

DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
\_\_\_\_\_ SUBDIVISION

STATE OF TEXAS

COUNTY OF MONTGOMERY

This DECLARATION OF COVENANTS AND RESTRICTIONS is made by \_\_\_\_\_, a \_\_\_\_\_, with its principal place of business located at \_\_\_\_\_, hereinafter called "DECLARANT".

WITNESSETH

WHEREAS, DECLARANT is the owner of certain real property located in Montgomery County, Texas which is subdivided as \_\_\_\_\_ SUBDIVISION, according to the plat thereof recorded in Cabinet \_\_\_\_\_, Sheet \_\_\_\_\_, of the Map Records of Montgomery County, Texas; and

WHEREAS, as of the date of recordation of the subdivision plat, the real property was located within the corporate limits or planning area of the City of Conroe, Texas and was subject to the approval its Planning Commission; and

WHEREAS, certain improvements required under the subdivision regulations of the City of Conroe, Texas as a condition of the Planning Commission's approval of the plat of \_\_\_\_\_ SUBDIVISION were privately dedicated by DECLARANT; and

WHEREAS, it is necessary to make provision for the continued maintenance and upkeep of such privately dedicated subdivision improvements:

NOW THEREFORE, DECLARANT hereby adopts, establishes and imposes upon the hereinabove described \_\_\_\_\_ SUBDIVISION, hereinafter referred to as the "Property", and declares the following reservations, easements, restrictions, covenants and conditions applicable thereto, all of which shall run with the land and be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof, and to the City of Conroe, Texas.

**ARTICLE I**  
**Definitions**

In this DECLARATION OF COVENANTS AND RESTRICTIONS:

“*City*” means the City of Conroe, Texas.

“*Required private subdivision improvements*” means the subdivision improvements which are required under the applicable regulations of the City of Conroe, Texas, and are described in ARTICLE II of these covenants and restrictions.

**ARTICLE II**  
**Required Subdivision Improvements**

**Section 1. Private dedication.** Certain subdivision improvements which are required by the subdivision regulations of the City of Conroe, Texas have been privately dedicated for the use and benefit of property owners within the subdivision. The improvements described in this Article are required subdivision improvements which are dedicated for the private use and benefit of lot owner’s within the subdivision. The maintenance entity authorized and required under this Declaration of Covenants and Restrictions shall be responsible for the maintenance and upkeep of these required improvements and shall be authorized to assess and collect a maintenance fee against the subdivision lots and to expend funds so collected for such purposes.

**Section 2. Private streets.** Streets which have been noted on the subdivision plat as “Private” are dedicated for the private use and benefit of lot owners within the subdivision and are maintained by the maintenance entity. Notwithstanding this private dedication, the dedication includes an easement covering the street area which permits the installation, operation and maintenance of water, sewer, gas, electric, telephone, cable television or other such utilities by the city and other utilities lawfully entitled to provide service to the abutting property. The dedication also includes a right of access to public agencies engaged in both routine and emergency public services, including law enforcement, fire protection, medical response, inspection and code enforcement. The maintenance entity may make an offer of public dedication of private streets if such dedication is authorized by the affirmative vote of a majority of lot owners within the subdivision. To be effective, an offered public dedication must be accepted by a formal vote of the governing body of the public entity which has jurisdiction over the streets. Until formally accepted, private streets which are offered for public dedication remain the responsibility of the maintenance entity.

**Section 3. Street lights.** The maintenance entity shall be responsible for the operation and maintenance of street lighting within the subdivision until such responsibility is assumed by a public entity.

**Section 4. Storm water detention facilities.** Storm water detention facilities have been located within the subdivision to contain the storm water runoff associated with the development. The maintenance entity shall be responsible for the operation and maintenance of these facilities.

**Section 5. Open spaces and common areas.** The maintenance entity shall be responsible for open spaces and common areas within the subdivision. These facilities are dedicated for the use and benefit of lot owners within the subdivision only.

**Section 6. Amendment of Article.** The provisions of this Article may not be amended without the express written consent of the Planning Commission of the City of Conroe, Texas.

**Section 7. Exercise of maintenance and assessment powers by City.** In the event the maintenance entity shall fail or refuse to adequately maintain the privately dedicated subdivision improvements described by this Article, the City shall be authorized, but not obligated, to exercise the assessment and maintenance powers in place of the maintenance entity. The City may utilize the proceeds of the maintenance funds to reimburse funds advanced by the City for maintenance of improvements covered by this Article.

### ARTICLE III Property Owner's Association

**Section 1. Membership.** The Declarant shall cause a Property Owner's Association to be organized and formed as a non-profit corporation under the laws of the State of Texas. The purpose of the Association shall be to provide for the health, safety and welfare of the members, to collect the maintenance charges provided for herein, to administer the maintenance fund, to provide for the maintenance, repair, preservation, upkeep and protection of the privately dedicated subdivision improvements and common properties of the subdivision and such other purposes as are stated in the Articles of Incorporation and are consistent with the provisions of these covenants and restrictions.

The Property Owner's Association shall consist of all of the owners of lots within \_\_\_\_\_ SUBDIVISION. The name of the Association shall be \_\_\_\_\_ PROPERTY OWNERS ASSOCIATION.

Each Lot Owner shall be a member of the association and entitled to one (1) vote for each lot owned. The Association shall be governed by a Board of Directors, and the Declarant shall name and select the initial members of the Board of Directors. The initial Board of Directors shall serve until the earlier of the expiration of ten (10) years or until all of Declarant's lots within the subdivision shall have been sold. Thereafter the Board of Directors shall be selected in the manner and for the term provided by the by-laws of the Association.

If, for any reason, the Declarant shall fail to form the required non-profit Association within one (1) year of the date on which these covenants are recorded, any Lot Owner within the subdivision may cause such Association to be formed and the initial Board of Directors shall be elected by the majority vote of the lot owner's within the subdivision.

If no Association is formed, the City Council of the City of Conroe, Texas, shall be authorized, but not required to exercise the powers of the Association, including the maintenance and assessment power authorized herein.

The Association may adopt such By-laws, rules and regulations as it shall deem appropriate and that are consistent with these covenants and restrictions.

#### **ARTICLE IV Maintenance Charges**

**Section 1. Use of Maintenance Fund.** Each Lot shall be subject to an annual maintenance charge to be used for the purposes of maintaining any required private subdivision improvements or other common improvements or amenities within the subdivision. The amount of the maintenance charge shall be set by the Board of Directors in such amount as shall be reasonably necessary to provide for the maintenance and upkeep of such facilities.

The Board of Directors shall collect and maintain control over the maintenance fund and administer same.

The maintenance charge shall be paid annually in advance by January 31 of each year. The Association may adjust such rates pursuant to the rules and regulations of the Association. Interest on past due charges shall accrue at the highest rate allowable by law from date of delinquency. The payment of such maintenance fund shall be secured by a Vendor's Lien to insure payment of such maintenance charge in accordance with the provisions of law. In the event it becomes necessary to employ legal counsel to collect past due maintenance charges, such delinquent Lot owners shall be responsible for reasonable attorney's fees and other reasonable costs incurred in such collection efforts including all costs of Court in any legal proceeding.

It shall be the duty of the Board of Directors to assess and collect the maintenance fee established by this Article and to utilize such funds for the maintenance and upkeep of the privately dedicated subdivision improvements located within the subdivision. If, for any reason, the Board of Directors shall fail to provide for the assessment and collection of such maintenance fee, or for the proper maintenance and upkeep of the privately dedicated subdivision improvements, then, the City Council of the City of Conroe, Texas, shall be authorized, but not required, to exercise such power in the place of the Board of Directors. In the event the City of Conroe, Texas shall advance its own funds to defray expenses of maintenance of the privately dedicated subdivision improvements, the City shall be entitled to reimbursement from the maintenance fund and may increase the maintenance assessment as necessary to insure repayment.

**Section 2. Enforcement of Maintenance Fee Collection.** Each such assessment not paid when due shall incur a late fee of Fifty (\$50.00) Dollars or twenty percent (20%) of the amount due, whichever is greater. Each such assessment and late fee, if not paid when due, and interest at the highest legal rate as permitted by Texas Law together with the costs of collection, including reasonable attorney's fees, shall be the personal obligation of the Owner against whom they were assessed and shall be secured by a lien as provided herein. To secure the payment of the maintenance fund established hereby and to be levied on individual Lots, there shall be reserved in each Deed (whether specifically stated therein or not) by which the Declarant shall convey such Lots, a Vendor's Lien for the benefit of the Administrator of the fund, whether Declarant or Association. Said lien is to be enforceable through appropriate proceedings at law by such beneficiary; provided, however, that each such lien shall be secondary, subordinate, and inferior to all liens, present and future, given, granted and created by or at the instance and request of the Owner of any such Lot to secure the payment of moneys advanced or to be advanced on account of the construction or improvements on any such Lot to the extent of any such maintenance fund charge accrued and unpaid prior to foreclosure of any such construction lien.

**Section 3. Term of Maintenance Fees.** The above maintenance charges and assessment will remain effective for the full term (and extended term, if applicable) of the within Covenants.

**ARTICLE V  
General Provisions**

**Section 1. Term.** These Covenants and Restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date these Covenants are recorded after which time said Covenants shall be automatically extended for successive period of ten (10) years each, unless at the end of the 40 years, or anytime thereafter an instrument signed by majority of the them Owners of the Lots has been recorded agreeing to change or terminate said Covenants herein. It shall be lawful for the Association or any Lot owner to prosecute the proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenants and either to prevent him or them from doing so or to recover damages or other dues for such violations. The Declarant reserves the right to enforce these restrictions.

**Section 2. Severability.** Invalidation of any one of these Covenants by judgment or further court order shall in no way affect any of the other provisions.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
BY: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF MONTGOMERY

BEFORE ME, the undersigned authority this day personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed such instrument, in the capacity stated, as the authorized act and deed of \_\_\_\_\_.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

After recording please return to:  
City Secretary  
P. O. Box 3066  
Conroe, Texas 77305  
(Engineering)