

CORRECTION
DECLARATION OF COVENANTS, RESTRICTIONS,
CONDITIONS, ASSESSMENTS, CHARGES,
SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR

HENSHAW CREEK
A MASTER PLANNED COMMUNITY

This DECLARATION OF COVENANTS, RESTRICTIONS, CONDITIONS, ASSESSMENTS, CHARGES, SERVITUDES, LIENS, RESERVATIONS AND EASEMENTS FOR HENSHAW CREEK, hereinafter referred to as the "Declaration," is made on the 15th day of July , 2022, by WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership ("~~WERNER-TAYLOR~~"); ~~WERNER, CROSSING, LLC, a Texas limited liability company ("WC"),~~ hereinafter collectively referred to as "Developer."

WITNESSETH:

WHEREAS, Developer owns the 44.145 acres, more or less, of real property described on Exhibit "A" which is attached hereto and incorporated herein for all purposes, hereafter referred to as "HENSHAW CREEK," which is to be developed as a master planned commercial and residential community;

WHEREAS, in order to enable Developer to implement a general plan of development and accomplish the development of the Land as part of a commercial and residential master planned community of high quality and standards in a consistent manner with continuity and to insure the creation of an architecturally harmonious development, Developer desires to subject the Property to the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth herein collectively called the "Covenants;"

NOW, THEREFORE, Developer hereby declares that the Property shall be held, sold and conveyed subject to the Covenants, which shall be deemed as covenants running with the land and imposed upon and intended to benefit and burden each Lot, hereinafter defined.

ARTICLE I - DEFINITIONS

1.01 Definitions. The definitions of certain words, phrases or terms used in this Declaration are set forth on Exhibit "B," which is attached hereto and incorporated herein for all purposes, and elsewhere in this Declaration.

ARTICLE II - COVENANTS BINDING ON PROPERTY AND OWNERS

2.01 Property Bound. From and after the date of recordation of this Declaration, the Property shall be subject to the Covenants, and the Covenants shall run with, be for the benefit of, bind and burden the Property.

2.02 Owners Bound. From and after the date of recordation of this Declaration, the Covenants shall be binding upon and inure to the benefit of the Developer, each Owner, and the heirs, executors, administrators, personal representatives, successors and assigns of the Developer and each Owner, whether or not so provided or otherwise mentioned in the Deed. Each Owner, his heirs, executors,

administrators, personal representatives, successors and assigns, expressly agrees to pay, and to be personally liable for, the Assessments provided for hereunder, and to be bound by all of the Covenants herein set forth.

2.03 General. No use shall be permitted on the Property which is not allowed under applicable public codes, ordinances and other laws either already adopted or as may be adopted by the City of Tyler, Texas or other controlling public authorities. Each Owner, occupant or other user of any portion of the Property, shall at all times comply with this Declaration and with any and all laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or theft agencies having jurisdictional control over the Property, specifically including, but not limited to, applicable zoning restrictions placed upon the Property as they exist from time to time. IN SOME INSTANCES GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THIS DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH GOVERNMENTAL REQUIREMENT AND ANY REQUIREMENT OF THIS DECLARATION. THE MOST RESTRICTIVE REQUIREMENT SHALL PREVAIL, EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH A MORE RESTRICTIVE PROVISION OF THE DECLARATION WOULD RESULT IN A VIOLATION OF MANDATORY APPLICABLE GOVERNMENTAL REQUIREMENTS, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THIS DECLARATION EVEN THOUGH SUCH COMPLIANCE MAY RESULT IN NON-COMPLIANCE WITH PROVISIONS OF THIS DECLARATION. WHERE A GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THIS DECLARATION, THE PROVISIONS OF THIS DECLARATION SHALL PREVAIL AND CONTROL. All of The Property shall be developed in accordance with this Declaration as this Declaration may be amended or modified from time to time as herein provided.

ARTICLE III - ARCHITECTURAL CONTROL

3.01 Reservation and Assignment of Architectural Control. The Developer, desiring (i) to provide for the preservation of the values and amenities in and upon the Property and (ii) to subject the Property to the reservation of architectural control hereinafter expressed for the purpose of implementing a general plan of development for the Property to insure the creation of a high quality, architecturally harmonious master planned community, which general plan of development and reservation of architectural control is for the benefit of the Property, or any part thereof and each Owner, as well as for the benefit of the Developer, hereby reserves the right and all rights to approve or disapprove as to:

- (a) compliance with any specific restrictions imposed by Developer or anyone acting on behalf of the Developer with respect to The Property and/or any part thereof;
- (b) without limitation, harmony of external, design, adequacy of structural design, location of improvements, allowing and location of exterior lighting, building and landscaping setbacks from property lines, playground recreational equipment, athletic equipment, basketball goals, swimming pools, spas, hot tubs square footage of improvements, height of improvements, driveways, fences, walls, retaining walls and landscaping in relation to surrounding Structures and topography which are now or hereafter may be existing or proposed, including, but not by way of limitation, architectural designs, setbacks, landscaping, color schemes, types and quality of construction materials, quality of workmanship, any and all subdivisions, resubdivisions (where permitted), exterior additions to, changes in, construction, paving, alteration or excavation of the Property or any part thereof (including, but not limited to the trees now located or to be located thereon) and any and all other Permanent Improvements located thereon, either permanent or temporary, including without limitation, additions to, changes in, or alterations to grade, landscaping, roadways, walkways, signs, exterior lights, walls, fences, buildings, or other Structures or improvements of any type or nature located thereon which any person or entity, including without limitation, governmental and quasi-governmental subdivisions or

agencies, seeks to commence, erect, construct, place or maintain upon any Lot, or any part thereof.

3.02 Appointment. Until the right to appoint the members of the Architectural Control Committee and the right to change the number of members comprising the Architectural Control Committee is assigned by the Developer to the Association, the Developer shall have the sole and exclusive right to (i) appoint the members of the Architectural Control Committee and (ii) change the number of members comprising the Architectural Control Committee. The initial number of members comprising the Architectural Control Committee shall be three (3). The persons constituting the members of the Architectural Control Committee and the number of members constituting the Architectural Control Committee may be changed or modified by the Developer at any time by the filing of a Designation of Appointment in the Official Public Records of Smith County, Texas. Upon the assignment of right to appoint the members of the Architectural Control Committee and the right to change the number of members comprising the Architectural Control Committee by the Developer to the Association, the Association shall then have the sole and exclusive right to (i) appoint the members of the Architectural Control Committee and (ii) change the number of members comprising the Architectural Control Committee.

3.03 Construction Requests. All requests for approval of any of the items set forth in this Article III shall be submitted in writing to the Developer at 7266 Crosswater Tyler, Texas 75703, or at such other address as may from time to time be designated by the Developer, and such request for approval shall be accompanied by complete and specific plans and specifications showing the nature, kind, shape, elevations, height, materials, color, location, landscaping, and other material attributes of the Permanent Improvements, additions, changes, alterations or excavation of a Lot or any part thereof. The Architectural Control Committee shall have no duty to exercise the power of approval or disapproval hereby reserved. The Architectural Control Committee shall have the power and authority to charge an application fee to be submitted with all requests for approval of items as required in this Article III.

3.04 Prior Approval. Without limitation, no building, garage, storage building, fence, wall, sign, exterior lighting, pole, antenna, television or satellite disc or dish, driveway, sidewalk, other walkway, parking lot, mailbox, athletic equipment, recreational equipment, playground equipment, basketball goals, swimming pool, spa, hot tub other Structure, equipment or apparatus or any nature whatsoever, either permanent or temporary, landscaping or Permanent Improvements shall be commenced, erected, constructed, placed or maintained upon any part or portion of the Property, nor shall any exterior addition thereto, change therein or alteration, excavation, subdivision, or resubdivision thereof, including without limitation changes in or alteration of grade, landscaping, roadways, and walkways, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, location, and other material attributes of the same shall have been submitted to and approved in writing by Developer or by an ACC composed of three (3) or more representatives appointed by Developer as to (i) compliance with the Covenants herein contained and (ii) harmony of external design and location in relation to surrounding Structures and topography which are now or hereafter existing or proposed, including, but not by way of limitation, as to architectural designs, setbacks, landscaping, color schemes and construction materials. The plans and specifications must contain the following:

- (a) A complete set of construction plans and specifications reasonably satisfactory to the Architectural Control Committee;
- (b) A site plan of the Property, showing, with regard to all Permanent Improvements, the nature, exterior color scheme, kind, shape, height, proposed construction and landscaping materials, location of all existing and proposed Improvements with respect to the particular part of the Lot (including all easements and any proposed front, rear, and side setbacks), location with respect to Improvements on adjoining Lots, and the location of driveways;
- (c) A grading, clearing and drainage plan for the Lot

The Architectural Control Committee shall promptly review all plans submitted to it and advise the applicant whether the plans are approved, rejected, conditionally approved or held pending receipt of further information within fifteen (15) days after submission.

Non-exercise of the powers hereby reserved by Developer in one or more instances shall not be deemed to constitute a waiver of the right to exercise such power in other or different instances. Likewise, approval of any one set of plans and specifications shall not be deemed to constitute approval of any other or different plans and specifications. In the absence of gross negligence or willful misconduct attributable to Developer or the ACC appointed by Developer, neither Developer nor such ACC shall be liable for the improper enforcement or failure to exercise any of the powers reserved unto Developer pursuant to this Article. The fact that some type of Structure or improvement may be mentioned in this Declaration is not in any manner to be construed as a statement that such type of Structure or improvement will, be allowed on any part or portion of the Property, as the final approval or disapproval for any type of Structure or improvement on any Lot shall be expressly vested solely in the Developer to be exercised at its sole discretion.

3.05 Fees for Review of Plans and Specification. The Architectural Control Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to these Covenants. The Architectural Control Committee shall have the right to employ engineers, attorneys, architects and other professionals or consultants to assist the Architectural Control Committee in the evaluation of any plans and specifications submitted for approval and may charge the Owner for any reasonable costs that exceed the current application fee that is published at the time of the submission. Any such charge levied by the Architectural Control Committee shall be in accordance with the fee schedule adopted by the Architectural Control Committee and then in effect and shall be due and payable when plans are submitted for review to the Architectural Control Committee.

3.06 No Liability. In no event shall any approval obtained from the Developer pursuant to the terms of this Declaration be in any manner deemed to be a representation of any nature regarding the structural integrity or safety or engineering soundness of the structure or other item for which such approval was obtained, nor shall such approval represent in any manner compliance with any building or safety codes, ordinances or regulations, nor shall such approval be construed as a representation or warranty as to any matter which is the subject of such approval. The Developer shall not at any time have any liability to any Owner or other person or entity for any decision(s) that are made by the Developer as long as such decision(s) are made by the decision maker without willful and intentional misconduct. Any and all errors or omissions from the plans submitted to the Developer shall be the sole responsibility of the Owner of the real property to which the plans and improvements relate, and the Developer shall have no obligation to check the plans for errors or omissions or to check such plans for compliance with this Declaration, zoning ordinances, laws, building lines, easements or rights-of-way, or any other issue.

3.07 Consent or Approval Requirement. Whenever the consent or approval of the Developer, or the Architectural Control Committee is required under the terms of this Declaration, the Developer and/or the Architectural Control Committee, as applicable, such consent or approval shall not be arbitrarily or unreasonably withheld, delayed or denied.

3.08 Restriction on Commencement of Construction. No construction nor pre-construction (site clearing and tree cutting or trimming, dirt removal, etc.) work of any type, kind or nature may be commenced on any part or portion of any Lot until the Owner has received the written approval of the Developer or Architectural Control Committee as required by this Declaration.

3.09 Commencement and Completion of Construction. If the owner does not commence construction of the Improvements within one (1) year after approval of the plans by the Architectural Control Committee, such approval shall terminate.

3.10 Obligation to Complete Construction of Residence. Once substantial and meaningful construction has commenced on a residential Dwelling Unit on a Lot, the Owner of the Lot agrees to and shall with reasonable diligence and dispatch substantially complete the construction of the residential

Dwelling Unit in accordance with the approved plans and specifications within twelve (12) months from the date of the commencement of construction. The determination of whether or not the residential Dwelling Unit has been substantially completed in accordance with the approved plans and specifications shall be made solely and exclusively by the Architectural Control Committee, whose decision shall be final and non-appealable with respect thereto. If any Lot owner does not, within said twelve (12) month time period, substantially complete the construction of the residential Dwelling Unit in accordance with the plans and specifications, the Owner agrees to and shall pay to the Developer a sum and amount equal to one percent (1%) of the gross sales price paid by the Owner to the Developer at Closing for the Lot (i) on the first day following the expiration of said twelve (12) month period, and (ii) on the same day of each month thereafter until the Owner substantially completes the construction of the residential Dwelling Unit on the Lot in accordance with the approved plans and specifications.

3.11 Obligation for Commencement of Construction of Residence. If any Lot Owner does not, within twenty-four (24) months after the date of the Closing of the sale ("Closing defined as the sale by Developer of the Lot) and purchase of such Owner's Lot, commence substantial and meaningful construction of a residential Structure on the Lot, the plans and specifications of which shall have been approved by the Architectural Control Committee as provided in this Declaration, the Owner agrees to and shall pay to the Developer a sum and amount equal to ten percent (10%) of the gross sales price paid by the Owner to the Developer at Closing for the Lot (i) on the first day following the expiration of said twenty-four (24) month period, and (ii) on the same day of each year thereafter until the Owner commences substantial and meaningful construction of a residential Structure on the Lot. For the purposes hereof, "substantial and meaningful construction of a residential Structure on a Lot" shall mean that the forms for the foundation of the residential Structure have been constructed and all of the rough-in plumbing work has been completed.

3.12 Finality of Determinations. The authority reserved by the Developer in this Declaration has intentionally been very broad and all encompassing. Therefore, no decision of the Developer may in any manner be avoided, challenged, reversed, rendered, modified, changed or nullified in any manner by any person, tribunal, court or other entity, except by the Developer itself, as long as the decision of the Developer was made without willful and intentional misconduct on the part of the Developer, even if the decision of the Developer may seem to some as arbitrary.

3.13 Developer's Right to Extend Time Periods. The Developer, in its sole and exclusive discretion, shall have the unilateral right, but not the obligation, exercisable at any time, to waive or extend the one (1) year time period set forth in Paragraph 3.08 above, the twelve (12) month time period set forth in Paragraph 3.09 above, and/or the twenty-four (24) month time period set forth in Paragraph 3.10 above.

ARTICLE IV - GENERAL RESTRICTIONS

4.01 Maintenance.

(a) Developer Land. The Developer or its duly delegated representative, shall maintain and otherwise manage all Developer Land to a reasonable standard of care in providing for the repair, management, and maintenance of the Developer Land.

(b) Assessment of Costs of Maintenance and Repair of Utilities or Developer Lands. In the event that the need for maintenance or repair of Developer Land or utilities within the Property is caused by any Owner, his agents, tenants, family, guests or invitees, the cost of such maintenance or repairs, at Developer's option, shall be paid by such Owner.

4.02 General Restrictions.

(a) Commercial Property. As to any Lot that has a Three Lakes Parkway frontage or is adjacent to Three Lakes Parkway, all Permanent Improvements thereon may be used for commercial, office or retail purposes unless otherwise specified by the Developer ("**Commercial Property**"). The

Developer reserves the right to change the intended Commercial Property to single-family residential as needed.

(b) Single-Family Residential Purposes. All Lots and all Permanent Improvements thereon shall be used for single-family residential purposes only and for no other purposes, unless otherwise specified by the Developer such as the Commercial Property. No Lot in the Subdivision shall ever be used, even temporarily, for any commercial, business or professional purposes, as such use shall be determined solely by the Architectural Control Committee and whose determination shall not be subject to challenge, review or appeal, judicially or otherwise unless it is part of the Commercial Property. Each Owner (that is not part of Commercial Property) by accepting a Deed to a Lot hereby waives any and all rights to challenge, review or appeal the determination by the Architectural Control Committee of whether or not a use is for commercial, business or professional purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done in or about any Lot which may be or become an annoyance or nuisance to the neighborhood. No Dwelling Unit shall be rented by an Owner for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days, nor shall, less than the entire Dwelling Unit be rented or leased. Any lease shall be in writing and shall be made subject to this Declaration and the rules and regulations promulgated from time to time by the Property Owners' Association. Any such lease shall expressly provide that the violation of any provision of this Declaration and/or of any rule or regulation promulgated by the Property Owners' Association shall be a default pursuant to the terms of the Lease.

(c) Commercial Property Design Requirements. Each Owner of a part or portion of the Commercial Property or representative thereof shall be required to submit a design plan to the Architectural Control Committee for approval. Specific requirements are outlined in the Commercial Design Guidelines as adopted by the Developer and the Architectural Control Committee. These Commercial Design Guidelines may be amended from time to time at the discretion of the Architectural Control Committee; provided, no amendment shall materially reduce the rights of, or increase the burden on, any Owner. In the event of any conflict between the Commercial Design Guidelines and the terms and provisions of this Declaration, this Declaration shall control. Other requirements may be imposed on specific parts of Commercial Property as deemed necessary by the Architectural Control Committee; provided, no additional requirements shall materially reduce the rights of, or increase the burden on, any Owner. No exterior improvements to any part or portion of the Commercial Property (with exception to preservation of natural areas during construction) shall be permitted without prior written approval of the Architectural Control Committee.

(d) Minimum Floor Space. Each detached Dwelling Unit shall contain a minimum of one thousand two hundred (1,200) square feet of air-conditioned floor area, exclusive of all porches, garages, patios or breezeways. Each attached Dwelling Unit shall contain a minimum of one thousand (1,000) square feet of air-conditioned floor area, exclusive of all porches, garages, patios or breezeways.

(e) Type of Structures. Unless otherwise approved by the Architectural Control Committee, no improvements shall, be erected, altered or permitted to remain on any Lot in the Property other than one (1) single-family residential dwelling unless it is part of the Commercial Property. Each such Dwelling Unit shall have a private garage as provided in Section 4.02 (f) below. No used or previously constructed building or other structure shall be moved onto any Lot at any time. No structure of any kind of a temporary character nor any trailer, mobile home, manufactured home, trailer home, recreational vehicle, travel trailer, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either permanently or temporarily.

(f) Garage Construction Plans and specifications for all garages to be constructed on any Lot shall be approved in writing by the Architectural Control Committee prior to the commencement of construction of the Dwelling Unit on such Lot. Garages may not at any time be closed in and occupied or used as part of a Dwelling Unit. Garages may not be used for other than storage and parking vehicles,

boats, boat trailers and all terrain vehicles without the prior express written consent of the Architectural Control Committee. Any garage that faces or fronts any street in the Subdivision shall be located and constructed only as specifically allowed by the Architectural Control Committee in writing. The Architectural Control Committee shall have the right and power to require such setback of the garage on any Lot as determined solely by the Architectural Control Committee in its sole discretion. All doors on any garage shall be the style, type of material, type of construction and type of workmanship as shall be required and approved in writing by the Architectural Control Committee. No garage doors may be installed for the garage on any Lot until the Owner has received the written approval for the garage doors.

(g) Building Materials and Exterior Paint. The exterior walls (excluding doors and windows) of each Dwelling Unit constructed or placed on a Lot shall consist of at least fifty percent (50%) brick or brick veneer, or stone or stone veneer, stucco, or other material that is approved in writing by the Architectural Control Committee. The exterior of any fireplace chimney must be approved by the Architectural Control Committee. No material on the exterior of any Dwelling Unit or other Permanent Improvement except wood, hardiboard or stucco, shall be stained or painted without the prior written approval of the Architectural Control Committee. All exterior paint colors must be approved in writing by the Architectural Control Committee prior to commencement of any exterior painting on any Permanent Improvements.

(h) Setbacks. As to any Lot, except with respect to walls, fences, planters, hedges or other screening material, no Permanent Improvement or any part thereof may be nearer to any side street line than the side setback line established per the dimensional standards of The City of Tyler. No Dwelling Unit may be located nearer to the rear property line of the Lot than the rear setback line established per the dimensional standards of The City of Tyler. No Permanent improvement may be located on any Lot nearer to the front street line or any adjacent Lot line of such Lot than the setback established per the dimensional standards of The City of Tyler. The Developer reserves the right to change setback lines with respect to Developer Land as needed with City of Tyler approval. The side and rear setbacks shall vary according to the setback plan approved at The City of Tyler.

On some lots as set forth on the approved setback plan at The City of Tyler, there will be a five (5) foot building setback line, and no Dwelling Unit or other Permanent Improvement shall be located on any Lot nearer to such side Lot line than five (5) feet. For purposes of this section 4.02(h), roof overhangs, eaves, open porches, and any other temporary or permanent structures (other than gutters and downspouts) that are attached to the Dwelling Unit shall not encroach over the setback line of the Lot. A maximum encroachment of six (6) inches is allowed for gutters and downspouts so long as the eaves or roof overhangs in which the gutters and downspouts are attached do not encroach over the six (6) inches.

(i) Lot Line Easement. For those lots that have a five foot setback, each of those Owner's has a five foot side lot line setback (the "**Easement Holder**") which shall serve as an easement appurtenant over, across, on and under the Lot located immediately next and adjoining the five foot side lot line setback of the Easement Holder's Lot as follows:

1. The easement shall be ten (10) feet in width, and the easement shall be located within the five (5) foot side building setback line of the adjoining lot as provided in Section 4.02(h) above.
2. The easement shall run from the front boundary line of the Easement Holder Lot to the back boundary line of the adjacent lot.
3. The easement shall be used solely for allowing the Easement Holder, and his contractors, agents and representatives, to access the lot for the purposes of constructing, performing reasonable maintenance, reasonable repair, remodeling, or reconstruction of the Dwelling Unit and other Permanent Improvements upon the Easement Holder's Lot.
4. In the event the Easement Holder lot is damaged during the performance of construction, maintenance, reasonable repair, remodeling, or reconstruction of the Dwelling Unit and

other Permanent Improvements, then the adjoining lot owner must repair at their expense to original condition.

(j) Walls, Fences Hedges and Other Screening Material. As to any Lot, No retaining wall, fence, planter, hedge or other screening material may be erected or maintained on any Lot without the prior written consent of the Architectural Control Committee. No crossties or landscape timbers (or similar types of materials) may be used on any Lot for any purpose without the prior written consent of the Architectural Control Committee.

Lots located at street intersections shall be landscaped so as to permit safe sight across the street corners. No Structure shall be placed or permitted to remain where it would create a traffic or sight line problem.

(k) Construction Materials. All materials used in the construction of any Dwelling Unit or other Permanent Improvement must be approved in writing by the Architectural Control Committee before commencement of construction. Only new construction materials shall be used (except for brick if and as approved in advance by the Architectural Control Committee on a case-by-case basis). All solar collectors and panels to be incorporated into the design of any Dwelling Unit must receive specific approval from the ACC prior to commencement of construction. No concrete blocks shall be used in construction, unless the blocks are covered up by the final exterior finish material. All Dwelling Units shall be built on a slab, solid concrete beam foundation (provided no such slab shall be exposed above the ground level), or a pier and beam foundation approved by the ACC.

(l) Walks. Walks from the street or driveway to the front of the Dwelling Unit shall have a minimum width of three feet (3') and shall be constructed entirely of concrete (except however, other materials may be used with the prior written consent of the ACC). Layout of said walks shall be curvilinear in nature, and approved by the ACC prior to installation.

(m) Finish Floor Elevation. The final pad elevation for each Dwelling Unit shall meet the finished floor elevation as determined by Developer. The Developer shall provide the Owner and builder the final pad elevation prior to construction. The Owner and/or builder shall be responsible for notifying the Developer and/or the Architectural Control Committee prior to pouring the concrete pad to verify the correct elevation of the concrete pad.

(n) Fencing/Gates/Retainer Walls. All fencing/gates must be installed level with the ground unless a substantial elevation change requires a different installation. This must be approved by the Architectural Control Committee prior to installation. All fencing must be approved in writing by the Architectural Control Committee prior to installation. All retaining walls must be approved in writing by the Architectural Control Committee prior to installation. Only fence materials approved by the Architectural Control Committee shall be used.

(o) Re-Subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot, or any easement or any other interest therein, shall be conveyed by any Owner unless approved in writing by the Developer. The Developer reserves the right to re-subdivide as it is necessary.

(p) Change in Intended Use. No portion of the Property may be developed or redeveloped otherwise than in accordance with its original intended use without the prior written authorization of the Developer. In connection with Developer's authorization to allow any Owner to develop or redevelop any portion of the Property otherwise than in accordance with its original intended use, Developer shall have the right to further subject the Property to additional and/or different covenants, conditions, assessments, charges, servitudes, liens, reservations and easements, either by amending this Declaration or by filing a Subsidiary Declaration.

(q) Water Wells. At no time shall the drilling, usage, or operation of any water well be permitted on any part or portion of the Property. The Developer reserves the right to drill water wells on any common property as needed to enhance the common areas.

(r) Septic Tanks and Sewage Disposal. No septic tank or other means of sewage disposal may be installed unless previously approved in writing by all governmental authorities having jurisdiction with respect thereto, and by the Developer. No outside toilets of any kind are permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried into any body of water or water source.

(s) Grasses. With respect to any Lot, no Owner shall grow or permit the growth of any variety of grass or other vegetation, which is not on the approved list of the Architectural Control Committee.

(t) Driveways and Curb Breaks. As to any portion of the Property, all driveways shall be entirely of concrete (except however, other materials may be used with the prior written consent of the Architectural Control Committee). The concrete finish and color on that portion of the driveway which is within five (5) feet of the back of the street curb, shall match the finish and color of the street curb. No driveway or other roadway may be constructed on any lot in such a manner as to furnish access to any other lot without the prior written consent of the Architectural Control Committee. All curb breaks must be saw cut.

(u) Utilities. Each and every Dwelling Unit shall be required to be connected to the water distribution system and sanitary sewer collection system in the Property as soon as such utilities are available in the easements adjacent to or within the respective Lot upon which the Dwelling Unit is located. Individual underground electrical service drops must be installed to each Dwelling Unit. Each Owner shall comply with the requirements of the applicable utility company regarding such underground service installations, including without limitation the payment of any lawful charges which might be incurred for the installation of the underground service as set forth in the applicable utility company rules, regulations and terms and conditions of service, as the same may be amended from time to time without notice.

(v) Utility and Service Lines. No gas, electric power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any part or portion of the Property, except to the extent, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above-ground switch cabinets and transformers where required. All utility lines from each Dwelling Unit to the common utility lines i.e. (water, gas, sewer, power, etc., utility lines which carry any utility to or sewage from such Dwelling Unit) shall be maintained by the Owner of such Dwelling Unit at his own cost and expense.

(w) Mailboxes. All mailboxes or cluster boxes are subject to approval by the Architectural Control Committee. The location of the mailbox, gang or cluster box is also subject to approval by the ACC or Developer.

(x) Approval of Builder. Owner shall not permit any builder to commence construction of a Dwelling Unit on owner's Lot or Lots until and unless such builder (A) appears on Developer's approved builders list, or (B) obtains the written consent of Developer's Architectural Control Committee.

(y) Easements. Easements for installation and maintenance of perimeter walls, fences, utilities, and drainage facilities are reserved as shown on the recorded plat(s) of the Property, as filed in the Official Public Records of Smith County, Texas, or as determined by the Developer in the Declaration. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of fences and utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each part of the Property and all improvements located therein shall be maintained continuously by the Owner of the part of the Property

and/or the Association, except for those improvements for which a public authority or utility company is responsible.

(z) Drainage. Prior to commencement of any dirt work, site work, tree removal or any other improvements of any nature to any Lot, the Owner of any part of portion of the Property shall be required to submit to the Architectural Control Committee for approval a written drainage plan, and no dirt work, site work, tree removal or other improvements to any part or portion of the Property shall be commenced until the Owner receives written approval of the drainage plan from the Architectural Control Committee.

- A. Each Permanent Improvement on a Lot shall have rain gutters and downspouts to catch and handle all water that shall run off of the roof of such Permanent Improvements. All rain gutters and downspouts shall be constructed such that they are directed into an underground drainage system that shall drain according to the drainage plan described in Paragraph (z) above. No gutter(s) may encroach over the boundary line of a Lot.
- B. Neither the Developer, the Architectural Control Committee, the Board nor the Association, nor any of their respective successors or assigns, shall ever be liable for any loss of, or damage done to, any Dwelling Unit, Permanent Improvements, shrubbery, grass, flowers, improvements, fences, sidewalks, driveways or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, drainage waters or other water or storm damage, each Owner by accepting a Deed to a Lot thereby releasing the Developer and the Architectural Control Committee, the Board and the Association from any and all such loss or damage.
- C. All site related grading shall provide smooth transitions from built elements to natural or final grade, and provide positive drainage of site without discharge to adjacent lots. This will include the need to provide drop ledges up to four feet in some locations of the property or as Developer requires. Retaining walls shall be used where excessive slopes are subject to erosion or appropriate cover cannot be maintained. Erosion control measures shall be implemented throughout construction, to prevent excessive run-off and construction site erosion problems. The Developer reserves the right to charge the Lot Owner a nominal fee for any clean up that Developer incurs due to storm water runoff if the Developer deems the Lot Owner has not provided adequate erosion control measures.

(aa) Landscape Easements. Easements for landscaping are reserved on lots of the recorded plat(s) of the Property, or as filed in the Official Public Records of Smith County, Texas from time to time. Within this easement, no structure, planting or other material shall be placed which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels into the easements. The easement area of each part of the Property and all improvements located therein shall be maintained continuously by the Association, except for those improvements for which a public authority or utility company is responsible.

(bb) Utility and Service Lines. No gas, electric power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed or maintained upon or above the ground on any Lot, except to the extent, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. The foregoing shall not prohibit service pedestals and above-ground switch cabinets and transformers where required. All utility lines from each Dwelling Unit to the common utility lines i.e. (water, gas, sewer, power, etc., utility lines which carry any utility to or sewage

from such Dwelling Unit) shall be maintained by the Owner of such Dwelling Unit at his own cost and expense.

(cc) Irrigation. No sprinkler or irrigation systems of any type that draw upon water from streams, ponds, lakes, wetlands or other surface water within the property shall be installed, constructed or operated within the property unless approved in writing by the ACC. However, the Developer shall have the right to draw water from such sources for the purpose of irrigating the Common Property. All Lots are required to have underground sprinkler systems that will support healthy growth of grass and other landscaped areas.

(dd) Trees. Without the express written consent of Developer, no tree shall be removed from any Lot or portion of the Property located within any greenbelt or common area as declared by the Developer and shown on recorded plats on the Map and Plat. Each lot Owner shall be required to plant at least one tree in the front yard and/or one tree in the back yard chosen from the approved plant list as published in the Henshaw Creek Design Guidelines which may be amended at the discretion of the Developer and/or the Architectural Control Committee from time to time.

(ee) Landscaping Requirements. The Architectural Control Committee shall have the right and power to require an Owner to install and properly maintain specific types of landscaping (trees, shrubs, plants, grass, flower bed and garden borders, etc.) as a condition to any approvals or consents required to be obtained by an Owner from the Architectural Control Committee pursuant to this Declaration. Failure of any Owner to properly install or maintain any landscaping required by the Architectural Control Committee shall be a violation of this Declaration. Each Owner of a Lot or representative thereof shall be required to submit a landscape plan per Henshaw Creek Design Guidelines to the Architectural Control Committee for approval. These Design Guidelines may be amended from time to time at the discretion of the Developer and/or the Architectural Control Committee. In the event of any conflict between the Henshaw Creek Design Guidelines and the terms and provisions of this Declaration, this Declaration shall control. Specific requirements may be imposed on specific Lots as deemed necessary by the Architectural Control Committee. All planting and landscape materials shall comply with approved plant and material list as maintained by the Architectural Control Committee.

(ff) Transition Landscape Zone. . A transition landscape zone shall be required to provide a soft, informal transition between existing native vegetation areas and newly developed landscaping. The limits shall be consistent with the building setbacks established for said Lot, and receive minimal disturbance between property line and setback established. Any variation thereof requires written approval of Architectural Control Committee. The landscape design criteria herein are influenced by the approach of maintaining the overall preservation of each development site.

(gg) Pools, Water Features, Landscape Structures. In general, pools and water features should be designed to blend with the surrounding landscape and provide minimal disturbance to adjacent Lots and common areas. Landscape Structures such as pergolas, arbors, gazebos, porte-cocheres, greenhouses, and/or decks should be consistent with associated building materials of Dwelling Unit. All such features shall be located within the building setback, and require approval of the Architectural Control Committee prior to commencement of construction.

(hh) Roofing Material. No roofing materials may be installed on any Permanent Improvements without the prior written approval of the Architectural Control Committee. All roofing material installed on any Permanent Improvements shall be of at least a twenty-five (25) year warranty quality.

(ii) Private Streets. The maintenance and upkeep of any private street or drive and all drainage improvements (such as inlet boxes located on such drives) as shown on the recorded plat(s) of the Property, as filed in the Official Public Records of Smith County, Texas, or as determined by the Developer in the Declaration shall be the sole responsibility of the Association. The Association shall be responsible for maintaining all private concrete drive areas in good working condition, making repairs as necessary.

(jj) Site Maintenance and Protection. The Association and Owner is responsible for the overall maintenance of newly developed landscape and perimeter of Lot, providing a natural yet well-kept look. Each Owner or representative thereof is responsible for avoiding damage to existing development, including roadways, infrastructure, signage, landscaping, and adjacent development sites. Any damage incurred in result of development of site, shall be repaired to prior existing condition at Lot Owner's expense.

4.03 Use Restrictions.

(a) All Lots within the Property are hereby restricted as follows:

(1) Antennas, Aerials and Satellite Dishes. Any antenna or satellite dish less than one meter in diameter shall be installed so as to not be visible from any street and shall be integrated and architecturally and aesthetically compatible with the Dwelling Unit and the surrounding landscape.

- A. All broadcast television antennas and all other antennas and aerials shall be located inside the attic of the residence constructed on the Lot.
- B. One (1) satellite dish over one meter in diameter may be permitted on a Lot only if it is not visible from any street or the ground level of an adjoining Lot and does not extend above the height of the lowest fence on the Lot.
- C. With respect to any antenna or satellite dish covered by Section 47 C.F.R. Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time, the provisions of Section 4.35(A) and (B) shall be applicable only to the extent that the requirements hereof do not (i) preclude reception of an acceptable quality signal, (ii) unreasonably delay or prevent installation, maintenance and use of the antenna or satellite dish, or (iii) unreasonably increase the cost of installation, maintenance and use of the antenna or satellite dish.
- D. No ham radio antennae or other antennae of any type, size, height or nature whatsoever shall be allowed on the exterior of any Permanent Improvement without the prior written consent of the Architectural Control Committee.

(2) On Street Parking. On street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Developer, or the Association. Motor vehicles owned or in the custody of any Owner can be parked only in the driveway located upon or pertaining to such Owner's Lot, or in parking areas designated by the Association, unless otherwise authorized by the Association. No buses, rental vans, campers, recreational vehicles, or trucks having a carrying capacity in excess of $\frac{3}{4}$ tons or designed for commercial purposes shall be placed, allowed, or maintained on any Lot except with the prior written approval and authorization of the Association in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view of neighboring property, pathways and streets.

(3) Off Street Parking. At no time shall any Owner, or any relative of any Owner, or anyone residing in a Dwelling Unit, either permanently or temporarily, or any guest or invitee of any Owner, resident or occupant of any residential Lot, park or allow to be parked for any reason on any Lot in the Subdivision any (i) boat, boat trailer, motorhome, recreational vehicle, bus, tractor, trailer, tractor-trailer, travel trailer, utility trailer, all-terrain vehicle, or bob-tail truck, or similar item, nor (ii) van in excess of three-quarters ($\frac{3}{4}$) of a ton, or truck of any type in excess of

three-quarters ($\frac{3}{4}$) of a ton, unless parked completely inside the garage of a Dwelling Unit such that the door on the garage can be completely closed and such that such boat, boat trailer, motor home, recreational vehicle, bus, tractor, trailer, travel trailer, all-terrain vehicle, bob-tail truck, van or other type of truck is completely concealed from being visible from all points outside the Dwelling Unit.

(4) Site Maintenance, Garbage & Trash Collection. All Owners and builders shall comply with the portions of the Design Guidelines regulating construction activities. All garbage and yard waste shall be kept in plastic bags, other containers, or otherwise bundled as required by and meeting the specifications of the city. Each Owner shall observe and comply with any and all regulations or requirements promulgated by the Association, ACC and/or the city in connection with the screening, storage and removal of trash and garbage. No Lot or any portion of the common property or any public right-of-way shall be used or maintained as a dumping ground for rubbish, trash or garbage. If more than seven (7) days after prior written notice an Owner shall fail to control weeds, grass or other unsightly growth; removed trash, rubble, building and construction debris; exercise reasonable care or conduct to prevent or remedy an unclean untidy or unsightly condition, then in such event the Developer, ACC and/or Association shall have the authority and right to go onto the Lot in question for the purpose of mowing and cleaning such Lot and shall have the right to assess and collect from the Owner in question a reasonable charge for mowing or cleaning such Lot on each respective occasion.

(5) Storage. No exterior storage of any items of any kind shall be permitted except with prior written approval and authorization of the ACC or Association. Any such storage as approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, pathways and streets. This provision shall apply without limitation, to wood piles, camping trailers, boat trailers, travel trailers, boats, mobile homes and unmounted pickup camper units. Also without limitation, no automobile, truck or other vehicle, regardless of ownership, age, condition or appearance shall remain on any Lot in any manner which could be construed as being stored, undergoing restoration, neglected, abandoned, or otherwise not in frequent use except pursuant to written approval and authorization of the ACC or Association.

(6) Noise. No radio, stereo, broadcast or loud speaker units and no amplifiers of any kind shall be placed upon the outside, or be directed to the outside of any Dwelling Unit without authorization by the Association.

(7) Drying Yard. The drying of clothes in public view is prohibited.

(8) Lot Exterior lighting. Upon being given notice by the Architectural Control Committee that any exterior lighting is objectionable, as determined by the Architectural Control Committee in its sole and exclusive discretion, the Owner of the Lot on which said exterior lighting is located shall immediately remove any such lighting or shield or redirect the exterior lighting in such a way that it is no longer objectionable to the Architectural Control Committee.

(9) Animals. No animals, reptiles, fish or birds of any kind shall be raised, bred or kept on any Lot except as approved by the Association; provided, however, dogs, cats, birds or fish may be kept therein as household pets so long as, in the discretion of the Association, such pet is not, or does not become, a nuisance, threat, or otherwise objectionable to other Owners.

(10) Diseases and Insects. No Owner shall permit any material or condition to exist upon any Lot which shall induce, breed or harbor plant disease or noxious insects.

(11) Sidewalk Encroachments and Site Distance at Intersections. No tree, shrub, or plant of any kind on or about any portion of a Lot shall be allowed to overhang or otherwise encroach upon any sidewalk or any other pedestrian way from ground level to a height of seven (7) feet without authorization by the ACC or Association.

(12) Burning and Incinerators. No open fires or burning shall be permitted on any Lot at any time and no incinerators or like equipment shall be placed, allowed, or maintained upon any Lot. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills.

(13) Signs. No exterior signs or advertisements of any type may be placed, allowed or maintained on any Lot without prior written approval and authorization of the Association, except that mailboxes, residential nameplates and "for sale" and "for rent" signs may be placed and maintained in conformity with such common specifications; including without limitation, reasonable restrictions as to size, as may be adopted by the Association. No exterior signs or advertisements of any type may be placed, allowed or maintained on any part or portion of the Commercial Property without prior written approval and authorization of the Architectural Control Committee, except that signs designating the name of the contractor of buildings upon that part of the Commercial Property may be placed and maintained in conformity with such common specifications; including without limitation, reasonable restrictions as to size, as may be adopted by the Architectural Control Committee. No pole signs will be allowed. Only monument signs will be allowed as specified in the Commercial Design Guidelines These Commercial Design Guidelines may be amended from time to time at the discretion of the Developer and/or the Architectural Control Committee; provided, no amendment shall materially reduce the rights of, or increase the burden on, any Owner. In the event of any conflict between the Commercial Design Guidelines and the terms and provisions of this Declaration, this Declaration shall control.

(14) Air Conditioners and Heaters. No window or wall type air conditioner or heater shall be permitted to be used, erected, placed or maintained on or in any Dwelling Unit.

(15) Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation motor vehicles, shall be made upon any portion of any Lot within view of neighboring property, pathways and streets, without authorization by the Association.

(16) Machinery, Fixtures and Equipment. No machinery, fixtures or equipment of any type, including without limitation, heating, air conditioning or refrigeration equipment and clotheslines, shall be placed, allowed or maintained upon the ground on any Lot, except with the prior written approval and authorization by the Association and then only in areas attractively screened or concealed (subject to all required approvals as to architectural control) from the view of neighboring property, pathways and streets; and no such machinery, fixtures, or equipment shall be placed, allowed or maintained anywhere other than on the ground (such as on the roof) except if screened or concealed (subject to all required approvals as to architectural control) in such manner that the screening or concealment thereof appears to be part of the integrated architectural design of the Dwelling Unit and does not have the appearance of a separate piece or pieces of machinery, fixtures, or equipment.

(17) Oil, Gas, and Mineral Activity. No oil exploration, drilling, development or refining operation and no quarrying or mining operations of any kind, including oil wells, service tanks, tunnels, or mineral excavations or shafts shall be permitted upon or under any Lot; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

(18) Firearms and Weapons. No portion of any lot or property shall be used for hunting or for the discharge of any firearm.

(19) Prohibited Parking in Parking Lots. No Owner nor any Owner's heirs, executors, administrators, legal representatives, successors, assigns, guests, customers, business invitees of any Owner shall for any duration be allowed to park or allow to be parked for any reason (except during periods of construction, renovations or repairs) in the parking lot area of any part or portion of the Commercial Property any (i) boat, boat trailer, recreational vehicle, motor home, bus, tractor trailer, tractor, all terrain vehicles, bob-tail trucks, or any type of utility trailer or similar item, nor (ii) truck or van in excess of one ton.

(20) Motor Vehicles. The operation of any and all motorized vehicles within the Property shall be subject to such rules and regulations as shall be established by Developer from time to time.

(21) Lease Agreements. All lease agreements between an Owner and his tenant shall be in writing and shall provide that the terms of such lease are subject and subordinate to the terms of this Declaration. Such lease agreements shall further provide that a default under any of the Covenants contained herein shall constitute a default under such lease.

(22) Misuse and Mismanagement. No Lot shall be maintained or utilized in such a manner, as in the discretion of the Association, to present an unsightly appearance (including but not limited to clothes drying within public view), or as to unreasonably offend the morale of or as to constitute a nuisance or unreasonable annoyance to, or as to endanger the health of, other Owners or residents of the Land; and no noxious or, otherwise offensive condition or activity shall, be allowed to exist or be conducted thereon.

(23) Violation of Statutes, Ordinances, and Regulations. No Lot shall be maintained or utilized in such manner as to violate any applicable statute, ordinance, or regulation of the United States of America, the State of Texas, the County of Smith, the City of Tyler, or any other governmental agency or subdivision having jurisdiction in the premises.

(24) Violation of Rules or of Covenants, Conditions or Restrictions. No portion of any lot may be maintained or utilized in violation of this Declaration or of the rules and regulations of the Developer or of any covenants, conditions, or restrictions applicable to and binding upon said lot.

4.04 Prohibited Uses. During the term of this Declaration, no part of the Commercial Property shall be used except for professional offices, commercial and/or retail sales and service and appurtenant uses. Service uses may include, but shall not be limited to, (i) financial planning, investment, accounting, and tax preparation services, (ii) offices for attorneys, doctors, dentists, engineers, and realtors, (iii) title insurance companies, financial institutions, brokerage offices, travel and other agencies, interior decorators, and similar service establishments, and (iv) retail shops and restaurants, and (v) day care or educational institutions. Notwithstanding the foregoing, no use or operation will be made or conducted, or permitted on or with respect to all or any part of the Commercial Property which use or operation is obnoxious to a first-class shopping center including the following:

- (a) Any public or private nuisance;
- (b) Any use which emits an obnoxious odor, noise or sound to such a degree that it constitutes a nuisance to a reasonable person; except normal motor room noise associated with a business conducting normal and customary operations;
- (c) Any noxious, toxic or corrosive fuel or gas;
- (d) Any dust, dirt or fly ash in excessive quantities;
- (e) Any unusual fire, explosion, or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks;

- (f) Any assembly, manufacture, distillation, refining, smelting, or mining operations;
- (g) Any "second hand" store, Army, Navy, or government surplus store;
- (h) Any mobile home or trailer court (except those used during the construction period as offices for the various contracting units), labor camp, junk yard, stock yard, or animal raising other than a pet shop, provided that such pet shop shall be conducted so that there shall be no violation of the other prohibitions hereof by reason of the operation of the pet shop.
- (i) Any disposal (except normal storing and disposal of trash in adequate containers maintained in a neat and clean condition), incineration, reduction of garbage or refuse;
- (j) Any fire or bankruptcy sale or auction house operation, other than a liquidation sale not in the ordinary course of doing business;
- (k) Any central laundry or Laundromat, provided however, this prohibition shall not be applicable to onsite service oriented to pick up and delivery by the ultimate consumer, including nominal supporting facilities, as the same may be found in retail shopping centers in Smith County, Texas;
- (l) Any automobile sales, leasing or display, including body repair facilities;
- (m) Any bowling alley or skating rink;
- (n) Living quarters, sleeping apartments, or lodging rooms, except for provisions for a security office may include a sleeping area;
- (o) Any veterinary hospital;
- (p) Any mortuary crematorium, or funeral home;
- (q) Any adult store or bookstore selling pornographic material, any adult movies theater, or any video store which sells or rents movies or other videos which have been given an "X" rating by any generally acknowledged board or committee;
- (r) Any tavern, bar, nightclub, cocktail lounge, discotheque, dance hall or other establishment serving alcoholic beverages (but not including a restaurant) in which sales of alcoholic beverages exceeds sixty percent (60%) of gross revenues arising out of, or resulting from such business;
- (s) Any theater;
- (t) Any telephone call centers;
- (u) Any trailer rentals;
- (v) Any antique mall, bingo parlor, gaming, gambling, or similar establishment or any business operated primarily as a video arcade, provided, nothing contained herein shall prohibit or preclude the operation of an antique store;
- (w) Any storage or mini warehouse facility;

- (x) Any flea markets or pawn shops;
- (y) Any dry cleaners, laundry or similar facility, within the Commercial Property; or
- (z) Any other use that is forbidden under applicable municipal and governmental regulations, zoning, and all other pertinent ordinances pertaining to Commercial Property.

4.05 General Uses. Except for the restrictions set forth in this Article IV, this Declaration shall not restrict in any way the right of any Owner to develop or use any part of the Commercial Property so long as such development or use is consistent with applicable municipal and governmental regulations, zoning and all other pertinent ordinances pertaining to such development.

ARTICLE V. MAINTENANCE BY THE ASSOCIATION AND OWNER

5.01 Maintenance by Association.

The maintenance of the lawn and landscaping of the Lots and the Common Area Property in the Subdivision shall be the obligation of the Association as specified herein. The Association will be responsible for maintaining the lawns and the plant beds of each Lot and all the Common Area Property in good order and attractive condition, including but not limited to:

- (1) Lawn mowing and trimming
- (2) Small (ornamental) tree and shrub pruning as needed for maintenance and health of trees; Larger trees (non-ornamental trees greater than two (2) inches in diameter shall be the responsibility of the Owner;
- (3) Fertilizing, mowing, weeding and replacement as necessary to maintain all landscaping and vegetation;
- (4) Prompt removal of fallen or uprooted trees, branches, or shrubs and repair of other damage to trees or large shrubs caused by storms or high winds;
- (5) Repair broken sprinkler heads within the Lot or Common Areas; Irrigation lines and control issues are the responsibility of the Owner;
- (6) Keeping all parking areas, driveways, sidewalks, and roads free from trash and litter, attractive and in good condition;
- (7) Maintain the private concrete drive area in good working condition, making repairs as necessary
- (8) Maintain all drainage improvements such as the inlet box and pipe in good working condition;
- (9) Any other maintenance or repair item the Architectural Control Committee in its sole reasonable good faith discretion deems necessary or desirable;
- (10) Maintain the swimming pool, pergola, restroom facilities and any other amenities in the common areas.

5.02 Improper Maintenance by Association as to Associations Obligations in Article 5.01

In the event any portion of the Lots or Common Area Property is in the reasonable judgment of the Architectural Control Committee so maintained by the Association thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of HENSHAW CREEK, or (iii) as to in any manner fail to comply with any of these Covenants, the Architectural Control Committee, as applicable, may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver written notice thereof to the Association that unless corrective action (such corrective action to be stated in the written notice to the Association) is taken within ten (10) days from the date of such written notice to remedy the situation, the Architectural Control Committee will cause such action to be taken at such Association's cost and expense to remedy the situation, including entry upon the Owner's Lot or Common Area Property, if necessary. Any such entry upon a Lot or Common Area Property

by the Architectural Control Committee or anyone at the direction of the Architectural Control Committee shall not be deemed a trespass or other violation of any law, ordinance or statute. The Owners and Association grant to the Architectural Control Committee the right to enter upon the Owner's Lot and/or Subdivision's Common Area Property at all reasonable times to fulfill the obligations under this Article V, and neither the Architectural Control Committee nor anyone else entering upon any Lot or Common Area Property at their direction shall be subject to any liability therefore, except for gross negligence or willful misconduct. If after the expiration of said ten (10) day period the requisite corrective action has not been completed to the reasonable satisfaction of the Architectural Control Committee, the Architectural Control Committee shall be and is hereby authorized and empowered by the violating Association to cause such remedial action to be taken on the Association's behalf, and all reasonable costs and expenses thereof and associated therewith, including but not limited to the costs of collection, court costs and reasonable attorneys' fees, such costs and expenses being herein collectively called the "Maintenance Charges," together with interest accruing thereon from the date or dates of the remedial action of such costs at the rate of (i) ten percent (10.0%) per annum or (ii) the highest rate allowed by law if the highest legal rate is less than ten percent (10.0%) per annum, from such date until paid, shall be charged and assessed against the Association. The Maintenance Charges, together with all interest accruing thereon, shall be payable to the Developer and shall be secured by the Assessment Lien as provided in Article VI hereof. Written notice of such assessment shall be delivered to the Association by the Architectural Control Committee which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice. By acceptance of a Deed to the Common Area Property, Association agrees to and shall pay to the Developer all Maintenance Charges that shall be charged or assessed against Association.

5.03 Maintenance by Owner.

The maintenance of the Lot and Dwelling Unit of Owner shall be the obligation of Owner as specified herein. The owner will be responsible for the following maintenance items:

- (1) Maintaining the Dwelling Unit and any other Permanent Improvements (other than small trees, shrubs or hedges which are obligation of Association) in good order and attractive condition;
- (2) Larger tree pruning as deemed necessary by the Association, Architectural Control Committee or the Owner;
- (3) Pest and fire ant control on the inside and outside of the Dwelling Unit and yard area;
- (4) Adequate watering of lawn and landscaped areas. In addition, Owner agrees to adhere to a set watering schedule as deemed necessary by the Association and/or Architectural Control Committee. In the event an irrigation controller malfunctions, the Owner must have the controller repaired in a prompt manner at owner's own expense;
- (5) Replacement of any dead plants at Owner's cost as deemed necessary by the Association and/or Architectural Control Committee due to negligent watering, weather related issues such as freezes, or property damage deemed caused by Owner;
- (6) Repair of broken sprinkler lines;
- (7) Repair of sprinkler heads due to negligence deemed caused by Owner within the Lot or Common Areas

5.04 Improper Maintenance by Owner as to Owner's Obligations in Article 5.03

In the event any portion of any Lot or any Dwelling Unit is in the reasonable judgment of the Architectural Control Committee so maintained by the Owner thereof (i) as to present a public or private nuisance, (ii) as to substantially detract from the appearance or quality of HENSHAW CREEK, or (iii) as to in any manner fail to comply with any of these Covenants, the Architectural Control Committee, as applicable, may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto deliver written notice thereof to the offending Owner that unless corrective action (such corrective action to be stated in the written notice to the Owner) is taken within ten (10) days from the date of such written notice to remedy the situation, the Architectural Control Committee will cause such action to be taken at such Owner's cost and expense to remedy the situation, including entry upon the

Owner's Lot, if necessary. Any such entry upon a Lot by the Architectural Control Committee or anyone at the direction of the Architectural Control Committee shall not be deemed a trespass or other violation of any law, ordinance or statute. Each Owner grants to the Architectural Control Committee the right to enter upon the Owner's Lot at all reasonable times to fulfill the obligations under this Article V, and neither the Architectural Control Committee nor anyone else entering upon any Lot at their direction shall be subject to any liability therefore, except for gross negligence or willful misconduct. If after the expiration of said ten (10) day period the requisite corrective action has not been completed to the reasonable satisfaction of the Architectural Control Committee, the Architectural Control Committee shall be and is hereby authorized and empowered by the violating Owner to cause such remedial action to be taken on the Owner's behalf, and all reasonable costs and expenses thereof and associated therewith, including but not limited to the costs of collection, court costs and reasonable attorneys' fees, such costs and expenses being herein collectively called the "Maintenance Charges," together with interest accruing thereon from the date or dates of the remedial action of such costs at the rate of (i) ten percent (10.0%) per annum or (ii) the highest rate allowed by law if the highest legal rate is less than ten percent (10.0%) per annum, from such date until paid, shall be charged and assessed against the offending Owner and the offending Owner's Lot. The Maintenance Charges, together with all interest accruing thereon, shall be payable to the Developer or Association (whomever incurred the cost) and shall be secured by the Assessment Lien as provided in Article VI hereof. Written notice of such assessment shall be delivered to the offending Owner by the Architectural Control Committee which notice shall specify the amount of such Maintenance Charges and shall demand payment thereof within thirty (30) days after the date of said notice. By acceptance of a Deed to a Lot, every Owner agrees to and shall pay to the Developer or the Association (whomever incurred the costs) all Maintenance Charges that shall be charged or assessed against an Owner's Lot.

5.05 Subdivision Maintenance Charges.

By accepting a Deed to any of the Property or any Lot, each Owner:

- A. agrees to and shall pay such Owner's pro rata share (such pro rata share to be determined initially by the Developer and which later shall be determined by the Association) of the cost to landscape, irrigate, light and maintain the area(s) of land constructed as garden or landscaped areas, trails, lake banks, signs in (i) the entryways into Henshaw Creek or (ii) the streets, street rights-of-way, or cul-de-sacs in the Subdivision (the "**Henshaw Creek Amenities**"); and
- B. agrees that the landscaping, irrigation, lighting, and maintenance of Henshaw Creek Amenities will enhance the beauty and value of the Subdivision and the Owner's Lot.

The cost for landscaping, irrigation, lighting and maintenance of Henshaw Creek Amenities shall hereinafter be collectively called the "**Henshaw Creek Amenities Charges.**" The Architectural Control Committee, or the Association, as the assignee of the Architectural Control Committee, in its sole and exclusive discretion, shall have the right to determine how Henshaw Creek Amenities will be landscaped, irrigated, lighted and maintained. At such intervals as shall be determined by the Architectural Control Committee, or the Association, as the assignee of the Architectural Control Committee, a statement will be sent to each Owner for the Owner's pro rata share of Henshaw Creek Amenities Charges, and each Owner agrees to and shall pay their pro rata share of Henshaw Creek Amenities Charges within thirty (30) days of the date shown on the statement. If the Owner's pro rata share is not paid in full within said thirty (30) day period, the Architectural Control Committee, or the Association, as the assignee of the Architectural Control Committee, shall be and is hereby authorized and empowered to take any and all action as shall be determined in the sole discretion of the Architectural Control Committee, or the Association, as the assignee of the Architectural Control Committee, to enforce the collection of the Owner's unpaid pro rata share of Henshaw Creek Amenities Charges, together with any court costs, reasonable attorney's fees and interest at the rate of twelve

percent (12.0%) per annum from the due date of the payment until the date of payment in full. The Henshaw Creek Amenities Charges, together with all costs and interest accruing thereon, shall be secured by the Assessment Lien as provided in Article VI, below.

ARTICLE VI - IMPOSITION OF LIEN; OWNERS' AGREEMENT

6.01 Imposition of Assessment Lien and Priority of the Lien. THE OBLIGATION TO PAY MAINTENANCE CHARGES IN THE MANNER PROVIDED FOR IN ARTICLE V, TO PAY FINES IN THE MANNER PROVIDED FOR IN ARTICLE VIII, TO PAY ASSESSMENTS IN THE MANNER PROVIDED FOR IN ARTICLE X, AND TO PAY ANY OTHER CHARGES, OR ASSESSMENTS AS PROVIDED IN THIS DECLARATION, TOGETHER WITH INTEREST, COLLECTION COSTS, COURT COSTS, AND REASONABLE ATTORNEY'S FEES RELATED THERETO, SHALL BE AND IS HEREBY EXPRESSLY SECURED BY A CONTINUING CONTRACTUAL LIEN (THE "ASSESSMENT LIEN") AND CHARGE ON THE LOT COVERED BY SUCH MAINTENANCE CHARGES, FINES, ASSESSMENTS OR OTHER CHARGES, WHICH SHALL BIND SUCH LOT AND THE OWNERS THEREOF AND THEIR HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The aforesaid continuing contractual Assessment Lien shall attach to all of the Property as of the date of the recording of this Declaration in the Official Public Records of Smith County, Texas, and such Assessment Lien shall be superior to all other liens except as provided in Section 7.03 of this Declaration. The Association shall have the right to subordinate the aforesaid Assessment Lien to any other lien, and the exercise of such right shall be entirely discretionary with the Association. Except for a conveyance to a purchaser at a foreclosure sale pursuant to a lien to which the Assessment Lien is subordinate as provided herein or in Section 7.03 hereof, any part of the Property conveyed to, and accepted and held by, the Owner thereof shall be subject to the Assessment Lien provided for in this Section 6.01. To evidence any unpaid Assessments, the Association shall prepare a written notice of unpaid Assessments (the "Notice of Unpaid Assessment") setting forth the amount of the unpaid indebtedness, the name of the Owner and describing the affected part of the Property. Such notice shall be signed by an officer of the Association and shall be recorded in the Official Public Records of Smith County, Texas. The Association shall record an appropriate release of any recorded Notice of Unpaid Assessments when the amounts referenced therein have been paid. THE ASSESSMENT LIEN MAY BE ENFORCED BY FORECLOSURE OF THE ASSESSMENT LIEN UPON THE DEFAULTING OWNER'S LOT BY THE SUBDIVISION ASSOCIATION SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENTS EITHER BY JUDICIAL FORECLOSURE OR BY NONJUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A MORTGAGE ON REAL PROPERTY IN ACCORDANCE WITH THE TEXAS PROPERTY CODE, AS SUCH MAY BE REVISED, AMENDED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME. In addition, the Association shall have the right and authority to institute suit against the Owner personally to obtain a judgment for unpaid Assessments. Furthermore, the Association shall have such other rights and remedies as permitted or allowed by applicable law. In any foreclosure proceeding, whether judicial or nonjudicial, or in any suit or other action against, or pertaining to the Owner, the Owner shall be required to pay all costs, expenses and reasonable attorneys' fees incurred by the Association. The Developer shall have the right and power to buy the Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, subject to any statutory right of redemption.

6.02 Owner's Agreement. Each Owner, owning a Lot for said Owner, and the Owner's heirs, executors, administrators, personal representatives, successors, and assigns, covenants and agrees:

- (a) that the Owner acquires the Owner's Lot subject to the Maintenance Charges, Fines, Assessments, and the Assessment Lien set forth in this Declaration; and
- (b) that by accepting a Deed to the Owner's Lot, the Owner is, shall be, and shall remain personally liable for any and all Fines, Maintenance Charges and Assessments created in this Declaration and assessed against the said Owner's Lot while the said Owner is (or was) the Owner thereof regardless of whether such covenants or agreements are expressed in such Deed and regardless of whether the said Owner signed the Deed; and

- (c) that by accepting a Deed to the Owner's Lot and to secure the Owner's performance hereunder, the Owner agrees that the Association, in its capacity as trustee, shall have the right to nonjudicially foreclose upon the Assessment Lien granted herein in accordance with and upon compliance with the applicable provisions of the Texas Property Code, as the same may be amended or supplemented from time to time.

ARTICLE VII - ENFORCEMENT OF DECLARATION AND OF ASSESSMENT LIEN

7.01 Enforcement by Developer, Architectural Control Committee or Association. The Developer, the Architectural Control Committee, the Board, or the Association, acting either jointly or independently, shall each have the right, jointly or severally, but not the obligation, to enforce the provisions of this Declaration, including, but not limited to, enforcement of the Assessment Lien. Any Owner shall also have the right to enforce this Declaration at the said Owner's sole cost and expense by any appropriate action, whether at law or in equity. Neither the Developer, nor the Architectural Control Committee, nor the Board, nor the Association, shall have any liability to any Owner or any other person or entity for failing or refusing to enforce this Declaration.

7.02 Enforcement Remedies. If the Owner of any Lot fails to pay any Fines, Maintenance Charges or Assessments assessed, or to pay any interest accrued on any Fines, Maintenance Charges or Assessments, or any and all costs (including court costs and attorneys' fees) incurred by either the Developer, the Board, the Association, the Architectural Control Committee, or any one of them, in collecting same, the Developer, the Architectural Control Committee, the Board and/or the Association, as applicable, shall have the right to enforce the payment of the Fines, Maintenance Charges and Assessments, and all interest accrued thereon and costs incurred by either the Developer, the Architectural Control Committee, the Board, or the Association, or any one of them, in collecting same, and/or enforce the Assessment Lien by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Developer, the Architectural Control Committee, the Board, and the Association do not prejudice their exercise of any other remedy);

- (a) bring an action at law and recover judgment against the Owner personally obligated to pay the Fines, Maintenance Charges or Assessments; or
- (b) enforce the Assessment Lien against the Lot by any means available at law or in equity, including without limitation a nonjudicial foreclosure sale of the Lot, such sale to be conducted in the manner set forth in 51.002 of the Texas Property Code, as the same may be amended or supplemented from time to time. The Developer or any other Owner may be the purchaser at any such foreclosure sale.

7.03 Subordination of the Assessment Lien to First Mortgage or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any valid first mortgage lien (purchase money or improvement loan) held by, or deed of trust of which the beneficiary is, an institutional lender which is chartered (or licensed) by the United States or any state within, the United States. Sale or transfer of any Lot shall not affect the Assessment Lien, provided, however, that if the sale or transfer is pursuant to foreclosure of any such superior mortgage lien or deed of trust, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage lien foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot free of the Assessment Lien for all Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; but upon the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens, or encumbrances (except lien for taxes or other public charges which by applicable law are expressly made superior and except to the extent stated herein with respect to any subsequent first lien financing), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take the Lot or Property subject to all Maintenance Charges and Assessments, and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

ARTICLE VIII - RIGHTS AND POWERS

8.01 Right to Inspect. The Developer, the Architectural Control Committee, and the Association, jointly or severally, shall have the right to enter upon all Lots for the purpose of inspecting whether or not the Owner thereof is in compliance with the Declaration and Covenants, and each Owner grants the Developer, the Architectural Control Committee, and the Association the right to enter upon the Owner's Lot for such inspection purposes. If during the course of construction of any improvements upon a Lot, the Developer, the Architectural Control Committee, and/or the Association, jointly or severally, determines in its/their sole discretion that there is a violation of the Covenants, the Developer, the Architectural Control Committee, the Association, as appropriate, may order a discontinuance of the construction of the improvements until such time as corrective measures have been taken to assure full compliance with the Covenants, and an Owner's failure to immediately discontinue or cause the discontinuance of construction of the Dwelling Unit, upon demand by Developer, the Architectural Control Committee, the Association, shall constitute a further violation of this Declaration by that Owner.

8.02 Fines. The Architectural Control Committee, Developer, the Board and Association shall have the right to levy reasonable fines against any Owner who (i) violates any of the Covenants, (ii) violates any other covenant, restriction, reservation, charge, servitude, assessment or conditions set forth in this Declaration, or (iii) violates any rule, condition or regulation enacted, passed or otherwise required or approved by the Developer, the Architectural Control Committee, or the Association, Such fines against any Owner shall be an Assessment, as herein defined.

- (a) When the Architectural Control Committee, Developer, the Board or Association shall levy a reasonable fine against any Owner or Owners, the Architectural Control Committee, Developer, the Board or Association, as applicable, shall give written notice of such fine to the affected Owner or Owners at such Owner's or Owners' most recent address according to the records of the Developer or Association by United States mail, certified mail, return receipt requested, with proper postage affixed thereon. Upon receipt of such written notice, the Owner or Owners shall have ten (10) days to request in writing a private meeting with the Architectural Control Committee, Developer, the Board or Association, as applicable, to discuss the nature of the violation giving rise to the fine.
- (b) At the conclusion of the private meeting provided for in Section 8.02(a), above, or (ii) if no private meeting is requested by the Owner or Owners, the Architectural Control Committee, Developer, the Board or Association, as applicable, shall advise the Owner or Owners in writing of its final decision with respect to the violation. If the final decision results in a fine being levied against the Owner or Owners, the Owner or Owners shall pay such fine within ten (10) days of such final decision. If such fine is not fully paid within such ten-day period, the Architectural Control Committee, Developer, the Board or Association may enforce such Assessment as provided in this Declaration, i.e. Article VII.

ARTICLE IX - RESERVATIONS OF DEVELOPER

9.01 Reservations. The following reservations are hereby made by Developer:

- A. The utility easements shown on the Plat are dedicated with the reservation that such utility easements are for the use and benefit of any public utility operating in Smith County, Texas, as well as for the benefit of Developer to allow for the construction, repair, maintenance and operation of a system or systems of electric light and power, telephone liens, television cable lines, security, gas, water, sanitary sewers, storm and sewers and any other utility or service which Developer may find necessary or proper.

- B. Developer reserves the right from time to time to make changes in the location, shape, and size of, and additions to, the easements described in Section 9.01(A) above, for the purpose of more efficiently or desirably installing utilities therein and thereon, and this right to make such changes is herein and hereby expressly transferred and assigned to Developer.
- C. The title conveyed to any Lot shall not be held or construed to include the title to the water, gas, electricity, telephone, storm sewers or sanitary sewers lines, poles, pipes, conduits, cable television lines or other appurtenances or facilities constructed by Developer or public utility companies upon, wider, along, across or through such utility easements; and the right (but not obligation) to construct, maintain, repair and operate such systems, utilities, appurtenances and facilities is reserved to Developer, its successors and assigns.
- D. The right to sell, dedicate or lease the liens, utilities, appurtenances and other facilities described in Section 9.01(C), above, to any municipality, governmental agency (including any water control or utility district created under Article XVI, Section 59 of the Texas Constitution covering the Property as well as other lands), public service corporation or other party is hereby expressly reserved to Developer.
- E. The Developer, and its successors or assigns, shall not be liable for any damage caused or done by the Developer, nor any of its agents or employees to any Lot, any Permanent Improvements, or to any shrubbery, trees, flowers or other property of any Owner situated on any Lot.
- F. The right to enter upon any Lot or Lots during installation of streets for the purpose of performing street excavation, construction, and paving is hereby reserved to Developer, its successors and assigns. The Developer, and its successors or assigns, shall not be liable for any damage done by The Developer nor any of its agents or employees to shrubbery, trees, flowers or other property of the Owner which is necessitated by such street construction.

ARTICLE X – THE ASSOCIATION

10.01 Establishment. The Developer shall have the right to form the Association by the filing of the Certificate of Formation of the Association with the Secretary of State of the State of Texas. The Association has not been established on the date of the filing of this Declaration. The Association may be formed by the Developer at any time after the date on which this Declaration is recorded.

10.02 By-Laws. Bylaws for the Association will be established and adopted by the Board of the Association.

10.03 Membership. The Developer and each Owner of a Lot, including successive buyers, shall automatically and mandatorily become and be a Member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Every Member shall have a right at all reasonable times during regular business hours of the Association to inspect the books and records of the Association.

10.04 Voting Rights. The Association shall have two (2) classes of membership to be designated as Class A and Class B.

A. Class A members shall be all Owners with the exception of the Developer. A Class A member shall be not entitled to vote until (i) the Developer initially sells all of the Lots owned by the Developer that are part of the Property, or (ii) the Developer files a statement with the Association that the Developer will allow the Class A members to vote. Once the Developer files the statement with the Association allowing Class A members to vote, the statement may not be revoked by the Developer. Each

Class A member shall, once the Class A members are entitled to vote, be entitled to one (1) vote for each individual Lot owned. When more than one person owns an interest in an individual Lot, all such persons shall be members of the Association, however, the one (1) vote voting right for such Lot shall be exercised collectively as the owners of the particular Lot shall between or among themselves determine.

B. The Developer shall be the Class B member for so long as it owns any Lot that is a part of the Property which has not previously been conveyed by the Developer to an Owner. When any Lot is initially sold by the Developer, the Class B membership with respect to such Lot shall cease and automatically become and be a Class A membership. Unless the Developer files the statement with the Association referred to in Section 10.04(A), above, allowing Class A members to vote, for so long as the Developer, owns any Class B membership, the Developer shall be the only member of the Association entitled to vote.

C. Once the Class A members are entitled to vote, whether by sale by the Developer of all of the Developer's Lots or by the Developer's filing the statement with the Association allowing the Class A members to vote, the Class B member shall no longer be entitled to vote as a member of the Association.

10.05 Board of Directors. The Board shall be elected by the members as provided in the By-Laws. The Board shall conduct the business of the Association, except when a membership vote is required by this Declaration, the Certificate of Formation, or the By-Laws.

10.06 Assessments. Each Lot is hereby subject to an annual maintenance charge and assessment for the purpose of creating a fund to be used for the mutual benefit of all Owners, the Subdivision, and HENSHAW CREEK. The amount of such annual maintenance charge shall be determined by the Board, and such annual and special maintenance charges and assessments shall be paid by the Owner of each Lot to the Association in accordance with the procedures that shall be adopted from time to time by the Board. The annual maintenance charges and assessments may be used for, among other purposes, upkeep, repair and maintenance of the Lots and the Subdivision. The special charges and assessments shall be used only for the purposes for which they are assessed by the Board. If an Owner shall own more than one Lot, the Owner shall be responsible for paying the full annual maintenance charge and the full special assessment for each Lot owned by the Owner. Notwithstanding anything contained in this Declaration or elsewhere, the Developer shall not at any time be required to pay nor otherwise be responsible for payment of any annual or special maintenance charge or assessment.

10.07 Special Assessments. In addition to the annual maintenance assessment charge as noted in Article 10.06, the Developer and Association shall possess the right, power and authority to establish special assessments from time to time as may be necessary or appropriate to pay for any expenses related to the proper maintenance, care, improvement or reconstruction of the private concrete drive, drainage improvements, pool and/or park improvements, Common Areas, walls, fences or landscape easements belonging to the Association. Notwithstanding anything to the contrary contained in this Declaration, any special assessment established hereunder must be approved by the affirmative vote of seventy-seven percent (77%) of a quorum of the total votes of each class of Owners present at a duly called meeting for such purpose. At least seventy-five percent (75%) of the Owners of each class must be present at this duly called meeting in order to constitute a quorum.

As an alternative, the Developer reserves the right to perform the maintenance contemplated in this Article 10.07, and to assess each Owner with the prorata share of the costs, including reasonable attorney fees incurred by the Developer, as set forth in the bylaws of the Association.

10.08 Conflicts. The Association may make whatever rules, regulations, and By-Laws it deems necessary or desirable to govern the Association and its members; provided, however, that any conflict between the Association's rules, regulations and By-Laws and the provisions of this Declaration shall be controlled by and resolved in favor of this Declaration.

10.09 Pool and Park Assessments. Each Lot is hereby subject to a mandatory pool and park assessment (the "**Pool Assessment**") for the costs and support of the pool and park area facility to be constructed on a 0.5-acre portion more or less, tract or parcel of land described on Exhibit "A".

- A. The Pool Assessment shall be initially established and thereafter changed from time to time to support the maintenance and upkeep of the pool and common area.
- B. The Pool Assessment shall be waived for the initial builder of a Lot only. Each subsequent owner of a Lot shall be required to pay the Pool Assessment in effect at the time of the conveyance of the Lot.
- C. The Pool Assessment shall not be charged until the construction of the pool is completed and open to its members.

ARTICLE XI - TERMS; AMENDMENTS; TERMINATIONS

11.01 Term: Method Of Termination. This Declaration and the Covenants shall be effective upon the date of recordation hereof and, as may be amended from time to time, shall continue in full force and effect to and including December 31, 2052. From and after December 31, 2052, this Declaration, as it may have been amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Owners of at least seventy-five percent (75.0%) of the Lots (there being only one vote per Lot which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes for termination at a meeting of the Owners held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension.

11.02 Amendments. Until the Developer has initially sold all of the Lots, including any additional Lots that may be added to the Subdivision by virtue of the Developer's right to expand the Subdivision as provided in this Declaration, such sales being evidenced by the recording of a Deed from the Developer to the initial buyer of a Lot, the Developer shall have the sole right to unilaterally change or amend this Declaration at any time, in any manner, and for any reason or purpose as determined at the sole discretion of the Developer. After all of the Lots have been initially sold by Developer, this Declaration may be amended or changed in whole or in part at any time only by the affirmative vote of the then Owners of at least seventy-five percent (75.0%) of the Lots (each Owner having one vote per Lot owned which shall be exercised collectively by any multiple owners of interests in any one Lot as they may among themselves determine) casting their votes to amend or change this Declaration at a special meeting of the Owners called pursuant to Section 11.03.

11.03 Election Procedures. The affirmative votes required under Sections 11.01 and 11.02 hereof shall be obtained and evidenced by the requisite vote of the Owners present at a meeting of Owners duly called by at least twenty-five percent (25.0%) of the Owners or by the Developer pursuant to notice to all of the Owners on or prior to ten (10) days before the date of the meeting at which meeting the requisite percentage of Owners vote to so amend or terminate this Declaration. No proxy votes shall be allowed or valid. The notice of the meeting must set forth the proposal as to amendment of this Declaration and such affirmative vote of the requisite percentage of Owners must be evidenced by minutes of the meeting duly certified by the Owners who called the meeting or the Developer. In any event, as long as the Developer owns a Lot in the Subdivision, a copy of the minutes shall be delivered to the Developer prior to any amendment or change becoming effective.

11.04 Recording Amendments. Upon the amendment or change of this Declaration (and/or the Covenants contained herein) as herein provided, and upon the other conditions set forth in Section 11.01 and Section 11.03 of this Article XI having been satisfied, then each amendment shall be executed by the (i) the Developer, its successors or assigns, or (ii) the Owners who voted in favor of the amendment or change, as applicable, placed in recordable form, and filed of record in the Official Public Records of Smith

County, Texas, accompanied by a statement that either (i) the Developer, or (ii) the requisite percentage of Owners, have voted to make such amendment to this Declaration.

11.05 Effect. Upon the filing of an amendment or change in accordance with Section 11.04, this Declaration and the Covenants, as amended, shall remain in full force and effect.

11.06 Other Right of Amendment. Anything in this Article to the contrary notwithstanding, Developer, its successors and assigns, reserves the right at any time prior to the initial sale of all of the Lots to amend all or any part of this Declaration to such an extent and with such language as shall be required by any federal, state, or local agency which requires such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereon. Any such amendment shall be effected by the recordation, by Developer, its successors or assigns, of a Certificate of Amendment signed by Developer, its successors or assigns, with proper signature acknowledged, specifying the federal, state, or local governmental agency or the federally chartered lending institution requiring the amendment and setting forth the amendatory language required by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's requirement for such an amendment, and such Certificate, when recorded, shall be binding upon the Property, or the affected portion thereof, and all persons or Owners having an interest in the same. Except as provided in Section 11.06 of this Declaration, Developer shall not have any right to unilaterally amend this Declaration.

ARTICLE XII - RESERVATION OF RIGHT TO EXPAND SUBDIVISION

These Covenants and Henshaw Creek may, at the sole discretion of the Developer, be expanded to include additional real property and future development or subdivision of additional real property by the Developer, or its assigns, which are contiguous with any of the real property that has been platted as part of the Henshaw Creek. The Covenants shall automatically become effective against and shall run with all of the land that is described on any Plat that is a part of or a Unit of Henshaw Creek, whether or not any additional documents are filed of record in the Official Public Records of Smith County, Texas. By accepting a Deed to a Lot, each Owner stipulates, acknowledges, covenants and agrees that additional real property may be made subject to this Declaration by the Developer at the sole and exclusive discretion of the Declarant.

ARTICLE XIII - RESERVATION OF RIGHT TO RESUBDIVIDE

Subject to the approval of any and all appropriate governmental agencies having jurisdiction over the Subdivision or any Lot, Developer hereby reserves the right at any time while it is the Owner thereof to subdivide or resubdivide, as the case may be, and/or plat or replat, as the case may be, all or any portion of the Subdivision or of any Lot or Lots then owned by Developer without the consent of any Owner.

ARTICLE XIV - TEXAS PROPERTY CODE

It is the intent of the Developer that this Declaration be in all respects consistent with the provisions of the Texas Property Code. Therefore, in the event of any conflict between this Declaration and the provisions of the Texas Property Code, the provisions of the Texas Property Code shall control.

ARTICLE XV - MISCELLANEOUS

15.01 Interpretation of the Covenants. Except for judicial construction, until the Association is incorporated, the Developer shall have the exclusive right and power to construe and interpret the provisions of this Declaration. Once the Association is formed, the Developer and/or the Association shall have the exclusive right and power to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a Court of competent jurisdiction, the Developer's and/or the Association's construction or interpretation of the provisions hereof, as applicable, shall be final, conclusive, and binding as to all persons and properly benefitted or bound by this Declaration and the provisions hereof.

15.02 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other, remaining provisions hereof, which remaining provisions shall be and remain in full force and effect.

15.03 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) if applicable, those of the issue of the Developer who are living at the time the period of perpetuities starts to run on the challenged interest.

15.04 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration.

15.05 Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Developer, the Association, or the Architectural Control Committee, as applicable, shall have the right to adopt rules and regulations with respect to all other aspects of the rights, activities and duties of the Developer, the Association or the Architectural Control Committee, as applicable, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

15.06 Disclaimer of Representation. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the Official Public Records of Smith County Texas, neither the Developer nor the Architectural Control Committee makes any warranties or representations whatsoever that the plans presently envisioned for the complete development of the Property can or will be carried out.

15.07 Limitation of Liability. In the absence of willful and intentional misconduct attributable to (i) Developer, its successors or assigns, (ii) the Architectural Control Committee (and any and all members thereof), or (iii) the Association (and any and all members thereof) neither the Developer, nor its successors or assigns, nor the Architectural Control Committee (nor any member thereof), nor the Association (nor any member thereof), shall have any liability of any nature whatsoever arising out of or in any manner related to the performance or nonperformance of any of the rights and powers reserved unto Developer, the Architectural Control Committee, the Association, or their respective heirs, executors, administrators, personal representatives, legal representatives, successors or assigns, pursuant to this Declaration.

15.08 Successors and Assigns. Any reference in this Declaration to Developer shall include Developer's successors and assigns.

15.09 Gender and Number. Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

15.10 Captions and Titles. All captions, titles, or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify, or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

15.11 Notices. Any notice required or permitted to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, delivery shall be deemed to have been made twenty-four (24) hours after a copy of the notice has been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to each such person or entity at the address given by such person or entity to the party sending the notice or to the address of the Dwelling Unit or the office of such person or entity if no address has been given. Such address may be changed from time to time by notice in writing.

15.12 Prior Recorded Instruments. This Declaration and all of the provisions hereof are expressly subject to all prior recorded documents affecting the Property.

15.13 Enforcement of the Covenants. Notwithstanding anything to the contrary herein, in the event of any violation or attempted violation of any of the provisions of this Declaration, including any of the Covenants, enforcement shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of such provisions, including proceedings to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunction to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereof may recover such damages as such person has sustained by reason of the violation of such provisions.

15.14 Suspension of the Covenants. The Developer and the Association shall and do have the right during the period of construction, development, and sale of the Lots in the Subdivision, to grant reasonable and specifically limited exemptions and waivers from the Covenants to Developer and any other developer or contractor. Any such exemptions or waivers shall be granted only upon specific written request, itemizing the exemption or waiver requested, the location thereof, the need therefor, and the anticipated duration thereof and any authorization and approval thereof shall be similarly itemized. No such exemption or waiver shall be broader in terms of activity, location, or time than is reasonably required.

15.15 Non-Waiver. Any failure or delay on the part of either the Developer, the Architectural Control Committee, the Association, and/or any Owner (i) to exercise any right, remedy or duty under this Declaration, or (ii) to take any action to enforce the Covenants or the Declaration, with regard to anyone matter or situation or group of matters or situations in any manner covered by or arising out of the Covenants or Declaration shall not in any manner be deemed or construed to be a waiver of the same or any subsequent matter or situation or group of matters or situation arising hereunder. No forbearance of any type for any period of time by either the Developer, the Architectural Control Committee, the Association, and/or any Owner shall be in any manner deemed or construed to be a waiver of any right, remedy or duty hereunder, but all such rights, remedies and duties shall continue in full force and effect as if no forbearance had occurred. All Owners by accepting a Deed to a Lot hereby expressly covenant, stipulate, acknowledge and agree that (i) he, she or it expressly waives the affirmative defense of waiver with respect to any violation of this Declaration, or any part hereof or covenant herein, and (ii) the affirmative defense of waiver as recognized under the laws of the State of Texas shall not be available to any Owner as a defense to the violation of this Declaration, or any part hereof or covenant herein.

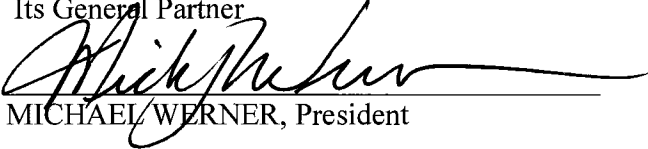
15.16 Liberal Interpretation. This Declaration, and all of the covenants, conditions, assessments, charges, servitudes, liens, reservations, and easements, shall be liberally construed to effectuate the purposes of this Declaration.

15.17 Correction. This Declaration is made as a correction Declaration in substitution of the Declaration titled "Declaration of Covenants, Restrictions, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for HENSHAW CREEK, A Master Planned Community" referred to herein as the "Corrected Declaration" dated July 15, 2022 and recorded as instrument number 2022010207563 of the real property records of Smith County, Texas to renumber inadvertently misnumbered paragraphs and to add the property description as shown on Exhibit A. Other than the stated correction, this Declaration is intended to restate in all respects the Corrected Declaration, and the effective date of this Correction Declaration relates back to the effective date of the Corrected Declaration.

Effective July 15, 2022.

WERNER-TAYLOR LAND DEVELOPMENT,
L.P., a Texas limited partnership

By: WERNER-TAYLOR MANAGEMENT, LLC,
a Texas limited liability company,
Its General Partner

By: 
MICHAEL WERNER, President

STATE OF TEXAS §
 §
COUNTY OF SMITH §

This instrument was acknowledged before me on this 9th day of May, 2023 by MICHAEL WERNER, President of WERNER-TAYLOR MANAGEMENT, LLC, a Texas limited liability company, General Partner of WERNER-TAYLOR LAND & DEVELOPMENT, L.P., a Texas limited partnership, on behalf of said limited partnership.




NOTARY PUBLIC, STATE OF TEXAS

WHEN RECORDED RETURN TO:

Mr. Michael J. Werner
Werner-Taylor Land & Development, L.P.
7266 Crosswater
Tyler, Texas 75703

Exhibit "A"
44.145-Acre Tract

Being a 44.145-acre tract of land situated in the Don Thomas Quevado Survey, Abstract No. 18, Section No. 6, Smith County, Texas and being part of a called 46.185-acre tract described in a Deed from Damaris M. Moore to Joe C. Moore Family Trust recorded under Clerk's File No. 20170100003001 of the Official Public Records of Smith County, Texas, (O.P.R.S.C.T.), said 44.145-acre tract being more particularly described as follows:

Beginning at a 1/2" iron rod found with plastic cap stamped "K.L.K. #4687" at the Southeast corner of said 46.185-acre tract and said Don Thomas Quevado Survey, Abstract No. 18, Section No. 6, also being in the North boundary line of the remainder of a called 119.715-acre tract described in a Deed from Sandra Crank Taylor, Individually, and Sandra Crank Taylor, Trustee of the Sandra Crank Taylor Special Marital Trust (Created under the Last Will and Testament of Larry James Taylor, Deceased) to Werner-Taylor Land Development, L.P., a Texas Limited Partnership recorded under Clerk's File No. 2018010006823, O.P.R.S.C.T., being the Northeast corner of the Don Thomas Quevado Survey, Abstract No. 18, Section No. 5, and being in the West end of Three Lakes Parkway as evidenced by a Final Plat of Oak Hill Unit 10 recorded in Cabinet E, Slide 174-C of the Plat Records of Smith County, Texas, (P.R.S.C.T.);

Thence South 88 degrees 05 minutes 44 seconds West, a distance of 1055.95 feet along the South boundary line of said 46.185-acre tract and said Quevado Survey, Abstract No. 18, Section No. 6 and the North boundary line of the remainder of said 119.715-acre tract and said Quevado Survey Abstract No. 18, Section No. 5 to a 1/2" iron rod found for the Northwest corner of said 119.715-acre tract and the Northeast corner of a called 49.34-acre tract described in a Deed from Mollie A. Winston, Stephen T. Winston, Amy Winston Boland and husband, John Parker Boland, Alan D. Winston and wife, Mollie A. Winston to Werner, Taylor & Werner, LLC recorded in Volume 7636, Page 771, O.P.R.S.C.T.;

Thence North 89 degrees 51 minutes 38 seconds West, a distance of 48.53 feet along the South boundary line of said 46.185-acre tract and said Quevado Survey, Abstract No. 18, Section No. 6 and the North boundary line of said 49.34-acre tract and said Quevado Survey Abstract No. 18, Section No. 5 to a 3/8" iron rod found for the Southwest corner of said 46.185-acre tract and the Southeast corner of a called 14.342-acre tract described in a Deed from Huckabee Properties, LLC to WLK Investments, LLC recorded under Clerk's File No. 20120038023, O.P.R.S.C.T.;

Thence North 03 degrees 27 minutes 30 seconds West, a distance of 1030.46 feet along the West boundary line of said 46.185-acre tract and the East boundary line of said 14.342-acre tract to a 1" iron pipe found for an interior ell corner in the West boundary line of said 46.185-acre tract for the Northeast corner of said 14.342-acre tract;

Thence North 88 degrees 30 minutes 15 seconds West, a distance of 180.98 feet along the most westerly South boundary line of said 46.185-acre tract and the North boundary line of said 14.342-acre tract to a 3/8" iron rod found;

Thence North 45 degrees 45 minutes 15 seconds West, a distance of 31.90 feet along the Southwest boundary line of said 46.185-acre tract and the Southeast boundary line of said 14.342-acre tract to a point for the West corner of said 46.185-acre tract, said point being in County Road No. 192-Old Noonday Road;

Thence North 44 degrees 41 minutes 23 seconds East, a distance of 1404.66 feet along the Northwest boundary line of said 46.185-acre tract and along said County Road No. 192 to a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" set near the occupied East right-of-way of same;

Thence South 31 degrees 11 minutes 17 seconds East, a distance of 356.69 feet across said 46.185-acre tract to a 1/2" iron rod with plastic cap stamped "K.L.K. #4687" set;

Thence North 88 degrees 39 minutes 38 seconds East, a distance of 140.28 feet continuing across said 46.185-acre tract to a 1/2" iron rod with plastic cap stamped "K.L.K. 34687" set in the East boundary line of same and the West boundary line of Lot 10, N.C.B. 1660-A, as evidenced by a Final Plat of Oak Hill Unit 10 recorded in Cabinet E, Slide 174-C, P.R.S.C.T. to Tyler I.S.D.;

Thence South 01 degree 54 minutes 06 seconds East, a distance of 1718.28 feet along the East boundary line of said 46.185-acre tract and the West boundary line of said Lot 10 to the **place of beginning**, containing 44.145 acres of land more or less.

Bearing basis is the Texas State Plane Coordinate System, Grid North Central Zone NAD 83, (Feet) based on the 1993 adjustment of the NAD 83 System. The control monument is TJC1-Tyler, Leica Geosystems Smartnet of North America.

EXHIBIT "B"

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

"Architectural Control Committee" shall mean the Developer or such other person, persons or entity who shall be named to serve by Developer in conjunction with or as the successor to Developer, provided, however, that such change shall not be effective for purposes of these Covenants until a statement of such change has been duly recorded by the Developer, or Developer's successors or assigns, in the Official Public Records of Smith County, Texas. The Developer, or Developer's successors or assigns, shall have the right at any time to change the number of members comprising the Architectural Control Committee and the persons forming the membership of the Architectural Control Committee at the sole discretion of said Developer, or Developer's successors or assigns, by the filing for record in the Official Public Records of Smith County, Texas of a statement to such effect as provided herein.

"Assessable Property" shall, mean each part or portion of the Property and the Permanent Improvements located thereon.

"Assessment" means any general or special assessment at any time imposed by the Association as provided in Article X of the Declaration.

"Assessment Lien" shall mean the lien created and imposed against any part of the Property by Article VI of this Declaration.

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

"Common Area Property" shall mean that portion of the Property that shall be owned by the Association for the benefit of all of the Owners of the real property located within the Property.

"Henshaw Creek Design Guidelines" shall mean a written instrument adopted by the Architectural Control Committee used to establish design criteria for Permanent Improvements.

"Covenants" shall mean the covenants, conditions, assessments, charges, servitudes, liens, reservations and easements set forth herein.

"Developer" shall mean Werner-Taylor Land & Development, L.P., a Texas limited partnership, and its successors or assigns of any or all rights and powers hereunder, but with respect to any such successor or assignee (i) such successor or assignee shall not be deemed to be a "Developer" unless such successor or assignee is designated as such pursuant to a written instrument signed by Developer, which written instrument shall be filed of record in the Official Public Records of Smith County, Texas, and (ii) such successor or assignee shall only have those rights and powers of Developer that are specifically assigned to such successor or assignee pursuant to such written instrument.

"Declaration" shall mean this Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations and Easements as amended or supplemented from time to time as herein provided.

"Deed" shall mean a deed or other instrument conveying the fee simple title to all or any portion of the Property.

"Developer Land" shall mean all property owned by Developer within the Property.

"Dwelling Unit" shall mean with respect to any Lot, any buildings constructed as Permanent Improvements

"Fines" shall mean the fines that may be imposed as provided in Section 8.02 of this Declaration.

"Lot" shall mean all lots, individually, of Henshaw Creek, as shown upon the Plat of the Property filed for record in Plat Records of Smith County, Texas, as such plat may be amended from time to time, together with any lots which may, from time to time result from the resubdivision, combination or division of any of the Lots as may be shown upon a plat or plats of the Property, or any part thereof, hereafter filed for record in the Plat Records of Smith County, Texas.

"Maintenance Charges" shall mean any and all costs assessed as provided in Article V of this Declaration.

"Owner" shall mean the person or persons, entity or entities, who, individually or jointly, own record title to a Lot of the Property. The term "Owner" shall exclude any person or persons, entity or entities, having an interest in a Lot of the Property or any such parcel merely as security for the performance of an obligation. The term "Owner" shall include Developer so long as Developer is a record title owner of any Lot of the Property.

"Permanent Improvements" shall mean with respect to any Lot of the Property, any and all improvements, structures and other materials and things located thereon, including without limitation, trees, berms, shrubs, hedges and fences.

"Structure" shall mean with respect to any Lot, any buildings constructed as Permanent Improvements.

"Member" shall mean every person or entity who holds membership in the Association.

"Henshaw Creek" shall mean the real property described on Exhibit "A" to this Declaration which is attached hereto and incorporated herein for all purposes.

**Smith County
Karen Phillips
Smith County Clerk**

Document Number: 202301016374

eRecording - Real Property

RESTRICTION

Recorded On: June 05, 2023 02:23 PM

Number of Pages: 34

Billable Pages: 33

" Examined and Charged as Follows: "

Total Recording: \$154.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

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

File Information:

Document Number: 202301016374
Receipt Number: 20230605000143
Recorded Date/Time: June 05, 2023 02:23 PM
User: Tammy P



**STATE OF TEXAS
COUNTY OF SMITH**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Smith County, Texas.

Karen Phillips
Smith County Clerk
Smith County, TX