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**DEVELOPMENT AREA DECLARATION OF  
CONDOMINIUM REGIME FOR  
6 CREEKS CONDOMINIUMS  
(A Residential Condominium in Hays County, Texas)**

Declarant: **HMBRR DEVELOPMENT, INC.**, a Texas corporation

THE PROPERTY SUBJECT HERETO IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN 6 CREEKS MASTER COVENANT, RECORDED UNDER INSTRUMENT NO. 18043525, IN THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AS MAY BE AMENDED FROM TIME TO TIME.

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## Table of Contents

	Page
<b>ARTICLE 1 DEFINITIONS</b> .....	2
<b>ARTICLE 2 PROPERTY SUBJECT TO DOCUMENTS</b> .....	6
2.1. Subject To Documents .....	6
2.2. Adjacent Land Use .....	7
2.3. Additional Property .....	7
2.4. Recorded Easements and Licenses .....	7
2.5. Common Elements .....	7
<b>ARTICLE 3 PROPERTY EASEMENTS, RIGHTS AND RESTRICTIONS</b> .....	8
3.1. General .....	8
3.2. Owner's Easement of Enjoyment .....	8
3.3. Owner's Maintenance Easement .....	8
3.4. Owner's Ingress/Egress Easement .....	9
3.5. Owner's Encroachment Easement .....	9
3.6. Association's Access Easement .....	9
3.7. Utility Easement .....	10
3.8. Security .....	10
3.9. Injury to Person or Property .....	11
3.10. Easement to Inspect and Right To Correct .....	11
3.11. Permitted Residential Encroachment Easement .....	12
3.12. Easement of Cooperative Support .....	12
3.13. Master Maintained Areas and Easement for Access .....	12
3.14. Master Association's Access Easement .....	13
<b>ARTICLE 4 DISCLOSURES</b> .....	13
4.1. Service Contracts .....	13
4.2. Streets Within the Property .....	14
4.3. Adjacent Thoroughfares .....	14
4.4. Zoning .....	14
4.5. Outside Conditions .....	14
4.6. Concrete .....	14
4.7. Construction Activities .....	15
4.8. Moisture .....	15
4.9. Encroachments .....	15
4.10. Budgets .....	15
4.11. Light and Views .....	15
4.12. Schools .....	15
4.13. Sounds .....	15
4.14. Suburban Environment .....	15
4.15. Water Runoff .....	16
4.16. Unit Systems .....	16
4.17. Location of Utilities .....	16
4.18. Wood .....	16

## Table of Contents (continued)

	Page
4.19. Stone .....	16
4.20. Marketing .....	17
4.21. Street Names .....	17
4.22. Plans .....	17
4.23. Master Documents .....	17
<b>ARTICLE 5 UNITS, LIMITED COMMON ELEMENTS &amp; ALLOCATIONS .....</b>	<b>17</b>
5.1. Initial Submitted Units and Maximum Number of Units .....	17
5.2. Units .....	18
5.3. No Relation to Living Areas .....	19
5.4. Initial Designation and Allocation of Limited Common Elements .....	19
5.5. Subsequent Allocation of Limited Common Elements .....	19
5.6. Common Interest Allocation .....	19
5.7. Common Expense Liabilities .....	19
5.8. Association Votes .....	19
<b>ARTICLE 6 COVENANT FOR ASSESSMENTS .....</b>	<b>19</b>
6.1. Purpose of Assessments .....	19
6.2. Personal Obligation .....	20
6.3. Types of Assessments .....	20
6.4. Regular Assessments .....	20
6.5. Supplemental Increases .....	21
6.6. Special Assessments .....	21
6.7. Utility Assessments .....	21
6.8. Individual Assessments .....	22
6.9. Deficiency Assessments .....	22
6.10. Working Capital Fund .....	22
6.11. Due Date .....	23
6.12. Reserve Funds .....	23
6.13. Declarant's Right to Inspect and Correct Accounts .....	23
6.14. Association's Right to Borrow Money .....	23
6.15. Limitation of Interest .....	23
6.16. Audited Financial Statements .....	24
6.17. Master Assessments .....	24
6.18. Lien Rights Under the Master Covenant .....	24
<b>ARTICLE 7 ASSESSMENT LIEN .....</b>	<b>24</b>
7.1. Assessment Lien .....	24
7.2. Superiority of Assessment Lien .....	25
7.3. Effect of Mortgagee's Foreclosure .....	25
7.4. Notice and Release .....	25
7.5. Power of Sale .....	25
7.6. Foreclosure of Lien .....	25

## Table of Contents (continued)

	Page
<b>ARTICLE 8 EFFECT OF NONPAYMENT OF ASSESSMENTS .....</b>	<b>26</b>
<b>8.1. Generally .....</b>	<b>26</b>
<b>8.2. Interest .....</b>	<b>26</b>
<b>8.3. Late Fees.....</b>	<b>26</b>
<b>8.4. Collection Expenses.....</b>	<b>26</b>
<b>8.5. Suspension of Vote.....</b>	<b>26</b>
<b>8.6. Assignment Of Rents .....</b>	<b>26</b>
<b>8.7. Acceleration.....</b>	<b>27</b>
<b>8.8. Money Judgment.....</b>	<b>27</b>
<b>8.9. Notice to Mortgagee .....</b>	<b>27</b>
<b>8.10. Application of Payments .....</b>	<b>27</b>
<b>ARTICLE 9 MAINTENANCE AND REPAIR OBLIGATIONS .....</b>	<b>27</b>
<b>9.1. Overview .....</b>	<b>27</b>
<b>9.2. Association Maintains.....</b>	<b>27</b>
<b>9.3. Inspection Obligations .....</b>	<b>29</b>
<b>9.4. Owner Responsibility .....</b>	<b>29</b>
<b>9.5. Disputes .....</b>	<b>30</b>
<b>9.6. Warranty Claims .....</b>	<b>30</b>
<b>9.7. Owner's Default In Maintenance .....</b>	<b>30</b>
<b>ARTICLE 10 CONSTRUCTION &amp; USE RESTRICTIONS .....</b>	<b>30</b>
<b>10.1. Approval Required by the 6 Creeks Reviewer.....</b>	<b>30</b>
<b>10.2. Variance .....</b>	<b>30</b>
<b>10.3. Association's Right to Promulgate Rules and Amend Community Manual.....</b>	<b>31</b>
<b>10.4. Rules and Regulations .....</b>	<b>31</b>
<b>10.5. Declarant Privileges .....</b>	<b>32</b>
<b>10.6. Use of Common Elements .....</b>	<b>32</b>
<b>10.7. Ages Of Occupants .....</b>	<b>32</b>
<b>10.8. Abandoned Personal Property .....</b>	<b>32</b>
<b>10.9. Animals – Household Pets .....</b>	<b>32</b>
<b>10.10. Firearms and Fireworks .....</b>	<b>33</b>
<b>10.11. Annoyance.....</b>	<b>33</b>
<b>10.12. Appearance.....</b>	<b>33</b>
<b>10.13. Declarant Privileges .....</b>	<b>33</b>
<b>10.14. Driveways.....</b>	<b>33</b>
<b>10.15. Garages.....</b>	<b>33</b>
<b>10.16. Landscaping.....</b>	<b>33</b>
<b>10.17. Noise and Odor .....</b>	<b>34</b>
<b>10.18. Occupancy .....</b>	<b>34</b>
<b>10.19. Residential Use.....</b>	<b>34</b>
<b>10.20. Signs .....</b>	<b>34</b>
<b>10.21. Fences .....</b>	<b>34</b>

## Table of Contents (continued)

	Page
10.22. Antenna.....	34
10.23. Vehicles; Guest Parking .....	36
10.24. Solar Energy Device and Energy Efficiency Roofing.....	36
10.25. Rainwater Harvesting Systems .....	38
10.26. Flags.....	39
10.27. Xeriscaping.....	41
10.28. Standby Electric Generators .....	43
10.29. Wireless Internet Systems .....	44
10.30. Swimming Pool Enclosures .....	44
<b>ARTICLE 11 UNIT LEASING .....</b>	<b>44</b>
11.1. Lease Conditions.....	44
11.2. Provisions Incorporated By Reference Into Lease .....	45
<b>ARTICLE 12 ASSOCIATION OPERATIONS.....</b>	<b>46</b>
12.1. Board.....	46
12.2. Name .....	46
12.3. Governance .....	47
12.4. Merger .....	47
12.5. Membership.....	47
12.6. Manager .....	47
12.7. The Association .....	47
12.8. Books and Records.....	48
12.9. Indemnification.....	48
12.10. Obligations of Owners .....	48
12.11. Unit Resales .....	49
12.12. Right of Action by Association .....	50
12.13. Enforcement by Master Association.....	50
<b>ARTICLE 13 ENFORCING THE DOCUMENTS.....</b>	<b>50</b>
13.1. Notice And Hearing.....	50
13.2. Remedies .....	51
13.3. Board Discretion .....	52
13.4. No Waiver.....	52
13.5. Recovery of Costs.....	52
13.6. Release .....	52
<b>ARTICLE 14 INSURANCE.....</b>	<b>53</b>
14.1. General Provisions .....	53
14.2. Property Insurance.....	54
14.3. Liability Insurance.....	55
14.4. Worker’s Compensation .....	55
14.5. Fidelity Coverage .....	55
14.6. Directors and Officers Liability .....	55

## Table of Contents (continued)

	Page
14.7. Other Policies.....	55
<b>ARTICLE 15 RECONSTRUCTION OR REPAIR AFTER LOSS.....</b>	<b>55</b>
15.1. Subject To Act.....	55
15.2. Restoration Funds.....	55
15.3. Costs And Plans.....	56
15.4. Owner's Duty to Repair.....	56
15.5. Owner's Liability For Insurance Deductible.....	56
<b>ARTICLE 16 TERMINATION AND CONDEMNATION.....</b>	<b>57</b>
16.1. Association As Trustee.....	57
16.2. Termination.....	57
16.3. Condemnation.....	57
<b>ARTICLE 17 MORTGAGEE PROTECTION.....</b>	<b>57</b>
17.1. Introduction.....	57
17.2. Notice of Mortgagee.....	57
17.3. Amendment.....	58
17.4. Termination.....	58
17.5. Implied Approval.....	58
17.6. Other Mortgagee Rights.....	58
17.7. Insurance Policies.....	59
17.8. Notice of Actions.....	59
17.9. Amendments of a Material Nature.....	59
<b>ARTICLE 18 AMENDMENTS.....</b>	<b>60</b>
18.1. Consents Required.....	60
18.2. Amendments Generally.....	61
18.3. Effective.....	62
18.4. Declarant Rights.....	62
<b>ARTICLE 19 DISPUTE RESOLUTION.....</b>	<b>63</b>
19.1. Introduction and Definitions.....	63
19.2. Mandatory Procedures: All Claims.....	64
19.3. Mandatory Procedures: Construction Claims.....	64
19.4. Common Element Construction Claim by the Association.....	65
19.5. Claims by Owners.....	70
19.6. Notice.....	70
19.7. Notice.....	71
19.8. Mediation.....	71
19.9. Binding Arbitration – Claims.....	71
19.10. Allocation of Costs.....	73
19.11. General Provisions.....	73
19.12. Period of Limitation.....	73
19.13. Funding the Resolution of Claims.....	74

Table of Contents (continued)

	Page
<b>ARTICLE 20 GENERAL PROVISIONS .....</b>	<b>74</b>
<b>20.1. Supremacy of Master Covenant .....</b>	<b>74</b>
<b>20.2. Notices.....</b>	<b>74</b>
<b>20.3. Integration into Master Plan Development .....</b>	<b>75</b>
<b>20.4. Interpretation.....</b>	<b>75</b>
<b>20.5. Captions .....</b>	<b>75</b>
<b>20.6. Construction.....</b>	<b>75</b>
<b>20.7. Compliance .....</b>	<b>75</b>
<b>20.8. Higher Authority.....</b>	<b>75</b>
<b>20.9. Duration.....</b>	<b>75</b>
<b>20.10. Appendix / Attachments .....</b>	<b>75</b>

**DEVELOPMENT AREA DECLARATION OF CONDOMINIUM REGIME FOR  
6 CREEKS CONDOMINIUMS**

HMBRR DEVELOPMENT, INC., a Texas corporation (“**Declarant**”), is the owner of certain real property located in Hays County, Texas, as more particularly described on Exhibit “A”, attached hereto and incorporated herein, together with all Improvements thereon and all easements, rights, and appurtenances thereto (the “**Property**”). The Property is hereby submitted to the terms and provisions of the Texas Condominium Act, Chapter 82 of the Texas Uniform Property Code, for the purpose of creating 6 Creeks Condominiums.

A. Pursuant to that certain Notice of Applicability of 6 Creeks Master Covenant [6 Creeks Condominiums], recorded under Instrument No. 22050124, in the Official Public Records of Hays County, Texas (the “**Notice of Applicability**”), the Property is subject to the terms and provisions of that certain 6 Creeks Master Covenant, recorded under Instrument No. 18043525, in the Official Public Records of Hays County, Texas, as amended (the “**Master Covenant**”)

B. The Master Covenant permits the Declarant to Record Development Area Declarations applicable to specific Development Areas, as those terms are used and defined in the Master Covenant. The terms and conditions set forth in any Development Area Declaration shall be in addition to the covenants, conditions and restrictions of the Master Covenant.

**A Development Area is a portion of the 6 Creeks residential development which has actually been made subject to the terms and provisions of the Master Covenant and a Development Area Declaration. This Declaration constitutes a Development Area Declaration under the Master Covenant. A Development Area Declaration includes specific restrictions which apply to the Development Area. In order to determine what restrictions apply to your Unit, you must consult the terms and provisions of the Master Covenant, the terms and provisions of any notice of applicability covering your Unit, and this Declaration.**

C. Declarant intends for this Declaration to serve as one of the Development Area Declarations permitted under the Master Covenant and that the Property described and identified herein shall constitute one of the Development Areas which is permitted, contemplated and defined under the Master Covenant.

D. Declarant desires to create upon the Property a residential community and carry out a uniform plan for the improvement and development of the Property for the benefit of the present and future owners thereof.

E. Declarant desires to provide a mechanism for the preservation of the community and for the maintenance of common areas and, to that end, desires to subject the Property to the covenants, conditions, and restrictions set forth in this Declaration for the benefit of the Property, and each owner thereof, which shall be in addition to the covenants, conditions, and restrictions set forth in the Master Covenant.

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

## **ARTICLE 1**

### **DEFINITIONS**

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

1.1 **"6 Creeks PID"** means that certain residential area public improvement district created by the City of Kyle and Declarant.

1.2 **"6 Creeks Reviewer"** means the party holding the rights to approve Improvements within the Development (as such term is defined in the Master Covenant).

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

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

1.5 **"Assessment"** means any charge levied against a Unit or Owner by the Association, pursuant to the Documents, the Act, or Applicable Law, including but not limited to Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments, as defined in *Article 6* of this Declaration.

1.6 **"Association"** means 6 CREEKS CONDOMINIUM COMMUNITY, INC., a Texas

non-profit corporation, the Members of which shall be the Owners of Units within the Regime. The term "Association" shall have the same meaning as the term in Section 82.101 of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Certificate, the Bylaws, the Act, and Applicable Law.

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

1.8 **"Building"** means a residential dwelling constructed within a Unit.

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

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

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

1.12 **"Common Expense"** or **"Common Expenses"** means the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Regime, including but not limited to those expenses incurred for the maintenance, repair, replacement and operation of the Common Elements.

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

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

1.15 **"Declarant Control Period"** means that period of time during which Declarant

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

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

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

1.18 **"Documents"** mean, singly or collectively as the case may be, this Declaration, the Plat and Plans, attached hereto as Attachment "1", the Certificate, Bylaws, the Community Manual, and the Rules of the Association, as each may be amended from time to time. An appendix, attachment, exhibit, schedule, or certification accompanying a Document is a part of that Document.

1.19 **"General Common Elements"** mean Common Elements which are not Limited Common Elements. General Common Elements refer to those portions of the Property that are designated as "GCE", "General Common Element", "General Common Area", "Common Area", or by the notation "General Common Elements", "GCE", "General Common Area", "Common Area", or "Common Areas" on Attachment "1", attached hereto.

1.20 **"Homebuilder"** means any Owner (other than Declarant) who is in the business of constructing residences for resale to third parties and acquires all or a portion of the Property to construct residences for resale to third parties.

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

1.22 **"Limited Common Elements"**, if any, mean those portions of the Property reserved for the exclusive use of one or more Owners to the exclusion of other Owners. Limited Common Elements are designated as "LCE", or "Limited Common Elements", or "Limited Common Areas" on Attachment "1", attached hereto and as provided in *Section 5.4* of this Declaration.

1.23 **"Maintenance Responsibility Chart"**, The chart attached to these Neighborhood Restrictions as Attachment 6, as may be amended.

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

1.25 **"Master Assessments"** means Assessments levied by the Master Association pursuant to the Master Documents.

1.26 **"Master Association"** means the 6 Creeks Master Community, Inc., a Texas non-profit corporation.

1.27 **"Master Board"** means the Board of Directors of the Master Association.

1.28 **"Master Covenant"** means that certain 6 Creeks Master Covenant, recorded under Instrument No. 18043525, in the Official Public Records of Hays County, Texas, as may be amended from time to time.

1.29 **"Master Documents"** means, singularly or collectively, as the case may be, that certain Master Covenant, the Community Enhancement Covenant, any notice of applicability pertaining to all or a portion of the Regime, including without limitation, the Notice of Applicability, the Certificate of Formation of the Master Association, the Bylaws of the Master Association, the Community Manual (as defined in the Master Covenant), and any supplements thereto, any rules and regulations of the Master Association adopted in accordance with the Master Covenant or Bylaws of the Master Association, and any and all other Documents, as such may be defined in the Master Covenant.

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

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

1.32 **"Occupant"** means any Person, including any Owner, tenant or otherwise having a right to occupy or use all or any portion of a Unit for any period of time.

1.33 **"Owner"** means a holder of Recorded fee simple title to a Unit. Declarant is the initial Owner of all Units. Mortgagees who acquire title to a Unit through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.

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

1.35 **“Plat and Plans”** means the plat and plans attached hereto as Attachment “1”, as changed, modified, or amended in accordance with this Declaration.

1.36 **“Property”** means certain real property located in Hays County, Texas, as more particularly described on Exhibit “A” attached hereto and incorporated herein, together with all Improvements thereon and all easements, rights, and appurtenances thereto, and includes every Unit and Common Element thereon.

1.37 **“Record, Recordation, Recorded and Recording”** means filing the referenced instrument or document in the Official Public Records of Hays County, Texas.

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

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

1.40 **“Standby Electric Generator”** means a device that converts mechanical energy to electrical energy and is (a) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen; (b) fully enclosed in an integral manufacturer-supplied sound attenuating enclosure; (c) connected to the main electrical panel of a residence by a manual or automatic transfer switch; and (d) rated for a generating capacity of not less than seven kilowatts.

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

1.42 **“Unit”** means a physical portion of the Property designated by this Declaration for separate ownership, the boundaries of which are shown on the Plat and Plans attached hereto as Attachment “1”, as further described in *Section 5.2* of this Declaration.

## ARTICLE 2

### PROPERTY SUBJECT TO DOCUMENTS

2.1. **Subject To Documents.** The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant’s representations and

reservations as set forth on Appendix "A", attached hereto, which run with the Property, bind all Persons having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

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

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

2.4. **Recorded Easements and Licenses.** In addition to the easements and restrictions contained in this Declaration, the Property is subject to all easements, licenses, leases, and encumbrances of record, including those described in the attached Attachment "2", and any shown on a Recorded plat, each of which is incorporated herein by reference. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by prior-recorded easements, licenses, leases, and encumbrances. Each Owner further agrees to maintain any easement that crosses the Owner's Unit and for which the Association does not have express responsibility.

Specifically, and not by way of limitation, the Property is subject to the terms and provisions of the Master Documents. The Master Documents include specific requirements pertaining to the use and development of the Property. **EACH OWNER IS ADVISED TO REVIEW THE MASTER DOCUMENTS TO ENSURE STRICT COMPLIANCE WITH THE TERMS AND PROVISIONS THEREOF.** This Declaration is not intended to modify the terms and provisions of the Master Covenant and, to the extent of any conflict between this Declaration and the Master Covenant, the terms and provisions of the Master Covenant will control.

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

**ARTICLE 3**  
**PROPERTY EASEMENTS, RIGHTS AND RESTRICTIONS**

3.1. **General.** In addition to other easements, rights and restrictions established by the Documents and the Master Documents, the Property is subject to the easements, rights and restrictions contained in this *Article 3*.

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

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

Notwithstanding the foregoing, no Owner shall perform any work to any portion of the Owner's Unit or the Common Elements unless such work is approved in advance and in writing by the 6 Creeks Reviewer.

Prior to commencing any work upon a Unit which requires access to, over or through the Common Elements or other Units, the Person performing such work must deliver to the Board, in form satisfactory to the Board:

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

3.4. **Owner's Ingress/Egress Easement.** Each Owner is hereby granted a perpetual easement over the Property, as may be reasonably required, for vehicular and pedestrian ingress to and egress from his Unit or the Limited Common Elements assigned thereto.

3.5. **Owner's Encroachment Easement.** Every Owner is granted an easement for the existence and continuance of any encroachment by his Unit on any adjoining Unit or Common Element now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a Building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the Improvement stands. The easement granted herein is not intended to permit the continuance of any Improvement installed by an Owner not otherwise approved in advance by the 6 Creeks Reviewer.

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

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

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

3.7. **Utility Easement.** Declarant, during the Development Period, and the Association thereafter, may grant permits, licenses, and easements over the Common Elements for utilities, and other purposes reasonably necessary for the proper operation of the Regime. Declarant, during the Development Period, and the Association thereafter, may grant easements over and across the Units and Common Elements to the extent necessary or required to provide utilities to Units; provided, however, that such easements will not unreasonably interfere with the use of any Unit for residential purposes. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised without prior notice to the Board and may not unreasonably interfere with the use of a Unit for residential purposes. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security. Any easement granted pursuant to this Section 3.7 must be approved in advance and in writing by the 6 Creeks Reviewer.

**NOTICE**

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

3.8. **Security.** The Association and/or the Master Association may, but are not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Occupant acknowledges and agrees that Declarant, the Association, the Master Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors

of security within the Property. Each Owner and Occupant acknowledges and accepts that it is the sole responsibility of the Owner or Occupant to provide security for their own person and property, and each Owner and Occupant assumes all risks for loss or damage to same. Each Owner and Occupant further acknowledges that the Declarant, the Association, the Master Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Occupant relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglary, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. **Each Owner and Occupant acknowledges and agrees that Declarant, the Association, the Master Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of any failure to provide adequate security or the ineffectiveness of security measures undertaken.**

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

3.10. **Easement to Inspect and Right To Correct.** Until the expiration of the Development Period, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, and for Homebuilders and general contractors the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, Improvement, or condition that may exist on any portion of the Property, including the Units, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. The party exercising the easement reserved hereunder, will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a utility panel may be warranted by a change of circumstance, imprecise siting, or desire to comply more fully with Applicable Law. This *Section 3.10* may not be construed to create a duty for Declarant or the Association, any architect, engineer, and other design professionals, and to Homebuilders or general contractors, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each

Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant, and the Declarant's architect, engineer, other design professionals, builder, and general contractor an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Elements and each Unit and the Improvements thereon for the purposes contained in this *Section 3.10*.

3.11. **Permitted Residential Encroachment Easement.** Declarant or its permittees may construct certain Improvements within a Unit that serve a residence located on or within another Unit, which Improvements may include fencing, wiring, lines, utilities, conduits and devices (a "**Permitted Residential Encroachment**"). Each Owner is hereby granted an easement over and across the Unit on which the Permitted Residential Encroachment has been constructed for: (i) the Permitted Residential Encroachment; and (ii) the reasonable maintenance and repair of any Permitted Residential Encroachment. If an Owner damages another Unit or any Improvements constructed thereon in exercising the easement granted hereunder, the damaging Owner will be required to restore the damaged Unit to the condition which existed prior to any such damage, at the damaging Owner's expense, within a reasonable period of time not to exceed thirty (30) days after the damaging Owner is notified in writing of the damage by the Owner of the damaged Unit.

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

3.13. **Master Maintained Areas and Easement for Access.** The Master Association, by its execution of this Declaration, has accepted responsibility for the maintenance of all of the drainage pond and facilities located on Lot 88, Block G within the Regime, landscaping and any other Common Elements within the Regime, including those areas marked as "**Master Maintained Area**" or "MMA" on the Plat and Plans attached hereto as Attachment 1 (collectively, the "**Master Maintained Areas**"). The Master Maintained Areas comprise part of the "Common Area" as such term is defined in the Master Covenant. The costs incurred, or estimated to be incurred, by the Master Association to operate, maintain, repair, including replacement reserves, will be discharged through assessments levied by the Master Association in accordance with the Master Covenant. The Master Association will maintain, repair and replace the Master Maintained Areas. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, hereby grants to the Master Association an easement of access and entry over, across, under and through the Property, including without limitation, the Master Maintained Areas, as may be necessary or convenient

for the Master Association to maintain and repair the Master Maintained Areas. The Declarant during the Development Period, and after expiration of the Development Period the Board, with the advance written consent of the Master Association, may from time to time add to, subtract from, or otherwise modify the Master Maintained Areas by amendment to this Declaration and the Plat and Plans attached hereto or by Recording a separate instrument.

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

(b) To maintain, repair, and replace the Master Maintained Areas and to perform inspections and/or other maintenance that is permitted or required of the Master Association by the Documents, the Master Documents, or by Applicable Law.

(c) To perform maintenance that is permitted or required of the Owner by the Documents, the Master Documents, or by Applicable Law, if the Owner fails or refuses to perform such maintenance.

(d) To enforce the Documents or the Master Documents.

(e) To exercise self-help remedies permitted by the Master Documents or by Applicable Law.

(f) To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.

(g) To respond to emergencies.

(h) To perform any and all functions or duties of the Master Association as permitted or required by the Documents, the Master Documents or by Applicable Law.

#### **ARTICLE 4** **DISCLOSURES**

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

4.1. **Service Contracts.** In connection with construction of the Unit, the Unit may have been wired or fitted for one or more services to be provided by vendors to the Owner on a contract basis, such as intrusion monitoring and cable television. In exchange for such installations, Declarant may have contracted on behalf of the Owner for a period of service to

the Owner's Unit. In that event, whether or not an Owner chooses to use the service, the Owner may be required to pay the Unit's share of the contract for the contract period. The Association may serve as the conduit for the service fees and payments, which may be considered Regular Assessments or Individual Assessments. **However, neither the Declarant, the Association, nor the Master Association is the service provider and has no responsibility or liability for the availability or quality of the service, or for the maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service.**

4.2. **Streets Within the Property.** The streets located outside the Property are public streets and maintained by applicable governmental authorities. Streets within the Property are private and maintained by the Master Association. The Association and the Master Association has the express authority to adopt, amend, repeal, and enforce Rules for use of the private streets, including but not limited to: (i) identification of vehicles used by Owners, Occupants and their guests; (ii) designation of parking or no-parking areas; (iii) limitations or prohibitions on curbside parking; (iv) removal or prohibition of vehicles that violate applicable Rules; and (v) fines for violations of applicable Rules.

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

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

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

4.6. **Concrete.**

4.6.1. **Cracks.** Minor cracks in poured concrete, including foundations, sidewalks, driveways and patios, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and movement.

4.6.2. **Exposed Floors.** This Section applies to Units with exposed concrete floors. This notice is given because some Owners are inexperienced with concrete flooring. In deciding whether, when, and how to fill cracks in exposed concrete floors, an Owner is hereby made aware that the color and texture of the fill material may not match the rest of the concrete floor. On some exposed concrete floors, fill materials make minor cracks more noticeable than if the cracks had been left in their natural state. In addition,

an Owner is hereby made aware that any specification for polished concrete does not mean an Owner will be able to actually see his reflection in the floor.

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

4.8. **Moisture.** Improvements may trap humidity created by general use and occupancy. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and Occupants, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially, mildew and/or mold.

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

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

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

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

4.13. **Sounds.** No representations are made that the Unit is or will be soundproof.

4.14. **Suburban Environment.** The Property is located in a suburban environment. Land adjacent or near the Property may contain or may be developed to contain residential and commercial uses. Sound and vibrations may be audible and felt from such things as sirens,

whistles, horns, the playing of music, people speaking loudly, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in a suburban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in suburban areas. Sounds and vibrations can also be generated from sources located within a Unit or the Common Elements including heating and air conditioning equipment, pump rooms, other mechanical equipment, dogs barking and the playing of certain kinds of music.

4.15. **Water Runoff.** The Property may be subject to erosion and/or flooding during unusually intense or prolonged periods of rain. In addition, water may pond on various portions of the Property having impervious surfaces.

4.16. **Unit Systems.** No representations are made that the systems in the Unit including, by way of example only, heating and air conditioning, and electrical systems will operate or perform at a level or standard greater than the minimum specifications of the manufacturer.

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

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

4.19. **Stone.** Veins and colors of any marble, slate or other stone in the Unit, if any, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, granite, slate and other stone and it is the Owner's

responsibility to properly maintain these materials. Marble, granite and other stone surfaces may scratch, chip or stain easily. Such substances, as part of their desirable noise attenuating properties, may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

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

4.21. **Street Names.** Declarant may change, in its sole discretion, the Property name and the street names and addresses in or within the Property including the street address of the Unit before or after closing if required by Applicable Law.

4.22. **Plans.** Any advertising materials, brochures, renderings, drawings, and the like, furnished by Declarant to an Owner which purport to depict the Improvements to be constructed within the Property are merely approximations and may not necessarily reflect the actual as-built conditions of the same.

4.23. **Master Documents.** All Owners are subject to the Master Documents, including, but not limited to, the Master Covenant and the Community Enhancement Covenant, and the covenants, conditions and restrictions contained therein. OWNERS SHALL BE REQUIRED TO PAY MASTER ASSESSMENTS UNDER THE MASTER COVENANT.

## ARTICLE 5

### **UNITS, LIMITED COMMON ELEMENTS & ALLOCATIONS**

5.1. **Initial Submitted Units and Maximum Number of Units.** The Regime will initially consist of seventy-nine (79) Units. During the Development Period, Declarant, as permitted in Appendix "A", has reserved the right to create a maximum of one hundred fifty (150) Units on the Property and additional property added to the Regime. To add Units to the Regime, Declarant during the Development Period may, from time to time, file an amendment to this Declaration creating such additional Units. To add additional Units to the Regime

established by the Declaration, Declarant shall prepare, execute, and Record an amendment to this Declaration and the Plat and Plans which amendment will: (i) assign an identifying number to each new Unit; (ii) reallocate the Common Interest Allocation among all Units then existing within the Regime; (iii) describe any Limited Common Elements, if any, assigned to each new Unit; and (iv) with respect to new Units, include the information required by Section 82.055 and Section 82.059(b) of the Act. To add additional property to the Regime, Declarant will Record a declaration of annexation, which will include a description of the additional real property. The declaration of annexation may also include a description of the Units added to the Regime if the Declarant elects to create Units upon Recordation of the declaration of annexation or Declarant may elect to create additional Units or Common Elements on the additional property subsequent to the Recordation of the declaration of annexation. No assurance is given as to the dispersion of new Units, the total number of new Units, or the size of such Units.

## 5.2. Units.

5.2.1. Unit Boundaries. The boundaries and identifying number of each Unit are shown on the Plat and Plans attached hereto as Attachment 1. The boundaries of each Unit are further described as follows:

- (i) Lower Boundary of the Unit: The horizontal plane corresponding to the finished grade of the land within the Unit as described and defined on Attachment 1.
- (ii) Upper Boundary of the Unit: The horizontal plane parallel to and fifty feet (50') above the lower boundary of the Unit.
- (iii) Lateral Boundaries of the Unit: A plane located on each side of a Unit perpendicular to the lower and upper horizontal planes, from the lower boundary of the Unit to the upper boundary of the Unit.

5.2.2. What a Unit Includes. Each Unit includes the spaces and Improvements within the boundaries defined in *Section 5.2.1* above, including without limitation the Building, the roof and foundation of the Building, landscaping, driveways, sidewalks, fences, yards, utility lines and meters and all other Improvements located within the Unit. In addition to the Building and the Improvements within the Unit, each Unit also includes Improvements, fixtures, and equipment serving the Building or Unit exclusively, whether located within or outside the Unit, whether or not attached to or contiguous with the Building, including but not limited to any below-grade foundation, piers, retaining walls, fence, or other structural supports; plumbing, septic, and utility lines, pipes, drains, and conduits; landscape irrigation and subterranean components of plant material, including roots of trees on the Unit; and any other below-grade item that serves or supports the Building or Unit.

5.2.3. **Building Size.** The space contained within the boundaries of the Unit is not related to the size of the Building. A Building may only occupy a portion of a Unit in a location approved in advance by the 6 Creeks Reviewer.

5.3. **No Relation to Living Areas.** The space contained within the Unit's vertical and horizontal boundaries is not related to the size of the Unit's living areas. Similarly, the Units are initially marketed on the basis of representational floorplans, each of which is marked with an estimated size taken from architectural drawings. Those marketing sizes may vary from the size of the actual space contained within the Unit's vertical and horizontal boundaries.

5.4. **Initial Designation and Allocation of Limited Common Elements.** Portions of the Common Elements may be allocated as Limited Common Elements on the Plats and Plans, attached hereto as Attachment "1", by use of "LCE" and the identifying number of the Unit to which the Limited Common Element is appurtenant, or by use of a comparable method of designation.

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

5.6. **Common Interest Allocation.** The percentage of interest in the Common Elements (the "**Common Interest Allocation**") allocated to each Unit is set forth on Attachment "3", and is assigned in accordance with a ratio of one (1) to the total number of Units. The same formula will be used in the event the Common Interest Allocation is reallocated as a result of any increase or decrease in the number of Units subject to this Declaration. In the event an amendment or notice of annexation to this Declaration is filed which reallocates the Common Interest Allocation as a result of any increase or decrease in the number of Units, the reallocation will be effective on the date such amendment or notice of annexation is Recorded.

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

5.8. **Association Votes.** One (1) vote is allocated to each Unit.

## ARTICLE 6 COVENANT FOR ASSESSMENTS

6.1. **Purpose of Assessments.** The Association will use Assessments for the general purposes of preserving and enhancing the Regime, and for the benefit of Owners and Occupants, including but not limited to maintenance of the Regime, management, and

operation of the Association, and any expense reasonably related to the purposes for which the Property was developed.

6.2. **Personal Obligation.** An Owner is obligated to pay Assessments levied by the Board against the Owner or the Owner's Unit. Payments are made to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other Person regarding any matter to which the Documents pertain. No Owner may be exempt from Assessment liability by such Owner's non-use of the Common Elements or abandonment of the Owner's Unit. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Unit.

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

6.4. **Regular Assessments.**

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

- (i) Maintenance, repair, and replacement, as necessary, of the General Common Elements, Limited Common Elements and Improvements, equipment, signage, and property owned by the Association.
- (ii) Maintenance examination and report, as described in *Section 9.3*.
- (iii) Utilities billed to the Association.
- (iv) Services obtained by the Association and available to all Units.
- (v) Taxes on property owned by the Association and the Association's income taxes.
- (vi) Management, legal, accounting, auditing, and professional fees for services to the Association.
- (vii) Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- (viii) Insurance premiums and deductibles.

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

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

6.4.3. Basis of Regular Assessments. Regular Assessments will be based on the annual budget. Each Unit will be liable for its allocated share of the annual budget based on the Common Expense Liability allocated to such Unit. If the Board does not approve an annual budget or fails to determine new Regular Assessments for any year, or delays in doing so, Owners will continue to pay the Regular Assessment as last determined.

6.5. Supplemental Increases. If, during the course of a year, the Board determines that Regular Assessments are insufficient to cover the estimated Common Expenses for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Supplemental increases will be apportioned among the Units in the same manner as Regular Assessments.

6.6. Special Assessments. The Board may levy one or more Special Assessments against all Units for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget or reserves. Special Assessments may be used for the same purposes as Regular Assessments. Special Assessments do not require the approval of the Owners, except that Special Assessments for the acquisition of real property must be approved by Owners representing at least a Majority of the votes in the Association. Special Assessments will be apportioned among the Units in the same manner as Regular Assessments.

6.7. Utility Assessments. This Section applies to utilities serving the Units and consumed by the Owner and/or Occupants that are billed to the Association by the utility provider, and which may or may not be sub-metered by or through the Association. The Board may levy a Utility Assessment against each Unit. The Board may allocate the Association's utility charges among the Units by any conventional and reasonable method. The levy of a Utility Assessment may include a share of the utilities for the Common Elements, as well as administrative and processing fees, and an allocation of any other charges that are typically

incurred in connection with utility or sub-metering services. The Board may, from time to time, change the method of utility allocation, provided the method of allocation is reasonable.

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

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

6.10. **Working Capital Fund.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner, and transfers from one Owner to a subsequent Owner), a working capital fee in an amount equal to One Hundred and No/100 Dollars (\$100.00) will be paid by the transferee of the Unit to the Association for the Association's working capital fund. Each working capital contribution will be collected from the transferee of a Unit upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers of a Unit will not be subject to the working capital contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association or Master Association; (iii) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent; (iv) any grantee who is the domestic partner or former spouse of the grantor; (v) any grantee that is a wholly-owned entity of the grantor; and (vi) any grantee to whom a Unit is conveyed by a will or through the law of intestacy. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Declarant may not use working capital contributions collected hereunder to pay the operational expenses of the Association until the Declarant Control Period terminates. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any working capital fund contribution attributable to a Unit (or all Units) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

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

6.12. **Reserve Funds.** The Association may maintain reserves at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including deductibles on insurance policies maintained by the Association. The Association may maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the General Common Elements.

6.13. **Declarant's Right to Inspect and Correct Accounts.** Until expiration of the Development Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association financial records and accounts established during the Declarant Control Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. By way of illustration but not limitation, Declarant may find it necessary to recharacterize an expense or payment to conform to Declarant's obligations under the Documents or Applicable Law. This Section may not be construed to create a duty for Declarant or a right for the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant a right of access to the Association's books and records that is independent of Declarant's rights during the Declarant Control Period and the Development Period.

6.14. **Association's Right to Borrow Money.** The Board is granted the right to borrow money, subject to the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Board is granted the right to encumber, mortgage, or pledge any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred.

6.15. **Limitation of Interest.** The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to Applicable Law. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with the Association's collection of Assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by Applicable Law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by Applicable Law, the excess amount will be applied to the reduction of unpaid applicable Assessments, or reimbursed to the Owner if those Assessments are paid in full.

6.16. **Audited Financial Statements.** The Association shall have an audited financial statement for the preceding full fiscal year of the Association prepared and made available to Owner's upon written request.

6.17. **Master Assessments.** Each Unit will be allocated that number of "Assessment Units" (as defined in the Master Covenant) and votes set forth in the Notice of Applicability attributable to such Unit. Unless the Master Association elects otherwise, the Association will collect all Master Assessments payable to the Master Association in accordance with the Master Covenant. The Association will promptly remit all Master Assessments collected from Owners to the Master Association. If the Association fails to timely collect any portion of the Master Assessments due from the Owners, then the Master Association may collect such Master Assessments allocated to a Unit on its own behalf and enforce its lien against the Unit without joinder of the Association. The Association's right to collect Master Assessments on behalf of the Master Association is a license from the Master Association which may be revoked by written instrument at any time, and from time to time, at the sole and absolute discretion of the Master Board.

6.18. **Lien Rights Under the Master Covenant.** In addition to the lien rights granted to the Association pursuant to the terms and provisions of this Declaration, in accordance with *Article 5* of the Master Covenant, each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Master Assessments in accordance with the terms and provisions of the Master Covenant. Each Master Assessment is a charge on the Unit and is secured by a continuing lien on the Unit as set forth in the Master Covenant. Each Owner, and each prospective Owner, is placed on notice that the Owner's title may be subject to the continuing lien for Master Assessments attributable to a period prior to the date the Owner purchased the Unit. An express lien on each Unit has been granted and conveyed by the Declarant under the Master Covenant to the Master Association to secure the payment of the Master Assessments. Each Owner is advised to review the Master Covenant for more information concerning the liens granted to secure payment of the Master Assessments.

## ARTICLE 7 ASSESSMENT LIEN

7.1. **Assessment Lien.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the Unit and is secured by a continuing lien on the Unit. Each Owner, and each prospective Owner, is placed on notice that title to such Owner's Unit may be subject to the continuing lien for Assessments attributable to a period prior to the date the Owner purchased its Unit. An express lien on each Unit is hereby granted and conveyed by Declarant to the Association to secure the payment of all Assessments.

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

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

7.4. **Notice and Release.** The lien established hereby for Assessments is created by Recordation of this Declaration, which constitutes record notice and perfection of the lien. No other Recordation of a lien or notice of lien is required. However, the Board may, at its option, cause a notice of the lien to be Recorded. Each lien filed by the Association must be prepared and filed by an attorney licensed to practice law in the State of Texas. If the debt is cured after a notice has been Recorded, the Association will Record a release of the notice at the expense of the curing Owner. The Association may require reimbursement of its costs of preparing and Recording the notice before granting the release.

7.5. **Power of Sale.** By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of sale in connection with the Association's assessment lien. The Board may appoint, from time to time, any Person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. An appointment must be in writing and may be in the form of a resolution adopted by the Board.

7.6. **Foreclosure of Lien.** The Assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by Applicable Law. In any foreclosure, the Owner will be required to pay all costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at foreclosure and to acquire, hold, lease, mortgage, and convey same.

**ARTICLE 8**  
**EFFECT OF NONPAYMENT OF ASSESSMENTS**

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

8.2. **Interest.** Delinquent Assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the maximum permitted by Applicable Law. If the Board fails to establish a rate, the rate is ten percent (10%) per annum.

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

8.4. **Collection Expenses.** The Owner of a Unit against which Assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, including attorneys' fees and processing fees charged by the manager.

8.5. **Suspension of Vote.** Subject to the below-described limitations, if an Owner's account has been delinquent for at least thirty (30) days, the Association may suspend the right to vote appurtenant to the Unit during the period of delinquency. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay Assessments. When the Association suspends an Owner's right to vote, the suspended Owner may nevertheless participate as a Member of the Association for the following activities: (i) be counted towards a quorum; (ii) attend meetings of the Association; (iii) participate in discussions at Association meetings; (iv) be counted as a petitioner for a special meeting of the Association; and (v) vote to remove a Board member and for the Board member's replacement. If the number of suspended Members exceeds twenty percent (20%) of the total Members (co-Owners of a Unit constituting one Member), all Members are eligible to vote.

8.6. **Assignment Of Rents.** Every Owner hereby grants to the Association a continuing assignment of rents to secure the payment of Assessments to the Association. If a Unit's account become delinquent during a period in which the Unit is leased, the Association may direct the tenant to deliver rent to the Association for application to the delinquent account, provided the Association gives the Owner notice of the delinquency, a reasonable

opportunity to cure the debt, and notice of the Owner's right to a hearing before the Board. The Association must account for all monies received from a tenant and must remit to the Owner any rents received in excess of the past-due amount. A tenant's delivery of rent to the Association under the authority hereby granted is not a breach of the tenant's lease with the Owner and does not subject the tenant to penalties from the Owner.

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

8.8. **Money Judgment.** The Association may file suit seeking a money judgment against an Owner delinquent in the payment of Assessments, without foreclosing or waiving the Association lien for Assessments.

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

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

## **ARTICLE 9**

### **MAINTENANCE AND REPAIR OBLIGATIONS**

9.1. **Overview.** Generally, the Association maintains the Common Elements (excluding the Master Maintained Areas, if any), and the Owner maintains the Owner's Unit. If any Owner fails to maintain its Unit, the Association may perform the work at the Owner's expense. The Maintenance Responsibility Chart attached hereto as "Attachment 6" is incorporated herein by reference. The Maintenance Responsibility Chart is a summary only. In the event of a conflict between the terms and provisions of this Declaration and the Maintenance Responsibility Chart, the Declaration shall control.

9.2. **Association Maintains.** Unless otherwise provided in this Declaration, the Association maintains, repairs and replaces, as a Common Expense, the portions of the Property listed below:

- (i) the General Common Elements and Limited Common Elements serving more than one (1) Unit;
- (ii) any real and personal property owned by the Association but which is not a Common Element; and
- (iii) any area, item, easement or service the maintenance of which is assigned to the Association by the Documents.

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that: (i) such maintenance responsibility is assigned to an Owner under this Declaration; (ii) such maintenance responsibility is assumed by an Owner and such assumption is approved by the Board; or (iii) such property is dedicated to any local, state or federal government or quasi-governmental entity; provided, however, that in connection with any such assumption as provided in (ii) or (iii), the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair. If the Association assigns any portion of its maintenance responsibilities to an Owner as permitted by the Documents, the Association will perform any such assigned obligations if not timely performed by the Owner.

The Association shall not be liable for injury or damage to Person or property caused by the elements or by the Owner or Occupant of any Unit or any other Person or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Occupant of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner or Occupant of any Unit for loss or damage, by theft or otherwise, of any property, which may be stored in or upon any of the Common Elements or any Unit. The Association shall not be liable to any Owner or Occupant, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under the Documents or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association or from any action taken by the

Association to comply with any law ordinance or with any order or directive of any municipal or other governmental authority.

9.3. **Inspection Obligations.**

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

9.3.2. **Schedule of Inspections.** Inspections will take place in accordance with prudent business practices. A Guide to Association's Examination of Common Elements is attached to this Declaration as Attachment "4". The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

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

9.3.4. **Limitation.** The provisions of this *Section 9.3* shall not apply during the Declarant Control Period unless otherwise directed by the Declarant.

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

- (i) To maintain, repair, and replace the Owner's Unit and any Improvements constructed therein or thereon and any Limited Common Elements exclusively serving the Owner's Unit.
- (ii) To maintain, repair, and replace all portions of the Property for which the Owner is responsible under this Declaration or by agreement with the Association.
- (iii) To not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Property, reduce the value thereof, or impair any easement or real property right thereto.

- (iv) To be responsible for such Owner's own willful or negligent acts and those of the Owner or the Occupant's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of Common Elements, the property of another Owner, or any component of the Property for which the Association has maintenance or insurance responsibility.

9.5. **Disputes.** If a dispute arises regarding the allocation of maintenance responsibilities by the Documents, the dispute will be resolved by the Board. Unit maintenance responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this *Article 9* that all components and areas not expressly delegated to the Association are the responsibility of the individual Owners.

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

9.7. **Owner's Default In Maintenance.** If the Board determines that an Owner has failed to properly discharge such Owner's obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at the Owner's expense, which will be levied as an Individual Assessment against the Owner and the Owner's Unit. In case of an emergency, however, the Board's responsibility to give the Owner written notice is waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense and levied as an Individual Assessment.

## ARTICLE 10 CONSTRUCTION & USE RESTRICTIONS

10.1. **Approval Required by the 6 Creeks Reviewer.** PURSUANT TO THE MASTER DOCUMENTS, ALL "IMPROVEMENTS", AS SUCH TERM IS DEFINED IN THE MASTER DOCUMENTS, MUST BE APPROVED IN ADVANCE AND IN WRITING BY THE 6 CREEKS REVIEWER. NO IMPROVEMENTS SHALL BE CONSTRUCTED ON ANY UNIT UNTIL SUCH APPROVAL IS OBTAINED PURSUANT TO THE MASTER COVENANT.

10.2. **Variance.** The Property is subject to the restrictions contained in this Declaration, and subject to the Rules. The Declarant may grant a variance or waiver of a restriction or Rule during the Development Period. The Board, with the Declarant's written consent during the Development Period and the Master Board thereafter, may grant a variance

or waiver of a restriction or Rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing and executed by the Declarant during the Development Period or a Majority of the Master Board thereafter, and/or a Majority of the Board, as applicable. The grant of a variance shall not constitute a waiver or estoppel of the right to deny a variance in other circumstances. Notwithstanding the foregoing, the Declarant or the Board, as applicable, shall not have the right to grant a variance to any design, construction or architectural restriction governing the Units, the Common Elements, or the Property without the written consent of the Declarant during the Master Development Period and Master Board thereafter.

10.3. **Association's Right to Promulgate Rules and Amend Community Manual.** The Association, acting through the Board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. The Board is further granted the right to amend, repeal, and enforce the Community Manual, setting forth therein such policies governing the Association as the Board determines. During the Development Period, any modification, amendment, or repeal to the Community Manual or the Rules, and each new policy or Rule, must be approved in advance and in writing by the Declarant. Additionally, Declarant reserves the right to unilaterally modify, amend, or repeal the Community Manual during the Development Period.

10.4. **Rules and Regulations.** In addition to the restrictions contained in this Article, each Unit is owned and occupied subject to the right of the Board to establish Rules, and penalties for infractions thereof, governing:

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

- (x) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Occupants.

During the Development Period, all Rules must be approved in advance and in writing by the Declarant.

10.5. **Declarant Privileges.** In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Occupants, as provided in Appendix "A" of this Declaration. Declarant's exercise of a right reserved in this Declaration or as provided in Appendix "A" does not constitute waiver or abandonment of the restriction by the Association.

10.6. **Use of Common Elements.** There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements without the prior written consent of Declarant (during the Development Period) and the Board thereafter, except as specifically provided herein.

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

10.8. **Abandoned Personal Property.** Personal property shall not be kept, or allowed to remain for more than twelve (12) hours upon any portion of the Common Elements, without the prior written consent of the Board. If the Board determines that a violation exists, then, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the disposition of the property within twenty-four (24) hours after the property is removed. Neither the Association nor any board member, officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

10.9. **Animals – Household Pets.** No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for anywhere on the Property (as used in this paragraph, the term "domestic household pet" shall not mean or include non-traditional pets such pot-bellied pigs, miniature horses, snakes or lizards, ferrets, monkeys or other exotic animals). Customary domesticated household pets may be kept subject to the Rules. The Board may adopt, amend, and repeal Rules regulating the types, sizes, numbers, locations, and behavior of animals on the Property. If the Rules fail to establish animal occupancy quotas, an Owner or Occupant shall be

allowed no more than two (2) household pets in any Unit. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board. The Board may require or effect the removal of any animal determined to be in violation of the Rules.

10.10. **Firearms and Fireworks.** The display or discharge of firearms or fireworks on the Common Elements is prohibited; provided, however, that the display of lawful firearms on the Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size, and shall also include, without limitation, sling shots, archery, and other projectile emitting devices.

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

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

10.13. **Declarant Privileges.** In connection with the development and marketing of the Property, as provided in this Declaration and Appendix "A", attached hereto, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Owners and Occupants. Declarant's exercise of a right that appears to violate a Rule or a provision of this Declaration does not constitute waiver or abandonment of the Rule or provision of the Declaration.

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

10.15. **Garages.** The original garage area of any Building or Improvement constructed within a Unit may not be enclosed or used for any purpose that would prohibit the parking of operable vehicles therein.

10.16. **Landscaping.** No Person may perform landscaping, planting, or gardening anywhere within the General Common Elements without the prior written authorization of the Board and the 6 Creeks Reviewer.

10.17. **Noise and Odor.** An Occupant must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy Occupants of neighboring Units. The Rules may limit, discourage, or prohibit noise producing activities and items in the Units and on the Common Elements.

10.18. **Occupancy.** The Board may adopt Rules regarding the occupancy of Units. If the Rules fail to establish occupancy standards, no more than 2 persons per bedroom may occupy a Unit, subject to the exception for familial status. The Association's occupancy standard for Occupants who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (*i.e., the fewest people per Unit*) permitted by the U.S. Department of Housing and Urban Development.

10.19. **Residential Use.** The use of a Unit is limited exclusively to single-family residential purposes and only one single-family residence may be constructed within each Unit. This residential restriction does not, however, prohibit an Occupant from using the Unit for personal business or professional pursuits provided that: (i) the uses are incidental to the use of the Unit as a residential dwelling; (ii) the uses conform to Applicable Law; (iii) there is no external evidence of the business or professional use; (iv) the business or professional use does not entail visits to the Unit by employees of the business or profession or the general public; and (v) the business or professional use does not interfere with Occupants' use and enjoyment of their Units. No portion of a garage serving a Unit may be occupied as a residence at any time by any Person.

10.20. **Signs.** No sign of any kind (including signs advertising Units for sale, for rent or for lease), may be erected, placed, or permitted to remain on the Property unless written approval has been obtained in advance from the 6 Creeks Reviewer. The 6 Creeks Reviewer may adopt sign guidelines associated with the erection and display of certain signs which guidelines may govern the location, nature, dimensions, number, and time period a sign may remain on the Property or a Unit. As used in this *Section 10.20*, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message. The 6 Creeks Reviewer may effect the immediate removal of any sign or object which has not been approved in advance by the 6 Creeks Reviewer.

10.21. **Fences.** Except for fences constructed by the Declarant, no fence shall be constructed on a Unit without the prior written consent of the 6 Creeks Reviewer. The height and location of all fences must be approved in advance by the 6 Creeks Reviewer.

10.22. **Antenna.** Except as expressly provided below, no exterior radio, television or communications antenna or aerial or satellite dish or disc, nor any solar energy system (collectively, an "**Antenna/Dish**"), shall be erected, maintained, or placed on a Unit without the prior written approval of the 6 Creeks Reviewer.

10.22.1. Dishes Over One Meter Prohibited. Unless otherwise approved by the 6 Creeks Reviewer, an Antenna/Dish which is over one meter in diameter is prohibited within the Regime.

10.22.2. Notification. An Owner or Occupant who wishes to install an Antenna/Dish one meter or less in diameter (a “**Permitted Antenna**”) must submit a written notice to the 6 Creeks Reviewer, which notice must include the Owner or Occupant’s installation plans for the satellite dish.

10.22.3. One Dish Limitation. Unless otherwise approved by the 6 Creeks Reviewer, only one Permitted Antenna per Unit is permitted. In the event an acceptable quality signal for video programming or wireless communications cannot be received from one satellite dish, the Owner must provide written notification to the 6 Creeks Reviewer. Upon notification, the Owner will be permitted to install an additional Permitted Antenna if a single Permitted Antenna is not sufficient for the reception of an acceptable quality signal and the use of an additional Permitted Antenna results in the reception of an acceptable quality signal.

10.22.4. Permitted Installation Locations – Generally. An Owner or Occupant may erect a Permitted Antenna (after written notification has been provided to the 6 Creeks Reviewer) if the Owner or Occupant has an exclusive use area in which to install the antenna. An “exclusive use area” is an area in which only the Owner or Occupant may enter and use to the exclusion of all other Owners and Occupants. Unless otherwise approved by the 6 Creeks Reviewer, the Permitted Antenna must be entirely within the exclusive use area of the Owner’s Unit.

A Permitted Antenna or the use of a Permitted Antenna may not interfere with satellite or broadcast reception to other Units or the Common Elements, or otherwise be a nuisance to Occupants of other Units or to the Association. A Permitted Antenna exists at the sole risk of the Owner and/or Occupant of the Unit. The Association does not insure the Permitted Antenna and is not liable to the Owner or any other person for any loss or damage to the Permitted Antenna from any cause. **The Owner will defend and indemnify the 6 Creeks Reviewer, the Association, and the Master Association, and each such party’s directors, officers, and Members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from his Permitted Antenna.** The 6 Creeks Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of a Permitted Antenna.

10.22.5. Preferred Installation Locations. A Permitted Antenna may be installed in a location within the Unit from which an acceptable quality signal can be obtained and where least visible from the street and the Regime, other than the Unit. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the 6 Creeks Reviewer are as follows:

- (i) Attached to the back of the residence constructed within the Unit, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Units and the street; then
- (ii) Attached to the side of the residence constructed within the Unit, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Units and the street.

10.23. **Vehicles; Guest Parking.** All vehicles on the Property, whether owned or operated by the Occupants or their families and guests, are subject to this *Section 10.23* and any Rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may prohibit any vehicle from which the Board deems to be a nuisance, unsightly, or inappropriate. The Board may prohibit sales, storage, washing, repairs, or restorations of vehicles on the Property. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the Property. The Association may effect the removal of any vehicle in violation of this *Section 10.23* or the Rules without liability to the owner or operator of the vehicle.

10.24. **Solar Energy Device and Energy Efficiency Roofing.** A “Solar Energy Device” means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. “Energy Efficiency Roofing” means shingles that are designed primarily to: (i) be wind and hail resistant; (ii) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (iii) provide solar generation capabilities.

Approval by the 6 Creeks Reviewer is required prior to installing a Solar Energy Device or Energy Efficient Roofing. The 6 Creeks Reviewer is not responsible for: (a) errors in or omissions in the application submitted to the 6 Creeks Reviewer for approval; (b) supervising the installation or construction to confirm compliance with an approved application; or (c) the compliance of an approved application with governmental codes and ordinances, state and federal laws.

10.24.1. **Approval Application.** To obtain approval of a Solar Energy Device, an Owner shall submit to the 6 Creeks Reviewer, the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the “Solar Application”). A Solar Application may only be submitted by an Owner unless the Owner’s tenant provides written confirmation at the time of submission that the Owner consents to the Solar Application.

10.24.2. Approval Process. The decision of the 6 Creeks Reviewer will be made in accordance with *Article 6* of the Master Covenant. The 6 Creeks Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 10.24.3* below **UNLESS** the 6 Creeks Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 10.24.3*, will create a condition that substantially interferes with the use and enjoyment of the Property by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The 6 Creeks Reviewer's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Units immediately adjacent to the Owner/applicant's Unit provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this Section when considering any such request.

Each Owner is advised that if the Solar Application is approved by the 6 Creeks Reviewer, installation of the Solar Energy Device must: (i) strictly comply with the Solar Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Solar Energy Device to be installed in accordance with the approved Solar Application, the 6 Creeks Reviewer may require the Owner to: (i) modify the Solar Application to accurately reflect the Solar Energy Device installed on the Unit; or (ii) remove the Solar Energy Device and reinstall the device in accordance with the approved Solar Application. Failure to install a Solar Energy Device in accordance with the approved Solar Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of the Master Covenant. Any requirement imposed by the 6 Creeks Reviewer to resubmit a Solar Application or remove and relocate a Solar Energy Device in accordance with the approved Solar Application shall be at the Owner's sole cost and expense.

10.24.3. Approval Conditions. Unless otherwise approved in advance and in writing by the 6 Creeks Reviewer, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

- (i) The Solar Energy Device must be located on the roof of the residence located within the Owner's Unit, entirely within a fenced area of the Owner's Unit, or entirely within a fenced patio located within the Owner's Unit. If the Solar Energy Device will be located on the roof of the residence, the 6 Creeks Reviewer may designate the location for placement, including requiring that the roof mounted panels not be visible from adjacent streets, unless the location proposed by the Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the Solar Energy Device if installed in the location designated by the 6 Creeks Reviewer. If the Owner desires to contest the

alternate location proposed by the 6 Creeks Reviewer, the Owner should submit information to the 6 Creeks Reviewer which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device will be located in the fenced area of the Owner's Unit or patio, no portion of the Solar Energy Device may extend above the fence line.

- (ii) If the Solar Energy Device is mounted on the roof of the principal residence located within the Owner's Unit, then: (A) the Solar Energy Device may not extend higher than or beyond the roofline; (B) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

10.24.4. Energy Efficient Roofing. The 6 Creeks Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i) resemble the shingles used or otherwise authorized for use within the community; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth in *Article 6* of the Master Covenant.

10.25. Rainwater Harvesting Systems. Rain barrels or rainwater harvesting systems (a "**Rainwater Harvesting System**") may be installed with the advance written approval of the 6 Creeks Reviewer.

10.25.1. Application. To obtain 6 Creeks Reviewer approval of a Rainwater Harvesting System, the Owner shall provide the 6 Creeks Reviewer with the following information: (i) the proposed installation location of the Rainwater Harvesting System; and (ii) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the "**Rain System Application**"). A Rain System Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Rain System Application.

10.25.2. Approval Process. The decision of the 6 Creeks Reviewer will be made in accordance with *Article 6* of the Master Covenant. Any proposal to install a Rainwater Harvesting System on Common Elements must be approved in advance and in writing by the Board, and the Board need not adhere to this policy when considering any such request.

10.25.3. Approval Conditions. Unless otherwise approved in advance and in writing by the 6 Creeks Reviewer, each Rain System Application and each Rainwater

Harvesting System to be installed in accordance therewith must comply with the following:

- (i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed within the Owner's Unit, as reasonably determined by the 6 Creeks Reviewer.
- (ii) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device.
- (iii) The Rainwater Harvesting System is in no event located between the front of the residence constructed within the Owner's Unit and any adjoining or adjacent street.
- (iv) There is sufficient area within the Owner's Unit to install the Rainwater Harvesting System, as reasonably determined by the 6 Creeks Reviewer.
- (v) If the Rainwater Harvesting System will be installed on or within the side yard of a Unit, or would otherwise be visible from a street, Common Element, or another Owner's Unit, the 6 Creeks Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. See *Section 10.25.4* for additional guidance.

**10.25.4. Guidelines.** If the Rainwater Harvesting System will be installed on or within the side yard of a Unit, or would otherwise be visible from a street, Common Element, or another Owner's Unit, the 6 Creeks Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rain System Application, the application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, Common Element, or another Owner's Unit. When reviewing a Rain System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Unit, or would otherwise be visible from a street, Common Element, or another Owner's Unit, any additional regulations imposed by the 6 Creeks Reviewer to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the 6 Creeks Reviewer.

**10.26. Flags.** An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States Military ("**Permitted Flag**") and permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("**Permitted Flagpole**") within a Unit. Only two (2) Permitted Flagpoles are allowed

per residence. A Permitted Flag on a Permitted Flagpole need not be approved in advance by the 6 Creeks Reviewer.

Approval by the 6 Creeks Reviewer is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Unit ("**Freestanding Flagpole**"). The 6 Creeks Reviewer is not responsible for: (i) errors in or omissions in the application submitted to the 6 Creeks Reviewer for approval; (ii) supervising installation or construction to confirm compliance with an approved application; or (iii) the compliance of an approved application with governmental codes and ordinances, state and federal laws.

10.26.1. Approval Application. To obtain 6 Creeks Reviewer approval of any Freestanding Flagpole, the Owner shall provide a request to the 6 Creeks Reviewer in accordance with *Article 6* of the Master Covenant, including the following information: (a) the location of the flagpole to be installed on the Unit; (b) the type of flagpole to be installed; (c) the dimensions of the flagpole; and (d) the proposed materials of the flagpole (the "**Flagpole Application**"). A Flagpole Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Flagpole Application.

10.26.2. Approval Process. The decision of the 6 Creeks Reviewer will be made in accordance with *Article 6* of the Master Covenant. Any proposal to install a Freestanding Flagpole on property owned or maintained by the Association or on Common Elements must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section 10.26* when considering any such request.

Each Owner is advised that if the Flagpole Application is approved by the 6 Creeks Reviewer, installation of the Freestanding Flagpole must: (i) strictly comply with the Flagpole Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Freestanding Flagpole to be installed in accordance with the approved Flagpole Application, the 6 Creeks Reviewer may require the Owner to: (a) modify the Flagpole Application to accurately reflect the Freestanding Flagpole installed on the Unit; or (b) remove the Freestanding Flagpole and reinstall the flagpole in accordance with the approved Flagpole Application. Failure to install a Freestanding Flagpole in accordance with the approved Flagpole Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of this Section and may subject the Owner to fines and penalties. Any requirement imposed by the 6 Creeks Reviewer to resubmit a Flagpole Application or remove and relocate a Freestanding Flagpole in accordance with the approved Flagpole Application shall be at the Owner's sole cost and expense.

10.26.3. Installation, Display and Approval Conditions. Unless otherwise approved in advance and in writing by the 6 Creeks Reviewer, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

- (i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Unit, on which only Permitted Flags may be displayed;
- (ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;
- (iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');
- (iv) With the exception of flags displayed on Common Elements and any Unit which is being used for marketing purposes by a builder, the flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;
- (v) The display of a flag, or the location and construction of the flagpole must comply with all Applicable Law, easements and setbacks of record;
- (vi) Any flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the residence;
- (vii) A flag or a flagpole must be maintained in good condition and any deteriorated flag or deteriorated or structurally unsafe flagpole must be repaired, replaced or removed;
- (viii) Any flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring property; and
- (ix) Any external halyard of a flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the flagpole.

10.27. **Xeriscaping.** An Owner may submit plans for and install drought tolerant landscaping ("Xeriscaping") upon written approval by the 6 Creeks Reviewer. All Owners implementing Xeriscaping shall comply with the following:

10.27.1. **Application.** Approval by the 6 Creeks Reviewer is required prior to installing Xeriscaping. To obtain the approval of the 6 Creeks Reviewer for Xeriscaping, the Owner shall provide the 6 Creeks Reviewer with the following information: (i) the proposed site location of the Xeriscaping on the Owner's Unit; (ii) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate depiction and (iii) the percentage of yard to be covered

with gravel, rocks and cacti (the “**Xeriscaping Application**”). A Xeriscaping Application may only be submitted by an Owner unless the Owner’s tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application. The 6 Creeks Reviewer is not responsible for: (a) errors or omissions in the Xeriscaping Application submitted to the 6 Creeks Reviewer for approval; (b) supervising installation or construction to confirm compliance with an approved Xeriscaping Application or (c) the compliance of an approved application with Applicable Law.

10.27.2. Approval Conditions. Unless otherwise approved in advance and in writing by the 6 Creeks Reviewer, each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must comply with the following:

- (i) The Xeriscaping must be aesthetically compatible with other landscaping in the community as reasonably determined by the 6 Creeks Reviewer. For purposes of this *Section 10.27* “aesthetically compatible” shall mean overall and long-term aesthetic compatibility within the community. For example, an Owner’s plan may be denied if the 6 Creeks Reviewer determines that: (a) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall community; and/or (b) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent property owner, resulting in a reduction of aesthetic appeal of the adjacent property Owner’s Unit.
- (ii) No Owners shall install gravel, rocks or cacti that in the aggregate encompass over twenty percent (20%) of such Owner’s front yard or twenty percent (20%) of such Owner’s back yard.
- (iii) The Xeriscaping must not attract diseases and insects that are harmful to the existing landscaping on neighboring Units, as reasonably determined by the 6 Creeks Reviewer.

10.27.3. Process. The decision of the 6 Creeks Reviewer will be made within a reasonable time, or within the time period otherwise required by the Master Covenant. A Xeriscaping Application submitted to install Xeriscaping on Common Elements will not be approved unless approved in advance by the Board.

10.27.4. Approval. Each Owner is advised that if the Xeriscaping Application is approved by the 6 Creeks Reviewer, installation of the Xeriscaping must: (i) strictly comply with the Xeriscaping Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the 6 Creeks Reviewer may require the Owner to: (a) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (b) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application.

Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of this Declaration and may subject the Owner to fines and penalties. Any requirement imposed by the 6 Creeks Reviewer to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application shall be at the Owner's sole cost and expense.

10.28. **Standby Electric Generators.** The installation, operation and maintenance of all Standby Electric Generators must comply with the following:

(a) The installation and maintenance of any Standby Electric Generator must be in compliance with manufacturer's specifications and all Applicable Law;

(b) The installation of all electrical, plumbing and fuel line connections must be performed only by licensed contractors;

(c) The installation of all electrical connections must be performed in accordance with Applicable Law;

(d) The installation of all natural gas, diesel fuel, biodiesel fuel, or hydrogen fuel line connections must be performed in accordance with Applicable Law;

(e) The installation of all liquefied petroleum gas fuel line connections must be performed in accordance with the rules and standards promulgated and adopted by the Railroad Commission of Texas and other Applicable Law;

(f) The installation and maintenance of non-integral Standby Electric Generator fuel tanks must comply with applicable municipal zoning ordinances and other Applicable Law;

(g) All Standby Electric Generators and their electrical lines and fuel lines must be maintained in good condition. In addition, the repairing, replacing and removal of any deteriorated or unsafe component of the Standby Electric Generator, including electrical or fuel lines, is required;

(h) Owners must screen the Standby Electric Generator if it is:

(i) Visible from the street faced by a residence; or

(ii) Located in an unfenced side or rear yard of a residence and is visible either from an adjoining Unit or from adjoining Common Element; or

(iii) Located in a fenced side or rear yard and is visible either from an adjoining Unit or from adjoining Common Elements (*i.e.*, through wrought iron or aluminum fencing);

(i) Any periodic testing of the Standby Electric Generator consistent with the manufacturer's recommendation must only be performed during the hours of 9:00 a.m. to 5:00 p.m., Monday through Saturday;

(j) Use of a Standby Electric Generator to generate all or substantially all of the electrical power to a Lot is strictly prohibited, except when utility-generated electrical power is not available or is intermittent due to causes other than nonpayment for utility service;

(k) No Standby Electric Generator shall be located on Common Elements; and

(l) No Standby Electric Generator may be installed prior to obtaining written approval pursuant to *Article 10*.

10.29. **Wireless Internet Systems.** A wireless Internet communication network ("WiFi System") may be installed or otherwise used in a Unit provided precautions are taken to insure against interfering with, disturbing, or intercepting computer, communications, or other permitted electronic signals, networks, or systems installed in other portions of the Regime. The Board may establish reasonable requirements relating to the installation of WiFi Systems that must be complied with, including, without limitation, requiring assurance from the installation of the system that proper precautions are being taken. Notwithstanding the foregoing, compliance with requirements relating to the installation of WiFi Systems is not a guarantee that any WiFi System installed or otherwise used in a Unit will not interfere with, disturb, or intercept other signals, networks, or systems within the Regime. The Association may require that any WiFi System found to cause such problems be terminated.

10.30. **Swimming Pool Enclosures.** Any swimming pool constructed within a Unit must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies all Applicable Law and be approved in advance by the 6 Creeks Reviewer. Nothing in this *Section 10.30* is intended or shall be construed to limit or affect an Owner's obligation to comply with any Applicable Law concerning swimming pool enclosure requirements. Unless otherwise approved in advance by the 6 Creeks Reviewer, above-ground or temporary swimming pools are not permitted within a Unit.

## **ARTICLE 11**

### **UNIT LEASING**

11.1. **Lease Conditions.** The leasing of Units is subject to the following conditions: (i) no Unit may be rented for transient or hotel purposes or for a period less than six (6) months;

(ii) not less than an entire Unit may be leased; (iii) all leases must be in writing and must be made subject to the Documents and the Master Documents; (iv) an Owner is responsible for providing the Owner's tenant with copies of the Documents and the Master Documents and notifying the tenant of changes thereto; and (v) each tenant is subject to and must comply with all provisions of the Documents, the Master Documents, and Applicable Law.

11.2. **Provisions Incorporated By Reference Into Lease.** Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

11.2.1. **Compliance with Documents and Master Documents.** The tenant shall comply with all provisions of the Documents and the Master Documents and shall control the conduct of all other Occupants and guests of the leased Unit, as applicable, in order to ensure such compliance. The Owner shall cause all Occupants of the Owner's Unit to comply with the Documents and the Master Documents and shall be responsible for all violations by such Occupants notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any such violation. If the tenant or Occupant violates the Documents or the Master Documents or a Rule for which a fine is imposed, notice of the violation shall be given to the Owner and the tenant and Occupants, and such fine may be assessed against the Owner or the tenant and Occupant. Unpaid fines shall constitute a lien against the Unit.

11.2.2. **Assignment of Rents.** If the Owner fails to pay any Assessment or any other charge against the Unit for a period of more than thirty (30) days after it is due and payable, then the Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency, and, upon request by the Board, tenant shall pay directly to the Association all unpaid Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by tenant. The tenant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by tenant shall reduce, by the same amount, tenant's obligation to make monthly rental payments to the Owner.

11.2.3. **Violation Constitutes Default.** Failure by the tenant or the tenant's guests to comply with the Documents, the Master Documents, or Applicable Law is deemed to be a default under the lease. When the Association notifies an Owner of such violation, the Owner will promptly obtain compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association or the Master Association will have the power and right to pursue the

remedies of a landlord under the lease or Applicable Law for the default, including eviction of the tenant.

11.2.4. Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Documents by the Association, each Owner appoints the Association as the Owner's attorney-in-fact, with full authority to act in the Owner's place in all respects, for the purpose of enforcing the Documents against the Owner's tenants, including but not limited to the authority to institute forcible detainer proceedings, provided the Association gives the Owner at least ten (10) days' notice, by certified mail, of its intent to so enforce the Documents. In addition, each Owner appoints the Master Association as the Owner's attorney-in-fact, with full authority to act in the Owner's place in all respects, for the purpose of enforcing the Master Documents against the Owner's tenants, including but not limited to the authority to institute forcible detainer proceedings, provided the Master Association gives the Owner at least 10 days' notice, by certified mail, of its intent to so enforce the Master Documents.

11.2.5. Association and Master Association Not Liable for Damages. The Owner of a leased Unit is liable to the Association or the Master Association, as applicable, for any expenses incurred by the Master Association or the Association in connection with enforcement of the Documents or the Master Documents against the Owner's tenant. NEITHER THE DECLARANT, THE ASSOCIATION, NOR THE MASTER ASSOCIATION, NOR THE RESPECTIVE PARTNERS, DIRECTORS, OFFICERS, COMMITTEES, AGENTS, AND EMPLOYEES OF SUCH ENTITIES SHALL BE LIABLE TO THE OWNER FOR ANY DAMAGES, INCLUDING LOST RENTS, SUFFERED BY THE OWNER IN RELATION TO THE MASTER ASSOCIATION'S OR THE ASSOCIATION'S ENFORCEMENT OF THE DOCUMENTS OR THE MASTER DOCUMENTS AGAINST THE OWNER'S TENANT.

## ARTICLE 12 ASSOCIATION OPERATIONS

12.1. **Board.** Unless the Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the Association means the Association acting through a Majority of the Board.

12.2. **Name.** A name is not the defining feature of the Association. The Association may operate under any name that is approved by the Board and: (i) Recorded as an assumed name, or (ii) filed with the Secretary of State of Texas as the name of the filing entity. Another legal entity with the same name as the Association, or with a name based on the name of the Property, is not the Association, which derives its authority from this Declaration. The name of the Association is not a trade name.

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

12.4. **Merger.** Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by the Owners holding at least two-thirds (2/3) of the votes allocated to Units and the Secretary of Veterans Affairs or its authorized agent. On the merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of Applicable Law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents, together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration.

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

12.6. **Manager.** The Board may delegate the performance of certain functions to one or more managers or managing agents of the Association. To assist the Board in determining whether to delegate a function, a Guide to Association's Major Management & Governance Functions is attached to this Declaration as Attachment "4" (the "**Guide**"). The Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Guide, however, may not be construed to create legal duties for the Association and its officers, directors, members, employees, and agents. Rather, the Guide is intended as a tool or an initial checklist for the Board to use periodically when considering a delegation of its functions. As a list of functions that owners associations commonly delegate to a manager, the Guide should not be considered as a complete list of the Board's duties, responsibilities, or functions. Notwithstanding any delegation of its functions, the Board is ultimately responsible to the Members for governance of the Association.

12.7. **The Association.** The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a condominium association

and a nonprofit corporation organized under Applicable Law, but expressly subject to any limitations on such powers set forth in the Documents. The Association comes into existence on issuance of its corporate charter. The Association will continue to exist until this Declaration is terminated as to all the Property.

12.8. **Books and Records.** The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to the requirements of Applicable Law.

12.9. **Indemnification.** The Association indemnifies every officer, director, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with any threatened or pending action, suit, or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a Common Expense, the Association may maintain general liability and directors' and officers' liability insurance to fund this obligation.

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

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

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

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

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

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

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

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

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

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

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

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

12.12. **Right of Action by Association.** The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for: (i) a Construction Claim, as defined in *Section 19.1.4* below, in the name of or on behalf of any Unit Owner (whether one or more); or (ii) the design or construction of a Unit (whether one or more) or any Improvement located thereon. The foregoing sentence is expressly intended to remove from the power of the Association the right, under Section 82.102 of the Act, to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings on behalf of two (2) or more Unit Owners on matters affecting the Regime. This *Section 12.12* may not be amended or modified without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument.

12.13. **Enforcement by Master Association.** The Master Association shall have the right, but not the obligation, to enforce any violation of the terms and provisions of the Documents. In the event the Master Association elects to enforce the Documents, and except in the case of an emergency (an emergency for the purpose of this *Section 12.13* shall mean any violation which may damage all or any portion of the Development or the "Property", as such term is defined in the Master Covenant, or cause physical injury to any Person), the Master Association will provide written notice to the Board, which notice will describe the violation in reasonable detail (the "**Violation Notice**"). If the Declarant or the Association fails to remedy the violation specified in the Violation Notice on or before the expiration or thirty (30) days after receipt of such notice, or fails to exercise diligent and good faith efforts to cause the violation to be corrected (which may include initiating appropriate enforcement actions against an Owner in accordance with the Documents), the Master Association may, but shall in no event have the obligation, to initiate enforcement actions against the Owner for such violation. If the Master Association initiates an enforcement action against an Owner, the Master Association will have the same enforcement and cost recovery rights reserved on behalf of the Association pursuant to this *Article 12*.

THE MASTER ASSOCIATION HAS NO DUTY OR OBLIGATION TO THE ASSOCIATION OR ANY OWNER, OCCUPANT OR THEIR GUESTS TO ENFORCE THE DOCUMENTS.

### **ARTICLE 13**

#### **ENFORCING THE DOCUMENTS**

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

within the preceding twelve (12) months. The Association may also give a copy of the notice to the Occupant. Pending the hearing, the Association may continue to exercise other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine or damage charge. The Owner may attend the hearing in person, or may be represented by another Person or by a written communication. The Board may adopt additional or alternative procedures and requirements for notices and hearings, provided they are consistent with Applicable Law.

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

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

13.2.2. **Fine.** The Association may levy reasonable charges, as an Individual Assessment, against an Owner and the Owner's Unit if the Owner or Occupant, or the Owner or Occupant's family, guests, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the Owner's obligations under the Documents.

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

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

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

13.3. **Board Discretion.** The Board may use its sole discretion in determining whether to pursue a violation of the Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances: (i) the Association's position is not sufficiently strong to justify taking any or further action; (ii) the provision being enforced is or may be construed as inconsistent with Applicable Law; (iii) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable Person or to justify expending the Association's resources; or (iv) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

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

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

13.6. **Release.** Subject to the Association's obligations under this Declaration, except as otherwise provided by the Documents, each Owner hereby releases, acquits and forever discharges the Association, and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns and agrees to hold such Persons harmless of and from any and all claims, damages, liabilities, costs and/or expenses (including reasonable attorneys' fees) relating to the construction of, repair or restoration of, or the sale to the Owners of the Units, or the Common Elements. This release shall release and forever discharge the Association and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns, from all claims and causes of action, whether statutory or under the common law, known or unknown, now accrued, or that arise in the future.

**ARTICLE 14**  
**INSURANCE**

14.1. **General Provisions.** The broad purpose of this Article is to require that the Property be insured with the types and amounts of coverage that are customary for similar types of properties and that are acceptable to mortgage lenders, guarantors, or insurers that finance the purchase or improvement of Units. The Board will make every reasonable effort to comply with Section 82.111 of the Act and the requirements of this Article.

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

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

14.1.3. **Requirements.** The cost of insurance coverage and bonds maintained by the Association is a Common Expense. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. The Association's policies should contain the standard mortgage clause naming either the Mortgagee or its servicer followed by "its successors and assigns." The loss payee clause should show the Association as trustee for each Owner and Mortgagee. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner. The Association's insurance policies will not be prejudiced by the act or omission of any Owner or Occupant who is not under the Association's control.

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

14.1.5. **Notice of Cancellation or Modification.** Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the Board before the policy may be canceled,

terminated, materially modified, or allowed to expire, by either the insurer or the insured. The Board will give to Mortgagees, and the insurer will give Mortgagees at least ten (10) days prior written notice of cancellation, termination, expiration, or material modification.

14.1.6. Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, and the amount thereof may not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the coverage limits required by this Declaration or an Underwriting Lender. In the event of an insured loss, the deductible is treated as a Common Expense of the Association in the same manner as the insurance premium. However, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner or Occupant or invitee, then the Board may levy an Individual Assessment against the Owner and the Owner's Unit for the amount of the deductible that is attributable to the act or omission, provided the Owner is given notice and an opportunity to be heard in accordance with *Section 13.1* of this Declaration.

14.2. Property Insurance. The Association will obtain blanket all-risk insurance if reasonably available, for all Common Elements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

14.2.1. Common Property Insured. If insurable, the Association will insure: (i) General Common Elements; (ii) Limited Common Elements assigned to more than one (1) Unit; and (iii) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

14.2.2. Units Not Insured by Association. In no event will the Association maintain property insurance on the Units. Accordingly, each Owner of a Unit will be obligated to maintain property insurance on such Owner's Unit and any Limited Common Elements assigned exclusively to such Owner's Unit, including any betterments and Improvements constructed within or exclusively serving such Unit, in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. In addition, the Association does not insure an Owner or Occupant's personal property. THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH OWNER AND OCCUPANT PURCHASE AND MAINTAIN INSURANCE ON THEIR PERSONAL BELONGINGS.

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

Lender, such as Inflation Guard Endorsement, Building Ordinance or Law Endorsement, and a Special Condominium Endorsement.

14.3. **Liability Insurance.** The Association will maintain a commercial general liability insurance policy over the Common Elements – expressly excluding the liability of each Owner and Occupant within their Unit – for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Elements. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer’s denial of an Owner’s claim because of negligent acts of the Association or other Owners.

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

14.5. **Fidelity Coverage.** The Association may maintain blanket fidelity coverage for any Person who handles or is responsible for funds held or administered by the Association, whether or not the Person is paid for his services. The policy should be for an amount that exceeds the greater of: (i) the estimated maximum funds, including reserve funds, that will be in the Association’s custody at any time the policy is in force; or (ii) an amount equal to three (3) months of Regular Assessments on all Units. A management agent that handles Association funds should be covered for its own fidelity insurance policy with the same coverages.

14.6. **Directors and Officers Liability.** The Association may maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association’s directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

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

## **ARTICLE 15**

### **RECONSTRUCTION OR REPAIR AFTER LOSS**

15.1. **Subject To Act.** The Association’s response to damage or destruction of the Property will be governed by Section 82.111(i) of the Act. The following provisions apply to the extent the Act is silent.

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

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

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

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

15.3. Costs And Plans.

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

15.3.2. Plans and Specifications. Unless otherwise approved by the Board, Common Elements will be repaired and restored substantially as they existed immediately prior to the damage or destruction.

15.4. Owner's Duty to Repair. Within sixty (60) days after the date of damage, the Owner will begin repair or reconstruction of the Improvements constructed on the Owner's Unit, subject to the right of the Association and the 6 Creeks Reviewer to supervise, approve, or disapprove repair or restoration during the course thereof. Unless otherwise approved by the 6 Creeks Reviewer, the residence must be repaired and restored substantially in accordance with original construction plans and specifications.

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

**ARTICLE 16**  
**TERMINATION AND CONDEMNATION**

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

16.2. **Termination.** Termination of the terms of this Declaration and the Regime will be governed by Section 82.068 of the Act and *Section 17.4* below.

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

**ARTICLE 17**  
**MORTGAGEE PROTECTION**

17.1. **Introduction.** This *Article 17* is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. A provision of the Documents requiring the approval of a specified percentage of Mortgagees will be based on the number of Units subject to mortgages held by Mortgagees. For example, "51 percent of Mortgagees" means Mortgagees of fifty-one percent (51%) of the Units that are subject to mortgages held by Mortgagees.

17.2. **Notice of Mortgage.** As provided in this *Article 17*, the Association is required to provide each Mortgagee with written notice upon the occurrence of certain actions as described in *Section 17.8*, or to obtain the approval of Mortgagees in the event of certain amendments to this Declaration as described in *Section 17.9* or the termination of this Declaration as described in *Section 17.4*. To enable the Association to provide the notices and obtain such approval, each Owner must provide to the Association the complete name and address of such Owner's Mortgagee, including the loan number and such additional

information concerning the Owner's Mortgagee as the Association may reasonably require. In the event an Owner fails to provide the Association with the information required by this *Section 17.2* after the expiration of thirty (30) days after the Association's written request, the Owner's failure to provide such information will be considered a violation of the terms and provisions of this Declaration.

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

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

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

17.6. **Other Mortgagee Rights.**

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

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

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

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

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

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

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

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

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

- (i) Voting rights.
- (ii) Assessment liens or the priority of assessment liens.

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

## ARTICLE 18 AMENDMENTS

18.1. **Consents Required.** As permitted by the Act or by this Declaration, certain amendments to this Declaration may be executed by Declarant acting alone, or by certain Owners acting alone, or by the Board acting alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association. Notwithstanding any provisions in this Declaration to the contrary, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) provision of this Declaration that benefits Declarant; (ii) rights, privileges, easements, protections, or defenses of Declarant; or (iii) rights of the Owners or the Association in relationship to Declarant, without the written consent of Declarant attached to and Recorded with such amendment. Notice of any amendment to the Declaration which must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association shall be delivered to each Member in accordance with the Bylaws. In the event the Regime is submitted and approved by the

Secretary of Veterans Affairs, all amendments made to the Declaration, Bylaws, or Certificate during the Development Period must be approved by the Secretary of Veterans Affairs or its authorized agent prior to Recording.

In addition, a change to any provision in the Declaration governing the following items must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association:

- (i) Merging or consolidating the Association (other than with another non-profit entity formed for purposes similar to the Association pursuant to *Section 12.7*).
- (ii) Any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of Improvements on Units.
- (iii) The addition of land to the Declaration if the addition would increase the overall land area then subject to the Declaration by more than ten percent (10%).
- (iv) Abandoning, partitioning, encumbering, mortgaging, conveying selling or otherwise transferring or relocating the boundaries of Common Elements with the exception of: (a) granting easements over and across the Common Elements otherwise permitted by this Declaration or the Act; (b) dedicating all or any portion of a Common Element to the extent required by any governing authority or regulatory authority; (c) adjustments to the boundary line of Common Elements if made in accordance with the provisions of this Declaration; or (d) transferring Common Elements pursuant to a merger or consolidation with another entity.
- (v) Any capital expenditure, other than for the maintenance, operation, repair or replacement of any then existing Improvement, if the capital expenditure exceeds more than twenty percent (20%) of the annual operating budget during any period of twelve (12) consecutive months.

18.2. **Amendments Generally.** For amendments requiring the consent of Mortgagees, the Association will send each Mortgagee a detailed description, if not the exact wording, of any proposed amendment. Notwithstanding any provisions in this Declaration to the contrary, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) provision of this Declaration that benefits the Declarant, the 6 Creeks Reviewer or the Master Association; (ii) rights, privileges, easements, protections, or defenses of the Declarant, the 6 Creeks Reviewer or the Master Association; or (iii) rights of the Owners or the Association in relationship to the Declarant, the 6 Creeks Reviewer or the Master Association without the written consent of the Declarant, the 6 Creeks Reviewer or the Master Association, as applicable, attached to and Recorded with such amendment. In addition, no amendment to this Declaration shall modify, alter, abridge or delete any: (a) permissible use of a Unit absent the consent of the Owner(s) of the Unit affected by the change in permissible use; or (b) any license, easement or other

contractual rights contained in this Declaration, including, without limitation, any easement, right and license benefiting or in favor of the Declarant, the 6 Creeks Reviewer or the Master Association without the written consent of the Declarant, the 6 Creeks Reviewer or the Master Association, as applicable.

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

18.4. **Declarant Rights.** Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in Appendix "A". An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. No amendment may affect the rights of the Declarant under this Declaration, the Master Covenant, or the Act without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument. Because Appendix "A" of this Declaration is destined to become obsolete, beginning seven (7) years after the date this Declaration is first Recorded, the Board may restate, rerecord, or publish this Declaration without Appendix "A". The automatic expiration and subsequent deletion of Appendix "A" does not constitute an amendment of this Declaration. This *Section 18.4* may not be amended without Declarant's written and acknowledged consent.

**ARTICLE 19**  
**DISPUTE RESOLUTION**

*This Article 19 is intended to encourage the resolution of disputes involving the Property. A dispute regarding the Common Elements and/or Improvements can create significant financial exposure for the Association and its Members, interfere with the resale and refinancing of Units, prevent or jeopardize approval of the Units by Underwriting Lenders, and increase strife and tension among the Owners, the Board and the Association's management. Since disputes may have a direct effect on each Owner's use and enjoyment of the Common Elements, this Article 19 requires Owner transparency and participation in certain circumstances. Transparency means that the Owners are informed in advance about a dispute, the proposed arrangement between the Association and a law firm or attorney who will represent the Association in the dispute, the proposed arrangement between the Association and any inspection company who will prepare the Common Element Report (as defined below) or perform any other investigation or inspection of the Common Elements and/or Improvements related to the dispute, and that each Owner will have an opportunity to participate in the decision-making process prior to initiating the dispute resolution process.*

*For the avoidance of doubt, nothing in this Article 19 is intended to limit the Association's right or obligation to obtain inspection services related to the maintenance, repair and physical condition of the Regime pursuant to Section 9.3 of this Declaration.*

19.1. **Introduction and Definitions.** The Association, Declarant, all Persons subject to this Declaration, and each person not otherwise subject to this Declaration who agrees to submit to this Article 19 by written instrument delivered to the Claimant, which may include, but is not limited to, a general contractor, sub-contractor, design professional, or other person who participated in the design or construction of Common Elements or any Improvement within, serving, or forming a part of the Regime (individually a "Party" and collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation and arbitration if at all possible. **Accordingly, each Party hereby covenants and agrees that this Article 19 applies to all Claims as hereafter defined.** This Article 19 may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding one-hundred percent (100%) of the votes in the Association. As used in this Article 19 only, the following words, when capitalized, have the following specified meanings:

19.1.1. "Claim" means:

- (iv) Claims relating to the rights and/or duties of Declarant or its permitted assigns, the Association, or the Master Association under the Documents or the Act;
- (v) Claims relating to the acts or omissions of the Declarant, the Board, or the Master Board during any such party's control and administration of the Association, the

Master Association and/or Regime, any claim asserted against the 6 Creeks Reviewer, and any claims asserted against the Declarant, the Master Board, or the Board or a Person serving as a Board member or an officer of the Association or Master Association, or the 6 Creeks Reviewer;

- (vi) Claims relating to the design or construction of the Common Elements or any Improvement located thereon; and
- (vii) Claims relating to any repair or alteration of the Common Elements, or any Improvement located thereon, including any Claims related to an alleged failure to perform repairs or for a breach of warranty.

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

19.1.3. **"Common Element Construction Claim"** means a Claim relating to: (i) the design or construction of the Common Elements or any Improvement located thereon; or (ii) any repair or alteration of the Common Elements, or any Improvement located thereon, including any Claims related to an alleged failure to perform repairs or for a breach of warranty.

19.1.4. **"Construction Claim"** means a Claim defined in *Section 19.1.1(iii)* or *Section 19.1.1(iv)*.

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

19.2. **Mandatory Procedures: All Claims.** Claimant may not initiate any proceeding before any judge, jury, arbitrator or any other judicial or administrative tribunal seeking redress of resolution of its Claim until Claimant has complied with the mandatory procedures of this *Article 19*. As provided in *Section 19.9* below, a Claim must be resolved by binding arbitration.

19.3. **Mandatory Procedures: Construction Claims.** Failure of a Claimant to comply with the procedures of this *Article 19* for a Construction Claim may result in significant expenses incurred by the Respondent to respond to a Construction Claim that would not have been otherwise incurred had the Claimant followed the procedures and dispute resolution process set forth herein, including attorney fees, court costs and other administrative expenses (the **"Response Costs"**). Notwithstanding any provision contained herein to the contrary, failure by a Claimant to comply with any of the procedural or dispute resolution requirements for a Construction Claim set forth in this *Article 19* shall constitute a material breach of this Declaration and any warranty agreement, entitling the Respondent to recover, from the Claimant, all actual and reasonable Response Costs incurred by Respondent. Moreover, strict compliance with the procedural and dispute resolution requirements of this *Article 19* shall be a condition precedent to any recovery for a Construction Claim.

19.4. **Common Element Construction Claim by the Association.** In accordance with *Section 12.12* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation, arbitration or other proceedings for: (i) a Construction Claim in the name of or on behalf of any Unit Owner (whether one or more); or (ii) the design or construction of a Unit (whether one or more) or any Improvement located thereon. Additionally, no Unit Owner shall have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim. Each Unit Owner, by accepting an interest in or title to a Unit, hereby grants to the Association the exclusive right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim. In the event the Association asserts a Common Element Construction Claim, as a precondition to providing the Notice defined in *Section 19.6*, initiating the mandatory dispute resolution procedures set forth in this *Article 19*, or taking any other action to prosecute a Common Element Construction Claim, the Association must:

19.4.1. **Obtain Owner Approval of Law Firm, Attorney and Inspection Company.**

*The requirements related to Owner approval set forth in this Section 19.4.1 are intended to ensure that the Association and the Owners approve and are fully informed of the financial arrangements between the Association and a law firm and/or attorney engaged by the Association to prosecute a Common Element Construction Claim, and any financial arrangements between the Association and the Inspection Company (defined below) or a law firm and/or attorney and the Inspection Company. The agreement between the Association, the law firm or attorney, and/or the Inspection Company may include requirements that the Association pay costs, fees, and expenses to the law firm, attorney, or the Inspection Company which will be paid through Assessments levied against Owners. The financial agreement between the Association, the law firm or attorney, and/or the Inspection Company may also include obligations related to payment, and the conditions and circumstances when the payment obligations arise, if the relationship between the Association, the law firm or attorney, and/or the Inspection Company is terminated, the Association elects not to engage the law firm or attorney or Inspection Company to prosecute or assist with the Common Element Construction Claim, or if the Association agrees to settle the Common Element Construction Claim. In addition, the financial arrangement between the Association, the law firm or attorney, and/or the Inspection Company may include additional costs, expenses, and interest charges. These financial obligations can be significant. The Board may not engage or execute an agreement with a law firm or attorney to investigate or prosecute a Common Element Construction Claim, or engage or execute an agreement between the Association and a law firm or attorney, for the purpose of preparing a Common Element Report or performing any other investigation or inspection of the Common Elements related to a Common Element Construction Claim unless the law firm or attorney and the financial arrangements between the Association and the law firm or attorney are approved by the Owners in accordance with this Section 19.4.1. In addition, the Board may not execute an agreement with an Inspection*

Company to prepare the Common Element Report or perform any other investigation or inspection of the Common Elements related to a Common Element Construction Claim, unless the Inspection Company and the financial arrangements between the Association and the Inspection Company are approved by the Owners in accordance with this Section 19.4.1. For the purpose of the Owner approval required by this Section 19.4.1, an engagement, agreement or arrangement between a law firm or attorney and an Inspection Company, if such engagement, agreement or arrangement could result in any financial obligations to the Association, irrespective of whether the Association and law firm or attorney have entered into an engagement or other agreement to prosecute a Common Element Construction Claim, must also be approved by the Owners in accordance with this Section 19.4.1. An engagement or agreement described in this paragraph is referred to herein as a "Claim Agreement".

Unless otherwise approved by Members holding sixty-seven percent (67%) of the votes in the Association, the Association, acting through its Board, shall in no event have the authority to enter into a Claim Agreement if the Claim Agreement includes any provision or requirement that would obligate the Association to pay any costs, expenses, fees, or other charges to the law firm or attorney and/or the Inspection Company, including but not limited to, costs, expenses, fees, or other charges payable by the Association: (i) if the Association terminates the Claim Agreement or engages another firm or third-party to assist with the Common Element Construction Claim; (ii) if the Association elects not to enter into a Claim Agreement; (iii) if the Association agrees to settle the Common Element Construction Claim for a cash payment or in exchange for repairs or remediation performed by the Respondent or any other third-party; (iv) if the Association agrees to pay interest on any costs or expenses incurred by the law firm or attorney or the Inspection Company; and/or (v) for consultants, expert witnesses, and/or general contractors hired by the law firm or attorney or the Inspection Company. For avoidance of doubt, it is intended that Members holding sixty-seven percent (67%) of the votes in the Association must approve the law firm and attorney who will prosecute a Common Element Construction Claim and the Inspection Company who will prepare the Common Element Report or perform any other investigation or inspection of the Common Elements related to a Common Element Construction Claim, and each Claim Agreement. All Claim Agreements must be in writing. The Board shall not have the authority to pay any costs, expenses, fees, or other charges to a law firm, attorney or the Inspection Company unless the Claim Agreement is in writing and approved by the Owners in accordance with this Section 19.4.1.

The approval of the Members required under this *Section 19.4.1* must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of Member meeting will be provided pursuant to the Bylaws but the notice must also include: (a) the name of the law firm and attorney and/or the Inspection Company; (b) a copy of each Claim Agreement; (c) a narrative summary of the types of costs, expenses, fees, or other charges that may be required to be paid by the Association under any Claim Agreement; (d) the conditions upon which such types of costs, expenses, fees, or other charges are required to be paid by the Association under any Claim Agreement; (e) an estimate of the costs, expenses, fees, or other charges that may be required to be paid by the Association if the conditions for payment under the Claim Agreement occur, which

estimate shall be expressed as a range for each type of cost, expense, fee, or other charge; and (f) a description of the process the law firm, attorney and/or the Inspection Company will use to evaluate the Common Element Construction Claim and whether destructive testing will be required (i.e., the removal of all or portions of the Buildings, Common Elements, Units, or Improvements). If destructive testing will be required or is likely to occur, the notice shall include a description of the destructive testing, likely locations of the destructive testing, whether the Owner's use of their Units or the Common Elements will be affected by such testing, and if the destructive testing occurs the means or method the Association will use to repair the Buildings, Common Elements, Units, or Improvements affected by such testing, the estimated costs thereof, and an estimate of Assessments that may be levied against the Owners for such repairs. The notice required by this paragraph must be prepared and signed by a person other than the law firm or attorney who is a party to the proposed Claim Agreement being approved by the Members. In the event Members holding sixty-seven percent (67%) of the votes in the Association approve the law firm and/or attorney who will prosecute the Common Element Construction Claim, and the Inspection Company who will prepare the Common Element Report or perform any other investigation or inspection of the Common Elements related to a Common Element Construction Claim, and the Claim Agreement(s), the Board shall have the authority to engage the law firm and/or attorney, and the Inspection Company, and enter into the Claim Agreement approved by the Members.

19.4.2. Provide Notice of the Investigation or Inspection.

As provided in *Section 19.4.3* below, a Common Element Report is required which is a written inspection report issued by the Inspection Company. Before conducting an investigation or inspection that is required to be memorialized by the Common Element Report, the Association must have provided at least ten (10) days prior written notice of the date on which the investigation or inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Common Element Report, the specific Common Elements to be investigated or inspected, and the date and time the investigation or inspection will occur. Each Respondent may attend the investigation or inspection, personally or through an agent.

19.4.3. Obtain a Common Element Report.

*The requirements related to the Common Element Report set forth in this Section 19.4.3 are intended to provide assurance to the Claimant, Respondent, and the Owners that the substance and conclusions of the Common Element Report and recommendations are not affected by influences that may compromise the professional judgment of the party preparing the Common Element Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Common Element Report is compromised.*

Obtain a written independent third-party report for the Common Elements (the "Common Element Report") from a professional engineer licensed by the Texas Board of Professional Engineers with an office located in Hays County, Texas (the "Inspection

**Company**”). The Common Element Report must include: (i) a description with photographs of the Common Elements subject to the Common Element Construction Claim; (ii) a description of the present physical condition of the Common Elements subject to the Common Element Construction Claim; (iii) a detailed description of any modifications, maintenance, or repairs to the Common Elements performed by the Association or a third-party, including any Respondent; and (iv) specific and detailed recommendations regarding remediation and/or repair of the Common Elements subject to the Common Element Construction Claim. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Common Element Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Hays County, Texas, and each such contractor providing the estimate must hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Common Element Report must be obtained by the Association. The Common Element Report will not satisfy the requirements of this Section and is not an “independent” report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Association or proposes to represent the Association; (b) the costs and expenses for preparation of the Common Element Report are not required to be paid directly by the Association to the Inspection Company at the time the Common Element Report is finalized and delivered to the Association; or (c) the law firm or attorney that presently represents the Association or proposes to represent the Association has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Association’s agreement with the law firm or attorney) the Association for the costs and expenses for preparation of the Common Element Report. For avoidance of doubt, an “independent” report means that the Association has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Association will directly pay for the report at the time the Common Element Report is finalized and delivered to the Association.

19.4.4. Provide a Copy of Common Element Report to all Respondents and Owners. Upon completion of the Common Element Report, and in any event no later than three (3) days after the Association has been provided a copy of the Common Element Report, the Association will provide a full and complete copy of the Common Element Report to each Respondent and to each Owner. The Association shall maintain a written record of each Respondent and Owner who was provided a copy of the Common Element Report which will include the date the report was provided. The Common Element Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

19.4.5. Provide a Right to Cure Defects and/or Deficiencies Noted on Common Element Report. Commencing on the date the Common Element Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Common Element Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Common Element Report; and (iii) correct any condition identified in the Common Element Report. As provided in *Section 3.10* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Common Element Report.

19.4.6. Hold Owner Meeting and Obtain Approval. In addition to obtaining approval from Members for the terms of any Claim Agreement, the Association must obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to provide the Notice described in *Section 19.6*, initiate the mandatory dispute resolution procedures set forth in this *Article 19*, or take any other action to prosecute a Common Element Construction Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Common Element Construction Claim, the relief sought, the anticipated duration of prosecuting the Common Element Construction Claim, and the likelihood of success; (ii) a copy of the Common Element Report; (iii) a copy of any Claim Agreement between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the Common Element Construction Claim; (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which the Association may be liable as a result of prosecuting the Common Element Construction Claim; (v) a summary of the steps previously taken by the Association to resolve the Common Element Construction Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Common Element Construction Claim may affect the market value, marketability, or refinancing of a Unit while the Common Element Construction Claim is prosecuted; and (vii) a description of the manner in which the Association proposes to fund the cost of prosecuting the Common Element Construction Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the attorney who represents or will represent the Association in the Common Element Construction Claim; (b) a member of the law firm of the attorney who represents or will represent the Association in the Common Element Construction Claim; or (c) employed by or otherwise affiliated with the law firm of the attorney who represents or will represent the Association in the Common Element Construction Claim. In the event Members approve providing the Notice described in *Section 19.6*, or taking any other action to prosecute a Common Element Construction Claim, the Members holding a Majority of the votes in the

Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Common Element Construction Claim.

19.5. **Claims by Owners.** Class action proceedings are prohibited, and no Unit Owner shall be entitled to prosecute, participate, initiate, or join any litigation, arbitration or other proceedings as a class member or class representative in any such proceedings under this Declaration. Pursuant to *Section 19.4* above, a Unit Owner does not have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim. In the event that a court of competent jurisdiction or arbitrator determines that a Unit Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim, such Unit Owner shall be required, since a Common Element Construction Claim could affect all Owners, as a precondition to providing the Notice defined in *Section 19.6*, initiating the mandatory dispute resolution procedures set forth in this *Article 19*, or taking any other action to prosecute a Common Element Construction Claim, to comply with the requirements imposed by the Association in accordance with *Section 19.4.2* (Provide Notice of Inspection), *Section 19.4.3* (Obtain a Common Element Report), *Section 19.4.4* (Provide a Copy of Common Element Report to all Respondents and Owners), *Section 19.4.5* (Provide Right to Cure Defects and/or Deficiencies Noted on Common Element Report), *Section 19.4.6* (Owner Meeting and Approval), and *Section 19.6* (Notice).

19.6. **Notice.** Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (*i.e.*, the provision of the Documents or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this *Section 19.6*. For Construction Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 19.7* below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Construction Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 19.7*, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. *Section 19.7* does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Construction Claim. The one hundred and twenty (120) day period for mediation set forth in *Section 19.8* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 19.8* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association and for a Common Element Construction Claim, the Notice will also include: (a) a true and correct copy of the Common Element Report, and any and all other reports, studies, analyses, and recommendations obtained by the Association related to the Common Elements; (b) a copy of any Claim Agreement; (c) reasonable and

credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved the law firm and attorney and the written agreement between the Association and the law firm and/or attorney in accordance with *Section 19.4.1*; (d) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 19.4.6* above; and I reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice.

19.7. **Notice.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property.

19.8. **Mediation.** If the parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the thirty (30) day period, Respondent will submit the Claim to mediation in accordance with this *Section 19.8*. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, Respondent or Claimant may initiate arbitration proceedings in accordance with *Section 19.9*.

19.9. **Binding Arbitration – Claims.** All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 19.9*.

19.9.1. **Governing Rules.** If a Claim has not been resolved by mediation in accordance with *Section 19.8*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 19.9* and the American Arbitration Association (the "AAA") Construction Industry Arbitration Rules and Mediation Procedures and, if applicable, the rules contained in the AAA Supplementary Procedures for Consumer Related Disputes, as each are supplemented or modified by AAA (collectively, the Construction Industry Arbitration Rules and Mediation Procedures and AAA Supplementary Procedures for Consumer Related Disputes are referred to herein as the "AAA Rules"). In the event of any inconsistency between the AAA Rules and this *Section 19.9*, this *Section 19.9* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court

having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows: (i) one (1) arbitrator shall be selected by the Respondent, in its sole and absolute discretion; (ii) one (1) arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and (iii) one (1) arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

19.9.2. Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 19.9* will limit the right of Claimant or Respondent, and Claimant and Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party, to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

19.9.3. Statute of Limitations. All statutes of limitations that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 19.9*.

19.9.4. Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the Applicable Law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this *Section 19.9* and subject to *Section 19.10*; **provided, however, attorney's fees and costs may not be awarded by the arbitrator to either Claimant or Respondent.** In addition, for a Construction Claim, or any portion of a Construction Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code, **except that the arbitrator may not award attorney's fees and/or costs to either Claimant or Respondent.** In all arbitration proceedings, the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on: (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of Applicable Law; or (iv) a cause of action or remedy not expressly provided under Applicable Law. **In no event may an arbitrator award speculative, special, exemplary, treble or punitive damages for any Claim.**

19.9.5. **Other Matters.** To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration. Arbitration proceedings hereunder shall be conducted in Hays County, Texas. Unless otherwise provided by this *Section 19.9*, the arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Claimant and Respondent agree to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law. In no event shall Claimant or Respondent discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

19.10. **Allocation of Costs.** Notwithstanding any provision in this Declaration to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

19.11. **General Provisions.** A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

19.12. **Period of Limitation.**

19.12.1. **For Actions by an Owner or Occupant of a Unit.** The exclusive period of limitation for any of the Parties to bring any Claim shall be the earliest of: (i) for a Construction Claim, two (2) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Construction Claim; (ii) for Claims other than Construction Claims, four (4) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In the event that a court of competent jurisdiction determines that a Unit Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim, the exclusive period of limitation for such Common Element Construction Claim, shall be the earliest of: (a) two (2) years and one (1) day from the date that the Owner or the Association discovered or reasonably should have discovered evidence of the Common Element Construction Claim; or (b) the applicable statute of limitations for the Common Element Construction Claim. In no event shall this *Section 19.12.1* be interpreted to extend any period of limitations.

19.12.2. For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim shall be the earliest of: (i) for a Common Element Construction Claim, two (2) years and one (1) day from the date that the Association or its manager, board members, officers, or agents discovered or reasonably should have discovered evidence of the Common Element Construction Claim; (ii) for Claims other than a Common Element Construction Claim, four (4) years and one (1) day from the date that the Association or its manager, board members, officers, or agents discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In no event shall this *Section 19.12.2* be interpreted to extend any period of limitations.

19.13. Funding the Resolution of Claims. The Association must levy a Special Assessment to fund estimated costs to resolve a Construction Claim pursuant to this *Article 19*. The Association may not use its annual operating income or reserve funds to fund the costs to resolve a Construction Claim unless the Association has previously established and funded a dispute resolution fund.

## **ARTICLE 20**

### **GENERAL PROVISIONS**

20.1. Supremacy of Master Covenant. Every Owner, by acceptance of deed to a Unit, acknowledges that, in addition to being subject to and bound by this Declaration, he or she is subject to the Master Covenant and the Master Documents. In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws, or the Certificate, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Master Covenant and the Master Documents. The Association and all committees thereof shall also be subject to all superior rights and powers that have been conferred upon the Master Association, pursuant to the Master Covenant and the Master Documents, and as such, decisions made from time to time by the Master Association may affect the rights and interests of an Owner or Occupant. The Association shall take no action in derogation of the rights of or contrary to the interests of the Master Association.

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

20.3. **Integration into Master Plan Development.** The Regime is subject to all terms, conditions and restrictions set forth in the Master Documents. The Master Documents may be amended in accordance with the terms and provisions thereof, from time to time, and such amendments shall be binding and enforceable against all Owners.

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

20.5. **Captions.** In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

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

20.7. **Compliance.** The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and Applicable Law.

20.8. **Higher Authority.** The Documents are subordinate to Applicable Law. Generally, the terms of the Documents are enforceable to the extent they do not violate or conflict with Applicable Law.

20.9. **Duration.** Unless terminated or amended by Owners or Declarant as permitted herein, the provisions of this Declaration run with and bind the Regime, and will remain in effect perpetually to the extent permitted by Applicable Law.

20.10. **Appendix / Attachments.** The following appendixes and exhibits are attached to this Declaration and are incorporated herein by reference:

Exhibit "A"	The Property
Attachment "1"	Condominium Plats and Plans
Attachment "2"	Encumbrances
Attachment "3"	Common Interest Allocation and Votes
Attachment "4"	Guide to the Association's Examination of Common Elements
Attachment "5"	Guide to Association's Major Management and Governance Functions
Attachment "6"	Maintenance Responsibility Chart
Appendix "A"	Declarant Reservations

*[SIGNATURE PAGE FOLLOWS]*



**ACKNOWLEDGED AND AGREED FOR  
PURPOSES OF SECTION 3.13 OF THIS DECLARATION**

**MASTER ASSOCIATION:**

**6 CREEKS MASTER COMMUNITY, INC.,**  
a Texas nonprofit corporation

By: \_\_\_\_\_

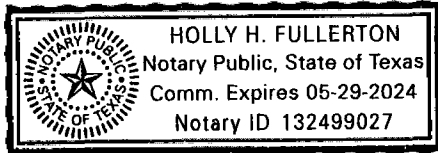
Jay Hanna, President

THE STATE OF TEXAS     §  
   §  
COUNTY OF Travis     §

This instrument was acknowledged before me this 24 day of October 2022, by Jay Hanna, President of 6 CREEKS MASTER COMMUNITY, INC., a Texas nonprofit corporation, on behalf of said corporation.

(SEAL)

*Holly H. Fullerton*



**EXHIBIT A**  
**PROPERTY**

Lots 85, 86, 87, 88 and 89, Block G, 6 Creeks, Phase 1, Section 6A, Document No. 22048777 in the Official Public Records of Hays County, Texas,

EXHIBIT "A"

6 CREEKS CONDOMINIUMS  
DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

**ATTACHMENT "1"**

**CONDOMINIUM PLATS AND PLANS**

The plats and plans, attached hereto as Attachment "1" contains the information required by the Texas Uniform Condominium Act.

Printed Name: David A. Casanova  
RPLS or License No. 4251

*SEE NEXT PAGE FOR ORIGINAL CERTIFICATION*

ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

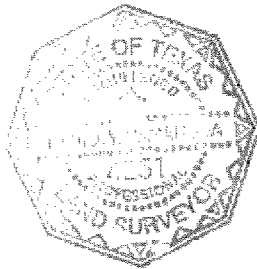
EXHIBIT "A"  
6 CREEKS CONDOMINIUMS  
(CONDOMINIUM PLATS AND PLANS)

(CERTIFICATION)

THE PLATS, ATTACHED HERETO, CONTAIN THE  
INFORMATION REQUIRED BY SECTIONS 82.059 OF THE  
TEXAS UNIFORM CONDOMINIUM ACT, AS APPLICABLE.



DAVID A. CASANOVA  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4251  
DCASANOVA@PAPE-DAWSON.COM



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REVISED: AUGUST 2022

JOB NO. 9117-21  
DATE JULY 2021  
DESIGNER  
CHECKED DAC DRAWN MLH  
SHEET 1 of 17

6 CREEKS  
CONDOMINIUMS  
KYLE, HAYS COUNTY, TEXAS

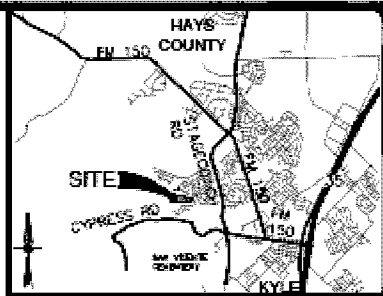
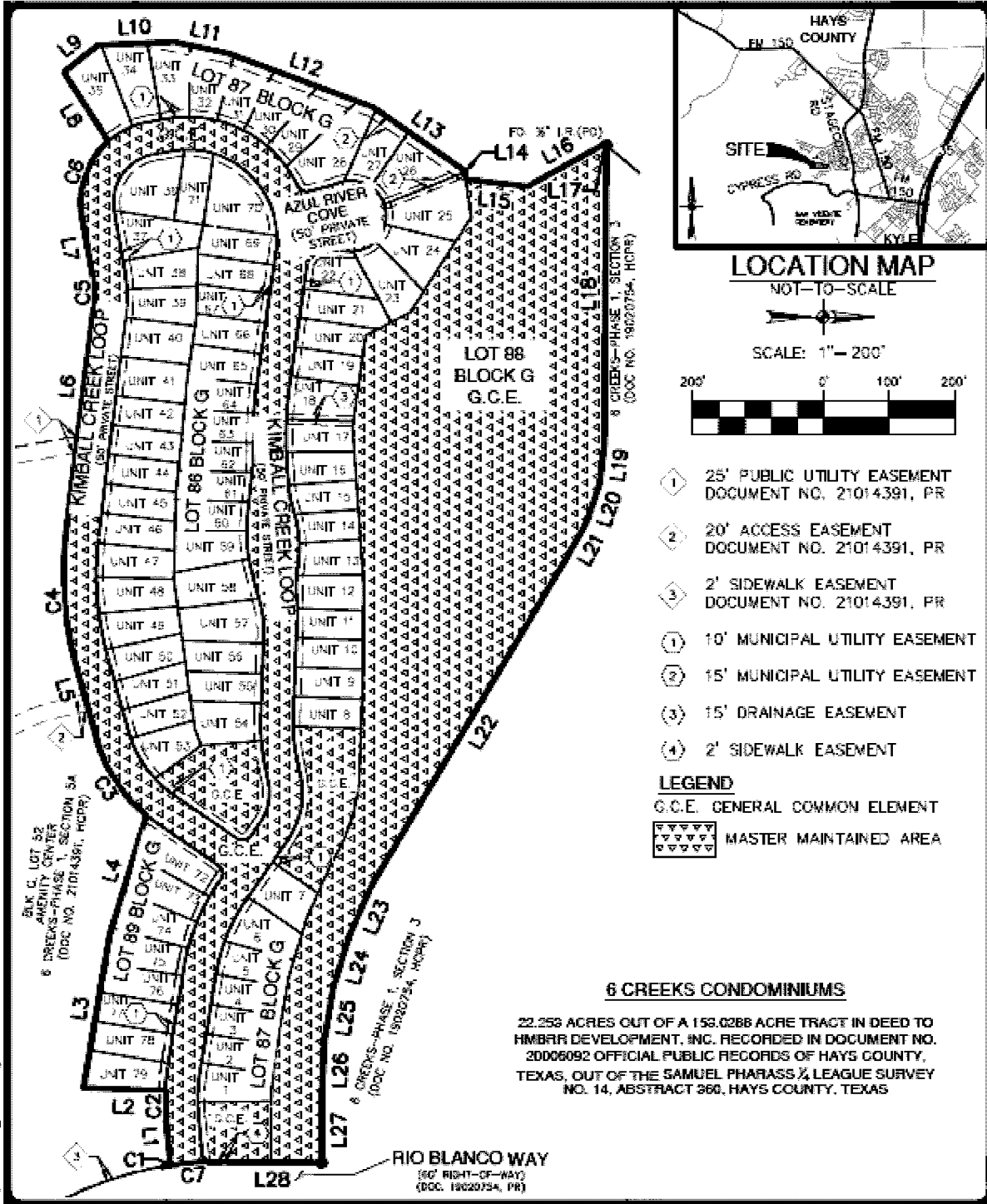


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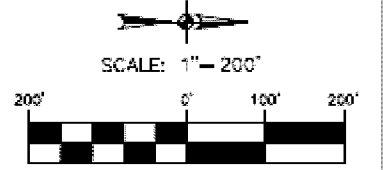
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**LOCATION MAP**  
NOT-TO-SCALE



- ① 25' PUBLIC UTILITY EASEMENT  
DOCUMENT NO. 21014391, PR
- ② 20' ACCESS EASEMENT  
DOCUMENT NO. 21014391, PR
- ③ 2' SIDEWALK EASEMENT  
DOCUMENT NO. 21014391, PR
- ④ 10' MUNICIPAL UTILITY EASEMENT
- ⑤ 15' MUNICIPAL UTILITY EASEMENT
- ⑥ 15' DRAINAGE EASEMENT
- ⑦ 2' SIDEWALK EASEMENT

**LEGEND**  
 G.C.E. GENERAL COMMON ELEMENT  
 MASTER MAINTAINED AREA

**6 CREEKS CONDOMINIUMS**  
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Job No. 5117-21  
 Date July 2021  
 Designer  
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 SHEET 2 of 17

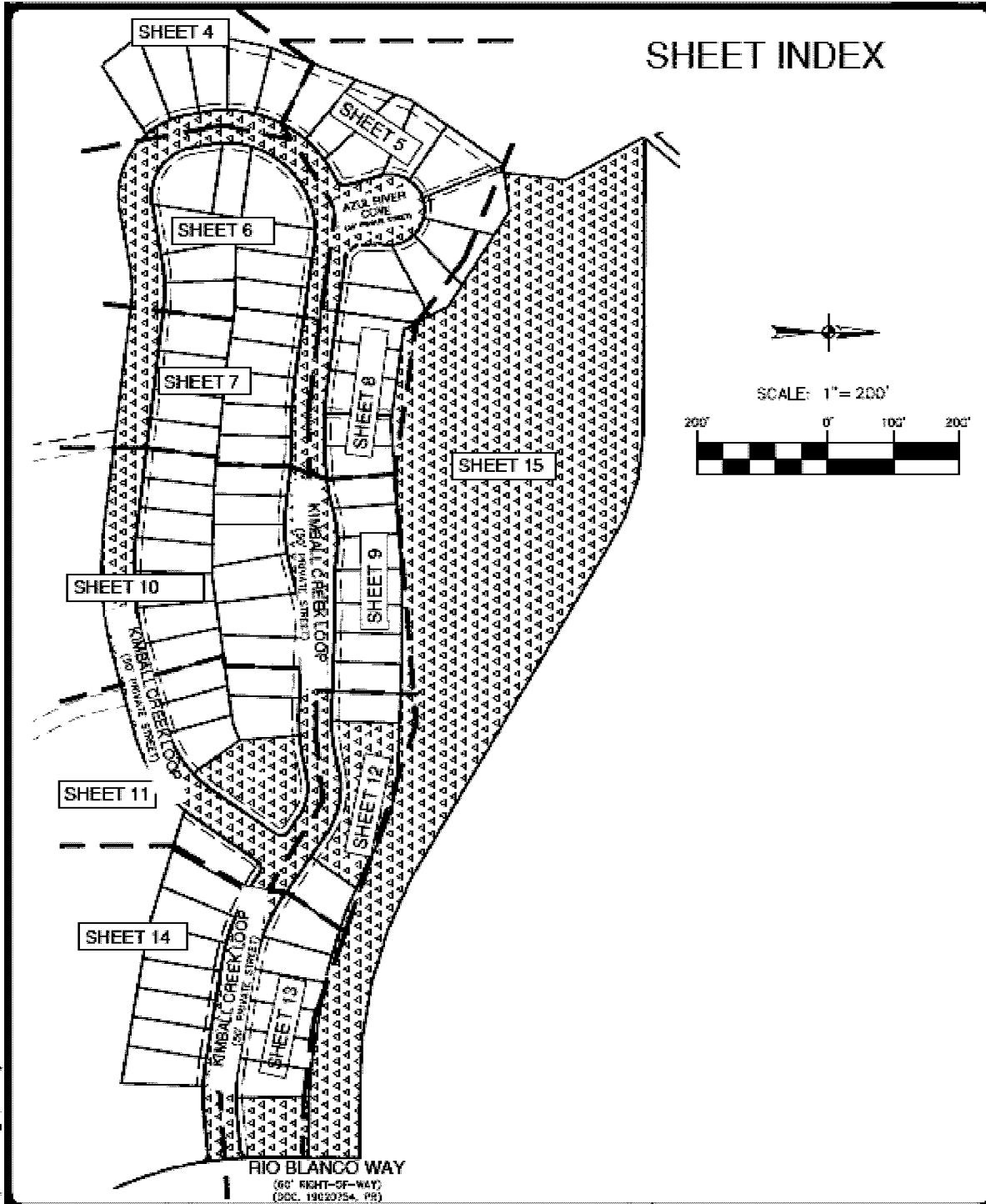
## 6 CREEKS CONDOMINIUMS

KYLE, HAYS COUNTY, TEXAS

**Pape-Dawson  
ENGINEERS**

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 EMAIL: PAPER@PAPERDAWSON.COM | WWW.PAPERDAWSON.COM

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**6 CREEKS  
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 KYLE, HAYS COUNTY, TEXAS

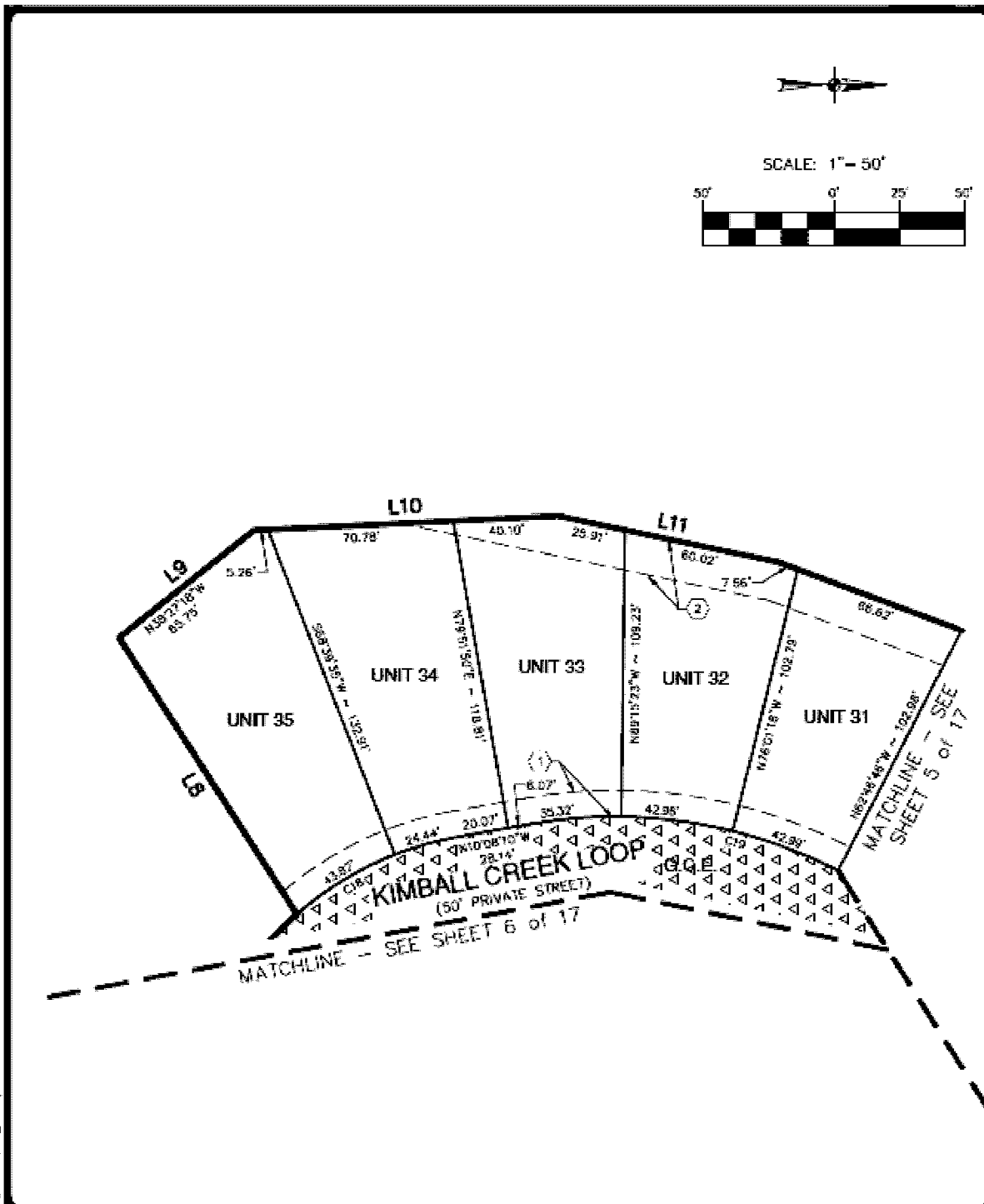
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 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME



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**6 CREEKS**  
**CONDOMINIUMS**  
 KYLE, HAYS COUNTY, TEXAS

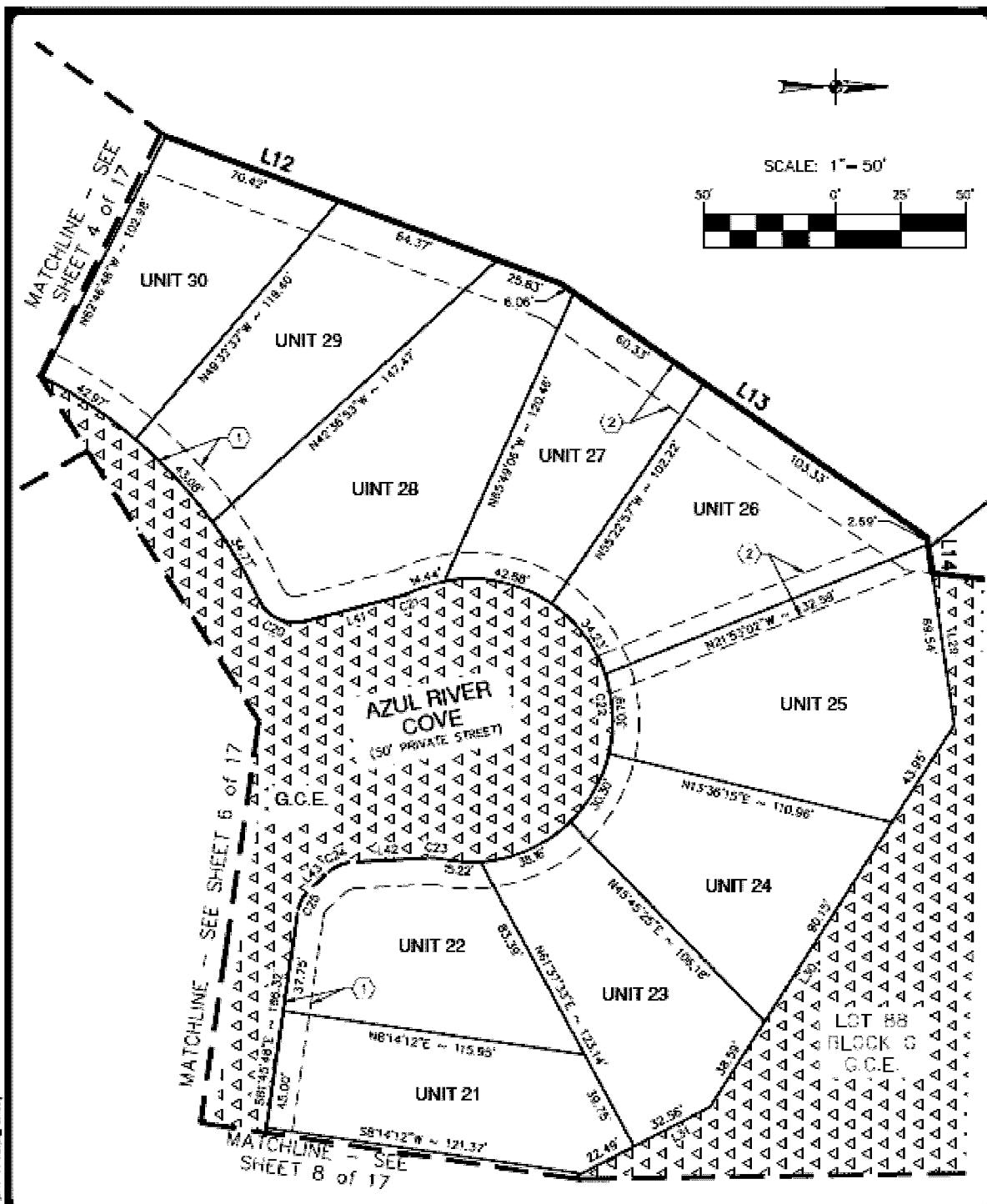
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## 6 CREEKS CONDOMINIUMS

KYLE, HAYS COUNTY, TEXAS



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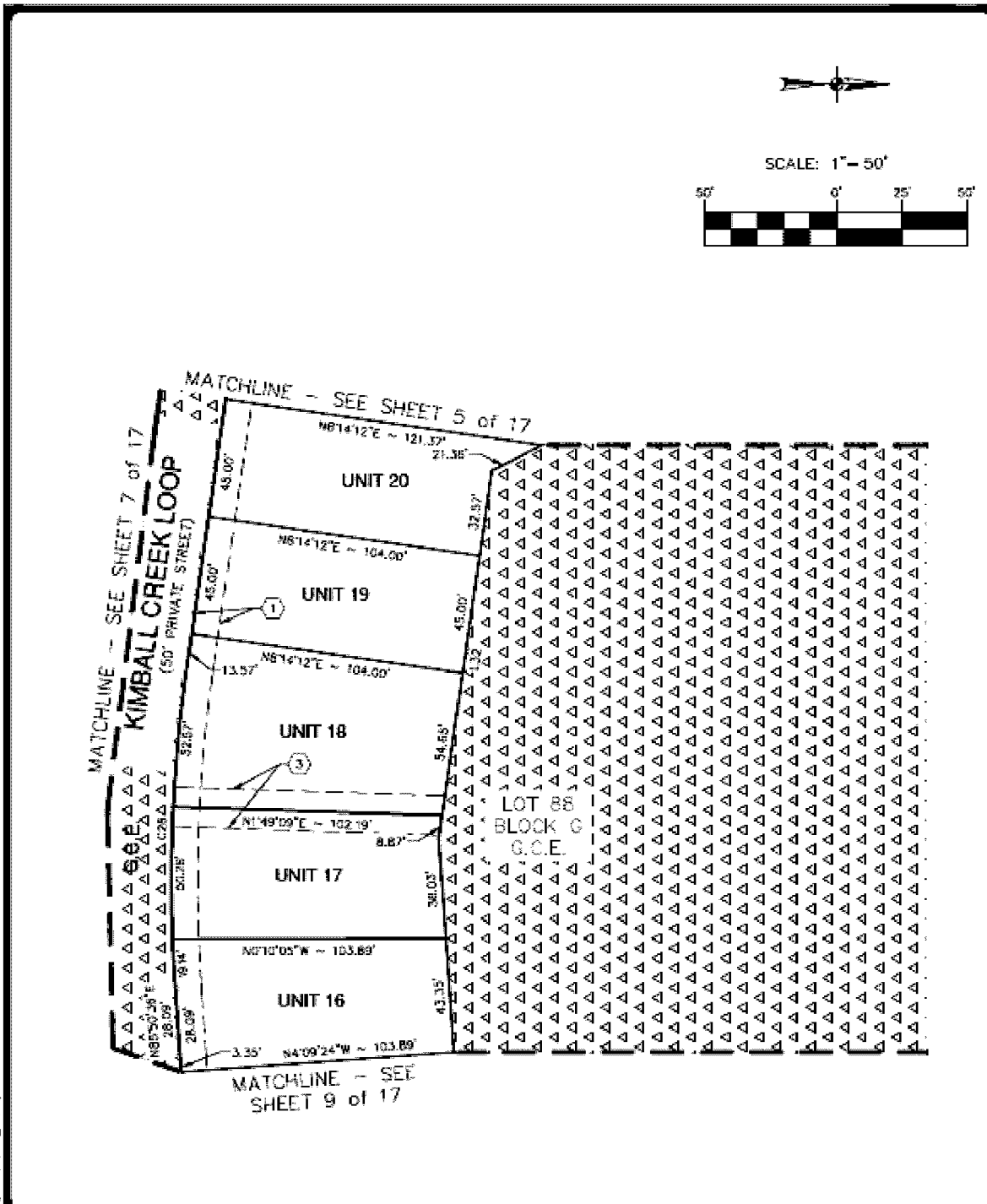
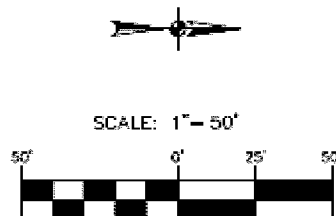
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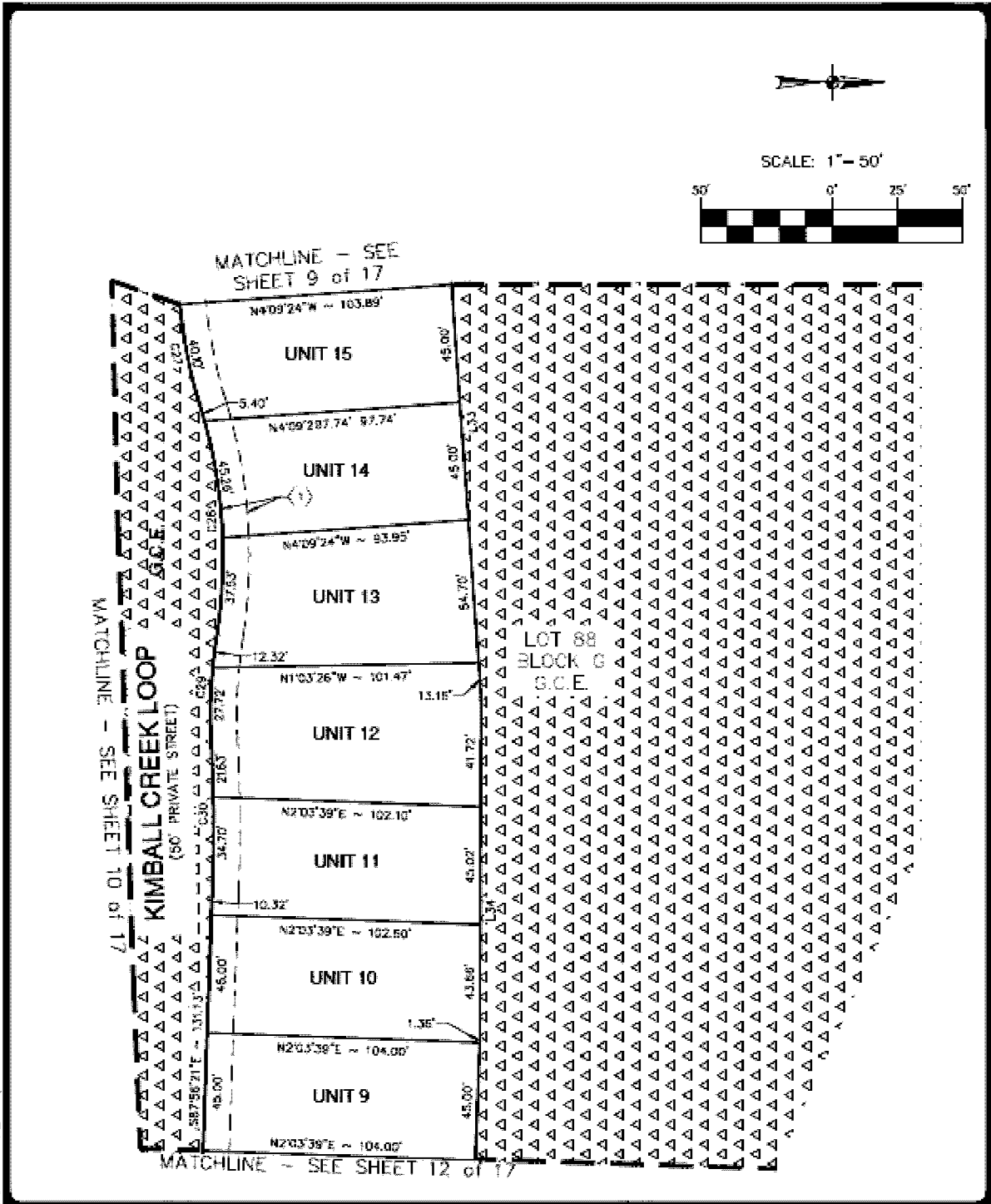
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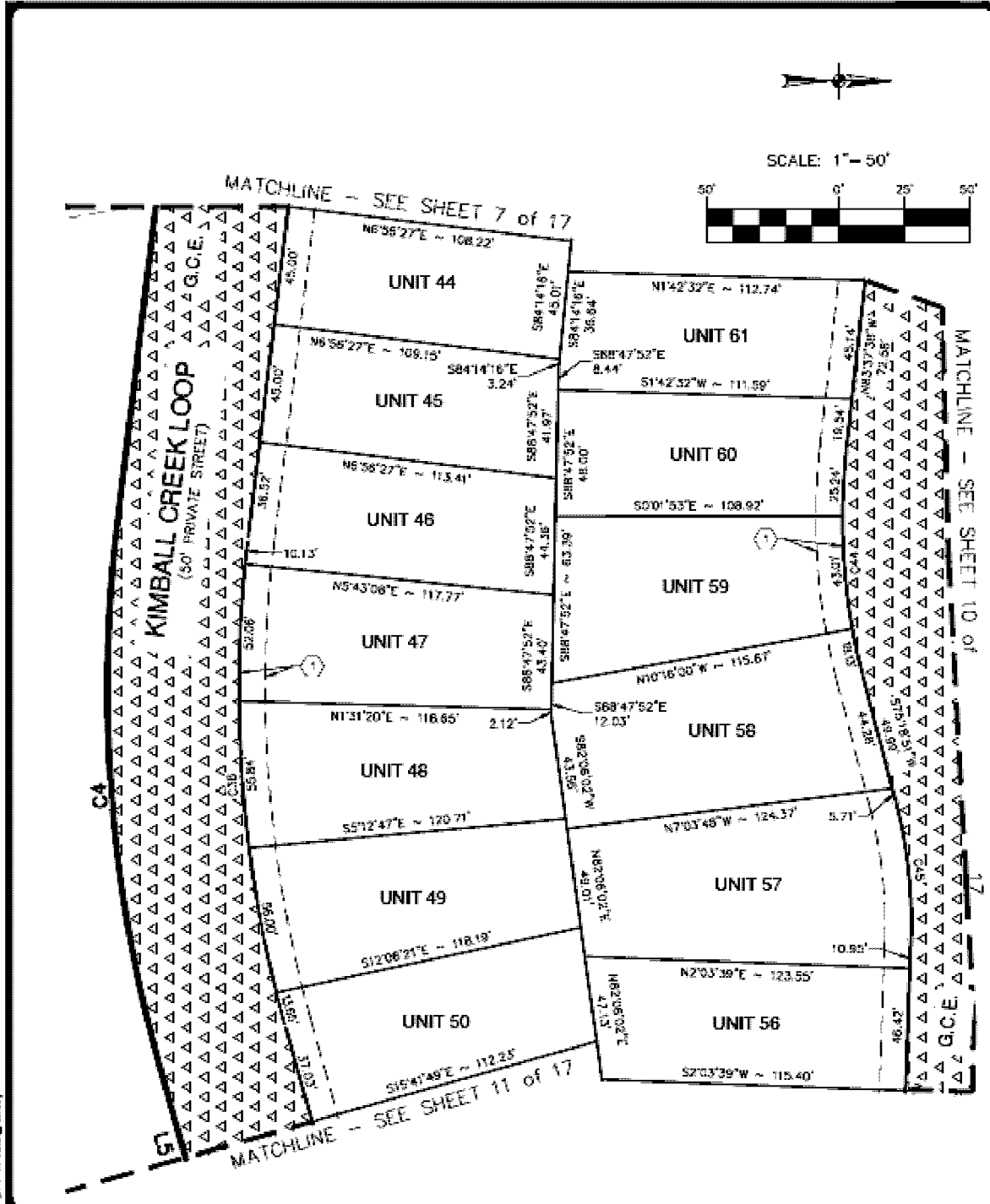
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KYLE, HAYS COUNTY, TEXAS

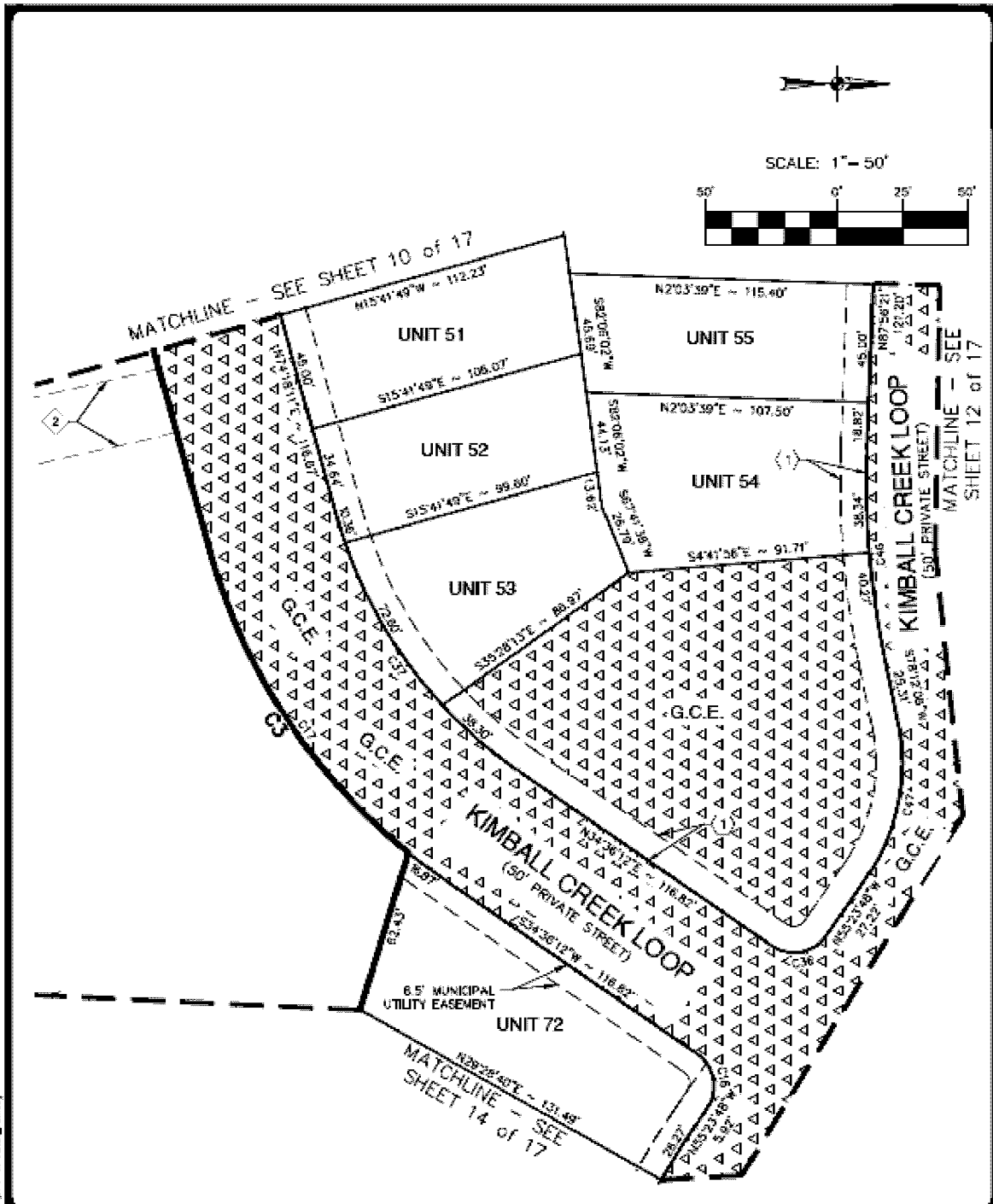


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## 6 CREEKS CONDOMINIUMS

KYLE, HAYS COUNTY, TEXAS

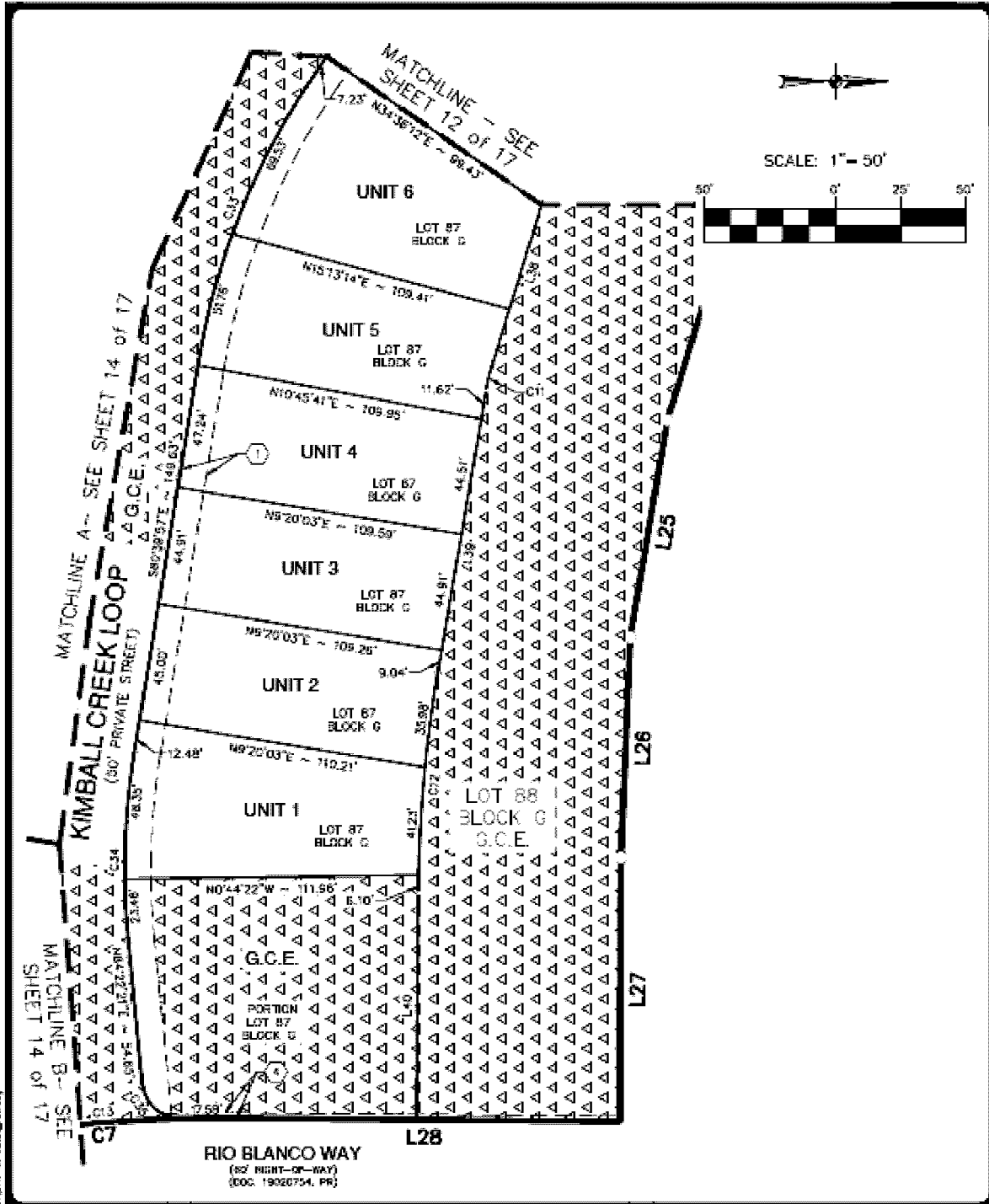
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6 CREEKS CONDOMINIUMS  
DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME





JOB NO. 9117-21  
 DATE JULY 2021  
 DESIGNER  
 CHECKED DAC DRAWN MLR  
 SHEET 13 of 17

## 6 CREEKS CONDOMINIUMS

KYLE, HAYS COUNTY, TEXAS

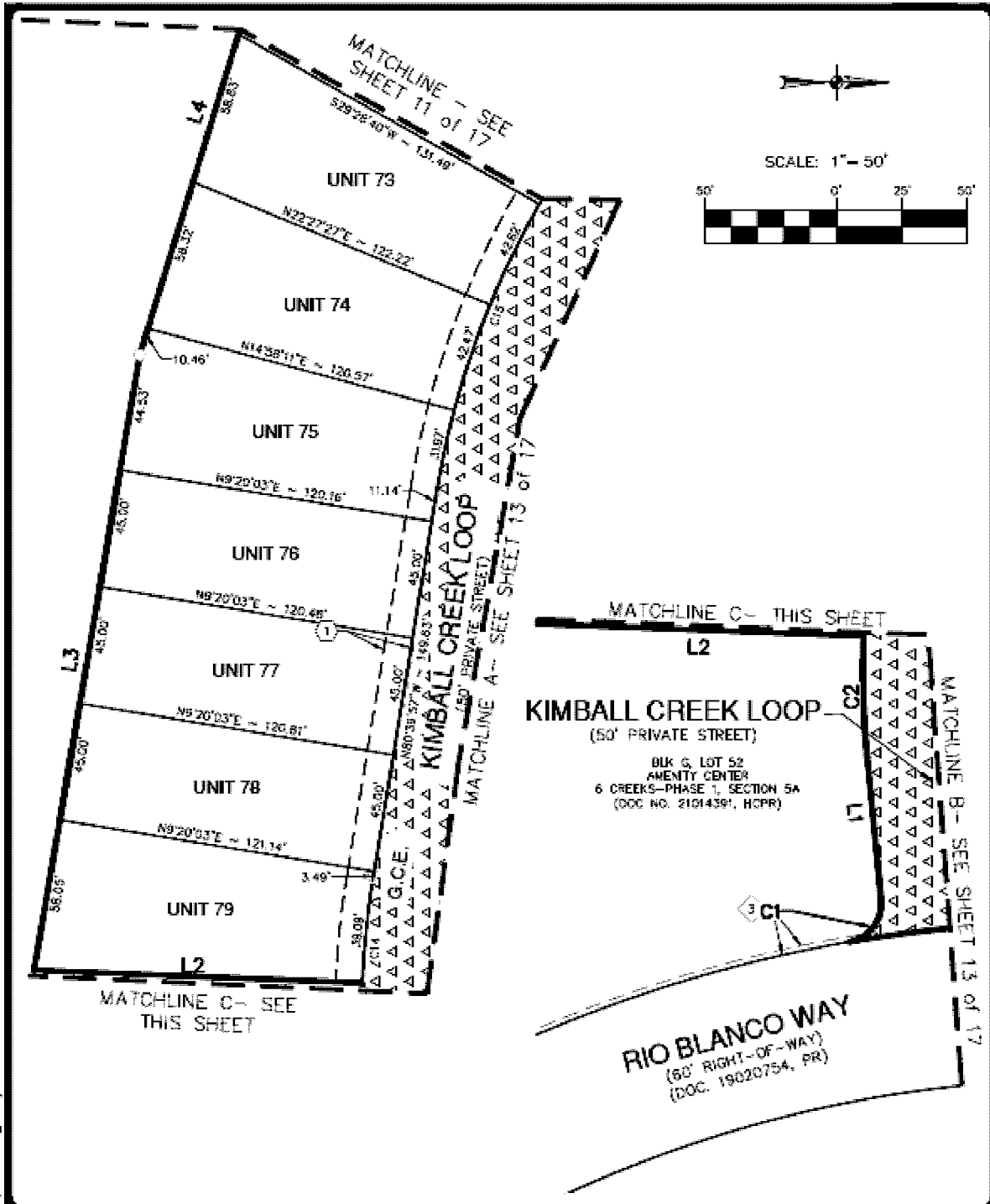
**PAPE-DAWSON  
 ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
 3003 W. LOOP 416 | SAN ANTONIO, TX 78218 | 512.375.5000  
 TEXAS PROFESSIONAL ENGINEERING LICENSE # 21034 AND ARCHITECTURE LICENSE # 2103400000

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ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME



DATE: July 2021, 2:54 PM  
 FILE: 22050132.dwg  
 USER: jk  
 PLOT: 100%

JOB NO. 9117-21  
 DATE JULY 2021  
 DESIGNER  
 CHECKED GAC, DRAWN MLH  
 SHEET 14 of 17

**6 CREEKS  
 CONDOMINIUMS**  
 KYLE, HAYS COUNTY, TEXAS

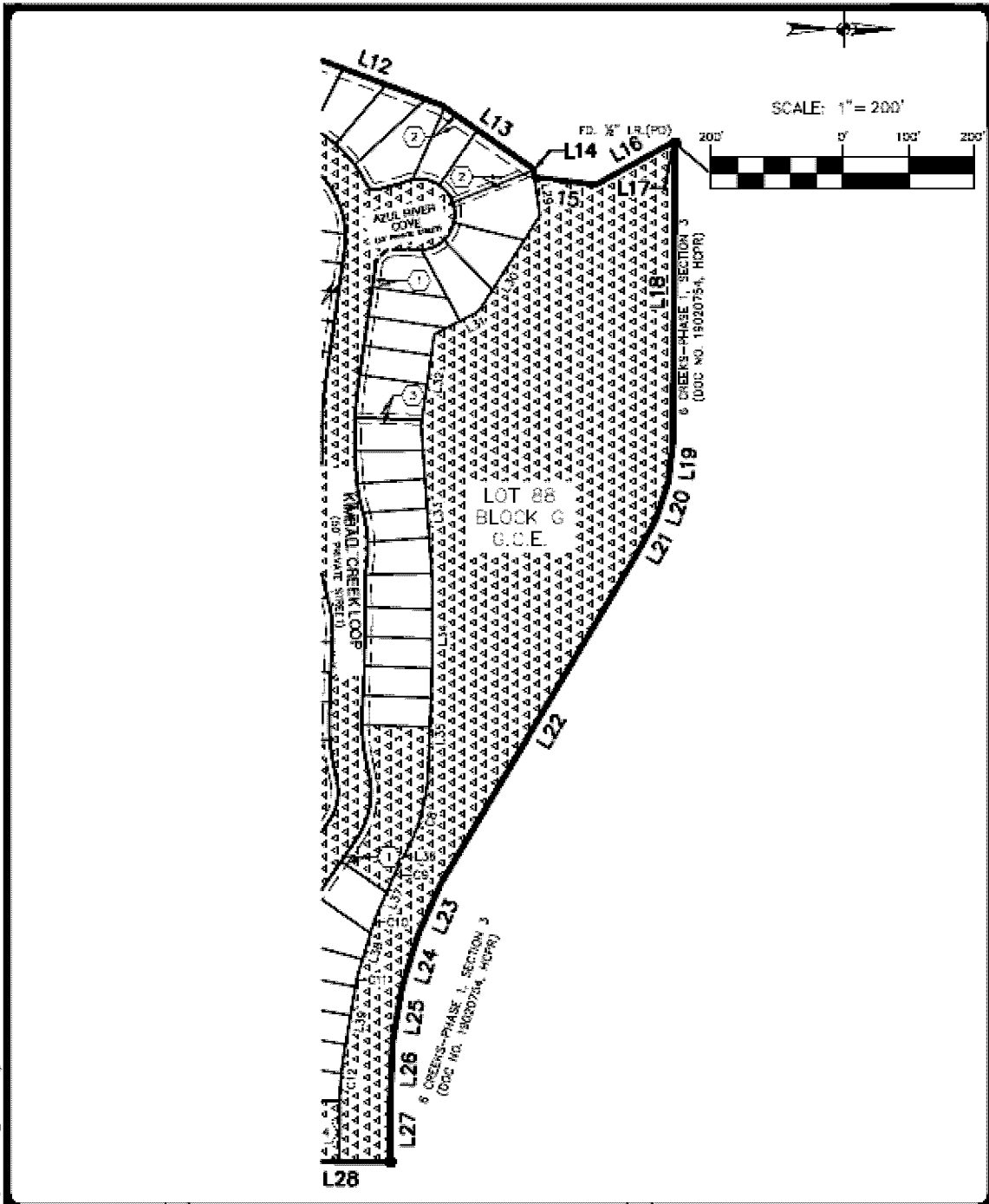
**PAPE-DAWSON  
 ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
 2022 NW LOOP 416 | SAN ANTONIO, TX 78213 | 210.375.0000  
 TRAFFIC ENGINEERING FROM 1916 | TRUSS BRIDGES FROM 1920

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ATTACHMENT "1"


6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME



Date: July 20, 2021, 9:28 AM - User: M. Phillips  
 File: \\network\cfd\11010001\11010001\11010001\11010001.dwg

JOB NO. 6117-21  
 DATE JULY 2021  
 DESIGNER  
 CHECKED GAC DRAWN MLH  
 SHEET 15 of 17

**6 CREEKS  
 CONDOMINIUMS**  
 KYLE, HAYS COUNTY, TEXAS



SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
 3333 VAN LOOP 416 | SAN ANTONIO, TX 78243 | 516.375.0000  
 TEXAS PROFESSIONAL FIRM 0415 | TEXAS REGISTERED FIRM 002080

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ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

CURVE TABLE					
CURVE #	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C1	15.00'	85°47'28"	N52°43'55"W	20.42'	27.48'
C2	325.00'	8°04'11"	S68°24'27"W	40.74'	45.77'
C3	275.00'	35°24'10"	S58°36'06"W	135.83'	139.03'
C4	525.00'	22°38'16"	S65°37'16"W	206.08'	207.43'
C5	175.00'	17°04'37"	S68°24'08"W	51.97'	52.16'
C6	125.00'	58°41'10"	N70°47'36"W	122.51'	128.03'
C7	530.00'	10°19'05"	S44°0'36"E	95.32'	95.45'
C8	290.00'	58°41'48"	N73°35'27"W	143.73'	145.25'
C9	70.00'	8°48'33"	S62°37'46"E	8.27'	8.28'
C10	70.00'	8°52'53"	S69°27'30"E	8.40'	8.41'
C11	70.00'	7°21'04"	S76°34'28"E	8.97'	8.98'
C12	510.00'	8°21'02"	S84°50'46"E	85.27'	85.58'
C13	530.00'	5°25'05"	S5°37'35"E	77.80'	77.87'
C14	325.00'	14°57'42"	N85°08'48"W	84.53'	84.87'
C15	325.00'	25°16'09"	N88°01'52"W	142.18'	143.34'
C16	15.00'	90°00'00"	S79°36'12"W	21.21'	23.58'
C17	225.00'	39°41'59"	S54°27'12"W	152.80'	155.90'
C18	125.00'	90°00'00"	N65°08'07"W	179.78'	186.35'
C19	185.00'	74°34'19"	N27°08'59"E	225.36'	242.06'
C20	15.00'	79°11'56"	N24°50'10"E	19.12'	20.72'
C21	15.00'	11°26'33"	N20°29'04"W	2.98'	3.00'
C22	54.00'	218°36'11"	N63°05'45"E	101.93'	208.03'
C23	15.00'	15°24'38"	S4°41'31"W	4.02'	4.03'
C24	15.00'	39°22'11"	S22°41'55"E	10.11'	10.31'
C25	15.00'	39°22'48"	N62°04'23"W	10.11'	10.31'
C26	584.00'	12°23'38"	S87°57'36"E	121.70'	122.00'
C27	189.00'	13°10'25"	N79°15'24"E	43.36'	43.48'
C28	191.00'	28°27'19"	N85°53'51"E	87.47'	88.19'
C29	189.00'	17°08'20"	S86°56'40"E	38.37'	40.04'
C30	635.00'	5°04'29"	N49°31'24"E	56.31'	56.33'
C31	275.00'	13°51'33"	N83°07'53"E	66.36'	66.62'
C32	125.73'	46°24'07"	S78°35'57"E	98.07'	101.83'
C33	275.00'	25°16'09"	S65°10'52"E	120.30'	121.28'
C34	275.00'	14°57'42"	S68°08'48"E	71.61'	71.81'
C35	15.00'	85°47'28"	N41°28'36"E	20.42'	22.46'
C36	15.00'	90°00'00"	N1°02'34"W	21.21'	23.58'
C37	175.00'	39°41'59"	N54°27'12"E	118.84'	121.28'
C38	475.00'	22°38'16"	N85°37'18"E	186.46'	187.67'
C39	225.00'	17°04'38"	N69°24'08"E	86.87'	87.08'
C40	75.00'	90°00'00"	S55°08'12"E	105.07'	117.81'

CURVE TABLE					
CURVE #	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C41	135.00'	108°22'23"	S44°03'01"W	270.57'	257.74'
C42	814.00'	10°03'27"	N85°47'31"W	107.64'	107.78'
C43	179.00'	81°11'37"	N87°43'27"W	26.58'	26.60'
C44	235.00'	21°03'31"	S85°50'36"W	86.89'	86.37'
C45	179.00'	18°44'48"	S63°41'15"W	52.13'	52.32'
C46	325.00'	13°51'33"	S85°07'53"W	76.42'	76.61'
C47	75.73'	46°24'07"	N78°35'51"W	98.57'	61.33'

LINE TABLE		
LINE #	BEARING	LENGTH
L1	S84°27'21"W	54.83'
L2	S21°0'38"W	124.86'
L3	N80°15'00"W	237.99'
L4	N72°53'56"W	192.04'
L5	S74°18'11"W	116.67'
L6	N63°03'33"W	343.32'
L7	S79°51'50"W	80.27'
L8	S67°15'32"W	125.55'
L9	N38°24'18"W	85.75'
L10	S2°41'04"W	118.14'
L11	N11°49'01"E	85.33'
L12	N20°29'01"E	234.89'
L13	N34°42'53"E	168.72'
L14	N81°47'13"E	13.72'
L15	N6°36'56"E	84.89'
L16	N78°50'51"W	134.85'
L17	N40°08'34"E	2.95'
L18	S89°38'05"E	453.62'
L19	S83°27'43"E	63.44'
L20	S71°07'00"E	63.44'
L21	S60°29'27"E	86.49'
L22	S59°14'33"E	575.03'

LINE TABLE		
LINE #	BEARING	LENGTH
L23	S66°01'07"E	84.03'
L24	S72°53'56"E	83.98'
L25	S80°15'00"E	83.98'
L26	S67°36'24"E	83.98'
L27	S89°44'49"E	100.81'
L28	S0°28'22"W	149.14'
L29	N81°47'13"E	58.51'
L30	S9°24'10"E	172.69'
L31	S21°0'38"E	76.41'
L32	S81°45'48"E	141.09'
L33	N85°54'02"E	258.24'
L34	S89°46'39"E	130.40'
L35	S87°56'21"E	154.87'
L36	S08°14'33"E	1.78'
L37	S66°01'07"E	84.03'
L38	S72°53'56"E	83.98'
L39	S80°15'00"E	110.08'
L40	S69°36'32"E	87.13'
L41	N14°45'46"W	37.97'
L42	S3°00'48"E	29.45'
L43	S42°22'59"E	9.63'

DATE: July 20, 2021, 2:34 PM - User: B. Robinson  
FILE: \\PDC\Projects\2021\6 CREEKS CONDO\DWG\21-07-001.dwg

JOB NO. 9117-21  
 DATE JULY 2021  
 DESIGNER  
 CHECKED GAC, DRAWN MLH  
 SHEET 16 of 17

**6 CREEKS  
 CONDOMINIUMS**  
 KYLE, HAYS COUNTY, TEXAS

**PAPE-DAWSON  
 ENGINEERS**

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
 3323 W. LOOP 416 | SAN ANTONIO, TX 78213 | 512.325.0000  
REGULATORY SERVICES FROM 8/15 | TEXAS REGISTERED PROFESSIONAL ENGINEERS

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**GENERAL NOTES:**

- 1) ALL IMPROVEMENTS AND LAND REFLECTED ON THE PLAT ARE DESIGNATED AS GENERAL COMMON ELEMENTS, SAVE AND EXCEPT PORTIONS OF THE REGIME DESIGNATED AS LIMITED COMMON ELEMENTS OR UNITS: (I) IN THE DECLARATION OF CONDOMINIUM REGIME FOR 6 CREEKS CONDOMINIUMS (THE "DECLARATION") OR (II) ON THE PLATS AND PLANS OF THE REGIME.
  
- 2) OWNERSHIP AND USE OF CONDOMINIUM UNITS IS SUBJECT TO THE RIGHTS AND RESTRICTIONS CONTAINED IN THE DECLARATION.
  
- 3) EACH UNIT, BUILDING, LIMITED COMMON ELEMENT AND GENERAL COMMON ELEMENT IS SUBJECT TO SPECIAL RIGHTS RESERVED BY THE DECLARANT AS PROVIDED FOR IN THE DECLARATION. PURSUANT TO SUCH PROVISIONS, AMONG OTHER THINGS, DECLARANT HAS RESERVED THE RIGHT TO (I) COMPLETE OR MAKE IMPROVEMENTS INDICATED ON THE PLAT AND PLANS; (II) EXERCISE ANY DEVELOPMENT RIGHT PERMITTED BY THE TEXAS UNIFORM CONDOMINIUM ACT (THE "ACT") AND THE DECLARATION, INCLUDING THE ADDITION OF REAL PROPERTY TO THE REGIME, WHICH PROPERTY MAY BE ADDED AS UNITS, GENERAL COMMON ELEMENTS AND/OR LIMITED COMMON ELEMENTS; (III) MAKE THE PROPERTY PART OF A LARGER CONDOMINIUM OR PLANNED COMMUNITY; (IV) USE UNITS OWNED OR LEASED BY DECLARANT AS MODELS, STORAGE AREAS AND OFFICES FOR THE MARKETING, MANAGEMENT, MAINTENANCE, CUSTOMER SERVICE, CONSTRUCTION AND LEASING OF THE PROPERTY; (V) APPOINT OR REMOVE ANY DECLARANT-APPOINTED OFFICER OR DIRECTOR OF THE ASSOCIATION DURING THE DECLARANT-APPOINTED OFFICER OF DIRECTOR OF THE ASSOCIATION DURING THE DECLARANT CONTROL PERIOD (AS DEFINED IN THE DECLARATION) CONSISTENT WITH THE ACT. FOR PURPOSES OF PROMOTING, IDENTIFYING AND MARKETING OF THE PROPERTY, DECLARANT HAS RESERVED AN EASEMENT AND RIGHT TO PLACE OR INSTALL SIGNS, BANNERS, FLAGS, DISPLAY LIGHTING, POTTED PLANTS, EXTERIOR DECORATIVE ITEMS, SEASONAL DECORATIONS, TEMPORARY WINDOW TREATMENTS, AND SEASONAL LANDSCAPING ON THE PROPERTY, INCLUDING ITEMS AND LOCATIONS THAT ARE PROHIBITED TO OTHER OWNERS. DECLARANT HAS ALSO RESERVED AN EASEMENT AND RIGHT TO MAINTAIN, RELOCATED, REPLACE OR REMOVE THE ITEMS LISTED IN THE FOREGOING SENTENCE FROM TIME TO TIME. DECLARANT HAS RESERVED AN EASEMENT AND RIGHT OF INGRESS AND EGRESS IN AND THROUGH THE COMMON ELEMENTS (AS DEFINED IN THE DECLARATION) AND UNITS OWNED OR LEASED BY DECLARANT FOR PURPOSES OF CONSTRUCTING, MAINTAINING, MANAGING, AND MARKETING THE PROPERTY, AND FOR DISCHARGING DECLARANT'S OBLIGATIONS UNDER THE ACT AND THE DECLARATION.
  
- 4) VERTICAL BOUNDARIES ARE AS DEFINED IN THE DECLARATION.

Date: July 20, 2021, 3:30 PM - User: B. White  
 File: S:\Projects\22050132\22050132.dwg

JOB NO. 5117-21  
 DATE JULY 2021  
 DESIGNER  
 CHECKED CAC DRAWN MLH  
 SHEET 17 of 17

**6 CREEKS  
 CONDOMINIUMS**  
 KYLE, HAYS COUNTY, TEXAS



SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS  
 3929 NW LOOP 416 | SAN ANTONIO, TX 78215 | 214.375.0000  
 18330 RIVERWALK DRIVE SUITE 1100 | DALLAS, TEXAS 75248

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ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

Issue Date : 8/9/2022

# TAX CERTIFICATE

**Jenifer Okane Tax Assessor-Collector, Hays County**  
 712 S. Stagecoach Trail, Suite 1120  
 San Marcos, TX 78668  
 Phone: 512-393-5545 Fax: 512-393-5547

This certificate includes tax years up to 2021

**Entities to which this certificate applies:**

RSP - Special Road Dist  
 FHA - Hays County ESD #6-FIRE  
 EHA - Hays County ESD #9-EMS

SHA - Hays Consolidated ISD  
 GHA - Hays County  
 ACCD - Austin Community College District

**Property Information**

Property ID : 10-0360-0003-00000-2  
 Quick-Ref ID : R16898

Value Information

	Land HS	:	\$0.00
	Land NHS	:	\$823,030.00
	Imp HS	:	\$0.00
	Imp NHS	:	\$0.00
A0360 SAMUEL PHARASS	Ag Mkt	:	\$889,110.00
SURVEY, ACRES 151.0288	Ag Use	:	\$11,990.00
	Tlm Mkt	:	\$0.00
	Tlm Use	:	\$0.00
	HS Cap Adj	:	\$0.00
	Assessed	:	\$835,020.00

**Owner Information**

Owner ID : O0248616  
**HMBRR DEVELOPMENT INC**  
 1011 N LAMAR BLVD  
 AUSTIN, TX 78703-4991  
 Ownership: 100.00%

This is to certify that after a careful check of the tax records of this office, the following delinquent taxes, penalties, interest and any known costs and expenses as provided by Tax Code Section 33.48 are due on the described property for the following taxing unit(s)

Entity	Year	Tax	Discount	P&I	Atty Fee	TOTAL
SHA	2021	37,261.75	0.00	0.00	0.00	0.00
RSP	2021	830.92	0.00	0.00	0.00	0.00
GHA	2021	9,901.83	0.00	0.00	0.00	0.00
FHA	2021	2,589.62	0.00	0.00	0.00	0.00
ACCD	2021	2,724.50	0.00	0.00	0.00	0.00
EHA	2021	1,538.93	0.00	0.00	0.00	0.00

**Total for current bills if paid by 8/31/2022 : \$0.00**  
**Total due on all bills 8/31/2022 : \$0.00**  
 2021 taxes paid for entity SHA \$37,261.75  
 2021 taxes paid for entity RSP \$830.92  
 2021 taxes paid for entity GHA \$9,901.83  
 2021 taxes paid for entity FHA \$2,589.62  
 2021 taxes paid for entity ACCD \$2,724.50  
 2021 taxes paid for entity EHA \$1,538.93  
**2021 Total Taxes Paid : \$54,847.55**  
**Date of Last Payment : 02/10/22**

If applicable, the above-described property has / is receiving special appraisal based on its use, and additional rollback taxes may become due based on the provisions of the special appraisal (Comptroller Rule 9.3040) or property omitted from the appraisal roll as described under Tax Code Section 25.21 is not included in this certificate.

*Leticia S. Rangel*  
 Signature of Authorized Officer of the Tax Office

Date of Issue : 08/09/2022  
 Requestor : HMBRR DEVELOPMENT INC  
 Receipt : SM-2022-1458584  
 Fee Paid : \$10.00  
 Payer : WINSTEAD CLIENT ADVANCE

### Account Summary

Jenifer OKane Tax Assessor-Collector, Hays County  
 712 S. Stagecoach Trail, Suite 1120  
 San Marcos, TX 78666  
 Ph: 512-393-5545 Fax: 512-393-5547

Visit us at [www.hayscountytx.com/departments/taxoffice/](http://www.hayscountytx.com/departments/taxoffice/)

Property: 10-0360-0003-00000-2  
 Quick Ref ID: R16898  
 Owner: HMBRR DEVELOPMENT INC  
 Legal Description: A0360 SAMUEL PHARASS SURVEY, ACRES 151.0288

HMBRR DEVELOPMENT INC  
 1011 N LAMAR BLVD  
 AUSTIN, TX 78703-4991

Assessment Values  
 LAND HS: 0  
 LAND NHS: 823,030 Exemptions: AG  
 IMP HS: 0  
 IMP NHS: 0  
 AG MKT VALUE: 899,110  
 AG USE VALUE: 11,990

**Tax Bill (Effective Date: 08/08/2022) Balance Due if Paid By August 31, 2022: 0.00**

Bill	Levy	Levy Balance	P & I	Collection Penalty	Date Paid	Amnt Paid	Balance
<b>1999</b>							
Hays Consolidated ISD	215.22	0.00	0.00	0.00	01/31/2000	215.22	0.00
Hays County	42.91	0.00	0.00	0.00	01/31/2000	42.91	0.00
Hays County ESD #5-FIRE	3.60	0.00	0.00	0.00	01/31/2000	3.60	0.00
Special Road Dist	11.51	0.00	0.00	0.00	01/31/2000	11.51	0.00
<b>Totals</b>	<b>273.24</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>273.24</b>	<b>0.00</b>
<b>2000</b>							
Hays Consolidated ISD	173.66	0.00	0.00	0.00	01/31/2001	173.66	0.00
Hays County	41.02	0.00	0.00	0.00	01/31/2001	44.02	0.00
Hays County ESD #5-FIRE	3.44	0.00	0.00	0.00	01/31/2001	3.44	0.00
Special Road Dist	11.00	0.00	0.00	0.00	01/31/2001	11.00	0.00
<b>Totals</b>	<b>229.12</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>232.12</b>	<b>0.00</b>
<b>2001</b>							
Hays Consolidated ISD	170.64	0.00	32.42	30.46	08/14/2002	233.52	0.00
Hays County	39.57	0.00	7.50	7.13	08/14/2002	54.60	0.00
Hays County ESD #5-FIRE	3.21	0.00	0.65	0.58	08/14/2002	4.44	0.00
Special Road Dist	8.11	0.00	1.62	1.46	08/14/2002	11.19	0.00
<b>Totals</b>	<b>221.53</b>	<b>0.00</b>	<b>42.59</b>	<b>39.63</b>		<b>303.75</b>	<b>0.00</b>
<b>2002</b>							
Hays Consolidated ISD	219.41	0.00	0.00	0.00	11/01/2002	219.41	0.00
Hays County	48.99	0.00	0.00	0.00	11/01/2002	48.99	0.00
Hays County ESD #5-FIRE	3.92	0.00	0.00	0.00	11/01/2002	3.92	0.00
Special Road Dist	9.27	0.00	0.00	0.00	11/01/2002	9.27	0.00
<b>Totals</b>	<b>281.59</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>281.59</b>	<b>0.00</b>
<b>2003</b>							
Hays Consolidated ISD	231.93	0.00	0.00	0.00	01/13/2004	231.93	0.00
Hays County	50.30	0.00	0.00	0.00	01/13/2004	50.30	0.00
Hays County ESD #5-FIRE	6.03	0.00	0.00	0.00	01/13/2004	6.03	0.00
Special Road Dist	9.52	0.00	0.00	0.00	01/13/2004	9.52	0.00
<b>Totals</b>	<b>297.78</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>297.78</b>	<b>0.00</b>

Printed on 8/08/2022 3:09 PM

Page 1 of 5

ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

### Account Summary

Jenifer OKane Tax Assessor-Collector, Hays County  
 712 S. Stagecoach Trall, Suite 1120  
 San Marcos, TX 78666  
 Ph: 512-393-5545 Fax: 512-393-5547

Property: 10-0360-0003-00000-2  
 Quick Ref ID: R16898  
 Owner: HMBRR DEVELOPMENT INC  
 Legal Description: A0360 SAMUEL PHARASS SURVEY, ACRES 151.0288

**Tax Bill (Effective Date: 08/09/2022) Balance Due if Paid By August 31, 2022: 0.00**

Bill	Levy	Levy Balance	P & I	Collection Penalty	Date Paid	Amnt Paid	Balance
Hays County	0.00	0.00	0.00	0.00		0.00	0.00
Hays County ESD #5-FIRE	0.00	0.00	0.00	0.00		0.00	0.00
Special Road Dist	0.00	0.00	0.00	0.00		0.00	0.00
<b>Totals</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>	<b>0.00</b>
<b>2011</b>							
Austin Community College District	0.00	0.00	0.00	0.00		0.00	0.00
Hays Consolidated ISD	0.00	0.00	0.00	0.00		0.00	0.00
Hays County	0.00	0.00	0.00	0.00		0.00	0.00
Hays County ESD #5-FIRE	0.00	0.00	0.00	0.00		0.00	0.00
Special Road Dist	0.00	0.00	0.00	0.00		0.00	0.00
<b>Totals</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>	<b>0.00</b>
<b>2012</b>							
Austin Community College District	0.00	0.00	0.00	0.00		0.00	0.00
Hays Consolidated ISD	0.00	0.00	0.00	0.00		0.00	0.00
Hays County	0.00	0.00	0.00	0.00		0.00	0.00
Hays County ESD #5-FIRE	0.00	0.00	0.00	0.00		0.00	0.00
Special Road Dist	0.00	0.00	0.00	0.00		0.00	0.00
<b>Totals</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>	<b>0.00</b>
<b>2013</b>							
Austin Community College District	0.00	0.00	0.00	0.00		0.00	0.00
Hays Consolidated ISD	0.00	0.00	0.00	0.00		0.00	0.00
Hays County	0.00	0.00	0.00	0.00		0.00	0.00
Hays County ESD #5-FIRE	0.00	0.00	0.00	0.00		0.00	0.00
Special Road Dist	0.00	0.00	0.00	0.00		0.00	0.00
<b>Totals</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>	<b>0.00</b>
<b>2014</b>							
Austin Community College District	0.00	0.00	0.00	0.00		0.00	0.00
Hays Consolidated ISD	0.00	0.00	0.00	0.00		0.00	0.00
Hays County	0.00	0.00	0.00	0.00		0.00	0.00
Hays County ESD #5-FIRE	0.00	0.00	0.00	0.00		0.00	0.00
Special Road Dist	0.00	0.00	0.00	0.00		0.00	0.00
<b>Totals</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>	<b>0.00</b>
<b>2015</b>							
Austin Community College District	17.77	0.00	0.00	0.00	01/29/2016	17.77	0.00
Hays Consolidated ISD	271.86	0.00	0.00	0.00	01/29/2016	271.86	0.00
Hays County	74.82	0.00	0.00	0.00	01/29/2016	74.82	0.00
Hays County ESD #5-FIRE	17.68	0.00	0.00	0.00	01/29/2016	17.68	0.00

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Page 3 of 5

ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

## Account Summary

Jenifer OKane Tax Assessor-Collector, Hays County  
 712 S. Stagecoach Trail, Suite 1120  
 San Marcos, TX 78666  
 Ph: 512-393-5546 Fax: 512-393-5547

Property: 10-0960-0003-00000-2  
 Quick Ref ID: R16886  
 Owner: HMBRR DEVELOPMENT INC  
 Legal Description: A0360 SAMUEL PHARASS SURVEY, ACRES 151.0288

Tax Bill (Effective Date: 08/09/2022)		Balance Due if Paid By August 31, 2022:					0.00	
Bill	Levy	Levy Balance	P & I	Collection Penalty	Date Paid	Amt Paid	Balance	
<b>College District</b>								
Hays Consolidated ISD	331.56	0.00	23.21	0.00	02/23/2021	354.77	0.00	
Hays County	92.68	0.00	6.49	0.00	02/23/2021	99.17	0.00	
Hays County ESD #5-FIRE	23.45	0.00	1.64	0.00	02/23/2021	25.09	0.00	
Hays County ESD #9-EMS	14.12	0.00	0.99	0.00	02/23/2021	15.11	0.00	
Special Road Dist	6.80	0.00	0.48	0.00	02/23/2021	7.28	0.00	
<b>Totals</b>	<b>498.60</b>	<b>0.00</b>	<b>34.56</b>	<b>0.00</b>		<b>528.16</b>	<b>0.00</b>	
<b>2021</b>								
6 Creeks PID-IA2	673,727.46	0.00	0.00	0.00	02/10/2022	673,727.46	0.00	
Austin Community College District	875.10	0.00	0.00	0.00	02/10/2022	875.10	0.00	
Hays Consolidated ISD	11,369.76	0.00	0.00	0.00	02/10/2022	11,369.76	0.00	
Hays County	3,030.28	0.00	0.00	0.00	02/10/2022	3,030.28	0.00	
Hays County ESD #5-FIRE	836.02	0.00	0.00	0.00	02/10/2022	836.02	0.00	
Hays County ESD #9-EMS	485.90	0.00	0.00	0.00	02/10/2022	485.90	0.00	
Special Road Dist	198.73	0.00	0.00	0.00	02/10/2022	198.73	0.00	
<b>Totals</b>	<b>690,608.25</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>690,608.25</b>	<b>0.00</b>	
<b>Rollback Taxes</b>								
Austin Community College District	1,849.40	0.00	0.00	0.00	02/10/2022	1,849.40	0.00	
Hays Consolidated ISD	25,907.99	0.00	0.00	0.00	02/10/2022	25,907.99	0.00	
Hays County	6,871.55	0.00	0.00	0.00	02/10/2022	6,871.55	0.00	
Hays County ESD #5-FIRE	1,754.60	0.00	0.00	0.00	02/10/2022	1,754.60	0.00	
Hays County ESD #9-EMS	1,053.03	0.00	0.00	0.00	02/10/2022	1,053.03	0.00	
Special Road Dist	632.19	0.00	0.00	0.00	02/10/2022	632.19	0.00	
<b>Totals</b>	<b>38,068.76</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>38,068.76</b>	<b>0.00</b>	
<b>Totals</b>	<b>773,212.98</b>	<b>0.00</b>	<b>130.22</b>	<b>38.63</b>		<b>773,385.76</b>	<b>0.00</b>	
<b>Balance Due if Paid By August 31, 2022:</b>							<b>0.00</b>	

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Page 5 of 5

ATTACHMENT "1"

6 CREEKS CONDOMINIUMS  
 DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

**ATTACHMENT "2"****ENCUMBRANCES**

1. Restrictive Covenants of record in Document No. 17034186, of the Official Public Records of Hays County, Texas.
2. Buried communications cable easement, right of way and/or agreement granted to GTE Southwest Incorporated by instrument dated May 11, 1988 recorded in Volume 737, Page 716, of the Real Property Records of Hays County, Texas.
3. Electric distribution line and telephone and cable television wires easement, right of way and/or agreement granted to Pedernales Electric Cooperative, Inc., by instrument dated September 19, 2018, recorded in Document No. 18038720, of the Official Public Records of Hays County, Texas.
4. District Natural Gas Easement, right of way and/or agreement granted to CenterPoint Entergy Resources Corp., d/b/a CenterPoint Energy Texas Gas Operations, by instrument dated February 11, 2019, recorded in Document No. 19004278, of the Official Public Records of Hays County, Texas.
5. All terms, conditions, and provisions of that certain City of Kyle Ordinance No. 199, dated October 15, 1985, recorded in Volume 565, Page 838, of the Deed Records of Hays County, Texas.
6. All terms, conditions, and provisions of that certain Easement Agreement for Access dated August 24, 2005, recorded in Volume 2755, Page 835, of the Official Public Records of Hays County, Texas.
7. All terms, conditions, and provisions of that certain Blanco River Ranch Interim Annexation and Development dated effective May 4, 2016, executed by and between the City of Kyle, Texas and Blanco River Ranch Properties, LP, filed of record on May 9, 2016, recorded in Document No. 2016-16014615, of the Official Public Records of Hays County, Texas, as supplemented by Blanco River Ranch De-Annexation and Development Agreement dated as May 16, 2017, executed by and between the City of Kyle, Texas and Blanco River Ranch Properties, LP, filed of recorded May 31, 2017 recorded in Document No. 17018505, of the Official Public Records of Hays County, Texas, and further assigned in Assignment and Assumptions of Rights and Obligations under Blanco River Ranch (Phase One Residential Area) De-Annexation and Development Agreement dated September 20, 2017 recorded in Document No. 17034183, of the Official Public Records of Hays County, Texas. First Amendment to Blanco River Ranch De-Annexation and Development Agreement recorded in Document Number 20056036, of the Official Public Records of Hays County, Texas, as

ATTACHMENT "2"

6 CREEKS CONDOMINIUMS  
DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

affected by Notice Regarding Kyle Development Agreement recorded under Document Nos. 20029483, and 20030585, of the Official Public Records of Hays County.

8. All terms, conditions, and provisions in that Tri-Party Agreement Providing for Regulation of Subdivision and Approval of Blanco River Ranch Phase One Residential Area dated May 25, 2017, executed by and between the City of Kyle, Texas and Blanco River Ranch Properties, LP, filed of record on May 25, 2017 recorded in Document No. 17018506, of the Official Public Records of Hays County, Texas, and assigned in the Assignment and Assumption of Rights and Obligations Under Tri-Party Agreement Providing for Regulation of Subdivision and Approval of Blanco River Phase One Residential Area, executed by and between Blanco River Ranch Properties, LP, and HMBRR Development, Inc. and HMBRR LP #2, filed of recorded May 31, 2017 recorded in Document No. 17034184, of the Official Public Records of Hays County, Texas.
9. All terms, conditions, and provisions of that certain Temporary Easement Agreement, dated September 20, 2017, executed by and between Blanco River Ranch Properties, LP, and HMBRR Development, Inc. and HMBRR LP #2, recorded in/under Document No. 17034182, of the Official Public Records of Hays County, Texas.
10. All the oil, gas and other minerals, the royalties, bonuses, rentals and all other rights in connection with same all of which are expressly excepted herefrom and not insured hereunder, as same are set forth in instrument recorded in/under Volume 110, Page 89, of the Deed Records of Hays County, Texas.
11. All the oil, gas and other minerals, the royalties, together with all other rights relating thereto, expressed or implied, reserved in Deed Without Warranty recorded in Volume 5230, Page 583, of the Official Public Records of Hays County, Texas, as affected by the Partial Waiver of Surface Rights recorded in Document No. 17018628, of the Official Public Records of Hays County, Texas.
12. All the oil, gas and other minerals, the royalties, bonuses, rentals and all other rights in connection with same all of which are expressly excepted herefrom and not insured hereunder, as same are set forth in instrument recorded in/under Volume 185, Page 391, of the Deed Records of Hays County, Texas.
13. All charges, liens, and assessments payable to 6 Creek Master Community, Inc., a Texas non-profit corporation, including that lien to secure the payment thereof, recorded in Document No. 18043525, of the Official Public Records of Hays County, Texas.
14. Any rights, easements, interests or claims which may exist by reason of fence lines not following along the property lines, as reflected on survey prepared by David A. Casanova, RPLS No. 4251, of Pape-Dawson Engineers, Job No. 8141-17, dated 05/19/2021.

ATTACHMENT "2"

6 CREEKS CONDOMINIUMS  
DEVELOPMENT AREA DECLARATION OF 6 CREEKS CONDOMINIUM REGIME

**ATTACHMENT "3"**

**COMMON INTEREST ALLOCATION AND VOTES**

The Common Interest Allocation and Common Expense Liability for each Unit is 1/79. Each Unit is allocated one (1) vote.

**THE COMMON INTEREST ALLOCATION AND COMMON EXPENSE LIABILITY ASSIGNED TO A PARTICULAR UNIT WILL DECREASE IF ADDITIONAL UNITS ARE CREATED AND ADDED TO THE REGIME BY THE DECLARANT.**

## ATTACHMENT "4"

### GUIDE TO THE ASSOCIATION'S EXAMINATION OF COMMON ELEMENTS

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

#### **Developing a Plan**

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

- Identification and analysis of each major component of Common Elements maintained by the Association
- Estimates of the remaining useful lives of the components
- Estimates of the costs of replacements or repairs
- A cash flow projection showing anticipated changes in expenditures and contributions over a time period generally ranging between 20 and 30 years
- The "Funding Goal" which is generally one of the following:
  - Component Full Funding: Attaining, over a period of time, and maintaining, once the initial goal is achieved, a cumulative reserve

account cash balance necessary to discharge anticipated expenditures at or near 100 percent; or

- Threshold Funding: Maintaining the reserve account cash balance above a specified dollar or percent funded amount.

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

### **Finding Common Element Component Replacement Information**

Common Element component replacement information may be obtained from contractors, suppliers, technical specialists, "Reserve Study" specialist or from using tables in technical manuals on useful lives of various components. As provided in *Section 9.3* of the Declaration, the Board must reevaluate its funding level periodically based upon changes to the Common Elements as well as changes to replacement costs and component conditions. The specific components of Common Elements include, but are not limited to roads, recreational facilities, and furniture and equipment owned or maintained by the Association. Components covered by maintenance contracts may be excluded if the contracts include maintenance and replacement of the components. The Board must also include within their overall budget a deferred maintenance account for those components requiring periodic maintenance which does not occur annually.

**ATTACHMENT "5"**  
**GUIDE TO ASSOCIATION'S MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS**

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

<p align="center"><b>MAJOR MANAGEMENT &amp; GOVERNANCE FUNCTIONS</b></p>	<p align="center"><b>PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</b></p>	<p align="center"><b>DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</b></p>
<p><b><u>FINANCIAL MANAGEMENT</u></b></p> <p>To adopt annual budget and levy assessments, per Declaration.</p> <p>Prepare annual operating budget, periodic operating statements, and year-end statement.</p> <p>Identify components of the property the Association is required to maintain. Estimate remaining useful life of each component. Estimate costs and schedule of major repairs and replacements, and develop replacement reserve schedule. Annually update same.</p> <p>Collect assessments and maintain Association accounts.</p> <p>Pay Association's expenses and taxes.</p> <p>Obtain annual audit and income tax filing.</p> <p>Maintain fidelity bond on whomever handles Association funds.</p> <p>Report annually to members on financial status of Association.</p>		

<p style="text-align: center;"><b>MAJOR MANAGEMENT &amp; GOVERNANCE FUNCTIONS</b></p>	<p style="text-align: center;"><b>PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</b></p>	<p style="text-align: center;"><b>DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</b></p>
<p><b><u>PHYSICAL MANAGEMENT</u></b></p> <p>Inspect, maintain, repair, and replace, as needed, all components of the property for which the Association has maintenance responsibility.</p> <p>Contract for services, as needed to operate or maintain the property.</p> <p>Prepare specifications and call for bids for major projects.</p> <p>Coordinate and supervise work on the property, as warranted.</p>		
<p><b><u>ADMINISTRATIVE MANAGEMENT</u></b></p> <p>Receive and respond to correspondence from owners, and assist in resolving owners' problems related to the Association.</p> <p>Conduct hearings with owners to resolve disputes or to enforce the governing documents.</p> <p>Obtain and supervise personnel and/or contracts needed to fulfill Association's functions.</p> <p>Schedule Association meetings and give owners timely notice of same.</p> <p>Schedule board meetings and give directors timely notice of same.</p> <p>Enforce the Documents.</p> <p>Maintain insurance and bonds as required by the Documents or Applicable Law, or as customary for similar types of property in the same geographic area.</p> <p>Maintain Association books, records, and files.</p> <p>Maintain Association's corporate charter and registered</p>		

<p style="text-align: center;"><b>MAJOR MANAGEMENT &amp; GOVERNANCE FUNCTIONS</b></p>	<p style="text-align: center;"><b>PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</b></p>	<p style="text-align: center;"><b>DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</b></p>
<p>agent &amp; address.</p>		
<p><b><u>OVERALL FUNCTIONS</u></b></p> <p>Promote harmonious relationships within the community.</p> <p>Protect and enhance property values in the community.</p> <p>Encourage compliance with Documents and Applicable Law.</p> <p>Act as liaison between the community of owners and governmental, taxing, or regulatory bodies.</p> <p>Protect the Association and the property from loss and damage by lawsuit or otherwise.</p>		

**ATTACHMENT "6"****MAINTENANCE RESPONSIBILITY CHART**

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

<b>COMPONENT OF PROPERTY</b>	<b>ASSOCIATION RESPONSIBILITY</b>	<b>OWNER RESPONSIBILITY</b>
Exterior lighting not appurtenant to a Unit.	All aspects (unless maintained by the Master Association).	None.
Sidewalks not within a Unit.	All aspects (unless maintained by the Master Association).	None.
Exterior landscaping within a Unit.	None.	All aspects.
Exterior Building components, e.g., roofs, roof facilities, foundations, exterior doors, windows, garage doors, etc.	None.	All aspects.
Interior Building components, e.g., fixtures, sheetrock, floors, intrusion alarms smoke/heat detectors, monitoring equipment, etc.	None.	All aspects.
HVAC System	None.	All aspects.

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

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

NOTE 3: Set forth above is a summary of the maintenance obligations imposed upon the Association and the Owners generally as described more fully in this Declaration. Please note that the information set forth in this Attachment 6 is a summary **only** and is not intended to modify any of the provisions of this Declaration. Accordingly, in the event of a conflict between the summary set forth in this Attachment 6 and any provision set forth in the Declaration above, the provision set forth in the Declaration above will control.

## APPENDIX "A"

### DECLARANT RESERVATIONS

#### **A.1. General Provisions.**

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

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

A.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and Declarant Control Period to ensure a complete and orderly sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees. The "**Development Period**", as specifically defined in *Section 1.17* of the Declaration. The Declarant Control Period is defined in *Section 1.15* of the Declaration. Declarant may not use its control of the Association and the Property for an advantage over the Owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with ninety (90) days' written notice.

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

A.2.1. Officers and Directors. During Declarant Control Period, the Board may consist of three (3) persons. Declarant may appoint, remove, and replace each officer or director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader," subject to the following limitations: (i) within one hundred and twenty (120) days after fifty percent (50%) of the

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

A.2.2. Obligation for Assessments. For each Unit owned by Declarant, Declarant is liable for Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments, in the same manner as any Owner. Regarding Regular Assessments, upon the earlier to occur of expiration of the Declarant Control Period or the expiration of three (3) years after the first conveyance of a Unit by the Declarant, Declarant may: (i) pay Regular Assessments on each Declarant owned Unit in the same manner as any Owner; or (ii) pay the difference between the Association's actual operational expenses and the Regular Assessments received from Owners other than Declarant.

A.2.3. Obligation for Reserves. During the Declarant Control Period, neither the Association nor Declarant may use the Association working capital or reserve funds to pay operational expenses of the Association.

A.2.4. Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any Common Element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the Common Element will be free of encumbrance except for the property taxes, if any, accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.

A.3. Development Period Rights. Declarant has the following rights during the Development Period:

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

A.3.2. Creation of Units. When created, the Regime contains seventy-nine (79) Units; however, Declarant reserves the right to create up to and including one hundred fifty (150) Units upon full buildout of all phases of the project which may include land added to the Regime by the Declarant in accordance with *Section 2.1* of the Declaration. Declarant's right to create Units is for a term of years and does not require that

Declarant own a Unit in the Property at the time or times Declarant exercises its right of creation.

A.3.3. Changes in Development Plan. During the Development Period, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, the subdivision or combination of Units, changes in the sizes, styles, configurations, materials, and appearances of Units, and Common Elements. Notwithstanding the foregoing provisions, "Improvements" (as such term is defined in the Master Covenant) must be approved in advance and in writing by the 6 Creeks Reviewer.

A.3.4. Transfer Fees. During the Development Period, Declarant will not pay transfer-related and resale certificate fees.

A.3.5. Website & Property Name. During the Development Period, Declarant has the unilateral right to approve or disapprove uses of any website purporting to serve the Property or the Association, all information available on or through the Property website, if any, and all uses of the property name by the Association.

A.3.6. Fines and Penalties. During the Development Period, neither Declarant nor Units owned by Declarant are liable to the Association for late fees, fines, administrative charges, or any other charge that may be considered a penalty.

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

A.3.8. Development Rights Reserved. Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights," if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

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

- (i) To meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.
- (ii) To correct any defects in the execution of this Declaration or the other Documents.
- (iii) To add real property to the Property, in the exercise of statutory Development Rights.
- (iv) To create Units, General Common Elements, and Limited Common Elements within the Property, in the exercise of statutory Development Rights.
- (v) To subdivide, combine, or reconfigure Units or convert Units into Common Elements, in the exercise of statutory Development Rights.
- (vi) To withdraw from the Property any portion of the real property marked or noted on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights" in the exercise of statutory Development Rights.
- (vii) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- (viii) To change the name or entity of Declarant.

A.4. Special Declarant Rights. As permitted by the Act, Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by Applicable Law, which may be exercised, where applicable, anywhere within the Property during the Development Period. Unless terminated earlier by an amendment to this Declaration executed by Declarant, any Special Declarant Right, except the right to appoint and remove Board members and officers of the Association, may be exercised by Declarant until the expiration or termination of the Development Period.

- (i) The right to complete or make Improvements indicated on the Plat and Plans; provided that all "Improvements" (as such term is defined in the Master Covenant) are approved in advance and in writing by the 6 Creeks Reviewer.

- (ii) The right to exercise any Development Right permitted by the Act and this Declaration.
- (iii) The right to make the Property part of a larger condominium or planned community.
- (iv) The right to use Units owned or leased by Declarant or Common Elements as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property.
- (v) For purposes of promoting, identifying, and marketing the Property, Declarant reserves an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and Occupants, provided that signs must be approved in advance and in writing by the 6 Creeks Reviewer. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events – such as open houses, MLS tours, and broker parties – at the Property to promote the sale of Units.
- (vi) Declarant has an easement and right of ingress and egress in and through the Common Elements and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant’s obligations under the Act and this Declaration.
- (vii) The right to appoint or remove any Declarant-appointed officer or director of the Association during Declarant Control Period consistent with the Act.

**A.5. Additional Easements and Rights.** Declarant reserves the following easements and rights, exercisable at Declarant’s sole discretion, for the duration of the Development Period:

- (i) An easement and right to erect, construct, and maintain on and in the Common Elements and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property; provided, that all “Improvements” (as such term is defined in the Master Covenant) are approved in advance and in writing by the 6 Creeks Reviewer.

- (ii) The right to sell or lease any Unit owned by Declarant. Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained elsewhere in this Declaration or the other Documents.
- (iii) The right of entry and access to all Units to perform warranty-related work, if any, for the benefit of the Unit being entered or Common Elements. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.
- (iv) An easement and right to make structural changes and alterations on Common Elements and Units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered Common Elements and Units to conform to the architectural standards of the Property. The restoration will be done no later than one hundred and twenty (120) days after termination of the Development Period.
- (v) An easement over the entire Property, including the Units, to inspect the Common Elements and all Improvements thereon and related thereto to evaluate the maintenance and condition of the Common Elements.
- (vi) The right to provide a reasonable means of access and parking for prospective Unit purchasers in connection with the active marketing of Units by Declarant.

**A.6. Common Elements.** Because the Common Elements are owned by the Owners, collectively and in undivided interest, the Common Elements are not capable of being separately conveyed. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of the ownership of the Common Elements. Because ownership of the Common Elements is not conveyed by Declarant to the Association, there is no basis for the popular misconception that Owners may "accept" or "refuse" the Common Elements.

**THE STATE OF TEXAS  
COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

22050132 DECLARATION  
10/26/2022 11:29:08 AM Total Fees: \$514.00

Elaine H. Cárdenas, MBA, PhD, County Clerk  
Hays County, Texas

