities where practical.
- T. "Lot" means a parcel of Property defined as one Lot by the Plat and/or any replat thereof recorded in the Official Public records of Harris County, Texas, and encumbered by this Declaration, and restricted to single-family residential use. Homesites may be comprised of more than one Lot; each such Lot will be subject to the rights and duties of membership in the Association. There will be an Assessment due for each Lot owned as defined by the then-plat of record, subject to the limitations herein. No Lot may be further subdivided and separated into smaller Lots, and no portion less than all of any Lot will be transferred or conveyed. Notwithstanding anything contained herein to the contrary, this definition does not include any Lot for so long as it is being used by Declarant as a model home Lot and/or a sales information center.
- U. "Member" means the Declarant and an Owner, as defined in this Article, subject to the provisions set forth in this Declaration.
- V. "Member in Good Standing" means Declarant and a Member (a) who is not delinquent in the payment of any Assessment against the Member's Lot or any interest, late charges, costs or reasonable attorney's fees added to such Assessment under the provisions of the Dedicatory Instruments or as provided by law, (b) who is not delinquent in payments made pursuant to a payment plan for Assessments, (c) who has not caused damage to the Common Area, (d) who does not have any condition on his Lot which violates any Dedicatory Instrument which has progressed to the stage of a written notice to the Owner of the Owner's right to request a hearing to be held by the Association or its designated committee, or beyond, and which remains unresolved as of the date of determination of the Member's standing, (e) who has not failed to pay any fine levied against the Member and/or the Member's Lot pursuant to the Dedicatory Instruments, and (f) who has not failed to comply with all terms of a judgment obtained against the Member by the Association, including the payment of all sums due the Association by virtue of such judgment. If one Occupant of a particular Dwelling does not qualify as a Member in Good Standing, then all Occupants of such Dwelling will not be considered as Members in Good Standing. Additionally, if an Owner of multiple Lots does not qualify as a Member in Good Standing as to one Lot, then such Owner will not qualify as a Member in Good Standing as to all Lots owned by the Owner.
- W. "Occupant" means Owners, residents, tenants, lessees, guests, or invitees of any Lot or dwelling within the Property for any period of time.

- X. "Outbuildings" mean and refer to structures other than the structure of the primary residence such as (by way of example and not limitation) storage building(s), shed(s), greenhouse(s), gazebo(s) and shade trellis(es).
- Y. "Owner" means an owner of any portion of the Property. Persons or entities holding title only as a lienholder shall not be an Owner for purposes of this Declaration.
- Z. "Public View" means a condition, structure, item, or improvement located on a Lot that is openly visible from or by (i) an individual standing at ground level of at least one neighboring Lot (such neighboring Lot does not have to be adjoining the Lot with any such condition, structure, item, or improvement), (ii) a Common Area, or (iii) a street.
- AA. "Subdivision," the "Property," and/or "Orchard Place" means the Orchard Place Subdivision located in Harris County, Texas. As of the date of this Declaration, the Subdivision is more particularly described in the Plat.
- BB. "Townhome Building" means one building, built upon three or more adjacent Lots "Adjoining Lots"), containing three or more adjoining single family residential Townhomes. Each Townhome Building shall have three to four internal common walls ("Party Wall"), depending on the number of Adjoining Lots, with each Party Wall being located along the shared Lot line between the attached Townhomes ("Shared Lot Line"), as shown on Exhibit A.

ARTICLE II. PURPOSE AND INTENT

The Subdivision, as initially planned, is intended to be a single-family, residential development that is planned to feature residential uses. This Declaration serves as the means by which design, maintenance and use of the Property, and additional property made a part of the Subdivision, will be established. Declarant reserves the right to change the initial development plan for residential uses to include a mix of both residential and commercial uses within the Orchard Place development.

The Lots within Orchard Place shall be for fifty-four (54) attached townhome Dwellings ("Townhomes") contained in no more than twelve (12) residential Townhome Buildings, as shown on Exhibit A attached hereto and incorporated by reference herein for all purposes.

Townhomes that share a Party Wall are referred to herein as "Adjoining Townhomes". By way of illustration, Lots 1 - 4, Block 1 in Orchard Place have 4 Townhomes comprising 1 Townhome Building; Lots 1 and 2 share a Party Wall and are considered Adjoining Townhomes and Adjoining Lots; Lots 2 and 3 share a Party Wall and are considered Adjoining Townhomes and Adjoining Lots; Lots 3 and 4 share a Party Wall and are considered Adjoining Townhomes and Adjoining Lots. See Exhibit A.

Each numbered Lot within Orchard Place shall be used exclusively as the site for one single-family, attached residential Townhome. All Townhomes within Orchard Place must contain a minimum of 1,200 square feet of living area which shall not include porches, garages, or non-air conditioned areas.

No Dwelling or other structure shall be built nearer to any street or property line than as established on the Plat. Unless otherwise provided on the applicable plat, all Lots shall have a minimum rear setback of

the greater often feet (10') or the width of any easement. There shall be no side setbacks within Orchard Place, as more particularly described on Exhibit A.

ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS

A. Property Initially Encumbered

The Property that is initially encumbered by this Declaration and is therefore a part of the Subdivision is more particularly described on the Plat. Owners of the Property are Members of the Association and have executed this Declaration.

ARTICLE IV. ASSOCIATION MEMBERSHIP, VOTING RIGHTS, AND BOARD OF DIRECTORS

A. Eligibility

Eligibility to vote or serve as a director or officer of the Board, after the expiration of the term of the initial Board is predicated upon that person being a Member of the Association. Nothing contained herein creates a fiduciary duty owed by the Board to the Members of the Association.

B. Membership

Declarant and every record Owner will be a Member of the Association, excluding therefrom persons or entities holding an interest in the land merely as security for the performance of an obligation (such as a mortgagee, or holder of any other lien against property), unless that holder of the security interest foreclosed and thereby became the Owner of the Lot(s).

Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. Any one (1) Owner will have no more than one (1) Membership in the Association. All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration relieves Members or their successors or assigns of such duties or obligations. Mandatory membership begins with the execution of this Declaration and pass with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of Members. Members in Good Standing have the right to the use and enjoyment of the Common Area in the Subdivision. Owners who are not Members in Good Standing may be prohibited from utilizing Common Areas in the Subdivision.

C. Voting Rights

Voting rights are based on the number of Lots owned and are determined as follows:

One (1) vote is granted to a Member for each Lot owned.

Multiple Owners of any single Lot must vote in agreement (under any method they devise among themselves), but in no case will such multiple Owners cast portions of votes. The vote attributable to any single Lot must be voted in the same manner (i.e., all Owners of the Lot for,

or all Owners of the Lot against a particular issue) but in no event can there be more than one vote cast per Lot.

D. Voting Procedures

Members will exercise their votes as set out in the Dedicatory Instruments.

E. Right to Appoint/Elect Board of Directors

Declarant retains the authority to appoint all members of the Board until not later than the fifth (5th) anniversary of the date this Declaration was recorded in the Official Public Records of Harris County, Texas, at which time one-third (1/3) of the Board members (who must be Members of the Association) must be elected by the Owners other than the Declarant, as set forth in the Bylaws. After such anniversary, Declarant will retain the authority to appoint the remaining two-thirds (2/3) of the members of the Board until such time as Declarant no longer owns any portion of the Property. The Declarant may assign to the Association its authority to appoint some or all (as applicable) members of the Board, with such assignment evidenced by an instrument recorded in the Official Public Records of Harris County, Texas.

Upon termination of Declarant's authority to appoint two-thirds (2/3) of the members of the Board, Declarant will retain two (2) Member positions on the Board. Notwithstanding anything contained herein to the contrary, the Declarant may assign, temporarily or permanently, all or a portion of its rights as Declarant to any person(s).

ARTICLE V. EFFECTIVE DATE OF DECLARATION

This Declaration will be effective as of the date it is recorded in the Official Public Records of Harris County, Texas.

ARTICLE VI. USE RESTRICTIONS

Notwithstanding anything contained herein to the contrary, the provisions of this Article apply only to Lots unless other portions of the Property are specifically included in said provisions.

A. Single Family Residential Use Permitted; Leasing

Homesites within the Subdivision may only be used exclusively for single family residential use. The term "single family residential use" as used herein refers not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which is limited to a single family, as defined below. Furthermore, "single family residential use" means the use of and improvement to a Lot by one single family with no more than one building designed and used for living, sleeping, cooking, and eating therein and means use intended for a period of time greater than six (6) months. As used herein, the term "single family residential use" specifically prohibits, without limitation, the use of a Lot for a duplex, apartment, multi-family dwellings, a garage apartment, or any other apartment or for any multi-family use, vacation rental by Owner, boarding house, "Airbnb", bed and breakfast or for any business, professional or other commercial activity. In no case may a Lot contain more than one Dwelling. No building, outbuilding or

portion thereof will be constructed for income property or such that Occupants would occupy less than the entire Lot and/or Homesite.

No Dwelling may be occupied by more than one single family. By way of illustration, the following is an example of an approved single family:

RESIDENT 1 AND RESIDENT 2 RESIDE IN DWELLING.

Additional approved residents are:

- a) children of either or both residents;
- b) no more than a total of 2 parents of the residents;
- c) one unrelated person; and
- d) one household employee.

An Owner is not permitted to lease a Dwelling in the Subdivision for ten years from the date of closing. After such time, it is permitted for Owners to lease a Dwelling in the Subdivision, so long as Occupants are leasing the entire land and improvements comprising the Homesite and are doing so for an initial period of at least six (6) months or more. No fraction or portion of any Dwelling may be leased or rented. "Leasing" for purposes of this Declaration, is defined as occupancy of a Dwelling for single family residential use by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Provided, however, "leasing" for purposes of this Declaration does not include vacation rental by Owner, boarding house, "Airbnb", or bed and breakfast as such uses are strictly prohibited and are considered to be a business use. Leasing a Dwelling for single family residential use will not be considered a "business" (as set forth in detail hereinafter), provided that the Owner and any other Owners with whom such Owner is affiliated do not collectively lease or offer for lease more than one Dwelling at any time. This provision does not preclude the Association or an institutional lender from leasing a Dwelling upon taking title following foreclosure of its security interest in the Dwelling or upon acceptance of a deed in lieu of foreclosure.

All leases must be in writing and will contain such terms as the Board may prescribe from time to time. All leases will provide that they may be terminated in the event of a violation of the Declaration or the Dedicatory Instruments by an Occupant or Occupant's family, and the Board, in its sole discretion, may require termination by the Owner and eviction of the Occupant in such event. Rental or lease of the Lot and Dwelling will not relieve the Owner from compliance with this Declaration or the Dedicatory Instruments. The Board has the authority to adopt rules and/or a policy regarding the leasing of Lots and Dwellings within the Subdivision. Single family residential use does not include a Lease to tenants temporarily (less than six (6) consecutive months) or where the tenants do not intend to make the Lot and Dwelling their primary residence. Tenants will not be deemed Members of the Association and, except as may be designated by appropriately executed proxy, be entitled to vote in any Association meeting. However, Tenants shall be entitled to attend Association meetings.

It is not the intent of this provision to exclude from a Lot any individual who is authorized to so remain by any state or federal law. If it is found that this provision is in violation of any law, then this provision will be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

B. Non-Permitted Uses

1. No trade or business may be conducted in or from any Dwelling, Lot or Homesite, except such use within a Dwelling where (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (b) the business activity conforms to all governmental requirements and other Dedicatory Instruments applicable to the Property; (c) the business activity does not involve visitation to the Dwelling or Homesite by clients, customers, suppliers or other business invitees or door-to-door solicitation of Occupants of the Subdivision; and (d) the business activity is consistent with the residential character and use of the Property, does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Board. The uses set out in this Section 1 (a) through (d) are referred to singularly or collectively as an "Incidental Business Use." At no time may an Incidental Business Use cause increased parking or traffic within the Subdivision. Any increased parking or traffic within the Subdivision as a result of an Incidental Business Use will be deemed to be a Deed Restriction Violation. A day-care facility, home day-care facility, church, nursery, pre- school, beauty parlor, or barber shop or other similar facility, vacation rental by Owner, boarding house, "Airbnb", or bed and breakfast are expressly prohibited and are not considered to be an Incidental Business Use.

The terms "business" and "trade" as used in this provision are construed to have their ordinary, generally accepted meanings and include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods or services for or to persons other than the Occupant's family, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefor. This Section does not apply to any activity conducted by the Declarant, or by a Builder with approval of the Declarant, with respect to its development and sale of the Property. Garage sales, attic sales, moving sales, or yard sales (or any similar vending of merchandise) conducted on any Homesite more than once per year will be considered business activity and therefore prohibited. The Association may, but is not required to, adopt rules and regulations regarding such sales. Notwithstanding anything contained herein to the contrary, estate sales are expressly prohibited.

2. No livestock, domestic or wild animals, nor plants or crops may be raised on any Homesite, Lot, or any portion of the Property for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals, plants or produce for anything of value to the seller will constitute a sale of the merchandise and therefore prohibited under this provision.

C. Animals and Pets

No animals, livestock, including swine or poultry of any kind, shall be raised, bred, or kept on any portion of the Subdivision, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in or on a Homesite or in a Dwelling. The foregoing limitation on number of pets shall not apply to constantly caged small pets such as hamsters, small birds, fish, or other similar common household pets kept inside the Dwelling, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free outside the Dwelling. Whenever they are outside a Dwelling and/or

fence, dogs and cats will at all times be confined on a leash which must be held by a responsible person. No animals or pets may be kept, bred, or maintained for any commercial purpose.

D. Antennas

No exterior antenna, aerial, satellite dish, or other apparatus for the reception of television, radio, satellite, or other signals of any kind may be placed, erected, or maintained on a Lot if visible from Public View, unless it is impossible to receive an acceptable quality signal from any other location. However, in that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal may be received. The Board may require painting or screening of the receiving device if painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) satellite dishes, which are larger than one (1) meter in diameter; (ii) broadcast antenna masts, which exceed the height of the center ridge of the roofline; and (iii) MMDS antenna masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antenna, aerial, satellite dish, or other apparatus which transmits television, radio, satellite, or other signals of any kind are permitted on a Lot. This section is intended to comply with the Telecommunications Act of 1996 (the "Act"), as the Act may be amended from time to time, and FCC regulations promulgated under the Act. This section is to be interpreted as restrictive as possible while not violating the Act or FCC regulations. The Board may promulgate Guidelines which further define, restrict, or address the placement and screening of receiving devices and masts, provided such Guidelines are in compliance with the Act and applicable FCC regulations.

Declarant and the Association shall have the right, without the obligation, to erect an aerial, satellite dish, or other apparatus (of any size) for a master antenna, cable, or other communication system for the benefit of all or any portion of the Subdivision, should any master system or systems require such exterior apparatus.

E. Basketball Goals and Backboards

No basketball goal, net and/or backboard may be kept, placed, or mounted upon any Lot or kept, placed, attached, or mounted to any fence or Dwelling without prior written approval by the ARC. All basketball goals and/or backboards are subject to the Guidelines as to type, location, and hours of use. All basketball goals and/or backboards shall at all times be maintained and kept in good condition. If any basketball goal, net and/or backboard is placed within the Subdivision in violation of this Declaration, the Association or its agents shall be authorized to exercise its Homeowners Assistance Program remedy as set forth in this Declaration to bring the Owner's Lot into compliance with this provision.

F. Drilling

No drilling into the ground or related operations of any kind shall be permitted upon, under, on or in any Lot, nor shall any wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot, including water wells for potable or non-potable uses.

G. Exterior Seasonal Decorations

The display of exterior seasonal decorations, by way of illustration but not limited to lights, banners, flags, wreaths, shall be subject to reasonable rules and regulations, if any, promulgated by the Board. Such rules may address the appearance and length of time of such display. Such display shall be maintained and kept

in good condition at all times. If any exterior seasonal decorations are placed, or remain, within the Subdivision in violation of this Declaration or the Dedicatory Instruments, the Board or its agents shall be authorized to exercise its Homeowners Assistance Program remedy to bring the Owner's Lot into compliance with this provision.

H. Flags and Flagpoles

The size, number, and placement of flagpoles, and the display of flags within the Subdivision, shall be subject to any applicable Guidelines, rules or policies adopted by the Board. The Declarant, by promulgating this Section, is not attempting to violate any local, state, or federal law. This Section shall be interpreted to be as restrictive as possible while not violating any laws of the State of Texas and/or the United States of America.

I. General Nuisances

No portion of the Subdivision shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, animal, or material be kept upon any portion of the Subdivision that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, comfort, or serenity of the Owners and/or Occupants of surrounding Homesites and users of the Common Areas.

No noxious, illegal, or offensive activity shall be permitted upon or within any portion of the Subdivision, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Subdivision. There shall not be maintained any plants, animals, device, or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Subdivision. No outside burning of wood (except for wood burned in approved outdoor fire pits and fireplaces), leaves, trash, garbage, or household refuse shall be permitted within the Subdivision. No speaker, horn, whistle, bell, or other sound device, except alarm devices used exclusively for residential monitoring purposes, shall be installed, or operated on the Property, unless required by federal, state or local regulation. The use and discharge of firecrackers and other fireworks is prohibited within the Subdivision.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot or Homesite. The pursuit of hobbies or other visible activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause the appearance of disorderly, unsightly, or unkempt conditions, may not be pursued or undertaken on any part of the Subdivision. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work may be permitted provided such activities are not conducted on a regular or frequent basis and are either conducted entirely within an enclosed garage or, if conducted outside, are begun, and completed within twelve (12) hours.

Notwithstanding anything contained herein to the contrary, the Association shall have the right but not the obligation to enter upon any Common Area, Area of Common Responsibility and/or street right-of-way and remove signs not authorized by the Board in advance, and/or to regulate (including, but not limited to, the prohibition of) street vending and similar non-approved activities.

No portion of the Subdivision shall be used, in whole or in part, in a way that creates a nuisance within the Subdivision. Activities or conditions constituting a nuisance are incapable of exhaustive definition which will fit all cases, but they include those activities and conditions that endanger life or health, give unreasonable offense to senses, or obstruct reasonable use of property. Those activities or conditions that cause minor and/or infrequent disturbances resulting from ordinary life activities within a deed restricted community are not intended to constitute a nuisance. Whether such activity or condition constitutes a nuisance will be determined by the Board. The Board may adopt rules or policies to further define what constitutes a nuisance as warranted.

J. Generators

The size, number, placement, and other characteristics of standby electric generators within the Subdivision shall be subject to any applicable Guidelines, rules or policies adopted by the Board.

K. Monuments and Fences

The Declarant and the Association, including their respective designees, are hereby granted an easement to place, maintain and repair a monument or marker within the Subdivision. Fencing on all Lots within the Subdivision shall be as set forth in the Guidelines or other Dedicatory Instrument and shall be subject to prior written approval by the ARC. Unless otherwise set forth herein or in another Dedicatory Instrument, Owners shall be responsible for the ongoing maintenance, repair and/or replacement of all fences in existence at the time of their purchase of the Lot. Replacement fences shall be of a similar material and design as originally constructed. The maintenance of any portion of a fence which lies between Lots shall be the joint responsibility of the Lot Owners on whose property the fence lies between. In the event an Owner fails to repair, replace, or maintain any fence in a manner consistent with the Community Wide Standard in the sole discretion of the Board, the Board may exercise its Homeowners Assistance Program remedy pursuant to the terms set forth in this Declaration, and shall have the right, but not the obligation, through its agents, contractors and/or employees to enter such Lot for the repair and/or replacement of such fence after notice to the Owner. In the event of a disagreement between adjacent Lot Owners regarding the necessity or scope of repair or maintenance of any fence between their respective lots, the matter may be brought, by either Lot Owner, to the Board of Directors for evaluation and decision. Any expense incurred by the Association in effectuating such repairs/replacement shall be the responsibility of the Owner(s) having such obligation to maintain or will be split evenly between adjoining Lot Owners if a common fence is involved and shall be secured by the continuing lien on the Lot. Owners are advised that there may be "Community Fences" located within various reserve areas throughout the Subdivision. In some instances, a Community Fence may be located on the Lot line or within the platted boundary of a particular Lot. Harris County has sole discretion in determining which fences in the Subdivision are Community Fences at the time of platting. The Community Fences may serve as side or rear fencing to various Lots that are adjacent to or contain such Community Fences ("Adjacent Lot"). The Community Fences will not be owned by the Lot Owners and may be owned by the Association or another entity. There is no requirement that a Community Fence be replaced with the materials as originally constructed, and the replacement Community Fence materials shall be determined at the discretion of the ARC.

Where applicable, Owners of Lots that are located adjacent to a Community Fence or contain a Community Fence within the platted Lot (collectively referred to herein as "Adjacent Lot Owners") may abut (but not mechanically attach) their fencing to the adjacent Community Fence. Portions of the reserves located within the fenced area of a Lot adjacent to a Community Fence (the "Community Fence

Reserve Area"), if any, shall be made available by the Association or entity owning such reserve for the benefit and use of the Adjacent Lot Owners, but such Adjacent Lot Owners shall not be vested with title to the Community Fence Reserve Area. Adjacent Lot Owners are not permitted to place or construct, either temporarily or permanently, any structures or improvements within the Community Fence Reserve Area unless the Adjacent Lot Owners have first obtained approval in writing from the ARC. Adjacent Lot Owners shall have the right to use their respective Community Fence Reserve Area subject to the following:

- Adjacent Lot Owners are not permitted to attach anything, temporarily or permanently, to the Community Fence, including any fencing abutting the Community Fence.
- Adjacent Lot Owners shall be required to maintain any landscaping located in the Community Fence Reserve Area, including trimming and spraying for insects.
- Adjacent Lot Owners are not permitted to take any action to alter the drainage pattern that has been established for the Community Fence or Community Fence Reserve Area.
- Adjacent Lot Owners are not permitted to place or construct, either temporarily or permanently, any structures or improvements within the Community Fence Reserve Area unless the Adjacent Lot Owners have first obtained approval in writing from the Association.
- Adjacent Lot Owners shall have the obligation to maintain the Community Fence Reserve Area in a clean and neat condition and in compliance with the Dedicatory Instruments of the Subdivision at all times.

The Adjacent Lot Owners and the Declarant hereby grant an easement to the Association and to the owner of the Community Fence, as applicable, over and across each Adjacent Lot to the extent necessary for the construction, maintenance, reconstruction, inspection of the Community Fence and inspection of the Community Fence Reserve Area. The Declarant hereby reserves unto itself an easement over and across each Adjacent Lot to the extent necessary for the construction, maintenance, reconstruction, inspection of the Community Fence and inspection of the Community Fence Reserve Area. The Declarant, the Association and/or the owner of the Community Fence, as applicable, shall give the Adjacent Lot Owners at least twenty-four (24) hours written notice prior to exercising their right of entry as set out herein. Notwithstanding anything contained herein to the contrary, written notice of the Declarant's, the Association's and/or the owner of the Community Fence, as applicable, intent to enter upon the Adjacent Lot shall not be required in the event of an emergency. Adjacent Lot Owners hereby agree to hold harmless the Declarant and the Association, and their respective directors, officers, agents, successors, and assigns, and release them from any liability for the placement of, construction, design, repair, maintenance and replacement of Community Fences and Community Reserve Areas and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur due to the existence, installation, maintenance, repair, and/or replacement of Community Fences and Community Fence Reserve Areas.

The Association's maintenance obligation of the Community Fences extends only to normal wear and tear of such fencing. Any damage caused to a Community Fence by an Owner or Occupant that is beyond normal wear and tear will be repaired by the Association or the owner of the Community Fence, as applicable, at the Owner's expense. The Board has the sole discretion to determine what constitutes

normal wear and tear. In exercising its obligations set forth herein, the Association shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such exercise of its obligations set forth herein, nor in any way shall the Association and the ARC, or their agents, be liable for any accounting or other claim for such action. Further, in exercising its obligations set forth herein, the Association is not liable for any loss or damage to landscaping (soft or hardscape) that encroaches upon a Community Fence and/or any existing materials that are affixed to the Community Fence in violation of this provision, including but not limited to any Owner fencing that is connected to a Community Fence and any owner's decorations or other personal items.

1. Community Fences:

Community Fences have been or will be constructed on or adjacent to those portions of the following Lots within Orchard Place: (a) Lots 1 through 24, Block 1, the plat perimeter of Restricted Reserve "E", the plat perimeter of Reserve "J", and that portion of Reserve "G" along the west plat boundary to the 25' Building Line setback from Vista Road, and (b) the rear property lines of Lots 1 through 30, Block 2. Community Fences have been or will be constructed on or adjacent to those portions of All of the foregoing Lots shall be considered Adjacent Lots and shall be subject to the provisions hereinabove pertaining to Community Fences. Declarant, the Association and/or the owner of the Community Fences, as applicable, have an easement on such Adjacent Lots for the installation, maintenance, repair and/or replacement of the Community Fences, as more particularly described herein. Save and except the fencing noted in this subsection, all other fencing located upon the Lots within Orchard Place shall be installed, maintained, repaired, and replaced in accordance with the Dedicatory Instruments.

L. Outbuildings

Outbuildings shall not be constructed or placed on a Lot within the Subdivision without the prior written approval of the ARC. Reasonable Guidelines may be established from time to time addressing factors including, but not limited to, the appearance, type, size, quality, and location of Outbuildings on a Lot.

M. Outside Storage and Trash Collection

No equipment, machinery, or materials of any kind or nature shall be stored on any Homesite forward of the fence at the front wall of the Dwelling situated thereon, unless the equipment, machinery or materials is being used temporarily (not more than one week) and is incident to repair or construction of the Dwelling or Homesite. All equipment, machinery, and materials shall be properly stored out of sight of every other Homesite immediately after use of such item, and all trash, debris, excess, or unused materials or supplies shall likewise be disposed of immediately off of the Homesite or stored out of view until trash collection occurs.

Trash may only be placed outside for collection the evening before collection. Such trash must be contained to protect from animals or spillage and trash cans must be removed from sight the same evening of collection. No outdoor incinerators shall be kept or maintained on any Lot.

N. Parking and Prohibited Vehicles

The following provisions apply to all Lots located within the Subdivision that are serviced by public streets:

1. Permitted Vehicles:

This subsection pertains to non-commercial and non-recreational vehicles such as passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (i) are in operating condition; (ii) are qualified by current vehicle registration and inspection stickers; and (iii) are in regular use as motor vehicles on the streets and highways of the State of Texas ("Permitted Vehicle"). Any vehicle that does not satisfy the foregoing requirements must be completely concealed from Public View inside a garage or enclosure approved by the ARC, with the exception of temporary parking of commercial vehicles and recreational vehicles set forth hereinafter. Permitted Vehicles may be parked on the driveway of a Lot or inside a garage or enclosure approved by the ARC.

2. Commercial Vehicles:

Commercial vehicles may be temporarily parked on the driveway of a Lot for the purposes of construction, repair or maintenance related to a Dwelling or Lot, or for delivery services, but only for the time necessary for such purpose, unless a prior written request is received by the Board and a temporary parking permit has been issued by the Board. The parking of any other commercial vehicle on a Lot will be permitted only if such commercial vehicle is completely concealed from Public View inside a garage or enclosure approved by the ARC.

By way of example and not limitation, commercial vehicles include panel vans and pick-up trucks used in a business enterprise, tow trucks, plumbing service vehicles, vehicles displaying commercial signage, as well as associated machinery, trailers, or equipment. The Board has sole discretion to determine whether a particular vehicle, associated machinery, or any signage related thereto is commercial in nature.

3. Recreational Vehicles:

One (1) recreational vehicle with not more than two axles may be temporarily parked on the driveway of a Lot for up to forty-eight (48) consecutive hours for loading and unloading purposes only, unless a prior written request is received by the Board and a temporary parking permit has been issued by the Board. Recreational vehicles may be stored on a Lot as long as the recreational vehicle is completely concealed from Public View inside a garage or enclosure approved by the ARC.

Recreational vehicles may include but are not limited to trailers, motor homes, campers, golf carts, four-wheelers, mini-bikes, go-carts, buses, dirt motorcycles, neighborhood electric vehicles, jet skis and boats. The Board has sole discretion to determine whether a particular vehicle is recreational in nature.

4. Vehicles in General:

This subsection applies to all vehicles, including but not limited to Permitted Vehicles, commercial vehicles, and recreational vehicles, as same are described in this Section. No vehicle may be parked on a grassy area on a Lot. Driveways may not be used to rebuild/repaint vehicles.

5. Enforcement:

Enforcement of the foregoing parking provisions shall be left to the Board's discretion and may occur only after a violation is reported by a Member and observed by the Association or its designee. The

Association shall have the right without the obligation to enforce the limitations on parking set forth herein or in another Dedicatory Instrument.

Notwithstanding anything contained herein to the contrary, the Board may promulgate additional parking rules regarding items including but not limited to the use, maintenance, and parking of vehicles on Lots and private streets. The Board has discretion to determine the various types of vehicles that fall within the scope of any such rules. If there is a conflict between this Section and parking rules promulgated by the Board, the parking rules shall control.

O. Play Structures

Play Structures (as defined herein) shall not be constructed or placed on a Lot within the Subdivision without the prior written approval of the ARC. Guidelines may be established from time to time regarding play forts, play houses, swing sets and other recreational equipment ("Play Structures"), taking into account such factors including but not limited to the overall height, size, location, and number of Play Structures placed on a Lot. In setting the Guidelines, factors including but not limited to the size and configuration of the Lot, the location of the Lot in the community, the location of the Play Structure on the Lot, the type of fencing on the Lot and visibility of the Play Structure from streets, other Lots, or the Common Areas may be taken into account.

P. Screening

No Owner or Occupant of any portion of the Property shall permit the keeping of articles, goods, materials, utility boxes, refuse, trash, storage tanks, or like equipment on the Property which may be considered a nuisance or hazard in the sole discretion of the Board. Air conditioners, utility boxes, garbage containers, antennas to the extent reasonably possible and pursuant to the terms set forth herein, or like equipment, shall not be kept in Public View and must be placed in a location first approved in writing by the ARC. Such screen shall be of a height at least equal to that of the materials or equipment being stored, but in no event shall such screen be more than six feet (6') in height. Added screening must also be provided to shield such stored materials and equipment from grade view from adjacent Dwellings or Common Area. After completion of construction, utility boxes must be screened where feasible so that they are not visible from the street and as may be set out in the Guidelines. A combination of trees, hedges, shrubs, or fences should be used as screening material, as same may be set out in the Guidelines. All screening designs, locations, and materials are subject to prior written ARC approval. Any such screening installed must, be maintained in a clean and neat manner at all times and may not detract from the appearance of the Property.

Q. Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted, or attached to any Dwelling, fence, or other improvement upon such Lot so as to be visible from Public View except the following:

1. For Sale Signs. An Owner may erect one (1) sign on his Lot, not exceeding 2'x3' in area, fastened only to a stake in the ground and extending not more than three (3') feet above the surface of such Lot advertising the property for sale.

2. Political Signs. Pursuant to Texas Property Code §202.009, or its successor statute, political signs are approved as temporary signage on Lots for all local, state, or federal election purposes, provided that they meet the following criteria:
 - a. Maximum sign size cannot exceed 4 feet by 6 feet.
 - b. Signs must be ground-mounted. No sign can be mounted on any exterior part of the dwelling, garages, patios, fences, or walls.
 - c. Signs may be posted not more than 90 days prior to the election and must be removed within 10 days after the election.
 - d. Signs may not contain roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component.
 - e. No sign can be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object.
 - f. No sign may involve the painting of architectural surfaces.
 - g. No sign may threaten the public health or safety or violate a law.
 - h. No sign may contain language, graphics or any display that would be offensive to the ordinary person.
 - i. No sign may be accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.
 - j. Political signs are prohibited on any Common Area or facilities owned by the Association, including any public or private street right of way utility easements.
 - k. Only one sign per candidate or ballot item shall be allowed.
3. School Spirit Signs. Signs containing information about one or more students residing in the Dwelling and the school they attend shall be permitted so long as the sign is not more than 36" x 36" and is fastened only to a stake in the ground. There may be no more than one sign for each student residing in the Dwelling and said signs may not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year.
4. Security Signs/Stickers. Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Dwelling shall be permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There shall be no more than one sign and no more than six (6) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for a "Child Find" program, or a similar program sponsored by a local police and/or local fire department.

All signs and emblems within the Subdivision may be subject to Guidelines.

A Builder and/or the Declarant may place certain information and advertising signs on Lots without the prior permission of the ARC, so long as such signs are similar to those which are in common and customary use by residential builders and developers for marketing or informational purposes in and around Houston and Harris County, Texas.

If any sign is placed within the Subdivision, including but not limited to the streets, street rights-of-way, and Common Areas, in violation of this Declaration or the Dedicatory Instruments, the Board or its agents shall have the right but not the obligation to enter upon any Lot, Homesite, street, street right-of-way, or Common Area and remove and/or dispose of any such sign violation,

and in doing so shall not be subject to any liability for trespass, other tort, or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

Guidelines may be established from time to time addressing the display of signs, including but not limited to billboards, posters, school activities, political signs, security signs/stickers and advertising devices within the Subdivision. The right is reserved by Declarant to construct and maintain, or to allow Builders to construct and maintain signs and other advertising devices on land they own and on the Common Area as is customary in connection with the sale of developed tracts and newly constructed residential Dwellings. In addition, the Declarant and the Association shall have the right to erect and maintain directional and informational signs along the streets within the Property and identifying signs and monuments at entrances to the Subdivision.

R. Swimming Pools/Spas

No above ground swimming pools are permitted. All swimming pools and spas require prior written approval by the ARC.

S. Tree Removal

No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in writing by the ARC. In the event of an intentional or unintentional violation of this Section, the violator may be required to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as the Board may determine necessary, in its sole discretion, to mitigate the damage.

T. Window Air Conditioning Units

No window or wall type air conditioners shall be permitted to be used, placed, or maintained on or in any building on the Lots, with the exception that window or wall type air conditioners shall be permitted for the benefit of a garage if such air conditioning unit is located at the rear of the garage unit and is screened from Public View. All window air conditioning units require prior written ARC approval as set forth herein.

All living areas within the home, including any room additions, must be centrally air- conditioned, unless otherwise approved by the ARC. Units that are alternatives to centrally air- conditioned units must be screened from Public View and will require ARC approval.

U. Wind Turbines

No device used to convert wind into energy, including by way of illustration and not limitation, wind turbines, wind pumps, wind chargers and windmills, shall be permitted to be used, placed, or maintained in any location within the subdivision. Provided, however, this provision does not apply to Common Areas within the Subdivision. The Board shall have the sole discretion to determine what devices are prohibited pursuant to this provision.

V. Window Treatments

Within three (3) months of occupying a Dwelling on any Homesite, an Owner shall install appropriate window treatments in keeping with the Community Wide Standard. Appropriate window treatments would include, by way of illustration and not limitation, curtains, and draperies with backing material of white, light beige, cream, light tan, or light gray; blinds or miniblinds of the same colors or natural wood; and/or shutters of the same colors or natural wood. No other window treatment color may be visible from the exterior of the Dwelling. The Board shall have the sole discretion to determine what window treatments are appropriate.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the Community Wide Standard, such as reflective materials, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for window coverings in a residential subdivision of the same caliber as the Subdivision.

ARTICLE VII. COMMON AREA AND AREA OF COMMON RESPONSIBILITY

The Board, subject to the rights of the Members set forth in this Declaration and any amendments thereto, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon and shall keep it in good, clean, attractive, and sanitary condition. No Owner or Occupant may appropriate any portion of the Common Area or any improvement thereon for his or her own exclusive use. Any Owner or Occupant that causes damage to the Common Area shall be financially responsible for said damage. The cost of repair, if not timely paid by the Owner (subject to any notice that may be required by law), shall be assessed against the Owner's Lot, and secured by the continuing lien set forth in this Declaration.

The Declarant, and its designees, may transfer or convey at any time to the Association interests in real or personal property within or for the benefit of the Subdivision, and the Association is hereby obligated to accept such transfers and conveyances, even if such transfer or conveyance occurs after the termination of the Development Period. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Real property transferred to the Association by the Declarant, or its designees, may be transferred via a deed without warranty; provided, however, the property shall be transferred free and clear of all liens and mortgages at the time of such transfer. Upon the Declarant's written request, the Association shall reconvey to the Declarant any unimproved real property that the Declarant originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

The Developer (during the Development Period) or the Association (after the expiration of the Development Period) reserves the sole and exclusive right to amend existing Common Areas, add new Common Areas, and amend any permissible activities within or rights to access the Common Areas. The Developer and Association make no representations, guarantees or warranties of any nature as to the longevity and mortality of habitats found throughout the Subdivision.

Owners hereby covenant (i) not to possess any Common Area in any manner adverse to the Association, and (ii) not to claim or assert any interest or title in any Common Area. Owners hereby waive their right

to adversely possess any Common Area, and hereby acknowledge and agree that any claim of adverse possession by an Owner of any Common Area shall be void.

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

- (a) the Common Area;
- (b) any sidewalks, walking paths or trail system located outside the public right of way within Orchard Place;
- (c) landscaping within public rights-of-way within or abutting Orchard Place to the extent that reasonable governmental authorities do not maintain it to the Community-Wide Standard;
- (d) such portions of any additional property as may be dictated by the Declarant, this Declaration, any Dedicatory Instrument or any covenants or agreement for maintenance entered into by, or otherwise binding on the Association; and
- (e) any property and facilities that the Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its members. The Declarant shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property it does not own, including, without limitation, Lots, property dedicated to the public, or property owned or maintained by another association if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. To the extent permitted by Texas law, the Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own.

ARTICLE VIII. NOTICES AND EASEMENTS

A. Easements for Green Belt, Pond Maintenance, Flood Water and Other Landscape Reserves

Harris County or its designee will be responsible for the regular maintenance of all detention ponds within Orchard Place, including but not limited to repair of any concrete drainage structures, repair of side and bottom slopes to maintain engineered topography, reestablishment of any lost vegetation, continuous removal of trash and debris, regular mowing of grass, extermination of rodent, serpent, pests, and mosquito populations, repair of all aeration devices and compliance with all storm water management regulations.

The Declarant and Association reserve for themselves and their successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the green belts, landscape reserves, ponds, and other bodies of water located within the Property (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any of the Common Area, (b) to

construct, maintain and repair any fountain, wall, dam, hardedge, canal, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall automatically terminate at such time as Declarant shall cease to own any portion of the Property subject to the Declaration. The Declarant, the Association, and their designees shall have an access easement over and across any portion of the Property abutting or containing any portion of any of the green belts and landscape reserves to the extent reasonably necessary to exercise their rights and responsibilities under this Declaration.

There is further reserved, for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas in order to enter upon and across such portions of the Property for the purpose of exercising rights and performing obligations under this Declaration. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements.

There is further reserved for the Declarant, the Association and/or their designees an easement for the over spray of herbicides, fungicides, pesticides, fertilizers, and water over portions of the Subdivision located adjacent to the Common Area, any landscape/open space reserves, greenbelts, canals, ponds, or other bodies of water.

B. Natural Conditions

The Subdivision may contain a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects; venomous and non-venomous snakes and other reptiles, deer, armadillos, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and Occupant of any Lot, and every person entering the Subdivision: (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within or throughout the Subdivision; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Subdivision. Neither the Association, the Declarant, any successor declarant, nor the members, partners, affiliates, officers, directors, agents, or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Subdivision, nor shall they have any liability for any injury resulting from the presence, movement, or propagation of any plant or wildlife within or though the Subdivision.

C. Utilities and General

There are hereby reserved unto Declarant, so long as the Declarant owns any Property, the Association, and the designees of each (which may include, without limitation, City, County and any utility companies) access and maintenance easements (collectively referred to as the "Access Easements") upon, across, over, and under the Property to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any or all of the following which may exist now or in the future: cable television systems, Wi-Fi systems, master television antenna systems, monitoring and similar systems, roads, walkways, bicycle pathways, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity (collectively the "Systems"). There are hereby additionally reserved unto Declarant, so long as the Declarant owns any Property, the Association, and the designees of each (which may include,

without limitation, Harris County, and any utility companies) an easement for the installation of the foregoing Systems (referred to as the "Installation Easements"). Such Installation Easements shall be restricted in location to the Property that Declarant and the Association own or within easements designated for such purposes on recorded plats of the Subdivision or other Dedicatory Instrument.

Notwithstanding anything contained herein to the contrary, driveways and sidewalks shall not be considered by the ARC or the Association to be an encroachment into to the Access Easements or Installation Easements. However, Owners, including Builders, must verify all easements affecting their Lot and obtain any necessary approval from the easement holder prior to submission of plans to the ARC. Upon the transfer of title of a Lot from Declarant to an Owner, including Builders, the Access Easement covering the entirety of such Lot shall automatically reduce in size to the width of the Installation Easements on the Lot.

Notwithstanding anything to the contrary herein, the Access Easements and Installation Easements shall not entitle the holders of such easements to access, construct or install any of the foregoing Systems over, under or through any existing Dwelling; any damage to a Homesite resulting from the exercise of the Access Easements and/or Installation Easements shall promptly be repaired by, and at the expense of, the person or entity exercising the Access Easements and/or Installation Easements. The exercise of the Access Easements and Installation Easements shall not unreasonably interfere with the use of any Homesite.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, internet provider, cable company and natural gas supplier easements across all the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining all utilities, including but not limited to utility meters boxes, installation equipment, water, sewers, telephone, gas, electricity, internet, service equipment, and any other device, machinery or equipment necessary for the proper functioning of the utility; however, the exercise of this easement shall not extend to unauthorized entry into the Dwelling on any Homesite, except in an emergency. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Board or Declarant.

D. Detention Areas

Owners of Lots within Orchard Place are hereby advised that a detention area, Reserve G, exists either in close proximity to and/or within the Property ("Detention Areas"). The Detention Areas located within the Property are or will be owned and maintained by Harris County or their designee. Owners of Lots within the Subdivision are hereby advised that there may be potentially dangerous conditions that may exist near the Detention Areas such as, by way of illustration and not limitation, the following: holes, streams, roots, stumps, ditches, gullies, erosion and/or instability of natural topography, insects, reptiles, and/or animals. It is possible for some or all of these conditions to extend into the Subdivision and the Lots within the Subdivision.

Owners and Occupants hereby agree to hold harmless the Declarant and the Association, its directors, and officers, and release them from any liability for the existence, placement, construction, design, operation, replacement and/or maintenance of the Detention Areas and agree to indemnify such released parties from any liability arising out of or related to such Owner's or Occupant's use of, or proximity to, the Detention Areas. Each Owner and Occupant acknowledges and understands that the

Association, its Board, and the Declarant are not insurers and that each Owner and Occupant assumes all risks for loss or damage to persons, and further acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor declarant have made no representations or warranties nor has any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to water levels, safety, any use, and/or any future change in use of the Detention Areas.

Owners grant an easement to the Declarant and the Association, or their respective designees, for any incidental noise, lighting, odors, parking, visibility and/or traffic, which may occur in the operation of the Detention Areas. There is further reserved for the Declarant, the Association and/or their designees an easement to the extent necessary over portions of Lots located adjacent to the Detention Areas for variances in water level and/or overspray of any products used to control vegetation and water quality within the Detention Areas.

The Declarant and/or the Association have the right to promulgate rules and regulations governing the use of the Detention Areas located within the Subdivision and shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Detention Areas within the Property.

Owners and Occupants of Lots that are adjacent to or abut the Detention Areas shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards, or any other foreign matters to infiltrate the Detention Areas. Any Owner or Occupant permitting or causing such infiltration shall indemnify and hold harmless the Association, its directors, and officers, for all costs of clean up and remediation necessary to restore the Detention Areas to their condition immediately prior to said infiltration.

E. Restricted Reserves

Owners of Lots within Orchard Place are hereby advised that reserve areas exist throughout the Property that may be restricted to uses such as, by way of illustration and not limitation, landscape, open space, urban gardens, drainage, and/or utility purposes, including Restricted Reserves A, B, C, D, E, F, H, I & J within Orchard Place, restricted in their use to landscape/open space purposes (all such reserves collectively referred to as the "Restricted Reserves"). Uses not specifically allowed herein are subject to review and approval by the ARC. Owners and Occupants hereby agree to hold harmless the Declarant and the Association, its directors, and officers, and release them from any liability for the existence, placement, construction, design, operation, replacement and/or maintenance of the Restricted Reserves and agree to indemnify such released parties from any liability arising out of or related to such Owner's or Occupant's use of, or proximity to, the Restricted Reserves. Each Owner and Occupant acknowledges and understands that the Association, its directors and officers, and the Declarant are not insurers and that each Owner and Occupant assumes all risks for loss or damage to persons, and further acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor declarant have made no representations or warranties nor has any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to safety, any use, and/or any future change in use of the Restricted Reserves.

Owners grant an easement to the Declarant and the Association, or their respective designees, for any incidental noise, lighting, odors, parking, visibility and/or traffic, which may occur in the operation

of the Restricted Reserves. There is further reserved for the Declarant, the Association and/or their designees an easement for the overspray of herbicides, fungicides, pesticides, fertilizers, and water over portions of the Subdivision located adjacent to the Restricted Reserves.

The Declarant and/or the Association have the right to promulgate rules and regulations governing the use of the Restricted Reserves and shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Restricted Reserves within the Subdivision.

Owners and Occupants of Lots that are adjacent to or abut the Restricted Reserves shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards, or any other foreign matters to infiltrate the Restricted Reserves. Any Owner or Occupant permitting or causing such infiltration shall indemnify and hold harmless the Association, its directors, and officers, for all costs of clean up and remediation necessary to restore the Restricted Reserves to their condition immediately prior to said infiltration.

F. Maintenance Obligations

In addition to the maintenance obligations set forth in the Declaration as to Dwellings and Lots, each Owner shall maintain their Townhome and Lot in accordance with the following:

1. Shared Improvements. Maintenance, repair, and replacement obligations between Owners of Adjoining Townhomes regarding improvements shared by the Adjoining Townhomes and Adjoining Lots ("Shared Improvement") are set forth hereinafter. By way of illustration and not limitation, the following items may be Shared Improvements: Party Walls, entry ways, exterior security lighting, roofs, decking beneath the roofs, common foundations, common concrete footings which run along and underneath Party Walls, common underground water lines (if any), exterior facia and brick on common walls of Adjoining Townhomes and driveways, walkways and other paved areas serving more than one Lot.
2. Party Walls: General Rules of Law to Apply. Each wall built as a part of the original construction of a Townhome which shall serve and separate any two (2) Adjoining Townhomes shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
3. Foundations, roofs, roof decking and common fences that are shared by Adjoining Townhomes and Adjoining Lots will be dealt with in the same fashion as party walls, as set forth in this Section.
4. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of Shared Improvements shall be shared by the Owners of the Adjoining Townhomes and Adjoining Lots served by the Shared Improvements in equal proportions.
5. Damage and Destruction. If a Shared Improvement is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner served by the Shared Improvement may restore it, and the other Owner or Owners served by the Shared Improvement shall thereafter

contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

6. Weather proofing. Notwithstanding any other provision of this Section, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.
7. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Townhome Lot and shall pass to such Owner's successors, heirs, or assigns.

ARTICLE IX. DEED RESTRICTION ENFORCEMENT

A. Authority to Promulgate Rules, Policies, and Guidelines

The Board has the authority, without the obligation, to promulgate, amend, cancel, limit, create exceptions to, and enforce reasonable rules, policies, and Guidelines, including but not limited to rules and policies concerning the administration of the Property, the enforcement of the Dedicatory Instruments, the use and enjoyment of the Property, limitations on the use of the Common Area, establishing and setting the amount of fines for violations of the Dedicatory Instruments and all fees and costs generated in the enforcement of the Dedicatory Instruments. Such rules, policies, and Guidelines shall be binding upon all Owners and Occupants, if any. The rights and remedies contained in this Article are cumulative and supplement all other rights of enforcement under applicable law.

B. Attorney's Fees and Fines

In addition to all other remedies that may be available, after giving notice and an opportunity to be heard as may be required by §209 of the Texas Property Code, as same may be amended, the Association has the right to collect attorney's fees and/or fines as set by the Board from any Owner that is in violation of the Dedicatory Instruments, any applicable Supplemental Amendment or amendments, any Guidelines, or any other rule or regulation promulgated by the Board pursuant to the provisions set forth herein. Said attorney's fees and fines shall be added to the violating Owner's Assessment account and shall be secured by the continuing lien on the Lot.

C. Remedies

Every Owner shall comply with all provisions of the Dedicatory Instruments. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association. In addition, the Board has the authority, but not the obligation, to enforce the covenants, conditions and restrictions contained in the Dedicatory Instruments, and to regulate the use, maintenance, repair replacement, modification, and appearance of the Subdivision, and may avail itself of any and all remedies provided in the Dedicatory Instruments and local, state, and federal law. Notwithstanding anything contained herein to the contrary, the Board shall have no duty, legal or otherwise, to institute legal or other proceedings on behalf of or in the name of an Owner.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) the Association's legal, equitable, or other related position is not strong enough to justify taking any or further action;
- (ii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (iii) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any Dedicatory Instrument.

D. Enforcement by Owners

Each Lot Owner is empowered to enforce the covenants, conditions, and restrictions contained in the Dedicatory Instruments; provided, however, no Owner shall have the right to enforce the lien rights retained in this Declaration in favor of the Association and/or other rights, regarding Assessments, fines, or other charges retained by the Association.

E. Homeowners Assistance Program

"Homeowners Assistance Program" shall mean the authority, but not the obligation, of the Association, upon approval of not less than a majority of the Board members, to enter upon a Lot, Homesite or other area that is an Owner's responsibility to maintain (such as sidewalks that may be adjacent to an Owner's Lot) and cause to be performed any of the Owner's maintenance and repair obligations, or acts required by that Owner to bring his/her Lot, Homesite, or other area into compliance with the Dedicatory Instruments, if said Owner fails to perform same after written demand from the Board. In exercising its Homeowners Assistance Program remedy, the Association shall not be subject to any liability for trespass, other tort, or damages in connection with or arising from such exercise of Homeowners Assistance Program, nor in any way shall the Association or its agent be liable for any accounting or other claim for such action. The Association shall have the right, but not the obligation, to enter into any Lot, Homesite, or other area for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with the Dedicatory Instruments, which right may be exercised by the Association's Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in the case of emergency situations, and as otherwise specified herein, the Association shall give the violating Owner notice as may be required by law, of its intent to exercise Homeowners Assistance Program.

Subject to any notice that may be required by law, any costs incurred by the Association in the exercise of its Homeowners Assistance Program remedy shall be the personal obligation of the person or entity who was the Owner of the Lot at the time when the Homeowners Assistance Program costs were incurred. Subject to any notice that may be required by law, the costs incurred by the Association in exercising its Homeowners Assistance Program remedy, which costs may include by way of illustration and not

limitation, the actual costs incurred by the Association and an administrative fee set by the Board, may be charged to the subject Owner's Assessment account, and shall be supported by the continuing lien created herein.

ARTICLE X. ARCHITECTURAL RESTRICTIONS

NOTE WELL: The provisions of this Article are broad and sweeping and an extremely wide range of activities are regulated hereby. Owners are advised to review this Article and the Guidelines carefully to ensure that they comply with all of the requirements before commencing any work or engaging in any activity on or in connection with their Lot or Dwelling to ensure they comply with all of the provisions set forth herein and in the Guidelines. Work commenced, performed, or completed without prior approval as required herein, in the Guidelines, or otherwise in violation of the terms of the Dedicatory Instruments, or applicable law may subject the Owner of the Lot to substantial costs, expenses, fees, and penalties, which may be in addition to a requirement that the Lot and/or Dwelling be restored to its original condition. All references herein to ARC approval, shall mean the prior written approval of the ARC.

A. Architectural Review Committee - "ARC"

The ARC shall be a committee of the Board. In the absence of a designation by the Declarant, the initial ARC shall be composed of the individuals designated as the initial members of the Board as set forth in the Association's Certificate of Formation; provided however, the Declarant shall have the sole authority to designate all members of the ARC who need not be members of the Board. One member of the ARC may be designated as the representative to act on behalf of the ARC. During the Development Period, the Declarant reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment and removal until the first to occur of the following:

1. the Declarant no longer owns any portion of the Property, or
2. the Declarant relinquishes, in writing, its authority over ARC appointment.

At such time, the Board of the Association shall have the right to replace such ARC members by duly appointing Owners who are Members in Good Standing with the Association. The Board reserves the right to appoint replacements as necessary by reason of resignation, removal, or incapacity. Such removal and/or appointment shall be at the sole authority and discretion of the Board. The Board shall have the right to review any action or non-action taken by the ARC and shall be the final authority as to all ARC matters, including aesthetics and determination of the Community Wide Standard.

At any time prior to the happening of (1) or (2) above, the Declarant may, without obligation, assign to the Board, or such other person the Declarant deems appropriate, all or a portion of Declarant's ARC rights and/or the responsibility for review and approval of modifications to existing Dwellings.

Guidelines may be promulgated and amended by the Declarant during the Development Period. After the expiration of the Development Period, Guidelines may be promulgated and amended by the Board. Provided however, any such amendments shall not be applied retroactively to reverse a prior approval granted by the ARC or the Board to any Owner. Guidelines may be modified or amended as deemed necessary and appropriate for the orderly development of the Subdivision, including, but not limited to,

those portions of the Guidelines regarding workmanship, materials, building methods, observance of requirements concerning installation and maintenance of public utility facilities and services, and compliance with governmental regulations. Subject to the provisions herein, there shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive. The rules, standards, and procedures set forth in the Guidelines, as same may be amended from time to time, shall be binding and enforceable against each Owner in the same manner as any Dedicatory Instrument. Further, different Guidelines for additional property that may be annexed into the Property may be promulgated.

The ARC shall have the authority, but not the obligation, to delegate review and approval or denial of plans for modifications of existing improvements within the Subdivision to a Modifications Committee. The members of the Modifications Committee shall be appointed, and may be removed, by the Declarant during the Development Period, and thereafter by the Board. A denial by the Modifications Committee, if it is created, may be appealed to the ARC.

B. ARC Approval Required

No buildings, Hardscape, additions, modifications (including tree removal) or improvements shall be erected, placed, or performed on any Lot or Homesite until the construction plans and specifications including, but not limited to, the site plan, design development plan, and exterior plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. Further, the ARC may review, approve, or deny applications for improvements within right-of-way areas that are adjacent to a Lot. Provided, however, the Association, the Board and the ARC are not liable for any injuries or damages that may arise from or may be related to any approved improvements located within a right-of-way area adjacent to a Lot. The ARC will not consider applications for improvements within the right-of-way areas that are adjacent to a Lot unless and until the Owner has obtained prior written approval from the City for any such improvement. Plans for buildings, hardscapes, additions, modifications (including tree removal) or improvements to be placed on any Lot cannot encroach an easement.

Builders may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color that may be used when building each design. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. In no case may construction begin prior to approval of plans by the ARC. If plans are disapproved, no construction can commence until revised plans are submitted and approved by the ARC. The Board has the right to establish and charge a review fee, to be paid at the time of submittal of plans and any revisions. If a fee is set and not paid, the thirty (30) day time period set out herein shall not begin to run until the fee is paid.

In reviewing each application, the ARC may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. Subject to the Board's authority herein, the ARC shall have sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment; and such determinations shall not be subject to the procedures in Article XVII or judicial review so long as they are made in good faith and in accordance with required procedures.

The ARC is hereby vested with the right, but not the obligation, to refuse to review a request for an improvement or modification, or to deny such a request, if the Owner requesting same is not a Member in Good Standing. The Board, on behalf of the ARC, may retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Board, experienced or qualified to review same, who may then render an opinion to the ARC or Board. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the structural design or engineering of the improvement or the ultimate construction thereof.

The Board shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Homesite, where such actions have not first been reviewed and approved, constitute a violation of the Dedicatory Instruments or any other documents promulgated by the Board pursuant to the provisions set forth herein. Written notice may be delivered to the Owner, or any agent or contractor with apparent authority to accept same, and such notice shall be binding on Owner as if actually delivered to Owner. The violating Owner shall remove such violating improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the Homesite into compliance with the Dedicatory Instruments and any plans and specifications approved by the ARC for construction on that Homesite. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided for herein, and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved. Each Owner acknowledges that it may not always be possible to identify objectionable features of proposed construction or alteration of improvements until such construction and/or alteration is completed, in which case it may be unreasonable to require changes to the improvements involved; however, the ARC may refuse to approve similar proposals in the future.

The Board or its agents or assigns shall have the right, but not the obligation, to enter any Lot or Homesite to determine if violations of this Declaration, the Guidelines, or any other Dedicatory Instrument exist. In so doing, the Board or its agents or assigns shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

The ARC shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days to commence construction and no more than nine (9) months to complete construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date the plans shall be deemed not approved. Plan approval related to Lots owned by Declarant shall be effective for thirty-six (36) months after issued by the ARC. If no construction has been commenced by Declarant within the thirty-six (36) month period after ARC approval, the plan approval shall expire, and plans must be re-submitted prior to commencement of construction. Plan approval related to Lots owned by Owners other than Declarant shall be effective for twelve (12) months after issued by the ARC. If no construction by Owners other than Declarant within the twelve (12) month period after ARC approval, the plan approval shall expire, and plans must be re-submitted prior to commencement of construction.

C. Building Setbacks

No Dwelling or other structure (including any protrusion from same) shall be erected nearer to any street or property line than as established herein, in a Supplemental Amendment, in the Guidelines or the applicable plat or other Dedicatory Instrument. In the event there is a conflict between the Guidelines, this Declaration, any other documents imposed upon the Property that contain a setback requirement, and the applicable plat, the more restrictive will control. Notwithstanding anything to the contrary herein, in no case shall any setback on any Lot be less than the width of any easement existing on a Lot, as shown on the applicable plat. All Dwellings shall be oriented to the front of the Lot. The ARC has discretion to designate the "front" of a Lot. Unless otherwise provided on the applicable plat or other Dedicatory Instrument, no Dwelling shall be built within five (5) feet of a side Lot line. Unless otherwise provided on the applicable plat or other Dedicatory Instrument, all Lots shall have a minimum rear setback of the greater of ten feet (10') or the width of any easement.

The combining of no more than two (2) Lots to create one Homesite may be permitted subject to prior written approval of the ARC and partial release(s) by Declarant, to the extent necessary, of easements created herein. All governmental requirements must be complied with as to combining one Lot with another Lot. If Lots are combined the side set back lines shall be measured from resulting side property lines rather than from the Lot lines as indicated on the applicable plat. The combining of two Lots shall not forgive the obligation to pay Assessments on all Lots so combined. By way of example and not limitation, if two Lots are combined to create one Homesite, the Homesite shall be obligated to pay two Assessments.

D. Townhome Building Easement

Each Owner of a Lot that has a Townhome Building constructed thereon shall have a perpetual, non-exclusive easement ("Easement") over, on and across any Adjoining Lot comprising the shared Townhome Building. This Easement shall be limited to an area that is five (5') feet in width and parallel to the Shared Lot Line between the Lots comprising a Townhome Building and shall be further limited to the purposes of construction of improvements located in proximity to the Easement area; maintenance, repair, and upkeep as is reasonably necessary for improvements located in proximity to the Easement area; and for ingress and egress in the event of an emergency. This five (5') wide Easement shall also be used for eaves overhang, guttering, eaves drip, and land drain for any and all rainwater flowing naturally from the eaves of the Owner's Townhome onto the Adjoining Lot.

Conditions and use of the Easement are hereby declared and established by and between the Owners of Townhomes comprising a Townhome Building, which shall be covenants running with the land and binding on both of the above-mentioned Owners and all of their respective heirs, successors, and assigns forever, to-wit:

1. The Owner desiring to use the Easement ("Benefitting Owner") must replace or return to existing condition, any fencing, landscaping, or other items on the Adjoining Lot that s/he may disturb during construction, repair, or maintenance, save and except as set out below in subsection b.
2. This Easement, when used by the Benefitting Owner for such construction, repair, or maintenance, must be left clean and unobstructed, unless the Easement is actively being utilized, and any items removed must be replaced.
3. The Benefitting Owner must notify the Owner of the Adjoining Lot of his intent to do any construction, repair, or maintenance at least forty-eight (48) hours prior to starting any work. The

hours that such Easement may be utilized shall be between 8:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m. on Saturday, and noon through 6:00 p.m. on Sunday.

Notwithstanding the above, in the case of an emergency, and to prevent imminent damage to a Townhome comprising the Townhome Building or Occupants therein, a Benefiting Owner may enter the Easement at whatever time necessary and without prior notice to the Owner of the Adjoining Lot to do necessary repairs or escape any injury to the Occupants.

4. Both the Benefiting Owner and the Adjoining Lot Owner shall have the right of surface drainage over, along and upon the Easement area. Neither Owner shall use the Easement area in such a manner as will interfere with such drainage.
5. No structure shall be constructed or placed upon the Easement area by either Owner of a Lot comprising a Townhome Building, except the roof overhang and guttering as provided for above, and a fence by the Owner of the Adjoining Lot, which allows proper surface drainage; however, access to the Easement must be preserved for the Benefiting Owner.

E. Landscaping

All open, unpaved space in the front and at the sides of a Homesite, shall be planted and landscaped. Artificial turf is prohibited on Homesites. Landscaping in accordance with the plans approved by the ARC must be installed prior to occupancy of any Dwelling constructed on the Property. Where applicable, Owners shall also be responsible for maintaining and irrigating the landscaping within the adjacent right-of-way located between the boundary of their Lot and the street. No shrubbery or trees are permitted in these adjacent right-of-way areas.

Any significant changes in the existing landscaping on any Homesite must have prior written approval from the ARC.

Notwithstanding anything contained herein to the contrary, landscaping minimum standards may be established in the Guidelines. The ARC shall have discretion to determine if, as, or when the landscaping on a Lot does not meet the minimum standards established in the Guidelines.

F. Restricted Reserves

Owners are advised that there exist within Orchard Place, Restricted Reserves "A", "B", "C", "D", "E", "F", "H", and "I", restricted in their use to landscape/utility/open space and Restricted Reserve "G", restricted in its use to drainage/detention (collectively referred to as the "Restricted Reserves"). Owners hereby agree to hold harmless the Declarant and the Association, including their officers and directors, and release them from any liability for the existence, placement, construction, design, operation, replacement and/or maintenance of the Restricted Reserves and agree to indemnify such released parties from any liability arising out of or related to such Owner's or Occupant's use of, or proximity to, the Restricted Reserves. Each Owner and Occupant acknowledges and understands that the Association, its Board, and the Declarant are not insurers and that each Owner and Occupant assumes all risks for loss or damage to persons, and further acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor declarant have made no representations or warranties nor has any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to

water levels, safety, any use, and/or any future change in use of the Restricted Reserves. The Declarant and/or the Association have the right to promulgate rules and regulations governing the use of the Restricted Reserves and shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Restricted Reserves.

Owners grant an easement to the Declarant, the Association, and their respective designees, for any incidental noise, water, lighting, visibility, odors, parking and/or traffic, which may occur due to the existence of the Restricted Reserves. There is further reserved for the Declarant, the Association and/or their designees an easement for the overspray of herbicides, fungicides, pesticides, fertilizers, and water over portions of Orchard Place located adjacent to the Restricted Reserves. Owners and Occupants of Lots that are adjacent to or abut the Restricted Reserves shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards, or any other foreign matters to infiltrate the Restricted Reserves. Any Owner or Occupant permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Restricted Reserves to their condition immediately prior to said infiltration.

G. Grading and Drainage

Topography of each and every Homesite must be maintained with proper grading and drainage systems such that runoff of water (rain or other precipitation, or manmade irrigation) does not cause undue erosion of the subject Homesite itself or any other Homesites, whether adjacent to the subject Homesite or not, or to the Common Areas. Owners who fail to maintain proper grading of their Lot, who fail to maintain the drainage improvements and systems on their Lot, or who cause (either directly or indirectly) erosion or other incidental damage to personal or real property due to inadequate or defective grading or drainage measures on their own Homesite shall be liable to all such damaged parties for the replacement, repair and/or restoration of such damaged real or personal property.

Owners shall be responsible for ensuring that all local, state, and federal rules and regulations regarding drainage and run-off are met.

H. Temporary Structures

Temporary structures may only be erected on undeveloped Property by Builders with the prior written approval of the ARC, or the Declarant. By way of illustration and not limitation, temporary structures may include construction trailers and temporary construction debris receptacles. All temporary structures shall be maintained in good condition and all construction debris shall be contained to the site. Time limitations for such structures are limited to the period of active and exclusive construction and sales within the Subdivision.

I. Garages

Dwellings must at all times have either attached or detached garages. Garages are required to maintain fully operational overhead doors which are in good condition at all times. No garages may be used for or converted to a living area.

J. Minimum Square Footage

All Dwellings within Orchard Place must contain a minimum of 1,200 square feet of living area which shall not include porches, garages, or non-air conditioned areas. Notwithstanding anything contained herein to the contrary, the Declarant hereby reserves the unilateral right to develop the Subdivision, and/or any additional property which may be subjected to this Declaration, in any manner consistent with residential use, including but not limited to, Dwellings which may contain higher or lower square footage in other portions of the Subdivision.

K. Community Fences

Community Fences will be constructed on or adjacent to those portions of the following Lots within Orchard Place: (a) Lots 1 through 24, Block 1, the plat perimeter of Restricted Reserve "E", the plat perimeter of Reserve "J", and that portion of Reserve "G" along the west plat boundary to the 25' Building Line setback from Vista Road, and (b) the rear property lines of Lots 1 through 30, Block 2. Such Lots shall be considered Adjacent Lots and shall be subject to the provisions in the Declaration pertaining to Community Fences (as those terms are defined in the Declaration). The Declarant, the Association and/or the owner of the Community Fences, as applicable, have an easement on such Adjacent Lots for the installation, maintenance, repair and/or replacement of the Community Fences, as more particularly described in the Declaration. Save and except the fencing noted above, all other fencing located upon the Lots within Orchard Place shall be installed, maintained, repaired, and replaced in accordance with the Dedicatory Instruments.

ARTICLE XI. MAINTENANCE

A. General Maintenance

Each Owner shall maintain and keep in good repair his or her Dwelling and all structures, parking areas and other improvements, including driveway and its apron portion forward of the building line comprising the Homesite. All structures and other improvements designed to be painted must be kept painted and the paint may not be allowed to become faded, cracked, flaked, or damaged in any manner. Grass, vegetation, and weeds on each Homesite shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. Grass growing onto or over sidewalks, driveways, and curbs shall be presumed to be unattractive.

Sidewalks, curbs, and driveways servicing a particular Lot, whether constructed within the boundaries of such Lot or within the street right-of-way adjacent to such Lot, shall be maintained, repaired and replaced, as needed, by the Owner of such Lot, subject to prior written approval of the ARC. Where applicable, each Owner shall also be responsible for maintaining and irrigating the landscaping within the adjacent public right-of-way located between the boundary of their Lot and the street. Owners may not remove grass, trees, shrubs, or similar vegetation from this area without prior written approval from the ARC.

B. Landscaping

In the event any Owner of any Homesite within the Property fails to maintain the landscaping, grass or vegetation of a Homesite in a manner consistent with the Community Wide Standard established within the Property and satisfactory to the Board, the Board, after providing notice as may be required by law setting forth the action intended to be taken by the Association and after approval by a majority vote of

the Board, shall have the right but not the obligation, through its agent, contractors and/or employees, to exercise its Homeowners Assistance Program remedy to bring the Owner's Lot into compliance with this provision.

C. Dwelling and Improvement Exteriors

In the event any Owner of any Homesite fails to maintain the exterior of the Homesite or improvement (including but not limited to the exterior of the Dwelling, improvement or other structures and the parking areas) in a manner consistent with the Community Wide Standard established within the Property as solely determined by the Board, the Board, after providing notice as may be required by law setting forth the action intended to be taken by the Association and after approval by a majority vote of the Board, shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter upon said Homesite and to exercise its Homeowners Assistance Program remedy to bring the Owner's Lot into compliance with this provision.

D. Other Hazards

To the extent necessary to prevent pest infestation, diminish fire hazards and/or diminish hazards caused by structural damage, the Association shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter any unoccupied Dwelling or other improvement located upon such Homesite, without notice to take the action necessary to prevent such pest infestation, diminish such fire hazards or diminish hazards caused by structural damage at the Owner's expense. Any such expenses, including administrative fees set by the Board, incurred by the Association shall be secured by the continuing lien created herein.

E. Liability, Cost and Approval

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the exercise of its Homeowners Assistance Program remedy, including the performance of the exterior maintenance, landscaping or other work authorized in this Declaration. The cost, including administrative fees set by the Board, of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Homesite on which it was performed and shall become part of the Assessment payable by the Owner and secured by the lien retained in the Declaration. Alternately, the Association or any Owner of a Homesite may bring an action at law or in equity to cause the Owner to bring said Homesite into compliance with these restrictions.

All Owners' replacement, repair, and restoration practices as to the improvements on Property within the Subdivision are subject to the prior written approval of the ARC and must comply with all Guidelines which may change from time to time, as found necessary and appropriate in the discretion of the Board.

F. Casualty Losses

It shall be the Owner's obligation to have repaired or reconstructed any damage or destruction to their Dwelling or Lot. If a Dwelling, landscaping, outbuilding, or any other improvement located on a Lot is damaged by fire, storm, or any other casualty, the Owner shall bring the affected Lot and all improvements thereon, as applicable, into compliance with the Dedicatory Instruments within six (6) months of the date of the casualty, pursuant to the architectural requirements and approval process set forth in the

Dedicatory Instruments. Regarding Dwellings that are totally destroyed due to casualty, the Owner(s) of such Dwellings must have the Dwellings or damaged portions of the Dwellings razed within ninety (90) days of the date of the casualty and replaced within twelve (12) months of the date of the casualty, subject to ARC prior written approval.

ARTICLE XII. VARIANCES

The Board, or its duly authorized representative, may authorize variances from compliance with any of the architectural provisions of this Declaration or Dedicatory Instruments, unless specifically prohibited, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing, must be approved by at least a majority of the Board, and shall become effective upon execution. The variance must be signed by a member of the Board and recorded in the Official Public Records of Harris County, Texas. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Declaration and/or the Dedicatory Instruments shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration and/or the Dedicatory Instruments for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations.

No granting of a variance shall be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration and/or the Dedicatory Instruments. Action of the Board in granting or denying a variance is a decision based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

Notwithstanding anything contained herein to the contrary, during the Development Period, the Declarant shall have the unilateral right to grant a variance of any of the covenants, conditions and restrictions contained herein.

ARTICLE XIII. LIMITATION OF LIABILITY

NEITHER DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, NOR ANY OF THE RESPECTIVE OFFICERS, AGENTS, MANAGERS, PARTNERS, DIRECTORS, SUCCESSORS OR ASSIGNS OF THE ABOVE, SHALL BE LIABLE IN DAMAGES OR OTHERWISE TO ANYONE WHO SUBMITS MATTERS FOR APPROVAL TO ANY OF THE ABOVE-MENTIONED PARTIES, OR TO ANY OWNER AFFECTED BY THIS DECLARATION BY REASON OF MISTAKE OF JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL, DISAPPROVAL, OR FAILURE TO APPROVE OR DISAPPROVE ANY MATTERS REQUIRING APPROVAL HEREUNDER. APPROVAL BY THE ARC, THE BOARD, OR THE ASSOCIATION, OR ANY OF THEIR RESPECTIVE OFFICERS, PARTNERS, DIRECTORS, AGENTS, MANAGERS, SUCCESSORS OR ASSIGNS, IS NOT INTENDED AS ANY KIND OF WARRANTY OR GUARANTEE AS TO THE INTEGRITY OR WORKABILITY OF THE PLANS NOR THE CONTRACTORS USED.

ARTICLE XIV. ASSESSMENTS

A. Creation of the Lien and Personal Obligation of Assessments

The Owners of any Lot, by virtue of ownership of Property within the Subdivision, covenant and agree to pay to the Association all applicable assessments and any fines, penalties, interest, and costs as more particularly set forth in this Declaration and any Supplemental Amendment, including but not limited to the following:

1. Annual Assessment
2. Special Assessment
3. Capitalization Fee

The Annual Assessment, Special Assessment and Capitalization Fee (each defined hereinafter) and any other assessment or charge set forth in this Declaration or a Dedicatory Instrument (collectively the "Assessment"), together with attorney's fees, late fees, interest, and costs shall be a charge and continuing lien in favor of the Association upon the Homesite and/or Lot against which each such Assessment is made. Each such Assessment, together with attorney's fees, late fees, interest, and costs, shall also be the personal obligation of the person or entity who was the Owner of the land at the time when the Assessment became due. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or the Board under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association. The obligation to pay Assessments is a separate covenant on the part of each Owner of a Lot.

B. Annual Assessments

1. Purpose

The Lots within the Subdivision shall be subject to the "Annual Assessment" \ Annual Assessments levied by the Association shall be used for any legal purpose for the benefit of the Subdivision as determined by the Board and, in particular, may, by way of example and not limitation or obligation, include maintenance, repair or improvement of any Common Area, Area of Common Responsibility, sidewalks, pathways, fountains, parkways, private streets and roads, entry gates installed as a controlled access system, boulevards, esplanades, setbacks and entryways, patrol service, street cleaning, street lighting, mosquito control, landscape architecture, greenbelts, fences or walls, regulatory signage or directional signage, signalization, special pavement markings, entrances and entrance monuments, public or private art or sculptures, other services as may be in the Property's and Owners' interest and all buildings, services, improvements and facilities deemed necessary or desirable by the Board in connection with the administration, management, control or operation of the Subdivision. The Association may, in its sole discretion, give one or more of the purposes set forth herein preference over other purposes, and it is agreed that all expenses incurred, and expenditures and decisions made by the Association in good faith shall be binding and conclusive on all Members. Parkway, fountains, private streets, roads, esplanades, setbacks, and entryways that are not contained in any Common Area may be included in the Association's maintenance if, in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members. Such share agreements for maintenance and improvement shall require the consent of a majority of the

total number of directors of the Association. Additionally, Annual Assessments levied by the Association may be used, in the sole discretion of the Association, to pay the Association's fair allocation for costs related to the participation in any agreement with other property owners associations or with owners or operators of nearby property for the benefit of Association Members, such as to consolidate services, reduce costs and provide consistency and economy of scale. Approval to enter such agreements shall require a majority vote of the Board, and the Board may act unilaterally to negotiate, execute, modify, or terminate such contractual arrangements.

2. Creation

Payment of the Annual Assessment shall be the obligation of each Owner, subject to the provisions below, and shall constitute a lien on the Homesite, or Lot(s), binding and enforceable as provided in this Declaration.

3. Rate

The initial Annual Assessment will be established by the Association via a Board resolution that will be recorded in the Official Public Records of Harris County, Texas. The combining of two or more Lots shall not forgive the obligation of the Owner(s) of such combined Lots to pay Annual Assessments on all Lots so combined. By way of example and not limitation, if two Lots are combined to create one Homesite, the Homesite shall be obligated to pay two Annual Assessments. A Builder is responsible for the Annual Assessment for the period of time that the Builder owns a Lot. Notwithstanding anything contained herein to the contrary, any Lot being used by a Builder or by Declarant as a model home or sales office Lot shall not be subject to any Assessments created herein. Upon conveyance of such model home or sales office Lot to a purchaser, said Lot shall thereafter be subject to all Assessments and charges provided for in this Declaration and as secured by the lien created herein.

4. Commencement

For purposes of calculation, the initial Annual Assessment for a Lot shall commence on the of closing of the purchase of the Lot by a Builder or by an Owner. Annual Assessments shall be due in advance on January 1st for the coming year and shall be delinquent if not paid in full as of January 31st of each year.

5. Proration

An Owner's initial Annual Assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable on the commencement date described above. The Annual Assessment for any year after the first year shall be due and payable on the first day of January. Any Owner who purchases a Lot or Lots after the first day of January in any year shall be personally responsible for a pro- rated Annual Assessment amount for that year.

6. Levying of the Assessment

The Annual Assessment shall be levied at the sole discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then-current Annual Assessment to reasonably meet the expenses for providing services and capital improvements in the Subdivision and may, at its sole discretion and without a vote by the Members, increase the Annual Assessment in an amount up to

twenty-five percent (25%) annually. The Annual Assessment may only be increased by more than twenty-five percent (25%) annually if such increase is approved by Owners of a majority of the Lots present, in person or by proxy, at a meeting called for said purpose at which a quorum is present in person or by proxy. The Annual Assessment shall not be adjusted more than once in a calendar year nor shall any increase be construed to take effect retroactively, unless otherwise approved by Owners of a majority of the Lots subject to such Annual Assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

Annual Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price and method of payment differentials. The Board may require advance payment of Annual Assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment.

C. Special Assessment

In addition to the Annual Assessment authorized above, the Association may levy a "Special Assessment" applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, modification, repair or replacement of a capital improvement in the Common Area or Area of Common Responsibility, or any unbudgeted expenses or expenses in excess of those budgeted, unusual, infrequent expense benefiting the Association, provided that any such Special Assessment shall have the approval of both (i) the Owners of a majority of the Lots present at a meeting duly called for this purpose at which a quorum is present in person or by proxy; and (ii) the written approval of the Declarant during the Development Period. Such Special Assessments will be due and payable as set forth in the resolution authorizing such Special Assessment and shall be levied only against those Owners subject to the Annual Assessment as set forth hereinabove and shall be prorated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Lots benefited by or using the capital improvement for which the Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last-known address of the Owner. Declarant shall not be obligated to pay Special Assessments.

D. Capitalization Fee

Each purchaser of a Lot within the Subdivision, other than the Declarant (or Declarant's assignee), hereby covenants and agrees to pay to the Association a capitalization fee, which shall be an amount equal to one hundred percent (100%) of the then-current Annual Assessment (the "Capitalization Fee"), unless otherwise determined by the Board. Such Capitalization Fee shall be payable to the Association at the closing of the transfer of title to a Lot and shall not be prorated. The Capitalization Fee shall be in addition to, not in lieu of, the Annual Assessment and shall not be considered an advance payment of such Annual Assessments. The payment of the Capitalization Fee shall be secured by the continuing lien set forth herein and shall be collected in the same manner as Assessments.

The transferring Owner shall notify the Association's Secretary, or managing agent, of a pending title transfer at least seven days prior to the transfer. Such notice shall include the name of the purchaser, the date of title transfer, and other information as the Board may require. The Capitalization Fee may be used by the Association for any purpose, which in the Association's sole discretion is for the benefit of the Subdivision, including the placement of such Capitalization Fee in a reserve account.

E. Collection and Remedies for Assessments

1. The Assessments provided for in this Declaration, together with attorneys' fees, interest, Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the Assessments provided for in this Declaration by reason of non-use or abandonment.
2. In order to secure the payment of the Assessments hereby levied, a lien is hereby created in favor of the Association and shall run with title to each Lot in the Subdivision, which lien may be foreclosed upon by the Association pursuant to the laws of the State of Texas; each Owner grants a power of sale to the Association to sell such property upon default in payment by any amount owed. Alternatively, the Association may judicially foreclose the lien or maintain an action at law to collect the amount owed.
3. The President of the Association, or his or her designee, is hereby appointed as Trustee to exercise the Association's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.
4. Although no further action is required to create or perfect the lien, the Association may give notice of the lien by executing and recording a document setting forth notice that delinquent sums are due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. If required by law, the Association shall also give notice and an opportunity to cure the delinquency to any holder of a lien that is inferior or subordinate to the Association's lien, pursuant to Section 209.0091 of the Texas Property Code, or its successor statute.
5. In the event the Association has determined to foreclose its lien provided herein, and to exercise the power of sale hereby granted, such foreclosure shall be accomplished pursuant to the requirements of Sections 209.0091 and 209.0092 of the Texas Property Code by first obtaining a court order in an application for expedited foreclosure under the rules adopted by the Supreme Court of Texas. Notwithstanding anything contained herein to the contrary, in the event that the laws of the State of Texas are changed to no longer require a court order in an application for expedited foreclosure, the Association may pursue foreclosure of its lien via any method established herein, including but not limited to nonjudicial foreclosure, as may be permitted by the then-current law, without the necessity of amending this Declaration.
6. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association or any Owner shall have the right to bid for such Lot at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period such foreclosed Lot is owned by the Association following foreclosure, (1) no right to vote shall be exercised on its behalf; and (2) no Assessment shall be levied on it. Out of the proceeds of such sale, there shall be paid all expenses incurred by the Association in connection with such default, including attorneys' fees and trustee's fees; second, from such proceeds there shall be paid to the Association an amount equal to the amount of Assessments in default inclusive of interest, late charges, and attorneys' fees; and third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each Occupant of any such Lot foreclosed on and each Occupant

of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

F. Subordination of the Lien to Purchase Money Mortgages

The lien for Assessments, including interest, late charges, costs, and attorney's fees, provided for herein shall be subordinate to the lien of any purchase money mortgage (including any renewal, extension, rearrangement or refinancing thereof) on any Lot or Homesite. The sale or transfer of any Lot or Homesite shall not affect the lien. The sale or transfer shall not relieve such Lot or Homesite from lien rights for any Assessments thereafter becoming due. Where the mortgagee holding a purchase money mortgage of record or other purchaser of a Lot or Homesite obtains title pursuant to foreclosure of the mortgage, it shall not be liable for the share of the Assessments or other charges by the Association chargeable to such Lot or Homesite that became due prior to such acquisition of title. However, from the date of foreclosure forward, such Assessments shall again accrue and be payable to the Association.

Notice of Delinquency

When the Association or its agent or designee gives a written notice of the Assessment to any Owner who has not paid an Assessment that is due under this Declaration, such notice will be mailed to the Owner's last known address. The address of the Lot or Homesite shall be presumed to be the address for proper notice unless written notice of another address has been provided by the Owner to the Association.

ARTICLE XV. MODIFICATION AND TERMINATION OF COVENANTS

Notwithstanding anything contained in this Declaration to the contrary, in the event this Declaration, or a Supplemental Amendment, is amended and restated in the future, such amendment and restatement shall not affect or disturb the lien created herein or any annexation accomplished by the Supplemental Amendment, which lien and annexation shall continue to be in full force and effect from the date the Declaration and Supplemental Amendment were recorded.

A. Amendment by Declarant

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Development Period, the Declarant may unilaterally amend this Declaration and any Supplemental Amendment for any purpose; provided, however, any such amendment shall not adversely affect the title to any Lots or Homesites unless the Owner shall consent thereto in writing.

After the expiration of the Development Period, the Declarant may unilaterally amend this Declaration and any Supplemental Amendment at any time without the joinder or consent of any

Owners, entity, Lender or other person to amend this Declaration and any Supplemental Amendment if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on Lots and Homesites; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots or Homesites; (d) necessary to enable any

governmental agency or reputable private insurance company to insure mortgage loans on Lots or Homesites; or (e) for the purpose of clarifying or resolving any ambiguities or conflicts herein or in any Supplemental Amendment, or correcting any inadvertent misstatements, errors or omissions herein or in any Supplemental Amendment; provided, however, any such amendment shall not adversely affect the title to any Lots or Homesites unless the Owner shall consent thereto in writing.

Any amendment to the Declaration or a Supplemental Amendment made by Declarant shall be recorded in the Official Public Records of Harris County, Texas, whereupon to the extent of any conflict with this Declaration or Supplemental Amendment, and any amendment thereto, the amendment will control.

Any amendment made by the Declarant shall become effective upon recording unless otherwise specified in the amendment.

B. Amendment by Owners

During the Development Period, this Declaration and any Supplemental Amendment may be amended, modified, or terminated by the approval of Owners of a majority of the Lots and the written consent of the Declarant. After the termination of the Development Period, approval by the Owners of a majority of the Lots shall be required to amend, modify, or terminate this Declaration and any Supplemental Amendment; provided however, any such amendment must be approved in writing by the Association. Upon approval of the Owners, as set out above of said amended declaration or amended supplemental amendment (as evidenced by the President's or Vice-President's signature) the amended declaration or amended supplemental amendment shall be recorded in the Official Public Records of Harris County, Texas, whereupon to the extent of any conflict with this Declaration or Supplemental Amendment and any amendment thereto, the amendment will control. For purposes of this Section, the approval of multiple Owners of a Lot may be reflected by the signature of any one Owner of such Lot.

Notwithstanding anything contained herein to the contrary, the Association shall be entitled to use any combination of the following methods to obtain approval of the Owners for an amendment to the Declaration and any Supplemental Amendment:

1. by written ballot, or electronic ballot as same may be established by the Board, that states the substance of the amendment and specifies the date by which a written or electronic ballot must be received to be counted;
2. at a meeting of the Members of the Association, if written notice of the meeting stating the purpose of the meeting is delivered to the Owners of the Lots; such notice may be hand-delivered to the Owners, sent via regular mail to the Owner's last known mailing address, as reflected in the Association's records, or via email to the Owner's email address as reflected in the Association's records;
3. by door-to-door circulation of a petition by the Association or a person authorized by the Association; and/or
4. by any other method permitted under this Declaration or applicable law. Any limitation of amendment to the Declaration and any Supplemental Amendment related to said Property Amendment as otherwise herein reserved. Particularly reserved to the Declarant, is the right and privilege of Declarant to designate the use and architectural restrictions applicable to any

portion of the Properties, as provided herein; and such designation, or subsequent change of designation, shall not be deemed to adversely affect any substantive right of any existing Owner.

ARTICLE XVI. ALTERNATE DISPUTE RESOLUTION

It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Subdivision and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the following dispute resolution procedures control and attempt to resolve all claims, grievances or disputes involving the Subdivision, including, without limitation, claims grievances or disputes arising out of or relating to the interpretation, application, or enforcement of the Dedicatory Instruments.

A. Dispute Resolution

No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; or the Association.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

B. Outside Mediator

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager as certified by the Community Associations Institute, or a Certified Property Manager as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

C. Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

D. Assessment Collection and Lien Foreclosure

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of Assessments and/or the foreclosure of the lien by the Association as set out in the Declaration.

E. Term

This Article shall be in full force and effect during the Development Period. Thereafter, this Article shall remain in full force and effect unless, at the first open meeting of the Association after such initial period, a majority of the Board votes to terminate the provisions of this Article.

ARTICLE XVII. GENERAL PROVISIONS

A. Severability

The invalidity of any one or more of the provisions of this Declaration shall not affect the validity of the other provisions thereof.

B. Compliance with Laws

At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Homesite and any improvements thereon. If any provision contained in this Declaration or any supplemental declaration or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

C. Gender and Number

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

D. Headlines

The titles and captions for this Declaration and the sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

E. Governing Law

The provisions in this Declaration shall be governed by and enforced in accordance with the laws of the State of Texas, and mandatory venue shall be in Harris County, Texas. Any and all obligations performable hereunder are to be performed in Harris County, Texas.

F. Fines for Violations

The Association may assess fines for violations of the Dedicatory Instruments, other than non-payment or delinquency in Assessments, in amounts to be set by the Board, which fines shall be secured by the continuing lien set out in this Declaration.

G. Books and Records

The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, pursuant to a Records Production and Copying Policy adopted by the Association.

H. Notices

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

I. Mergers

Upon a merger or consolidation of the Association with another association as provided in its Certificate of Formation, the Association's properties, assets, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation or to a like organization or governmental agency. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration,

J. Current Address and Occupants

Owners are required to notify the Association in writing of their current address if other than the physical address of the Lot or Homesite at all times. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Lot or Homesite as the current address. If Owner leases the property, he shall supply the name of the Occupant present upon the execution of any lease.

K. Security

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL

CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING, OR OWNER OR USER OF AN IMPROVEMENT, ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND IMPROVEMENTS AND TO THE CONTENTS OF DWELLINGS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

L. View Impairment

Neither the Declarant, nor the Association, guarantee or represent that any view over and across the Lots, Common Areas, Areas of Common Responsibility, reserves, or open space within the Subdivision will be preserved without impairment. The Declarant and the Association shall have no obligation to relocate, prune, or thin trees or shrubs or other landscaping. The Association has the right, without the obligation, to relocate, prune, thin, or add trees and other landscaping or improvements to the Common Area. There shall be no express or implied easements for view purposes or for the passage of light and air. No Owner has the right to object to the construction of improvements on any adjacent or nearby Lot, Area of Common Responsibility, or the Common Area, based on the impact of such improvements on the Owner's view.

M. Video, Data and Communication Service Agreements

Subject to the approval of the Declarant during the Development Period, the Association has or may hereafter enter into an agreement with a service provider for the provision of cable television, data and/or other communication services in order to obtain access to benefits and services for the benefit of Owners and Dwellings located in the Subdivision. Payment for services and benefits provided pursuant to video, data and/or communication service agreements executed pursuant to this provision will be made from Assessments levied and collected by the Association pursuant to the authority granted herein, and such Assessments shall be supported by the lien created herein. While Owners are free to obtain the same or similar services from a provider of their choice, no Owner may avoid paying any portion of Assessments levied based on non-use of video, data or communication services provided and paid for by the Association with Assessments.

N. Occupants Bound

All provisions of the Dedicatory Instruments applicable to the Property and Owners, shall also apply to all Occupants of any Lot or Dwelling. Every Owner shall cause all Occupants to comply with the foregoing, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the fact that such Occupant is jointly and severally liable and may be sanctioned for any violation. In addition to all other remedies available to the Association in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not be allowed to return

to the Subdivision and/or that any lease, agreement, or permission given allowing the Occupant to be present be terminated.

O. Transfer of Title and Resale Certificate

1. Transfer of Title: Any Owner, other than the Declarant, desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The person, other than the Declarant, transferring title shall continue to be jointly and severally responsible with the person accepting title for all obligations of the Owner, including Assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

Upon acceptance of title to a Lot, the new Owner of the Lot shall pay to the Association an administrative transfer fee to cover the administrative expenses associated with updating the Association's records, which transfer fee is supported by the lien created herein. Such fees shall be in such amount as the Board may reasonably determine necessary to cover its costs, including but not limited to, and fees charged by a management company retained by the Association for updating its records.

2. Resale Certificate: No Owner, other than the Declarant, shall transfer title to a Lot, together with the improvements thereon, unless and until he or she has requested and obtained a resale certificate signed by a representative of the Association as described in Chapter 207 of the Texas Property Code, or its successor statute ("Resale Certificate") indicating, in addition to all other matters described in Chapter 207, the information required in Section 5.012 of the Texas Property Code.

The Association may charge a reasonable fee to prepare, assemble, copy, and deliver a Resale Certificate and accompanying information and any update to a Resale Certificate, which charge is supported by the lien created herein.

STATE OF TEXAS
COUNTY OF HARRIS

We, County of Harris, acting by and through Dr. Adrienne Holloway, Executive Director of Harris County Community Services Department, Texas being an officer of County of Harris, owner (or owners) hereinafter referred to as Owners (whether one or more) of the 8.425 acre tract described in the above and foregoing map of ORCHARD PLACE TOWNHOME SUBDIVISION do hereby make and establish said subdivision and development plan of said property according to all lines, dedications, restrictions, and notations on said maps or plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets, or permanent access easements), alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed, and hereby bind ourselves, our heirs, successors and assigns to warrant and forever defend the title on the land so dedicated.

FURTHER, Owners have dedicated and by these presents do dedicate to the use of the public for public utility purpose forever unobstructed arial easements. The arial easements shall extend horizontally an additional seven feet, six inches (11' 6") for ten feet (10' 0") perimeter ground easements or seven feet, six inches (7' 6") for fourteen feet (14' 0") perimeter ground easements or five feet, six inches (5' 6") for sixteen feet (16' 0") perimeter ground easements, from a plane sixteen feet (16' 0") above the ground level upward, located adjacent to and adjoining said public utility easements that are designated with arial easements (U.E. and A.E.) as indicated and depicted hereon, whereby the arial easement totals twenty one feet, six inches (21' 6") in width.

FURTHER, Owners have dedicated and by these presents do dedicate to the use of the public for public utility purpose forever unobstructed arial easements. The arial easements shall extend horizontally an additional ten feet (10' 0") for ten feet (10' 0") back-to-back ground easements, or eight feet (8' 0") for fourteen feet (14' 0") back-to-back ground easements or seven feet (7' 0") for sixteen feet (16' 0") back-to-back ground easements, from a plane sixteen feet (16' 0") above ground level upward, located adjacent to both sides and adjoining said public utility easements that are designated with arial easements (U.E. and A.E.) as indicated and depicted hereon, whereby the arial easement totals thirty feet (30' 0") in width.

We hereby covenant and agree that all lots within the boundaries of this subdivision are for residential purposes unless otherwise noted.

WITNESS my hand in Harris County, Texas, this ___ day of ___, 2022.

OWNER
County of Harris
Name: Dr. Adrienne Holloway
Title: Executive Director of Harris County Community Services Department

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Dr. Adrienne Holloway, Executive Director, Harris County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ___ day of ___, 2022.

Notary Public in and for the State of Texas
My Commission expires: ___

I, John David Kenney, am registered under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and accurate; was prepared from an actual survey of the property made under my supervision on the ground; that, except as shown, all boundary corners, angle points, points of curvature and other points of reference have been marked with iron (or other objects of a permanent nature) pipes or rods having an outside diameter of not less than five eighths (5/8) inch and a length of not less than three (3) feet; and that the plat boundary corners have been tied to the Texas Coordinate System of 1983, South Central Zone.

John David Kenney
Registered Professional Land Surveyor
Texas Registration No. 2080

This is to certify that the Planning Commission of the City of Pasadena, Texas, has approved this plat and subdivision of ORCHARD PLACE TOWNHOME SUBDIVISION as shown hereon.

In testimony whereof, witness the official signature of the Chairman and Secretary of the Planning Commission of the City of Pasadena, Texas this ___ day of ___, 2022.

By: Mory Ann Klusman, Chairman
Michelle Partin, Secretary

I, the undersigned, Director of Public Works of Pasadena hereby certify that this subdivision plot conforms to all requirements of the subdivision regulations of the City as to which this approval is required.

Robin S. Green, Jr., P.E.
Director of Public Works

I, Teneshia Hudspeth, County Clerk of Harris County, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on ___, 2022, at ___ o'clock, ___ M. and duly recorded on ___ of the Map Records of Harris County for said county.

Witness my hand and seal of office, at Houston, the day and date last above written.

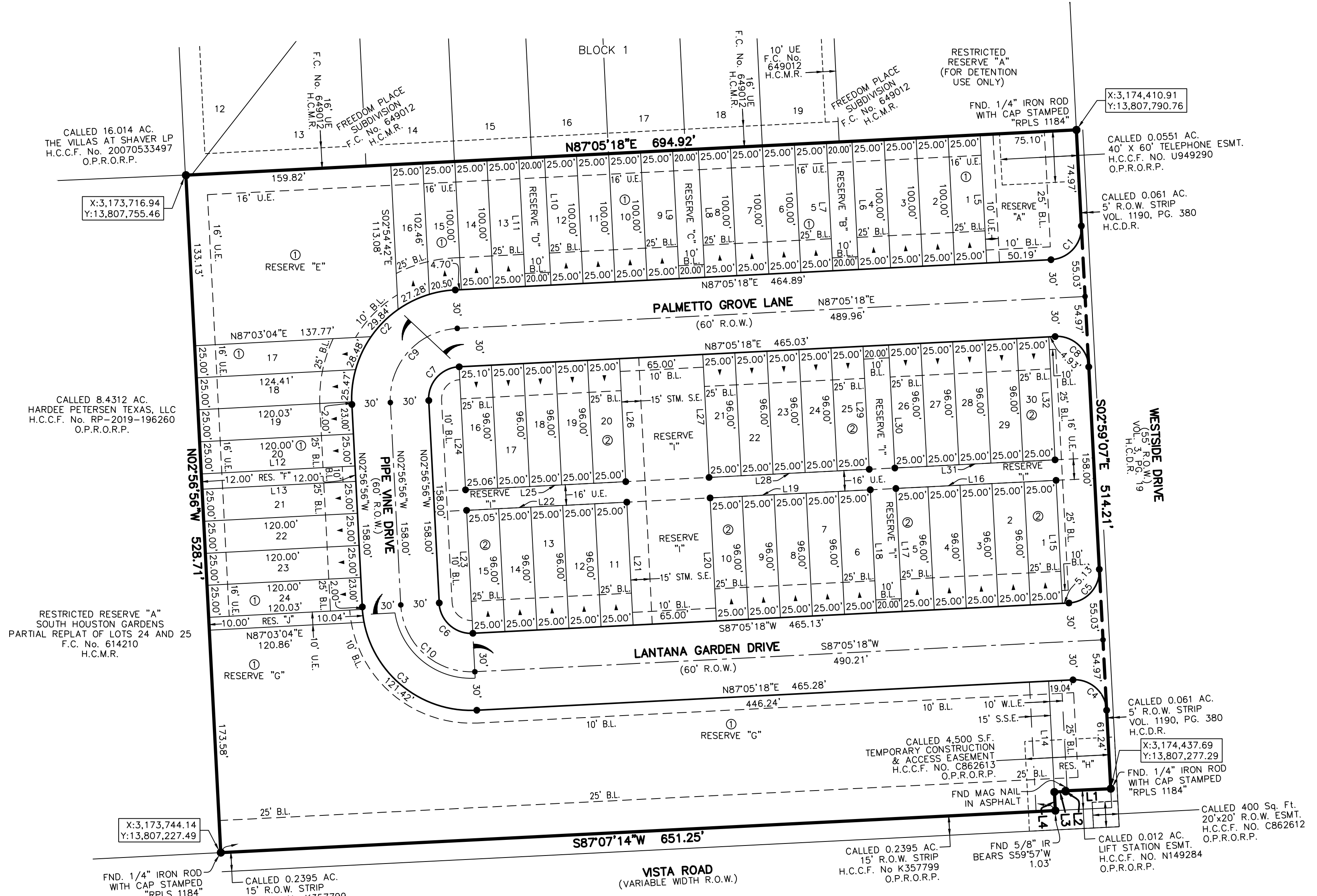
Teneshia Hudspeth
County Clerk
Of Harris County, Texas
By: Deputy

JOB NO. 191-094-02

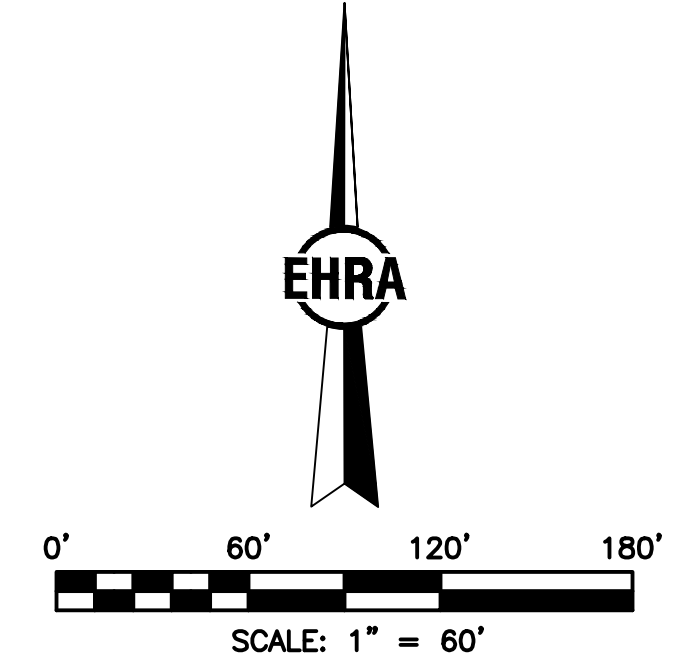
Table with 6 columns: CURVE, RADIUS, DELTA ANGLE, ARC LENGTH, CHORD BEARING, CHORD LENGTH. Contains data for curves C1 through C10.

Table with 3 columns: LINE, BEARING, DISTANCE. Contains data for lines L1 through L16.

Table with 3 columns: LINE, BEARING, DISTANCE. Contains data for lines L17 through L32.



RESERVE TABLE with columns: RESERVE, RESTRICTIONS, SQUARE FOOTAGE, ACREAGE. Lists reserves A through J and a total.



- GENERAL NOTES:
1. AC, indicates Acres
BL, indicates Building Line
ESMT, indicates Easement
F.C. No., indicates Film Code Number
H.C.C.F. No., indicates Harris County Clerk's File Number
H.C.D.R., indicates Harris County Deed Records
H.C.M.R., indicates Harris County Map Records
IR, indicates Iron Rod
N.T.S., indicates Not To Scale
O.P.R.O.R.P., indicates Official Public records of Real Property
PG, indicates Page
RES, indicates Reserve
R.O.W., indicates Right-Of-Way
RPLS, indicates Registered Professional Land Surveyor
S.O. FT., indicates Square Feet
S.S.E., indicates Sanitary Sewer Easement
STM, S.E., indicates Storm Sewer Easement
U.E., indicates Utility Easement
VOL., indicates Volume
indicates street name change
indicates front of Building

ORCHARD PLACE TOWNHOME SUBDIVISION

BEING A SUBDIVISION OF 8.425 ACRES
OUT OF THE H.T. & B. RR. Co. SURVEY, A-394,
IN THE CITY OF PASADENA, IN HARRIS COUNTY, TEXAS;
ALSO BEING A REPLAT OF LOT 31 AND LOT 32
OF SOUTH HOUSTON GARDENS DIVISION NO. 3
AS RECORDED IN VOLUME 3, PAGE 19 H.C.M.R.

54 LOTS 2 BLOCKS 10 RESERVES

OWNER
THE COUNTY OF HARRIS
13105 NORTHWEST FREEWAY
HOUSTON, TX 77040

AUGUST, 2022



10011 MEADOWGLEN LN
HOUSTON, TEXAS 77042
713-784-4500
WWW.EHRAINCO.COM
TBPE No. F-726
TBPLS No. 10092300