**DAVIS SPRING**

**RESIDENTIAL PROPERTY   
MASTER DECLARATION OF**

**COVENANTS, CONDITIONS, AND RESTRICTIONS**

**THE STATE OF TEXAS**

**KNOW ALL MEN BY THESE PRESENTS:**

**COUNTY OF WILLIAMSON**

Davis Spring Properties, Ltd., a Texas limited partnership, hereinafter called the Declarant, is the owner of approximately 670 acres of real property being described as Davis Spring, a subdivision in Williamson County, Texas, which is further described on Exhibit “A” attached hereto and incorporated herein and Declarant proposes to develop and subdivide the Property (hereinafter defined for residential and other purposes more particularly described herein; and

The Declarant desires to hold and from time to time convey the Property, or any portion thereof, subject to certain protective covenants, conditions, restrictions, liens and charges hereinafter set forth; and

Declarant desires to create and carry out a uniform plan for the improvements, development and sale of the Property for the benefit of the present and future owners of the Property:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following casements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Properly and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same arc set Out or referred to in said contract or decd.

**ARTICLE I   
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

**1.1 Architectural Review Committee.** "Architectural Review Committee" shall mean

the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

**1.2 Articles.** “Articles" shall mean the Articles of Incorporation of Davis Spring

Residential Properly Owners Association, Inc., which shall be filed in the office of the Secretary of State of the State of Texas, as from time to time amended.

**1.3 Assessment.** "Assessment' or "Assessments" shall mean such assessments as may

be levied by the Association under the terms and provisions of this Declaration.

1.4 **Association.** "Association" or "Master Association" shall mean and refer to Davis

Spring Residential Property Owners Association, Inc., a Texas non-profit corporation, its successors and assigns*.*

1.5 **Board.** "Board" shall mean the Board of Directors of the Association.

1.6 **Bylaws.** "Bylaws" shall mean the Bylaws of the Association to be adopted by the

Board, and as from time to time amended.

1.7 **Davis Spring Restrictions.** "Davis Spring Restrictions" shall mean, collectively

(i) this Master Declaration, together with any and all Supplemental Declarations, as the same may be amended from time to time, (ii) the Design Guidelines, and (iii) the Articles and Bylaws from time to time in effect, as the same may be amended from time to time.

1.8 **Common Properties.** "Common Properties" shall mean that portion of the Property

owned by the Association for the common use and enjoyment of the Members of the Association including, but not limited to all parks, recreational facilities, community facilities, pumps, landscaping, sprinkler systems, pavement, streets (to the extent not owned *by* appropriate governmental authorities), walkways, parking lots, pipes, wires, conduits and other public utility lines situated thereon (to the extent not owned by appropriate governmental authorities or by local utility companies). The Common Properties to be owned by the Association shall include:

1. those areas of land shown on any recorded plat or its equivalent of the Property or any portion thereof filed or approved by Declarant and identified thereon as "Greenbelt" or "Amenity Area",
2. the unpaved and landscaped areas of City right of way for Parmer Lane through the Subdivision and other streets within the Subdivision and (iii) those areas of land and improvements thereon deeded to the Association by Declarant.

1.9 **Declarant.** "Declarant" shall mean Davis Spring Properties, Ltd., its duly

authorized representatives or their respective successors or assigns; provided that any assignment of the rights of Davis Spring Properties, Ltd. as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.10 **Design Guidelines**. "Design Guidelines" shall mean those certain Development Design Guidelines for Davis Spring. as the same may be amended from time to time and any additional criteria and guidelines established by the Architectural Review Committee.

1.11 **Development.** "Development" shall mean the Property, as more particularly

described on Exhibit "A" attached hereto and incorporated herein.

1.12 **Greenbelt or Amenity Area.** "Greenbelt" or "Amenity Area" shall mean all areas designated by Declarant to be held as open space or for passive or active recreational purposes for the benefit of all Owners.

1.13 **Improvement**. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind located on the Property, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, basketball goals, swimming pools, garages, storage buildings, fences, trash enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.14 **Lot.** "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a Plat of the Property, together with all Improvements located thereon.

1.15 **Master Declaration.** "Master Declaration" or "Declaration" shall mean this

instrument, and as it may be amended from time to time.

1.16 **Member.** "Member" or "Members" shall mean any person, persons, entity, or entities holding membership rights in the Association.

1.17 **Mortgage.** "Mortgage" shall mean any mortgage or deed of trust covering all or any portion of the Property given to secure the payment of a debt.

1.18 **Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.19 **Owner.** "Owner" or "Owners' shall moan and refer to a person or persons, entity or entities, excluding Declarant, holding a fee simple interest in all or any portion of the Property, but shall not include a Mortgagee.

1.20 **Person.** "Person" or "Persons" shall mean any individual, individuals, entity or

entities having the legal right to hold title to real property.

1.21 **Plans and Specifications.** "Plans and Specifications" shall mean any and all

documents designed to guide or control the construction or erection of any improvement, including but not limited to those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, signage, lighting, elevation drawings, floor plans, specifications on all building products and construction techniques, samples or exterior colors, plans for utility services, all other documentation or information relevant to such improvement.

1.22 **Plat.** "Plat" shall mean a final subdivision plat of any portion of the Property.

1.23 **Property.** "Property" shall mean that real property which is subject to the terms

of this Declaration initially described as Davis Spring, a subdivision in Williamson County, Texas and as described by metes and bounds on Exhibit “B” attached hereto and incorporated herein, and any additional real property which may be hereafter incorporated or annexed under the terms of this Declaration.

1.24 **Subassociation.** "Subassociation" shall mean any non-profit Texas corporation or unincorporated association, organized and established by Declarant or with Declarant's approval, pursuant to or in connection with a Supplemental Declaration.

1.25 **Subdivision.** "Subdivision" shall mean and refer to Davis Spring and such other

property within the area described in Exhibit “A” which has been subdivided and shown on a map or plat or record in the Plat Records of Williamson County, Texas and brought within the scheme of this Declaration in accordance with the provisions of Article II of this Declaration.

1.26 **Supplemental Declaration**. “Supplemental Declaration" shall mean and refer to any declaration or covenants, conditions and restrictions which may be recorded hereafter in order (i) to subject any area of the Property to further covenants, conditions or restrictions (ii) to withdraw land from the Property or (iii) to annex additional land into the Development.

**ARTICLE II**

**ADDITIONS TO TI PROPERTY 2.1 Phased\_Subdivision.**

**(A) Incorporation.** The Declarant, its successors and assigns, shall have the right at

any time prior to June 1, 2014, to incorporate within the scheme of this Declaration additional properties in future phases of the Development, so long as such properties arc within the area described on Exhibit "A" attached hereto, following the acquisition of such property, or with the consent of the record owner, without the consent or approval of any party, including the Owners of any Lots (other than Declarant), and so long as such additions arc pursuant to a general plan approved by the Veterans Administration ("VA") or the Federal Housing Association ("FHA").

1. **Annexation.** Additional properties may be annexed into the Development at any time with the consent of two-thirds (2/3rdS) of each class of Members of the Association. As additional properties arc annexed hereto, Declarant shall, with respect to said properties, record Supplemental Declarations which may incorporate this Declaration herein by reference, and which may supplement or modify this Declaration with such additional covenants, restrictions and conditions which may be appropriate for those properties.
2. **Filing Supplemental Declarations.** To evidence the incorporation or annexation of additional property, Declarant shall record a Supplemental Declaration which shall incorporate this Declaration by reference. Following such incorporation or annexation and the recordation of such additional plat or maps, then and thereafter the Owners of all lots in the Subdivision shall have the rights, privileges and obligations set forth in, this Declaration and each applicable Supplemental Declaration.

2.2 **Merger or Consolidation.** Upon a merger or consolidation of the Association with

another association, the Association's properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided.

**ARTICLE III   
GENERAL RESTRICTIONS**

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

3.1 **Antennae.** No exterior radio or television antenna or aerial or satellite dish

receiver, or other devices designed to receive telecommunication signals, including, but not limited to, radio, television, **or** microwave signals which are intended for cable television, network television reception, or entertainment purposes shall be erected or maintained, except by Declarant, without the prior written approval of the Architectural Review Committee.

3.2 **Subdividing.** No Lot shall be further divided or subdivided, nor may any

easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Review Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Review Committee. Public utility and drainage casements are exempt from this provision.

3.3 **General Signage Standards.** All signs visible from the roadway (both temporary

and permanent) shall be constructed for low maintenance and shall be approved in advance by the Architectural Review Committee and the City of Austin. In the event a sign is not properly maintained, the Architectural Review Committee and the City of Austin may give the sign owner written notice thereof. Required repairs must be made within five (5) business days of notification or the Architectural Review Committee and City of Austin shall have the right, but not the obligation, to have repairs made and charged to the sign owner. Prohibited signs include bench signs; billboards; banner signs; signs with flashing or blinking lights or mechanical movement; dayglo colors; signs which make or create noise; animated moving signs; exposed neon, fluorescent or incandescent illumination; painted wall signs; pennants; trailer signs; signs with beacons; and any sign that obstructs the view in any direction of an intersection.

5

3.4 **Rubbish and Debris.** No rubbish or debris of any kind shall be placed or permitted

to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. In the event the owner shall fail or refuse to keep, or cause to be kept such owner's property or any improvements thereon free from rubbish or debris or any kind, and such failure or refusal shall continue for fifteen (15) days after delivery of written notice thereof, then the Davis Spring Residential Property Owners Association or the City of Austin may enter upon such property and remove or correct the same at the expense of the property owner and such entry shall not be deemed a trespass.

3.5 **Noise.** No exterior speakers, horns, whistles, bells or other sound devices (other

than security devices used exclusively for security or public safety purposes) shall be located, used or placed on any of the Property such that it becomes or **w**ill become clearly audible at the property line of adjoining property owners. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.6 **Construction of Improvements.** No Improvements shall hereafter be constructed

upon any of the Property without the prior written approval of the Plans and Specifications for the Improvements) by the Architectural Review Committee. Anything herein to the contrary notwithstanding, in the case of single family residences constructed on any Lot, the Architectural Review Committee, in its sole discretion, may limit its review to a review of specific floor plans, and elevations, and upon the Architectural Review Committee's approval of such specific floor plans and elevations, residences may be constructed consistent with the approved floor plans and elevations without the requirement of further review or approval by the Architectural Review Committee.

3.7 **Repair of buildings.** All Improvements upon any of the Property shall at all times

be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

3.8 **Alteration or Removal of Improvements.** Any construction, other than normal

maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement, shall be performed only with the prior written approval of the Architectural Review Committee.

3.9 **Roofing\_Materials**. All roofing material shall be subject to the approval of the

Architectural Review Committee.

3.10 **Underground Utility Lines.** No utility lines including, but not limited to, wires or

other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other Improvements as approved in writing by the Architectural Review Committee; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the Architectural Review Committee or model homes or construction trailers; and further provided that this provision shall not apply to utilities installed along the perimeters of the Property. The duration of any temporary overhead use otherwise allowed hereunder shall not exceed one (1) year without the consent of the Architectural Review Committee. The installation method, including, but not limited to, location, type of installation, equipment, trenching method and other aspects of installation, for both temporary and permanent utilities shall be subject to review and approval by the Architectural Review Committee.

3.11 **Drainage.** There shall be no interference with the established drainage patterns

over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Review Committee.

6

3.12 **Hazardous Activities.** No activities shall be conducted on the Property and no

Improvements constructed on the Property which arc or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces, or in contained barbecue units while attended and in use for cooking purposes.

3.13 **Temporary Structures.** No tent, shack or other temporary building, improvement or structure shall be placed upon the Property without the prior written approval of the Architectural Review Committee: provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen during actual construction may be maintained with the proper approval of Declarant, approval to include the nature, size, duration and location of such structure.

3.14 **Mining and Drilling.** No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth.

3.15 **Unsightly Articles: Vehicles**. No article deemed to be unsightly by the

Architectural Review Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, busses, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, **or** on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single family residential structure constructed within the Property shall have garage space sufficient to house all vehicles to be kept on the Lot. Owners shall not keep more than two (2) automobiles in such manner as to be visible from any other portion of the Property for any period in excess of seventy-two (72) hours. No automobiles or other vehicles may be parked overnight on any roadway within the Property. Service area, storage area, loading area, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view from public or private thoroughfares and adjacent properties and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse or trash shall be kept stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view from public or private thoroughfares and adjacent properties.

3.16 **Mobile Homes. Travel Trailers and Recreational Vehicles** No mobile homes shall be parked or placed on any Lot at any time, and no travel trailers or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or public or private thoroughfares for more than forty-eight (48) hours.

3.17 **Fences.** The construction of fences shall be subject to the prior written consent of the Architectural Review Committee. The Architectural Review Committee may, in its discretion, prohibit the construction of any proposed fence, or specify the materials of which any proposed fence must be constructed, or require that any proposed fence be partially screened by vegetation. No fence shall be permitted within any street yard. (Street yard is the yard abutting a street which lies between the street and the face of the house as described in the City of Austin Landscape Ordinance.) Fences adjacent to roadways designated as collectors by the City of Austin and Greenbelt areas shall be constructed by the Declarant or cause to be constructed by Declarant as part of the construction of each subdivision and must be completed prior to acceptance of the subdivision. Such fences shall be a minimum of four feet and a maximum of 6.5 feet in height and shall be constructed using masonry or wrought iron or an equivalent maintenance free material. (Wood, common cement or cinder block and chain link are specifically excluded.) The design, materials and specifications of such fencing shall be approved by the Architectural Review Committee and the City of Austin Director of Planning prior to the approval of the subdivision plat. The Declarant shall include in his fence design, or cause to be included accent landscaping in the public right of way to complement all rear lot line fencing. Fence maintenance shall be the responsibility of the property owner and all damage shall be repaired within thirty days of written notification by the Master Association or the City of Austin.

It shall be a violation of this Declaration to maintain a fence in such a manner as to allow (1) any portion of a fence to lean so that the fence's axis is more than five (5) degrees out of perpendicular alignment with its base, (2) missing, loose, or damaged stone or wood rails in the fence and (3) symbols, writings, and other graffiti on the fence.

3.18 **Animals- Household Pets.** No animals, including pigs, pot bellied pigs, hogs,

swine, pigeons, poultry, fowl, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained or cared for on the Property. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on any portion of the Property other than on the Lot of its Owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large and all animals shall be kept within enclosed areas which must be clean, sanitary and \*reasonable free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Architectural Review Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property.

3.19 **Maintenance of Lawns and Plantings.** Each Owner shall keep alt shrubs, trees, grass and plantings of every kind on such Owner's Lot (including any Greenbelt platted as a part of such Owner's Lot and any Greenbelt located between such Owner's Lot and a publicly dedicated roadway) cultivated, pruned, mowed and free of trash and other unsightly material.

3.20 **Construction Activities.** Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Review Committee, provided that such waiver shall be only for the reasonable period of such construction.

3.21 **Compliance with Provisions of the Davis Sprint Restrictions** Each Owner shall

comply strictly with the provisions of the Davis Spring Restrictions as the same may be amended from time to time. Failure to comply with any of the Davis Spring Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

3.22 **Construction in Place.** All dwellings constructed on the Property shall be built in

place on the applicable Lot and the use of prefabricated materials shall be allowed only with the prior written approval of the Architectural Review Committee.

3.23 **Unfinished Structur**es. No structure shall remain unfinished for more than one (1)

year after the same has been commenced. Construction of residential improvements shall begin   
no later than two (2) years after ownership of the Lot has been legally conveyed by Declarant.

3.24 **Setback Requirements**. Setback requirement shall be the more restrictive of (a) those set forth on any Plat r (b) those contained in the City Zoning Ordinance.

3.25 **Rentals.** Nothing in the Declaration shall prevent the rental of any entire Lot and

the Improvements thereon, by the Owner thereof for residential purposes.

3.26 **Sidewalks.** A sidewalk shall be constructed, in accordance with applicable City of Austin ordinances and regulation, on each Lot, and the Plans and Specifications for all

residential buildings on each Lot shall include plans and specifications for such sidewalk, and the same shall be constructed and completed prior to occupation of the residential building. No other sidewalks shall be placed on any Lot without the approval of the Architectural Review Committee.

3.27 **No Warranty of Enforceability.** While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article Ill or elsewhere in this Declaration arc or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

**ARTICLE IV   
USE RESTRICTIONS**

4.1 **General.** The Property shall be improved and used solely for single family

residential use, for Greenbelt or Amenity Areas and for all other permitted uses. Greenbelt or Amenity Areas may, subject to the approval of Declarant, be improved and used for active and passive recreational purposes for the primary benefit of Owners and occupants of portions of the Property; provided, however that, as to any specific area, Declarant may, in its sole and absolute discretion, permit other improvements and uses.

4.2 **Minimum Yards** Minimum yard and set-back requirements shall be established as

shown on the plat or contained in City Zoning Ordinances.

4.3 **Greenbelt or Amenity Area**. No land within any Greenbelt or Amenity Areas

shall be improved, used or occupied, except in such manner as shall have been approved by Declarant, in its sole and absolute discretion. Such required approval shall extend to the nature and type of use, occupancy and Improvement. Declarant may, by written instrument, delegate its right to grant such approval to the Board. Access to any Greenbelt or Amenity Area may be limited to persons currently paying Assessment, fees and other charges, or otherwise conditioned or restricted, or made available to non-Owners, all on such terms and conditions as Declarant may determine, in its sole discretion.

4.4 **Recreational Improvements.** Any proposed construction of recreational

improvements within a Greenbelt or an Amenity Area shall be subject to approval by the Architectural Review Committee.

**ARTICLE V**

**DAVIS SPRING RESIDENTIAL PROPERTY OWNERS ASSOCIATION, INC**.

5.1 **Organization**. The Declarant shall, at such time as Declarant deems appropriate,

cause the formation and incorporation of the Master Association as a nonprofit corporation under the laws of the State of Texas. Tie Master Association shall be created for the purposes, charged with the duties, governed by the provision, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Master Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Master Declaration. Nothing in this Master Declaration shall prevent the creation, by provision therefor in Supplemental Declaration(s) executed and recorded by Declarant or any person or persons authorized by Declarant, of Subassociations to own, develop, assess, regulate, operate, maintain or manage the Property subject to such Supplemental Declarations.

5.2 **Membership.** Every person or entity who is a record Owner of a fee or undivided

Fee interest in any Lot which is subject, by covenants or record, to Assessment by the

Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. Any Mortgagee or Lienholder who acquired title to any Lot which is a part of the Property through judicial or non-judicial foreclosure, shall be a Member of the Association. It is understood that the Development may be developed in phases or sections, and upon the completion of development of each individual section or phase by Declarant, such completed section or phase or any part thereof shall, at the option and election of Declarant, be incorporated within the scheme of the Declaration and become bound hereby and a part hereof, which incorporation shall be evidenced by the filing of the Supplemental Declaration; provided, however, in the event that Declarant shall sell the Exhibit "A" land to an unrelated third party purchaser without having first developed the same, such third party shall have the right to elect whether or not it desires the Exhibit "A" land to be incorporated herein pursuant to the terms of Section 2.1.

9

5.3 **Voting Rights.** The Association shall have two (2) classes of voting memberships:

A. **Class A.** Class A Members shall be all Owners, with the exception of the

Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine as provided by the 13y-Laws, but in no event shall more than one (1) vole be cast with respect to any Lot.

B.. **Class B.** The Class 13 Member(s) shall be the Declarant, and its successors and

assigns, and shall be entitled to three (3) votes for each Lot owned by it, provided

the Class B membership shall cease and be converted to Class A membership (subject to reversion back to Class 13 membership upon the annexation of additional land) on the happening of either of the following events, whichever occurs earlier:

1. the complete development of the land and sale of all developed lots   
   described on Exhibit "A" attached hereto;
2. twenty (20) years from the filing date hereof in the Official Public Records   
   of Williamson County, Texas.

5.4 **Powers and Authority of the Association.** The Master Association shall have the

powers of the Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the Laws of Texas or of the two preceding sentences, the Master Association and the Board, acting on behalf of the Master Association, shall have the power and authority at all times as follows:

A. **Davis Spring Rules and Bylaws.** To make, establish and promulgate, and in its

discretion to amend or repeal and re-enact, such Davis Spring Rules and Bylaws, not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

B. **Insurance.** To obtain and maintain in effect policies of insurance which, in the

opinion of the Board are reasonably necessary or appropriate to carry out the Master Association functions.

1. **Records.** To keep books and records of the Master Association's affairs.
2. **Assessments.**To levy assessments as provided in Article VII below. An   
   assessment is defined as that sum which must be levied in the manner and

against the property set forth in Article VII hereof in order to raise the total amount for which the levy in question is being made.

1. **Right of Entry and Enforcement.** To enter at any time in an emergency (or in the case of a non-emergency, Mkt- twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the Davis Spring Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Davis Spring Restrictions, and the expanse incurred by the Master Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and upon the improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special assessments. The Master Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Davis Spring Restrictions. The Master Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Davis Spring Restrictions; provided, however, that the Board shall never be authorized to expend any Master Association funds for the purpose of bringing suit against Declarant, its successors or assigns.
2. **Legal and Accounting Services**. To retain and pay for legal and accounting services necessary or proper in the operation of the Master Association.
3. **Collection for Subassociation.** To collect on behalf of and for the accounting of any Subassociation (but not to levy) any assessment made by Subassociation created pursuant to this Master Declaration.
4. **Conveyances**. To grant and convey to anyperson or entity the real property and/or other interest therein, including fee title, leasehold estates, casements, rights-of-way, or mortgages out of, in, on, over, or under any Common Properties for the purpose of constructing, erecting, operating or maintaining the following:
5. Parks, parkways or other recreational facilities or structures;
6. Roads, streets, walks, driveways, trails and paths;
7. Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
8. Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
9. Any similar public, quasi-public or private improvements or facilities;

provided, however, that the Master Association shall not convey fee simple title in and to, or mortgage all or any portion of any Common Properties without the consent of at least sixty-seven (67%) of the Owners (excluding Declarant).

Nothing above contained, however, shall be construed to permit use or occupancy of any Improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.

I.I. **Manager.** To retain and pay for the services of a per-son or firm (the "Manager") to manage and operate the Master Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Master Association or may be furnished by the Manager. To the extent permitted by law, the Master Association and the board may delegate any other duties, powers and functions to the Manager. The members of the Master Association hereby release the Master Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

J. **Association Property Services**. To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for all Common Properties; to maintain and repair easements, roads, roadways, rights­of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes and other areas of the Property, as appropriate and the maintenance of which has not been accepted by the appropriate governmental entity; and to own and operate any and all types of facilities for both active and passive recreation.

1. **Other Services and Properties**. To obtain and pay for any other property and   
   services, and to pay any other taxes or assessments which the Master Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, or the Articles of Bylaws of the Master Association.
2. **Construction on Association Property.** To construct new Improvements or additions to Common Properties, subject to the approval of the Architectural Review Committee as provided in this Declaration.
3. **Contracts.** To enter into contracts with Declarant and other persons on such   
   terms and provisions as the Board shall determine, to operate and maintain any Greenbelt or Amenity Area or to provide any service or perform any function on behalf of Declarant or any Person.
4. **Property Ownership**. To acquire and own and to dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

5..5**Maintenance and Landscape Authority.** The Master Association shall maintain

all streets and roadways within the Property, which have been completed but not accepted by the appropriate governmental entity for maintenance. In addition, the Master Association shall be authorized to landscape, maintain and repair all casements, access casements, rights-of-way, median strips, sidewalks, paths, trails, detention ponds and other areas of the Property, as appropriate. The Master Association shall maintain all Greenbelt or Amenity Areas dedicated to the Master Association for maintenance, by or with the consent of Declarant. The Master Association shall also maintain any landscaped medians and boulevard areas, not fronting lots, located in the public right of way. All signage, plant materials and improvements used in said median or boulevard areas must be approved by the City of Austin and may be removed from the right of way by the City of Austin if required.

5.6 **Lighting.** The Master Association shall pay for electrical service and for all other

costs and expenses necessary to operate and maintain the lighting, other than standard street lights accepted for Maintenance by the City within street right-of-ways and Greenbelt and Amenity Areas and on Common Properties.

5.7 **Common Properties**. Subject to and in accordance with this Declaration, the

Master Association, acting through the Board, shall have the following duties:

A. To accept, own, operate and maintain all Greenbelt or Amenity Areas which may

be conveyed or leased to it by Declarant, together with all Improvements of whatever kind and for whatever purpose which may be located in said area; and to accept, own, operate and maintain all other Common Properties, real and personal, conveyed or leased to the Master Association by Declarant and to

maintain in good repair and condition all lands, improvements and other Master Association property owned by or leased to the Master Association. Such maintenance shall include but not be limited to mowing and removal of rubbish or debris of any kind.

1. To construct, maintain, repair and replace landscape improvements and irrigation systems within public rights-of-way pursuant to agreement(s) with the City of Austin or other appropriate governmental authority.
2. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Master Association, to the extent that such taxes and assessments are not levied directly upon the members of the Master Association. The Master Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
3. Upon the approval of two-thirds (2/3rds) of the Owners (excluding Declarant), to execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Master Association. Additionally, the Master Association may accept lands in Greenbelt or Amenity Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether Declarant or the Master Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether Declarant or the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees or Assessment paid by the members of the Master Association, as the case may be, but subject to the limitations imposed by this Declaration.
4. To take out and maintain current a policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Greenbelt and/or Amenity Area, as well as casualty coverage on all real and personal property owned by the Master Association, if and in such amounts as the Board shall deem appropriate.

5.8 **Fencing**. Fences adjacent to roadways designated as collectors by the City of

Austin and Greenbelt areas shall be constructed by the Declarant or cause to be constructed by Declarant as part of the construction of each subdivision and must be completed prior to acceptance of the subdivision with the Property. Such fences shall be a minimum of four feet and a maximum of 6.5 feet in height and shall be constructed using masonry or wrought iron or an equivalent maintenance free material. (Wood, common cement or cinder block and chain link are specifically excluded.) The design, materials and specifications of such fencing shall be approved by the Architectural Review Committee and the City of Austin Director of Planning prior to the approval of the subdivision plat. The Declarant shall include in his fence design, or cause to be included accent landscaping in the public right of way to complement all rear lot line fencing.

5.9 **INDEMNIFICATION.** THE MASTER ASSOCIATION SHALL INDEMNIFY

ANY PERSON WHO WAS OR IS A PARTY, OR IS THREATENED TO BE MADE A PARTY TO ANY THREATENED, PENDING OR COMPLETED ACTION, SUIT OR PROCEEDING, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE OR INVESTIGATIVE BY REASON OF THE FACT THAT HE IS OR WAS A DIRECTOR, OFFICER, COMMITTEE MEMBER, EMPLOYEE. SERVANT OR AGENT OF THE MASTER ASSOCIATION AGAINST EXPENSES, INCLUDING ATTORNEY FEES. REASONABLY INCURRED BY HIM IN CONNECTION WITH SUCH ACTION, SUIT OR PROCEEDING IF IT IS FOUND

**AND DETERMINED BY THE BOARD OR A COURT THAT HE (1) ACTED IN GOOD FAITH AND IN A MANNER HE REASONABLY BELIEVED TO BE IN, OR NOT OPPOSED TO, THE BEST INTERESTS OF THE MASTER ASSOCIATION, AND (2) WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING, 1IAD NO REASONABLE CAUSE TO BELIEVE HIS CONDUCT WAS UNLAWFUL. THE TERMINATION OF ANY ACTION, SUIT OR PROCEEDING BY SETTLEMENT, OR UPON A PLEA OF NOLO Calla= OR ITS EQUIVALENT, SHALL NOT OF ITSELF CREATE A PRESUMPTION THAT THE PERSON DID NOT ACT IN GOOD FAITH OR IN A MANNER WHICH HE REASONABLY BELIEVED TO BE IN, OR NOT OPPOSED TO, THE BEST INTERESTS OF THE MASTER ASSOCIATION, AND WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING, HAD REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL. THE BOARD MAY PURCHASE AND MAINTAIN INSURANCE ON BEHALF OF ANY PERSON WHO IS OR WAS A DIRECTOR, OFFICER. COMMITTEE MEMBER, EMPLOYEE, SERVANT OR AGENT OF THE MASTER ASSOCIATION, AGAINST ANY LIABILITY ASSERTED AGAINST HIM OR INCURRED 13? HIM IN ANY SUCI-1 CAPACITY, OR ARISING OUT OF HIS STATUS AS SUCH, WHETHER OR NOT THE MASTER ASSOCIATION WOULD HAVE THE POWER TO INDEMNIFY HIM AGAINST SUCH LIABILITY HEREUNDER OR OTIIERWISE.**

**ARTICLE VI   
ARCHITECTURAL RFVIEW COMMITTFF,**

**6.1 Approval of Plans and Specifications.** No Improvement shall be commenced,

erected, constructed, placed or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the Plans and Specifications therefor shall have been submitted to and approved by the Architectural Review Committee in accordance herewith.

**6.2 Membership of Architectural Review Committee.** The Architectural Review

Committee shall consist of not less than three (3) nor more than seven (7) voting members ("Voting Members") and such additional nonvoting members serving in an advisory capacity ("Advisory Members") as Declarant or its successors or assigns deems appropriate. The initial voting members of the Architectural Committee shall be John Simmons, Fred Eppright and Perry Blanton.

**6.3 Actions of the Architectural Review Committee.** The Architectural Review

Committee may, by resolution, unanimously adopted in \wiling, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Review Committee. In the absence of such designation, the vote of a majority of all of the members of the Architectural Review Committee taken without a meeting, shall constitute an act of the Architectural Review Committee.

**6.4 Advisory Members.** The Voting Members may from time to time designate

Advisory Members.

**6.5 Term.** Each member of the Architectural Review Committee shall hold office

until such time as he or she has resigned or has been removed or his or her successor has been appointed, as proved herein.

**6.6 Declarant's Rights of Appointment.** Declarant, its successors or assigns shall

have the right to appoint and remove all members of the Architectural Review Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Review Committee.

**6.7 Adoption of Rules.** The Architectural Review Committee may adopt such

procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

6.8 **Design Guidelines.** The Architectural Review Committee hereby adopts the

Design Guidelines, and shall supply said Design Guidelines to each Owner. All Improvements shall be constructed in accordance with the Design Guidelines, and the Architectural Review Committee shall have the authority to disapprove any proposed Improvements based on the restrictions set forth in the Design Guidelines. Any decision of the Architectural Review Committee pursuant to this Section shall be final and binding so long as it is made in good faith. In the event of a conflict between the Design Guidelines and this Declaration (or any Supplemental Declaration) this Declaration shall control. The Architectural Review Committee may charge Owners a reasonable fee for each set of Design Guidelines supplied to any Owner.

6.9 **Review of Proposed Construction**. Whenever in this Declaration, or in any

Supplemental Declaration, the approval of the Architectural Review Committee is required, it shall consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts and information which, in its sole discretion, it considers relevant, and may require an Owner to provide such other information as it deems relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Review Committee, and construction thereof may not commence unless and until the Architectural Review Committee has approved such Plans and Specifications in writing. The Architectural Review Committee may postpone review of the Plans and Specifications until such time as the Architectural Review Committee has received all information requested. The Architectural Review Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Review Committee. The Architectural Review Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

6.10 **Variances.** The Architectural Review Committee may grant variances from

compliance with any of the provisions of this Declaration or any Supplemental Declaration, when, in the opinion of the Architectural Review Committee, in its sole and absolute discretion, such variance will not impair or detract from the high quality development of the Property, and such variance is justified due to Unusual or aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument, in recordable form, and must be signed by at least two (2) of the Voting Members. The granting of such variance shall not operate to waive or amend any of the terms and provisions of these covenants and restrictions applicable to the Lots for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions hereof. Notwithstanding the foregoing, such variances shall not vary any city ordinance unless a variance or special exception has been first granted by the City of Austin.

6.11 **No Waiver of Future Approvals**. The approval or consent of the Architectural

Review Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Review Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

6.12 **Work in Process.** The Architectural Review Committee, at its option, may

inspect all work in progress to ensure compliance with approved Plans and Specifications.

6.13 **Address.** Plans and Specifications shall be submitted to the Architectural Review

Committee c/o Captex Development Company, 11709 Boulder Lane, Austin, Texas 78726, or such other address as may be designated by Declarant, its successors and assigns, from time to time.

**6.14 Fees.** The Architectural Review Committee shall have the right to require a

reasonable submission fee not to exceed S150.00 for each set of Plans and Specifications submitted for its review.

**6.15 Certificate Of Compliance.** Upon completion of *any* Improvement approved by

the Architectural Review Committee and upon written request by the Owner of the Lot, the Architectural Review Committee shall issue a Certificate of Compliance in a form suitable for recordation. The Certificate shall identify the Lot and the Improvements, the use or uses to be conducted thereon, and the Plans and Specifications on file with the Architectural Review Committee pursuant, to which the Improvements were made and shall specify that the Improvements comply with the approved Plans and Specifications. The Certificate shall not be construed to certify the acceptability, sufficiency or approval by the Architectural Review Committee of the actual construction of the Improvements or of the workmanship or material thereof. The Owner is hereby notified that the Certificate in no way warrants, except as set forth above, the sufficiency, acceptability or approval by the Architectural Review Committee of the construction workmanship, materials or equipment of the improvements. Preparation and recordation of such a Certificate shall be at the expense of the Owner of the improved Lot.

**ARTICLE VII**

**FUNDS AND ASSESSMENTS**

**7.1 Assessments.**

1. Assessments established by the Board pursuant to the provisions of this Article VII shall be levied on a uniform basis against each Lot within the Property.
2. Each unpaid Assessment together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of the Owner of the Property against which the Assessment fell due, and shall become a lien against each such Lot and all Improvements thereon. The Master Association may enforce payment of such assessments in accordance with the provisions of this Article.
3. Where the obligation first arose to the duration of the Assessment year or other period remaining after said date.to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated as of the date when said obligation first arose to the duration of the Assessment year or other period remaining after said date.

**7..2 Maintenance Fund.** The Board shall establish a maintenance fund into which

shall be deposited all monies paid to the Master Association and from which disbursements shall be made in performing the functions of the Master Association under this Master Declaration. The funds of the Master Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended. Nothing contained herein shall limit, preclude or impair the establishment of other maintenance funds by a Subassociation pursuant to any Supplemental Declaration.

**7.3 Regular Annual Assessments.** Prior to the beginning of each fiscal year, the

Board shall estimate the expenses to be incurred by the Master Association during such year in performing its functions under the Davis Spring Restrictions, including but not limited to, the cost of all maintenance, the cost of providing street lighting, the cost of enforcing the Davis Spring Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual

Assessment, the Master Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Master Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion. In no event shall the regular annual Assessment per lot for year 1994 exceed the sum of $240.00. Thereafter, the regular annual Assessment permitted hereunder shall not be increased by more than ten percent (10.0%) per year.

**7.4 Special Assessments.** In addition to the regular annual Assessments provided for

above, the, Board may levy special Assessments whenever in the Board's opinion such special Assessments arc necessary to enable the Board to carry out the mandatory functions of the Master Association under the Davis Spring Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board and all such special Assessment shall be due and payable to the Association within 30 days of the date of written notice of such special Assessment. In no event shall the total special Assessment per lot during the year 1W4 exceed the sum of S240.00. Thereafter, the special Assessment permitted hereunder shall not be increased by more than ten percent (10.0%) per year.

**7..5 Owner’s Personal Obligation for Payment of Assessments.** The regular and special Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest on the amount of the Assessment from the due date at a percentage rate of six percent (6%) per annum, together with all costs, and expenses of collection, including reasonable attorneys' fees.

**7.6 Assessment Lien and Foreclosure.** All sums assessed in the manner provided in

this Article but unpaid, shall together with interest as provided in Section 7.5 hereof and the cost of collection, including attorney's fees as herein provided, thereupon become a continuing lien and charge on the Lot covered by such Assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for:

* 1. All liens for taxes or special assessments levied by the applicable city, county

or state government, or any political subdivision or special district thereof;

* 1. All liens securing all amounts due or to become due under (i) any term, Contract

for Sale dated, or (ii) any mortgage vendor's lien or deed of trust filed for record

prior to the date any Assessment became due and payable; and

* 1. All liens including, but not limited to, vendor's liens, deeds of trust and other

security agreements which secure any loan made by any lender to a Member for any part of the purchase price of any Lot when the same arc purchased from a builder, or for any part of the cost of constructing, repairing, adding to or remodeling any Improvements utilized for residential purposes.

Notwithstanding the above, no lien shall be deemed or held superior to the lien hereby created unless the Master Association is made a party to any court proceeding to enforce any of the above listed liens. The Master Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signet] by an officer of the Master Association. To evidence the aforesaid assessment lien, the Master Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Master Association and shall be recorded in the office of the County Clerk of Williamson County, Texas. Such lien for payment of Assessment shall attach with the priority above set forth from the date that such payment becomes delinquent and may be enforced by either (i) the Master Association foreclosing against the defaulting Owner's Lot in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above,

or (ii) the Master Association instituting suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's ices incurred by the Master Association. The Master Association shall have the power to bid on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Master Association shall report to such Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same arc due.

**ARTICLE VIII   
EASEMENTS**

**8.1 Reserved Easements.** All dedications, limitations, restrictions and reservations

shown on a Plat and all grants and dedications of casements, rights-of-way, restrictions and related rights, made by Declarant prior to the Property becoming subject to this Master Declaration, are incorporated herein by reference and made a part of this Master Declaration for all purposes, its if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said casements and rights-or-way *for* the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and casements for public utility purposes (including, without limitation, gas, water, cable television, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, which said casement shall have a maximum width of 5.0 feet on each side of such Lot line.

**8.2 Installation and Maintenance.** There is hereby created an easement upon, across,

over and under all of the casement areas affecting the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, cable, television, telephones, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility casements from time to time existing and from service lines situated within such casements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no sewer, electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the Architectural Review Committee. The Utility companies furnishing service shall have the right to remove all trees situated within the utility casements shown on the Plat, and to trim overhanging trees and shrubs located on portions of the Property abutting such casements.

**8 . 3 Drainage Easements.** Each Owner covenants to provide casements for drainage

and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Review Committee thereon, require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Master Declaration and shown on the plat. There shall be no construction of Improvements, temporary or permanent in any drainage casement, except as approved in writing by the Architectural Review Committee and the Director of Public Works for the City of Austin.

**8.4 Surface Areas.** Each Owner shall maintain the surface area of all casements

located within his Lot and all improvements located therein except for such improvements for which a public authority or utility company is responsible. The surface of casement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility or service using any casement area shall be liable to any Owner or to the Master Association for any damage done by them or either of them or their respective agents, employees, servants or assigns, to any of the aforesaid

vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

**8.5 Title to Easement and** Appurtenances **Not Conveyed .** Title to any Lot conveyed

by Declarant by contract, deed or other conveyance shall not be held or construed in any event to include the title to any roadways or Greenbelt or Amenity area or any drainage, water, gas, sewer, storm sewer, electrical light, electrical power, telegraph or telephone way, or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto, constructed by or under Declarant or its agents through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Property, and the right to maintain, repair, sell, or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarant.

**8.6 Greenbelt or Amenity Areas.** Each Owner shall have an casement of use and

enjoyment in and to all Greenbelt or Amenity Areas which shall be appurtenant to and shall pass with title to such Owner's Lot, subject to the following provisions:

1. The right of the Master Association to suspend the Owner's voting rights and

right to use the Greenbelt or Amenity Areas for any period, during which any Assessment against such Owner's Lot remains unpaid, and for any period during which the Owner is in violation of the rules and regulations of the Master Association;

1. The right of the Master Association to dedicate or transfer all or any part of the

Greenbelt or Amenity Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by a majority vote of the Members;

1. The right of the Master Association to borrow money for the purpose of improving the Greenbelt or Amenity Areas and, in furtherance thereof, to mortgage the Greenbelt or Amenity Areas, all in accordance with the Articles and Bylaws;
2. The right of the Master Association to make reasonable rules and regulations regarding the use of the Greenbelt or Amenity Areas and any facilities thereon; and
3. The right of the Master Association to contract for services with third parties on such terms as the Master Association may determine.

**ARTICLE IX**

**MISCELLANEOUS**

**9.1 Term.** This Master Declaration, including all of the covenants, conditions, and

restrictions hereof, shall run until June I, 2014, unless amended as herein provided. After June 1, 2014, this Master Declaration, including all such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4ths) of the Lots within the Property then subject to this Master Declaration.

**9..2 Nonliability of Board and Architectural Review Committee Members.** Neither

the Architectural Review Committee, nor any member thereof; nor the Board nor any member thereof, shall be liable to the Master Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Review Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or had faith of the Architectural Review Committee or its members or the Board or its members, as the case may be. Neither the Architectural Review

\

Committee nor the members thereof shall be liable to any Owner due to the construction of any Improvement within the Property.

9.3 Amendment.

By Declarant. This Master Declaration or any Supplemental Declaration may be amended by the Declarant acting alone until June 1, 2010, or until Declarant no longer holds a majority of the votes in the Master Association, whichever occurs last. No amendment by Declarant after June 1, 2010, shall be effective until there has been recorded in the Official Public Records of Williamson County, Texas, an instrument approved by the Planning and Zoning Commission for the City of Austin and executed and acknowledged by Declarant and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the Declarant had the requisite number of votes. Notwithstanding the foregoing, Declarant may amend this Declaration at any time (i) to correct typographical and grammatical errors, and (ii) in order to comply with VA or FHA requirements for approval of the Property.

A.

I

B.

By Owners. In addition to the method in Section 9.3(A), after June 1, 2010, this Declaration may be amended by the recording in the Official Public Records of Williamson County, Texas an instrument approved by the Planning and Zoning Commission for the City of Austin and executed and acknowledged by the President and Secretary of the Master Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least eighty percent (80%) of the number of votes entitled to be case pursuant to Section 5.3 hereof.

9.4 Notices. Any notice permitted or required to be given by this Master Declaration

shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, **it** shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Master Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Master Association.

9.5 Interpretation. The provisions of this Master Declaration shall be liberally

construed to effectuate the purposes of creating a uniform plan for the development and operation of the property and of promoting and effectuating the fundamental concepts of the Property set forth in this Master Declaration. This Master Declaration shall be construed and governed under the laws of the State of Texas.

9.6 Mergers and Consolidations. The Association may participate in mergers and

consolidations with other non-profit corporations organized for the same purposes, provided that any such merger, consolidation or annexation shall have the consent (in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than two-thirds (2/3rds) of the votes of the Association.

9.7 Exemption of Declarant. Notwithstanding any provision in this Master

Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Review Committee. Without in any way limiting the generality of the preceding sentence, this Master Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities to construct any and all other types of improvements anywhere within the Property, however, the construction of sales and leasing offices and the posting of

signs advertising the sale and leasing of Lots by Declarant shall be limited to Lots owned by the Declarant.

9..8Assignment by Declarant. Notwithstanding any provision in this Master

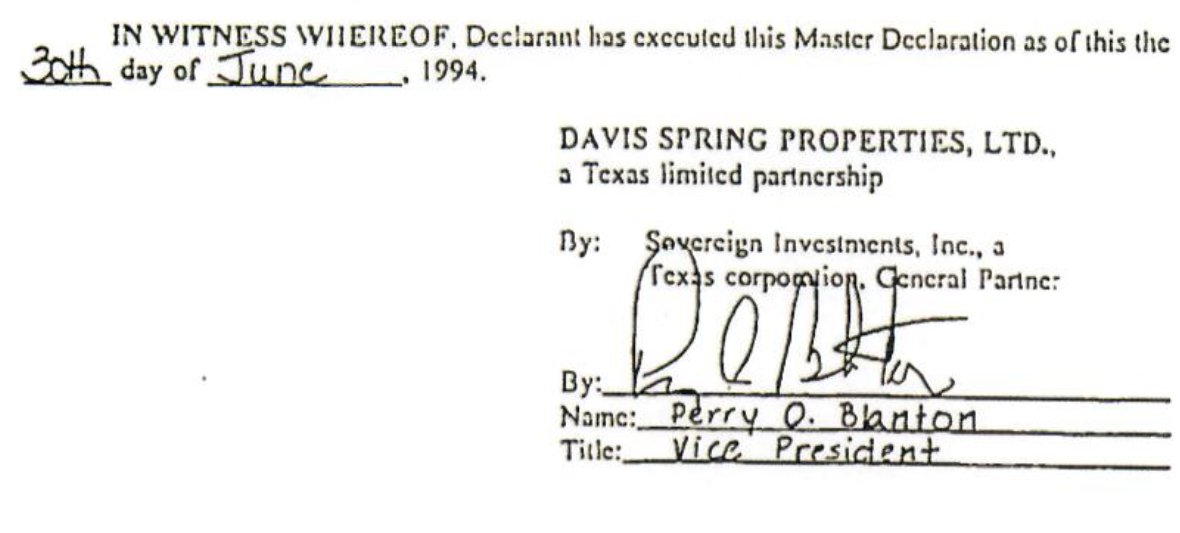
Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Master Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

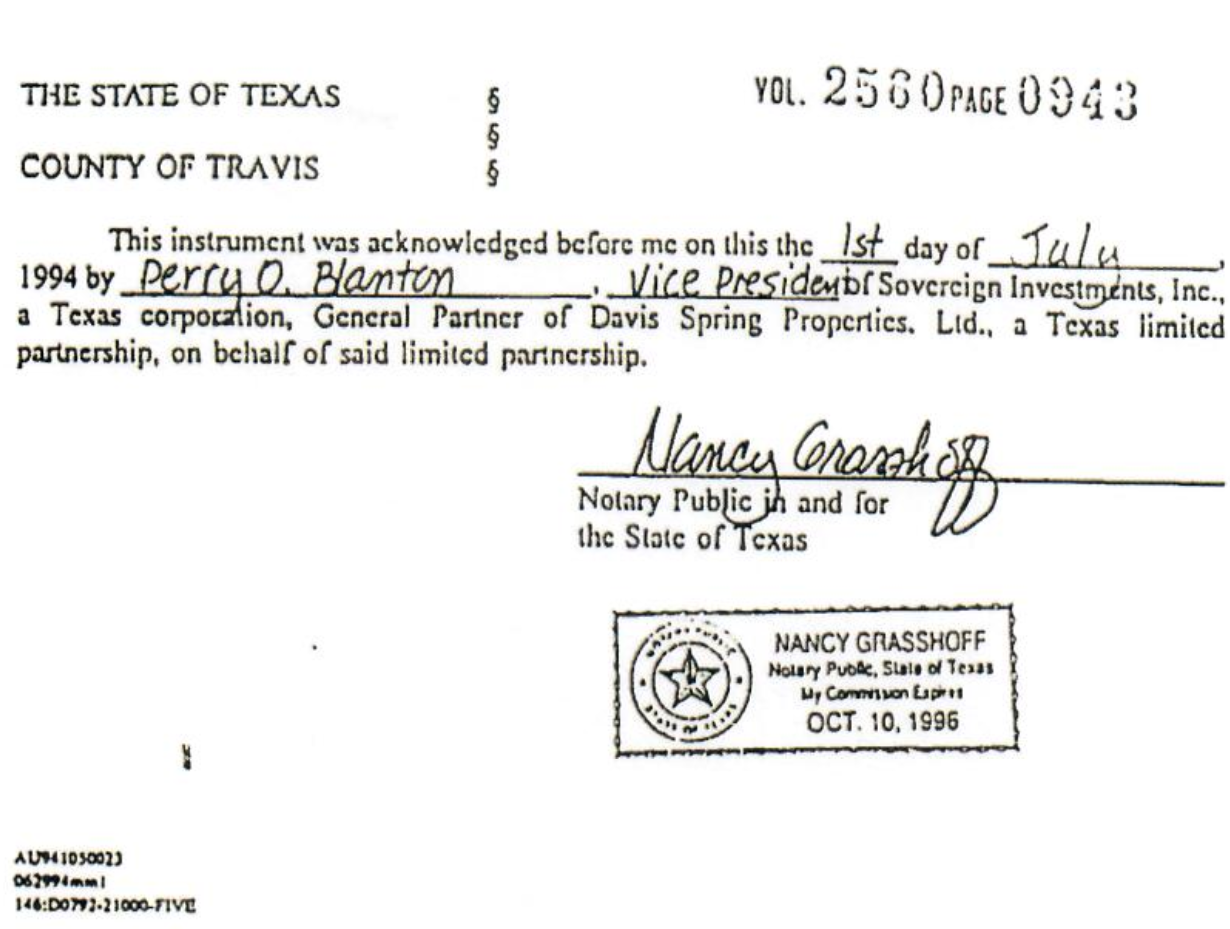
9.9Enforcement and Nonwaiver.

1. Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Davis Spring Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.
2. Nonwaiver. The failure to enforce any provision of the Davis Spring Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.
3. Liens. The Master Association shall have the right, when appropriate in its judgement, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Master Declaration.

9.10 Construction.

1. Restrictions Severable. The provisions of the Davis Spring Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
2. Singular Includes Plural. Unless the context requires a contrary   
   construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.
3. Captions. All captions and titles used in this Declaration arc intended solely for convenience of reference and shall not enlarge, limit or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.





|  |
| --- |
| **SPECIAL NOTICE**  **This document was prepared by scanning the legally filed DCCRs (as kept in a PDF at the Wilco Courthouse) and using an optical character recognition program to generate text. Page breaks, fonts, and formatting reflect the original document. Should any conflict occur between this document and the legally filed PDF, the latter shall be considered as the official copy.** |