



CONDOMINIUM DECLARATION
FOR
THE HARBORVIEW CONDOMINIUM

This CONDOMINIUM DECLARATION FOR THE HARBORVIEW CONDOMINIUM (this "**Declaration**") is made this 1st day of June, 2020, by Harbor PK Partners L.L.C., a Texas limited liability company (hereinafter referred to as "**Declarant**"), for itself, its successors, grantees and assigns:

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real property, lying and being situated in Palo Pinto County, Texas, as more particularly set forth in Exhibit "A" attached hereto, subject to reservations, restrictions and easements of record, more particularly described below;

WHEREAS, Declarant intends to construct Units (hereinafter defined) and related facilities and desires to submit the real property to condominium ownership pursuant to the provisions of the Condominium Act (hereinafter defined);

WHEREAS, Declarant intends hereby to establish a plan for the individual ownership of estates in real property consisting of Units, and the appurtenant undivided interests in the Common Elements (hereinafter defined); and

NOW, THEREFORE, Declarant makes the following declarations:

1. **Name and County.** The name by which this Condominium is to be identified is THE HARBORVIEW CONDOMINIUM; provided, however, the Board of Directors may authorize the use of one or more assumed names in addition to, or in lieu of, such name. The Condominium will be located solely in Palo Pinto County, Texas.

2. **Definitions.** For all purposes in this Declaration and for all purposes in the Articles of Incorporation and Bylaws of The Harborview Condominium Association, Inc., a Texas corporation not for profit, the following words shall have the definitions as hereinafter stated, to-wit:

"**Articles**" means the Articles of Incorporation of the Condominium Association filed with the Secretary of State of Texas, as same may be amended from time to time.

"**Assessments**" mean a share of the funds required for the payment of Common Expenses, which from time to time are assessed against the Condominium and its Unit Owners, together with dues, fees, charges, interest, late fees, fines, collection costs, attorneys' fees, and any other amount due to the Condominium Association by each Unit Owner or levied against a Unit by the Condominium Association or otherwise permitted by the Condominium Act.

“Board of Directors or Board” means the Board of Directors or other representative body responsible for administration of the Condominium Association.

“Building(s)” means any building(s) located on the land described on Exhibit “A” attached hereto, which contains one or more Units.

“Bylaws” means the Bylaws of the Condominium Association adopted by the Board of Directors, as may be amended from time to time.

“Common Elements” means all portions of the Condominium, including both the General Common Elements and the Limited Common Elements, but excluding the Units.

“Common Expenses” means all expenses and assessments, reserves or financial liabilities of the Condominium Association that are incurred pursuant to the provisions of this Declaration, the Bylaws or a resolution duly adopted by the Board of Directors or the Unit Owners.

“Common Facilities or Condominium Association Property” means any real property or improvements thereon owned by the Condominium Association for the use and benefit of the Unit Owners.

“Common Surplus” means the excess of all receipts of the Condominium Association collected on behalf of the Condominium, including, but not limited to, assessments, rents, profits and revenues on account of the Common Elements, over the Common Expenses.

“Condominium” means THE HARBORVIEW CONDOMINIUM, which is formed pursuant to this Declaration.

“Condominium Act” means the Uniform Condominium Act, Texas Property Code, Chapter 82, Section 82.001 et seq., as amended from time to time.

“Condominium Association” means THE HARBORVIEW CONDOMINIUM ASSOCIATION, INC., a Texas corporation not for profit, which is responsible for the operation of the Condominium and the Common Facilities (as defined hereafter), its successors and assigns.

“Condominium Form of Ownership” means that form of ownership of real property created pursuant to the provisions of the Condominium Act, and which is composed of the Units, and containing a maximum of 15 Units.

“Condominium Information Statement” means the condominium information statement prepared by Declarant in accordance with the provisions of the Condominium Act.

“Condominium Property” means the land described on Exhibit “A,” the air rights and personal property located thereon, which are submitted to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto provided by Declarant intended for use in connection with the Condominium.

“Condominium Unit” means a Unit, together with its appurtenant Limited Common Elements, together with the undivided share in the Common Elements appurtenant to the Unit.

“Controllable Condominium Costs” shall mean all Common Expenses other than (i) unavoidable or unexpected expenses, and (ii) expenses attributable to the costs of utilities, taxes, insurance, costs allocated under Section 5.11 of the Master Declaration and costs of compliance with governmental regulations.

“County” means Palo Pinto, County, Texas,

“Declarant” means Harbor PK Partners L.L.C., a Texas limited liability company, whose address for notice purposes is 1693 Park Road 36 Graford, Texas 76449, and any assignee of Declarant evidenced by a written instrument filed for record in the Real Property Records of the County, assigning the rights, powers, privileges and prerogatives of Declarant hereunder.

“Declarant Control” means the period commencing on the date of this Declaration and continuing until the date which is one hundred twenty (120) days after the date that deeds to seventy-five percent (75%) or more of the Units have been delivered to Owners of Units other than the Declarant unless surrendered earlier by the Declarant. The end of the Declarant Control period does not terminate any special declarant rights and the transfer of any special declarant control rights does not terminate the Declarant Control period.

“Declaration or Declaration of Condominium” means the instrument or instruments by which this Condominium is created, as they are from time to time amended.

“First Class Standards” means a quality that is equal to the quality of the Condominium as originally constructed, reasonable wear and tear excepted.

“First Lien Indebtedness” means any indebtedness secured by a first and prior lien or encumbrance upon a Unit Owner's Unit.

“General Common Elements” means all portions of the Common Elements that are not Limited Common Elements. The General Common Elements shall include, but not be limited to (i) easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to the Units and/or Common Elements; (ii) easements of support in every portion of a Unit which contributes to the support of any other Unit, and/or Common Elements; (iii) installations for the furnishing of utility services to the Common Elements or to a Unit other than the Unit containing the installation; (iv) the property and installations in connection therewith required for the furnishing of services to more than one Unit, or to the Common Elements; (v) fixtures on property owned or held for the common use, benefit and enjoyment of all Unit Owners; (vi) cross-easements for ingress, egress, support, maintenance, repair, replacements and utilities; and (vii) easements for encroachments by the perimeter walls, ceilings and floors surrounding each Unit caused by the settlement or movement of the Building or by

minor inaccuracies in building or rebuilding which may now exist or hereafter exist, and such easements shall continue until such encroachments no longer exist.

“Initial Working Capital Contribution” means an amount equal to the monthly Assessment multiplied by two (2) to be contributed to the Condominium Association by each Owner or Declarant as provided in Paragraph 23(h) of this Declaration.

“Institutional Mortgagee” means any bank, savings and loan association, building and loan association, a state savings and loan association, an institutional investor, mortgage banker, the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation, federal or state agency, insurance company and/or a real estate investment trust or any other similar type of lender generally recognized as an institutional-type lender which is the holder, insurer or guarantor of First Lien Indebtedness and which has provided the Condominium Association with written notice of its name, address and description of the Unit Owner's Unit upon which it holds the First Lien Indebtedness, on all or part of the Unit Owner's Unit and the successors and/or assigns of such entities.

“Insurance Proceeds” means any and all proceeds received by a Unit Owner or the Association from an insurance company as a result of a casualty loss in connection with a Unit Owner's Condominium Unit or any portion thereof.

“Limited Common Elements” means those portions of the Common Elements that are allocated by the Condominium Act, this Declaration, and the Survey and/or Plot Plan for the exclusive use of one or more, but less than all, of the Units. The Limited Common Elements include those areas or facilities, if any, designated as Limited Common Elements on the Survey and/or Plot Plan attached as Exhibit “B”, including balconies and patios adjoining Units, all as more fully described in Paragraph 9 of this Declaration.

“Member” means an owner of a fee simple estate in any Unit who is a member of the Condominium Association.

“Past Due Rate” means the maximum lawful rate of interest under Texas law or, if there be no maximum lawful rate, the rate of eighteen percent (18%) per annum.

“Plot Plan” means the plot plan attached hereto as Exhibit “B.”

“Rents” mean any and all rental or other income received by a Unit Owner in connection with the leasing of such Unit Owner's Unit.

“Structural Elements” mean and refer to all structural components, elements and facilities of the Buildings, including, but not limited to, the foundation, the structural beams, girders, columns, pillars, braces, exterior walls, interior structural walls, the roof and roof membranes of any Building, and the exterior surfaces of the Buildings.

“Survey” means that certain survey plat dated July, 2019 prepared by BGE, Inc, attached hereto as Exhibit “B,” including, without limitation, the dimensional drawings that horizontally and vertically identify and describe the Units and such other information as is desirable or required pursuant to Section 82.054 of the Condominium Act, including a certification as to

compliance with Section 82.059 of the Condominium Act. The measurements set forth on the Survey as to each Unit are nominal values taken from the plans and specifications for the Condominium Property and may not be precisely accurate as to any Unit due to variances in construction and interior floor plans. Declarant shall not be liable to any owner as a result of any discrepancies in actual Unit measurements from those set forth on the Survey, and each Owner, by accepting a deed to a Unit, waives any such claim or cause of action against Declarant.

“**Unit or Units**” means that portion of the Condominium subject to exclusive ownership as identified and designated in the Survey and Plot Plan contained in Exhibit “B.” Each Unit consists of (i) the volumes of space enclosed by the unfinished inner surfaces of perimeter walls (as extended adjacent to the innermost surface of the exterior windows and balcony and patio doors and their frames), ceilings and floors thereof, but excluding vents, balcony and patio doors (and their frames), exterior windows (and their frames), balconies, patios and Structural Elements, (ii) all interior dividing walls and partitions (including the space occupied by such interior walls and partitions) excepting load-bearing interior walls and partitions, (iii) the decorated inner surfaces of floorings, ceilings, perimeter walls and interior walls (including decorated surfaces of all interior load-bearing walls), including wallpaper, paint, plaster, carpeting, tiles and all other finishing materials affixed to the physical structure of the Unit, (iv) all fixtures, mechanical systems and equipment installed for the sole and exclusive use of the Unit, and (v) any party walls located between two Units which are combined to form a single living residence. Patios, balconies, windows (and their frames), exterior doors (and their frames), interior doors (and their frames) adjacent to common hallways, and balcony and patio doors (and their frames) are excluded from and are not part of the Unit. Notwithstanding any provision to the contrary, (i) pipes, wires, conduits, or other utility lines or installations constituting a part of the overall systems which service any other Unit or Garage, (ii) Structural Elements or portions of any kind; and (iii) fixtures and appliances within the Unit which are not removable without jeopardizing the soundness, safety or usefulness of the remainder of the Building or another Unit or Garage, shall not be deemed to be part of a Unit.

“**Unit Owner**” means the owner of a fee simple estate in a Unit.

“**Voting Interest**” The voting rights distributed to the Unit Owners pursuant to Paragraph 12(c) of this Declaration.

“**Working Capital Fund**” shall have the meaning ascribed to such defined term in Paragraph 23(h).

3. **Property Submitted to Condominium Form of Ownership.**

(a) **Submitted Property.** Subject to easements, restrictions and reservations of record, the undersigned Declarant, being the owner of fee simple title of record to those certain air rights located and situated in the County, being more particularly described in Exhibit “A” attached hereto (the “**Real Property**”), does hereby submit the said Real Property and improvements thereon to condominium ownership pursuant to the presently existing provisions of the Condominium Act.

A Survey and Plot Plan locating and identifying each Unit and the other Limited Common Elements, their relative locations and approximate dimensions, is attached hereto as Exhibit "B" and is recorded in the Real Property Records of the County. The locations, dimensions, descriptions, identification and numbering or lettering of the respective Units, Garages and Carports shall be as described in Exhibit "B" and any subsequent amendment thereto as is hereinafter provided.

The Condominium is a multi-family residential condominium.

(b) Reservation. **SUBJECT TO THE DECLARATION, THE DECLARANT (I) SHALL HAVE THE RIGHT TO DEVELOP ALL OR ANY PART OF THE REMAINDER OF PROPERTY ON WHICH THE CONDOMINIUM IS SITUATED THAT ARE NOT PART OF THE CONDOMINIUM IN ANY MANNER IT DEEMS APPROPRIATE, AND (II) RESERVES THE RIGHT IN ITS SOLE DISCRETION TO CONTROL THE MIXTURE AND LOCATION OF IMPROVEMENTS IN THE REMAINDER OF HARBORVIEW.**

4. **Unit Identification.** The location of the Units on the Condominium Property submitted to the Condominium Form of Ownership is set forth on the Survey and Plot Plan attached hereto and made a part hereof as Exhibit "B." Each Unit is described on said Survey and Plot Plan in such manner that there can be determined therefrom the identification, location, dimensions and size of each as well as the Limited Common Elements appurtenant thereto. Each Unit within a lot is identified by a number as shown on the Survey and Plot Plan attached hereto as Exhibit "B" and made a part hereof, so that no Unit bears the same identifying number as any other Unit within the same lot.

5. **Change in Plans and Specifications.** Declarant is hereby authorized to make changes in the plans and specifications and construction methods and materials during the construction of improvements on the Condominium Property, so long as such changes do not conflict with the Condominium Act.

6. **Certain Easements and Rights of Access.** Each of the following easements is a covenant running with the land of the Condominium and, notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of the Condominium:

(a) **Utility Services.** Easements as may be required for utility services in order to adequately serve the Condominium Property, any Unit, Limited Common Element, or Common Element, including, but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage, internet, satellite television facilities, cable television facilities and any electronic security facilities. However, easements through any Unit shall be only according to the plans and specifications as actually constructed or reconstructed. A Unit Owner shall do nothing within or outside his or her Unit that interferes with or impairs the utility services using these easements. The Condominium Association or its designee shall have a right of access to each Unit and the improvements constructed thereon when necessary for the maintenance, repair

or replacement of any Common Elements (which include Limited Common Elements) or for making emergency repairs which are necessary to prevent damage to the Common Elements (which include Limited Common Elements) or to another Garage or Unit, provided, however, such right of access shall not be deemed to be an easement and shall not unreasonably interfere with the Unit Owner's permitted use of the Unit and, except in the event of an emergency, entry into any Unit shall be made on reasonable notice to the Unit Owner.

(b) Easement of Support. Every portion of a Unit contributing to the support of the Building in which it is situated or an adjacent Unit shall be burdened with an easement of support for the benefit of all Units within the Building.

(c) Use of Common Elements. The Common Elements (other than Limited Common Elements) shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Unit Owners and residents of the Condominium, and their tenants, guests and invitees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

(d) Encroachments. If any portion of the Common Elements or Limited Common Elements encroaches upon any Unit, if any Unit encroaches upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, or if any encroachment shall hereafter occur as a result of (i) construction or reconstruction of any improvement; (ii) settling or shifting of any improvements; (iii) any addition, alteration or repair to the Common Elements or Limited Common Elements made by or with the consent of the Condominium Association; or (iv) any repair or restoration of any improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements or Limited Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand. Any such easement for encroachment shall include an easement for the maintenance and use of encroaching improvements in favor of each of the Unit Owners and their respective designees.

(e) Restrictions, Reservations and Easements of Record. The creation of this Condominium is subject to restrictions, reservations and easements which have been placed of record prior to the formation and filing hereof, including but not limited to the Master Declaration.

(f) Pedestrian Traffic. The General Common Elements are subject to easements for pedestrian traffic over, through and across the General Common Elements intended for such purpose.

(g) Grant of Additional Easements. The Declarant hereby reserves for itself the right to (i) grant and declare additional easements over, upon, under and/or across the Common Elements in favor of the Unit Owners and residents of the Condominium and their tenants, guests and invitees, or in favor of any other person, entity, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the Condominium in favor of the Condominium Association and/or the Unit

Owners and residents of the Condominium and their tenants, guests and invitees or in favor of any person, entity, public or quasi-public authority, or utility company, as the Condominium Association may deem desirable for the proper operation and maintenance of the Condominium, or any portion thereof, or for the health, safety or welfare of the Unit Owners, or for any other reason or purpose. At such time as Declarant no longer owns a Unit within the Condominium, the rights in this Section 6(g) shall be exercisable by the Association. So long as such additional easements, or the modification, relocation or abandonment of existing easements will not unreasonably and adversely interfere with the use of any Units for dwelling purposes, no joinder of any Unit Owner or any mortgagee of any Unit shall be required or, if same would unreasonably and adversely interfere with the use of any Unit for dwelling purposes, only the joinder of the Unit Owners and mortgagees of any Units so affected shall be required. To the extent required, all Unit Owners hereby irrevocably appoint the Declarant as their attorney-in-fact for the foregoing purposes.

(h) Cross Easements. Declarant and its successors, assigns, agents, employees, tenants, guests and invitees, reserves and grants a perpetual non-exclusive easement for utilities, drainage and ingress and egress, together with the right to maintain and repair same, over, under and across those Common Elements of this Condominium.

(i) Easements Granted Pursuant to the Master Declaration. The Real Property being submitted to condominium ownership is subject to and benefited by the terms and provisions, pursuant to which certain easements to more efficiently provide for the operation of the Condominium have been granted for the benefit of the Condominium, the Unit Owners, and the Master Association. The easements are described as follows:

(1) Declarant has easement to use any streets and roads within the Condominium Property.

(2) Easement across all portions of the Condominium Property for ingress and egress and installing, repairing, and replacing utilities which service any part of the Harborview Property or the amenities adjacent thereto.

(3) Each owner of a residential unit in the Harborview Property has right of ingress and egress through streets and roads of the Condominium Property for ingress and egress to such owner's unit or lot.

(4) The Association has an easement through streets and roadways within the Condominium Property to exercise its rights and perform its obligations under the Declaration.

(5) Police, sheriff, fire protection, ambulance and similar emergency agencies have right of ingress and egress throughout streets and roadways of the Condominium Property.

7. **Declarant's Units and Privileges.** Notwithstanding anything to the contrary contained herein, Declarant is irrevocably empowered to sell, lease or rent any Condominium Units owned by Declarant to any person approved by it, unless prohibited by law. Declarant shall have the right to transact on the Condominium Property any business necessary to consummate the sale of any Units, including but not limited to the right to maintain models, sales offices, erect signs, place employees in the office, use the Common Elements and show unsold Units. In addition to and without limiting the generality of the foregoing, Declarant shall have the right to show the Units it owns, the Limited Common Elements appurtenant thereto, if any, and the Common Elements to prospective purchasers and tenants, as well as the right to maintain a sales office, and to place and maintain signs and other promotional material on the Common Elements. The signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of Declarant. In the event there are unsold Units, Declarant retains the right to be the Unit Owner thereof, under the same terms and conditions as other Unit Owners, save for this right to sell, rent or lease as contained in this Paragraph 7. It is further understood that the declarant will not pay annual dues or assessments. Dues will begin once title has been conveyed to a unit owner that is not the declarant.

8. **Limited Common Elements: Doors, Windows, Balconies, and Patios.**

The Limited Common Elements, as hereinabove defined, shall include within its meaning, the following items:

(1) **Balconies, Patios, Doors and Windows.** The balconies and patios adjacent to each Unit, exterior doors (and their frames), interior doors adjacent to common hallways (and their frames), and windows adjacent to each Unit, as more particularly shown on the Survey and Plot Plan attached hereto as Exhibit "B", which use shall be limited to the Unit Owner(s) of the Unit(s) to which said balconies, patios, windows and doors are attached.

Notwithstanding any provision to the Contrary, amendments to the Common Elements may be made by Declarant to the extent and only if permitted by the Condominium Act and at all times when Declarant owns any Unit or other real property interest in the Condominium, or for such lesser time as may be permitted by the Condominium Act.

Unit Owners shall not do anything within their Units or on the Common Elements which would adversely affect the safety or soundness of the Common Elements or any portion of the Condominium Property.

9. **Percentage of Ownership of Common Elements.** The undivided fractional share of the ownership of the Common Elements shall be the percentage set forth next to the Unit as set forth in Exhibit "C" attached hereto. Such percentages are determined by dividing the number of units owned by an individual by the total number of all Units in the Project. An example would be 15 total units in the project. An owner would have an (1/15th) ownership percentage in the Common Elements. The Common Elements shall remain undivided. If Declarant causes additional Units to become subject to the provisions of this Declaration pursuant to the terms of Section 23 below, the undivided fractional share of ownership of the Common Elements shall be revised to add the additional units created to the denominator.

10. **Common Expenses and Common Surplus.**

(a) Except as provided in Paragraph 10(b) below, all Common Expenses of the Condominium Association, as defined hereinabove, shall be shared by all Unit Owners in accordance with the undivided share in the ownership of the Common Elements attributable to each Unit submitted to condominium ownership, as set forth in Paragraph 10 hereinabove. It is understood that this shall include all expenses in connection with any assessments, insurance, management, maintenance of any Common Elements and all other expenditures for which the Condominium Association shall be responsible.

(b) Notwithstanding Paragraph 10(a) above, certain expenses shall be paid by individual Unit Owners as follows:

(1) Any assessment charged to a Unit Owner shall be paid for by such Unit Owner.

(2) Any costs incurred by the Condominium Association for the maintenance, repair and replacement of any heating, ventilating, air conditioning, or other utility system within a particular Unit will be paid by the Unit Owner for such Unit.

(3) Any cost incurred for the repair of a Limited Common Element attached solely to a particular Unit.

(c) The Common Surplus shall be owned by the Association.

11. **Governing Body.** The affairs of the Condominium shall be conducted by a corporation incorporated pursuant to the Texas Business Organization Act. The name of the corporation to conduct the affairs of the Condominium shall be HARBORVIEW CONDOMINIUM ASSOCIATION, INC., the Articles of Incorporation of which are attached hereto as Exhibit "D" and are made a part hereof as though set out in full herein. The Bylaws of the Condominium Association are attached hereto as Exhibit "E" and are made a part hereof as though set out in full herein. The Condominium Association may use a fictitious name and adopt a fictitious name for the Condominium as adopted by the Board of Directors from time to time. In addition to the powers conferred on the Condominium Association under the Bylaws and hereunder, the Condominium Association may take all actions authorized by Section 82.102 of the Condominium Act. Any and all actions taken by the Condominium Association pursuant to this Declaration, the Condominium Act or the Bylaws is binding on all Unit Owners. This Declaration does not provide for any limitations or restrictions on the power of the Condominium Association or the Board of Directors. The Condominium Association shall enjoy all of the rights and powers set forth in Section 82.102(a) of the Condominium Act.

12. **Membership In The Condominium Association.**

(a) The Condominium Association shall at all times maintain a register setting forth names of the Unit Owners of all of the Units; and in the event of the sale or transfer of any Unit to a third party, the purchaser or transferee shall notify the Condominium Association in writing of his or her interest in such Unit together with such recording information as shall be

pertinent to identify the instrument by which purchaser or transferee has acquired his or her interest in the Unit. Further, the Unit Owner of each Unit shall at all times notify the Condominium Association of the names of the parties holding any mortgage or mortgages on any Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Unit may, if he or it so desires, notify the Condominium Association of the existence of any mortgage or mortgages held by such party on any Unit and, upon receipt of such notice, the Condominium Association shall register in its records all pertinent information pertaining to the same.

(b) Declarant and all persons hereinafter owning an interest in the Units, whose interest is evidenced by the recordation of a proper instrument in the Real Property Records of the County, shall automatically be Members of the Condominium Association and such membership shall automatically terminate when such persons have divested themselves of such interest.

(c) An Owner or Owners of a single Unit shall collectively be entitled to one (1) vote for each unit ownership of the Common Elements attributable to such Unit as set forth on Exhibit "C" attached hereto. If Declarant causes additional Units to become subject to the provisions of this Declaration pursuant to the terms of Section 23 below, the percentage ownership of the Common Elements shall be revised as set forth in Section 9 above. Upon any such change in votes, Declarant shall set forth in an amendment to this Declaration (and specifically an amended Exhibit "C"), the vote attributable to each Unit as computed in accordance with this Section 12(c). Whenever a particular numerical vote is called for or provided for in this Declaration, the Articles or Bylaws unless the particular provision describing the vote required shall specifically require to the contrary, the vote required shall be that percentage of the total number of Voting Interest of the Unit Owners present and voting, or if the provision involved so requires, that percentage of the total number of Voting Interests entitled to be voted on the matter. Unless a particular provision shall require otherwise, a majority vote of the number of Voting Interests of Unit Owners present and voting and entitled to vote on any matter shall be controlling, provided a quorum is present. A person or entity owning an interest in more than one (1) Unit may be designated as a voting Member for each Unit which he or it owns, and may cast one (1) vote for each such Unit.

(d) All the affairs, policies, regulations and property of the Condominium Association shall be controlled and governed by the Board of Directors, of not less than three (3) persons. During the period of Declarant Control, the Declarant may appoint and/or remove all members of the Board of Directors; provided, however, that not later than 120 days after the conveyance of 75% of the Units to Unit Owners other than the Declarant, the members of the Board of Directors must be elected by Unit Owners other than the Declarant.

(e) During the period of Declarant Control, the Declarant may appoint and/or remove all officers of the Association.

13. **Amendment Of Declaration.** This Declaration may be amended at a meeting of the Unit Owners at which the amendment is approved by those Unit Owners holding not less than sixty-seven percent (67%) of the Voting Interests of the Members of the Condominium Association. Such amendment shall be evidenced by a written instrument executed and acknowledged by an officer of the Condominium Association on behalf of the consenting Unit Owners and filed of record in the County. Any such amendment so effected shall be binding upon all of the Unit Owners, provided however that except as permitted or required by the Condominium Act, (i) no such amendment shall cause the alteration or destruction of a Unit or of a Limited Common Element unless such amendment has been consented to by the Unit Owner and the Institutional Mortgagees of the Unit which is to be altered or destroyed or by the Unit Owner, and Institutional Mortgagees of a Unit to which the Limited Common Element that is to be altered or destroyed is appurtenant, (ii) change the boundaries of a Unit (except as permitted by Paragraph 23(g) of this Declaration), (iii) alter or destroy a Unit or limited Common Element (except as permitted by Paragraph 23(g) of this Declaration) or (iv) change the use restrictions on a Unit, unless such amendment has been consented to by one hundred percent (100%) of the Voting Interests of the Members of the Condominium Association. Notwithstanding the foregoing, no such amendment shall become effective unless approved by Declarant if the amendment would, in Declarant's reasonable determination, (A) increase or otherwise modify Declarant's obligations; or (B) reduce or modify any Special Declarant Rights (as defined in Section 82.003(a)(22) of the Condominium Act).

Additionally, without the joinder of any other person, the Declarant may amend this Declaration for any of the reasons set forth in Sections 82.051, 82.059, 82.060 and 82.067(b)(1) of the Condominium Act or to reflect the matters described in Paragraph 24 below.

14. **Type Ownership.** Ownership of each Unit and the undivided share in the Common Elements herein specified shall be evidenced by Special Warranty Deed from Declarant conveying fee simple title to the Unit.

15. **Assessments, Liability, Lien, Interest, Collection Budget.**

(a) The Condominium Association, through its Board of Directors, shall have the power to make and collect assessments, special assessments and such other assessments as are provided for by the Condominium Act, this Declaration and/or the Bylaws.

(b) Common Expenses shall include, but not be limited to, costs and expenses incurred or expended by the Condominium Association for operation, maintenance and management of the Condominium Property, assessments payable or allocable to the Condominium Association or the Condominium Property by any person or association for the maintenance, repair and/or replacement of improvements benefiting the Condominium Property or any part thereof, property taxes and assessments against the Condominium Property (until such time as any of such taxes and assessments are made against the Units individually and thereafter only as to such taxes or assessments, if any, as may be assessed against the Condominium Property as a whole), insurance premiums as described in Paragraph 18, legal and accounting fees, management fees and operating expenses of the Condominium Property and the Condominium Association, maintenance, repairs and replacement (but only as to the Common

Elements and Limited Common Elements, except for emergency repairs or replacements to individual Units deemed necessary to protect the Common Elements and if properly chargeable to the individual Unit Owner concerned the Condominium Association may nevertheless thereafter charge such individual Unit Owner concerned), charges for utilities and water used in common for the benefit of the Condominium or if not separately metered for each Unit and any bulk metered or bulk calculated utility services rendered to the Condominium Property or the Units for their benefit, cleaning and janitorial services for the Common Elements and Limited Common Elements, internet connection with, cable television, satellite television, liability incurred by the Condominium Association in connection with the enforcement of its rights and duties against the Members or others, the creation of reasonable contingency or reserve requirements for the protection of the Members and the Condominium Property (i.e., reserves for replacements, operating reserve to cover deficiencies and unforeseen contingencies), Project Expenses allocated to the Condominium Association by the Master Association under Section 5.11 of the Master Association, and all other expenses declared by the Board of Directors to be Common Expenses from time to time, and any and all other sums due from the Condominium Association under any agreement, lease, contract or undertaking for recreational facilities. Until such time as Declarant Control of the Condominium shall have terminated, the Condominium Association's reserves and the Unit Owner's Working Capital Contributions may not be used for payment of operational expenses of the Condominium.

(c) Prior to the commencement of each fiscal year of the Condominium Association, the Board of Directors shall prepare and deliver to each of the Unit Owners a budget setting forth the anticipated Common Expenses for the ensuing year. Such budget shall be in sufficient detail so as to inform each Unit Owner of the nature and extent of the Common Expenses anticipated to be incurred, and shall be accompanied by a statement setting forth each Unit Owner's monthly share thereof and the date as of which such monthly assessments commence to be payable. No further communication shall be necessary to establish the amount of each Unit Owner's obligation regarding the monthly Assessments payable hereunder, and the failure of the Board of Directors to timely deliver the budget provided for herein shall in no event excuse or relieve a Unit Owner from the payment of the monthly assessments contemplated hereby. Any budget prepared and delivered to the Unit Owner as hereby contemplated may be amended as and to the extent reasonably necessary, the amount of a Unit Owner's monthly Assessment changed, to correspond therewith. Commencing with the next proposed budget prepared after the second anniversary of the closing of the sale of the first Unit and for each fiscal year thereafter, if the Controllable Condominium Costs portion of the proposed budget for a fiscal year increases more than twenty percent (20%) above the Controllable Condominium Costs portion of the budget for the preceding fiscal year, such budget must be approved by the affirmative vote of the Unit Owners holding not less than sixty-seven percent (67%) of the Voting Interests of the Members of the Condominium Association. Assessments for Common Expenses shall be borne by Unit Owners in the portions or shares set forth in Paragraph 10 hereinabove.

(d) Should the Condominium Association through its Board of Directors at any time determine that the assessments made are not sufficient to pay the Common expenses or, in the event of emergencies, the Board of Directors shall have the authority to levy and collect additional assessments to meet such needs of the Condominium Association.

(e) All notices of assessments from the Condominium Association to the Unit Owners shall designate when they are due and payable.

(f) Declarant hereby reserves and assigns to the Condominium Association a lien, pursuant to the provisions of Section 82.113 of the Condominium Act, against each Condominium Unit, Unit Owner, the Rents, if any, payable to the Unit Owner, and Insurance Proceeds or condemnation proceeds payable to a Unit Owner to secure the payment of all Assessments, which lien shall be and constitute a lien and encumbrance, in favor of the Condominium Association, upon such Unit Owner's Condominium Unit, Rents, and any such condemnation proceeds or Insurance Proceeds. The liens established herein shall be prior and superior to all other liens and encumbrances subsequently created upon such Unit Owner's Condominium Unit, Rents, condemnation proceeds and Insurance Proceeds, regardless of how created, evidenced or perfected, other than the lien securing the payment of a First Lien Indebtedness held by an Institutional Mortgagee (provided such lien was recorded prior to the date on which the Assessment became delinquent and subject to Paragraph 15(g) below) and the liens for unpaid taxes, assessments and other governmental impositions. The liens and encumbrances created herein may be enforced by any means available at law or in equity, including, without limitation, a non-judicial foreclosure sale of the Condominium Unit of a defaulting Unit Owner, such sale to be conducted in the manner set forth in Texas Property Code Section 51.002 (as now written or as hereafter amended). The Unit Owner of each Condominium Unit, by acquisition of such Condominium Unit, grants to the Condominium Association a power of sale in connection with the Condominium Association's liens. By written resolution, the Board of Directors may appoint, from time to time, an officer, agent, trustee or attorney of the Condominium Association to exercise the power of, sale on behalf of the Condominium Association. The Condominium Association may bid for and purchase the Unit Owner's Condominium Unit, as a Common Expense, at any such foreclosure sale.

(g) A Unit Owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he or she is the Unit Owner. Additionally, a Unit Owner is jointly and severally liable with the previous Owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner.

(h) The Unit Owner of a Unit purchased by the Condominium Association, at a foreclosure sale of the Condominium Association's lien for Assessments, may redeem the Unit not later than the ninetieth (90th) day after the date of the foreclosure sale. To redeem the Unit, the Unit Owner must pay to the Condominium Association all amounts due the Condominium Association at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the Past Due Rate, reasonable attorneys' fees and costs incurred by the Condominium Association in foreclosing the lien, any Assessment levied against the Unit by the Condominium Association after the foreclosure sale, and any reasonable costs incurred by the Condominium Association, as Unit Owner of the Unit, including costs of maintenance and leasing. Upon redemption, the Condominium Association shall execute a deed to the redeeming Unit Owner of the Unit. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption

period expires unless the redeeming Unit Owner of the Unit records prior to such date, the deed from the Condominium Association or an affidavit stating that the Unit Owner has exercised the right of redemption. A Unit that has been redeemed remains subject to all liens and encumbrances on the Unit before foreclosure. All Rents collected from the Unit by the Condominium Association from the date of foreclosure sale to the date of redemption belong to the Condominium Association, but the Rents shall be credited against the redemption amount. If the Condominium Association purchases a Unit at a sale foreclosing the Condominium Association's lien, the Condominium Association may not transfer ownership of the Unit during the redemption period to a person other than a redeeming Unit Owner.

(i) In the event the Unit Owner of a Unit defaults in the Unit Owner's monetary obligations to the Condominium Association, the Condominium Association may notify other lienholders of the default and the Condominium Association's intent to foreclose its lien. The Condominium Association shall notify any holder of a recorded lien or duly perfected mechanic's lien against a Unit which has given the Condominium Association a written request for notification of the Unit Owner's monetary default or the Condominium Association's intent to foreclose its lien.

(j) Nothing contained in this Declaration shall prohibit the Condominium Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

(k) Water, Gas and Electric Submetering Systems. The Condominium Association may implement submetering systems to measure usage of water, gas and/or electricity for each Owner's Unit and appurtenant Limited Common Elements. To the extent such a submetering system is implemented for any or all of the foregoing utilities, the Condominium Association shall cause a monthly statement of usage and the cost thereof to be furnished to each Unit Owner. Each Unit Owner shall pay to the Condominium Association (or a submetering system contractor selected by the Condominium Association, if the Condominium Association notifies the Owners that it has engaged such a contractor) all such usage costs applicable to such Owner's Unit and appurtenant Limited Common Elements as reflected on a monthly statement received from the Condominium Association. Each such monthly payment shall be made by each Unit Owner on or before the due date reflected on each monthly statement. Each submetering system contemplates that the Condominium Association pay the costs for all Units and appurtenant Limited Common Elements in advance and be reimbursed by the Unit Owners upon receipt of payments made by the Unit Owners. All sums paid by the Condominium Association on behalf of any Owner for any such usage shall constitute an Assessment payable by such Unit Owner to the Condominium Association, and the amount thereof shall constitute a lien upon such Owner's Unit. The Condominium Association shall be entitled to enforce any such lien in accordance with and pursuant to the provisions of Paragraph 15(f) of this Declaration.

16. Maintenance. The responsibility for the maintenance of the Condominium Property shall be as follows:

(a) By the Condominium Association. The Condominium Association shall be responsible for the maintenance, repair or replacement of the following, the costs of which are part of the Common Expenses:

(1) All Common Elements, excluding, however, the specific items for which the Unit Owner must maintain as more specifically set forth in Paragraph 16(b) below.

(2) All Structural Elements.

(b) By the Unit Owner. Each Unit Owner, at such Unit Owner's expense, shall:

(1) Operate, maintain, repair and replace all portions of the Unit Owner's Unit. All such maintenance, repairs and replacements shall be done without disturbing the rights of other Unit Owners or their invitees;

(2) Clean all balconies and patios, balcony and patio floor covering and balcony and patio doors adjacent or attached to the Unit Owner's Unit;

(3) Within the Unit Owner's Unit, clean, maintain, repair and replace all cabinets, appliances, carpeting and other floor coverings, sinks, kitchen fans, stoves, refrigerators, dishwashers, garbage disposals, garbage compactors, other appliances or equipment, wall coverings (ex. wallpaper and paint), ceiling fans, clothes washers, clothes dryers, and all personal property of the Unit Owner within the Unit;

(4) Within the Unit Owner's Unit, clean, maintain, repair and replace all utility installations, fixtures, or equipment serving only the Unit Owner's Unit (including installations, fixtures or equipment for the supply of electricity, water, sewage, and gas, water heaters, and heating and air conditioning equipment); provided, however, any repairs to any plumbing or sewer systems or electrical wiring shall only be performed by repairmen, contractors, or technicians approved by the Condominium Association;

(5) Within the Unit Owner's Garage, clean, maintain, repair and replace all cabinets, floor coverings, ceiling fans, and lighting fixtures.

(6) Although it is generally the obligation of the Association to maintain and repair patios and balconies which are Limited Common Elements, the Unit Owner (not the Association) is responsible for the repair, maintenance or replacement of (i) ceiling fans, or (ii) upgraded or specialized items such as upgraded lighting fixtures or floor-coverings; provided, however, in no event shall the Unit Owner change the exterior appearance of the balcony or patio as originally constructed without the prior written consent of the Condominium Association.

All property to be cleaned, maintained, repaired and/or replaced by a Unit Owner shall be maintained at all times in accordance with First Class Standards, in good working order, and if same affects the exterior appearance of the Building, shall preserve a well-kept and uniform appearance throughout the Condominium. No such maintenance repair or replacement shall be

performed in a manner which changes or alters the exterior appearance of the Building from its original appearance or condition without the prior written consent of the Condominium Association. All property to be maintained, repaired and/or replaced by a Unit Owner which is inside of the Unit Owner's Unit or Garage and which does not affect the exterior appearance of the Building shall be maintained at all times in a condition which does not and will not adversely affect any other Unit Owner or any portion of the Condominium Property.

No Unit Owner shall operate, maintain, repair or replace any portion of the Common Elements or Common Facilities to be operated, maintained, repaired and/or replaced by the Condominium Association without first obtaining written approval from the Condominium Association. Each Unit Owner shall promptly report to the Condominium Association any defects or need for repairs, maintenance, or replacements, the responsibility for which is that of the Condominium Association.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, the cost and expense of any maintenance, repair or replacement of the Condominium Property necessitated by the negligence, misuse or neglect of a specific Unit Owner(s) or the Unit Owner's(s') tenants, guests or invitees, shall be the sole responsibility of said Unit Owner(s) even if such item listed in Paragraph 16(a) above. Additionally, in the event a Unit Owner fails to comply with the requirements set forth in this Paragraph 16(b), the Condominium Association, may undertake such obligations on behalf of such Unit Owner and the cost and expense of any such obligations taken on behalf of such Unit Owner by the Condominium Association shall constitute an Assessment payable by such Owner to the Condominium Association, and the amount thereof shall constitute a lien upon such Owner's Unit. The Condominium Association shall be entitled to enforce any such lien in accordance with and pursuant to the provisions of Paragraph 15(f) of this Declaration.

(c) Notwithstanding anything herein to the contrary, if any of the maintenance, repair or replacement items described in Paragraph 16(a) and Paragraph 16(b) above involve the mechanical, electrical, plumbing, heating, ventilation or air conditioning systems affecting the Building, the Association shall have the right, but not the obligation, to perform such maintenance, repair or replacement and charge the Condominium Association or Unit Owner, the applicable charge for such maintenance, repair or replacement.

(d) At the option of the Condominium Association. The Condominium Association may, at its own expense (which will be part of the Common Expense):

(1) Use and expend the assessments collected to maintain, care for, and preserve the Condominium Property, except those portions thereof which are expressly required to be maintained, cared for, and preserved by the Unit Owners and except that assessments for reserves shall be used for the purposes for which they are reserved unless their use for other purposes is approved in advance by a vote of the majority of the Voting Interests of the Members of the Condominium Association at a duly called meeting;

(2) Purchase the necessary equipment and tools required in the maintenance, care and preservation referred to above;

(3) Enter into and upon the Units when necessary and with as little inconvenience to the Owners as possible (i) in connection with the maintenance, repair or replacement of any Common Elements, including any Limited Common Elements, or for making emergency repairs which are necessary to prevent damage to the Common Elements, including any Limited Common Elements, another Unit, or (ii) to ensure a uniform and well-maintained appearance of all Common Elements. Whenever it is necessary to enter a Unit as set forth in the preceding sentence, the Unit Owner hereby permits the Condominium Association or persons authorized by it to enter the Unit for such purposes, provided that entry into a Unit may be made only at reasonable times and with reasonable advance notice, except that in the case of an emergency, no advance notice is required. To facilitate entry in the event of any emergency, the Unit Owner of each Unit, if required by the Condominium Association, shall deposit a key to his or her Unit with the Board of Directors or the Board's designee;

(4) Insure and keep insured said Condominium Property in the manner set forth in the Declaration against loss from fire and/or other casualty, and Unit Owners against public liability, and to purchase such other insurance as the Board of Directors may deem advisable;

(5) Collect delinquent assessments by suit or otherwise, abate nuisances and enjoin or seek damages from the Unit Owners for violation of the Bylaws, the Rules and Regulations, if any, and the terms and conditions of this Declaration;

(6) Employ personnel and purchase supplies and equipment, to enter into contracts in connection with any of the foregoing items or for other services deemed advisable and generally to have the powers of a manager, including the right to employ or contract with, if deemed advisable, a maintenance service contractor or manager, who shall maintain, service or manage the Condominium Property, and to delegate to such contractor or manager such powers as may be necessary in connection with the operation of the Condominium Property; and

(7) Pay any charge, assessment or tax imposed by any improvement district or special taxing district.

17. **Enforcement Of Maintenance.** In the event an Owner fails to discharge the Owner's maintenance obligations as required in Paragraph 16, the Condominium Association shall be entitled (but not obligated) to cause such work to be done, and the cost and expense thereof may be charged to individual owner as a Special Assessment on that Unit and shall be and constitute a lien upon such Unit Owner's Unit which lien may be enforced in the same method as is provided for the enforcement of Assessment liens pursuant to the provisions of Paragraph 16 of this Declaration. Damage to the interior of any Unit or Garage resulting from such maintenance, repair and replacement activities by the Condominium Association, whether by reason of an emergency or otherwise, shall constitute a Common Expense and be payable by the Condominium Association; provided, however, that if such maintenance, repairs or replacements are the result of the misuse or negligence of a Unit Owner, or its guests or invitees, then such Unit Owner shall be responsible and liable for all such damage.

18. **Insurance.** The insurance (other than title insurance) which shall be carried upon the Condominium Property and the property of the Unit Owners shall be governed by the following provisions:

(a) **Purchase.** Commencing upon the first conveyance of any Unit to a Unit Owner other than the Declarant, the Condominium Association shall obtain and maintain, as a Common Expense, insurance coverage required pursuant to Section 82.111 of the Condominium Act and such additional coverage as the Condominium Association, acting through its Board of Directors, deems appropriate.

(b) **Named Insured; Custody and Payment of Policies.** Insurance policies maintained by the Association shall provide that:

(1) each Unit Owner is an insured person under such policies exclusively and only for any liability arising out of the Unit Owner's ownership of an undivided interest in the Common Elements or membership in the Condominium Association;

(2) insurance trust agreements will be recognized;

(3) the coverage of the policy is not prejudiced by any act or omission of an individual Unit Owner to the extent that such act or omission is not within the collective control of all Unit Owners;

(4) such policy is primary insurance if at the time of a loss under the policy any Unit Owner has other insurance covering the same property covered by the policy;

(5) no action or omission by any Unit Owner, unless validly exercised on behalf of the Condominium Association, will void the policy or be a condition to recovery under the policy;

(6) such policy will not lapse, be canceled, modified or renewal refused, except after thirty (30) days prior written notice to the Condominium Association;

(7) The named insured shall be the Condominium Association individually and as an agent for the Unit Owners covered by the policy without naming them and their mortgagees to the extent of their respective interests;

(8) Unit Owners must obtain insurance coverage at their own expense upon their Units, personal property, and for their personal liability; and

(9) All Condominium Association policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (as described in Paragraph 18(o) below) (if appointed).

The above insurance provision specifically does not include coverage on personal property, coverage for floor coverings, walls, wall coverings and ceilings, and ceiling coverings of any Unit or for personal liability or living expenses of Unit Owners. Each Unit Owner should

obtain insurance coverage at his or her own expense, (i) to protect his or her Unit, and furnishings, floor coverings, wall coverings, ceiling coverings, furniture, personal property, electrical fixtures, appliances, air conditioner, heating equipment, water heater and built-in cabinets located within such Unit and (ii) to cover personal liability and living expenses. The insurance coverage acquired by the Condominium Association does not protect a Unit Owner against liability, personal injury or damage occurring within his or her Unit; it does not cover loss or damage to the Unit and its contents resulting from fire, theft, loss, vandalism, wind, water, rain, hurricanes or other casualty, and does not include floors, floor coverings, walls, wall coverings, ceilings, ceiling coverings, living expenses, electrical fixtures, appliances, water heater, HVAC units exclusively serving an individual unit, all wiring, plumbing, and duct work exclusively serving an individual Unit and built-in cabinets located within the Unit or Garage, as applicable. It shall be the obligation of the individual Unit Owner to purchase and pay for any insurance covering such risks.

(c) Coverage.

(1) Casualty insurance coverage shall afford protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Condominium Property.

(2) Public liability coverage in such amounts and with such coverage as shall be required by the Board of Directors, with no cross-liability exclusions.

(3) Workers' compensation coverage in such amounts and with such coverage as shall be required by the Board of Directors.

(4) Flood insurance coverage to meet legal requirements.

(5) The Condominium Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Condominium Association as required by the Condominium Act. As used in this section, the term "persons who control or disburse funds to the Condominium Association" means those individuals authorized to sign checks, and the president, secretary and the treasurer of the Condominium Association.

(6) Such other insurance as the Board of Directors shall determine from time to time to be desirable.

(d) Premiums and Deductibles. Premiums and all deductibles for any insurance policies purchased by the Condominium Association shall be a Common Expense. If any policy of insurance is canceled, the Condominium Association shall give notice to each Institutional Mortgagee listed in the roster of mortgagees. If any damage covered by a policy of insurance is caused, in whole or in part, by one or more Unit Owners, the deductible associated with any such claim may be assessed against such Unit Owners.

(e) Shares of Proceeds. All insurance policies obtained by or for the Condominium Association shall be for the benefit of the Condominium Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee (if appointed) as agent for the Condominium Association, the Unit Owners and their mortgagees. The duty of the Insurance Trustee shall be to receive the insurance proceeds and other funds that are paid to it and hold the same in trust for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

(1) Unit Owners. An undivided share for each Unit Owner; that share being the same as the undivided share in the Common Elements appurtenant to his or her Unit.

(2) Mortgagees. In the event a mortgagee endorsement of an insurance policy has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear. Any Institutional Mortgagee or person holding a mortgage on a Unit shall be entitled to request and receive a mortgagee endorsement to the hazard insurance carried by the Condominium Association if such mortgagee endorsement is reasonably available, and a copy of the policy. No mortgagee shall have any right to participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of proceeds made to the Unit Owner and mortgagee, which distributions shall be made by check payable jointly to the Unit Owner and mortgagee.

(f) Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee (if appointed) shall be distributed to or for the benefit of the beneficial owners in the manner hereafter provided.

(g) Condominium Association as Agent. The Condominium Association is irrevocably appointed agent for each Unit Owner and for each holder of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property, to adjust all claims arising under issuance policies purchased by the Condominium Association and to execute and deliver releases upon the payment of claims.

(h) Determination Whether to Reconstruct and Repair. The damaged Condominium Property shall be reconstructed and repaired unless within sixty (60) days from the casualty (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (iii) at least eighty percent (80%) of Unit Owners (including each Unit Owner of a damaged Condominium Unit) vote not to rebuild. Notice of such meeting shall be properly given to all such Unit Owners.

(i) Responsibility for Reconstruction and Repair. The responsibility for reconstruction and repair of Common Elements after casualty shall be the same as for maintenance and repair of the Condominium Property as provided herein.

(j) Plans and Specifications. Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original improvements, or if

not, then according to plans and specifications approved by the Board of Directors and seventy-five percent (75%) of the Voting Interests of the Members of the Condominium Association.

(k) Assessments, Determination of Sufficiency of Funds. If the proceeds of insurance are not sufficient to defray the costs of construction and repair for which the Condominium Association is responsible, assessments shall be made by the Condominium Association against all Unit Owners in sufficient amounts to provide funds for the payment of those costs previously incurred or to be incurred. The assessments shall be made as for a Common Expense.

(l) Disbursement of Funds. The funds held by the Insurance Trustee (if appointed) after a casualty, which will consist of proceeds of insurance and the sums collected from assessments against Unit Owners on account of the casualty, shall be disbursed in the following manner and order:

(1) Termination of the Condominium. If the Condominium is terminated by a vote of the Unit Owners holding eighty percent (80%) of the Voting Interests entitled to be voted, the insurance funds shall be remitted jointly to the Unit Owners of the damaged Condominium Units and their mortgagees, to compensate them for their loss. Each Unit Owner of a damaged Condominium Unit and its mortgagee shall receive a share equal to the total insurance proceeds from the casualty, multiplied by a quotient, the numerator of the quotient being the fair market value of the Unit Owner's Condominium Unit prior to the casualty, and the denominator of the quotient being the fair market value of all damaged Condominium Units prior to the casualty. However, if the fair market value of the Unit Owner's Condominium Unit before the destruction cannot be determined, the Unit Owner's interest in the casualty proceeds is the Unit Owner's undivided share in the Common Elements prior to the termination. Any remaining proceeds shall be owned by the Unit Owners and their mortgagees as their interests appear, in the undivided shares in which they own the Common Elements prior to the termination, and shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being made payable jointly to them.

(2) Reconstruction and Repair of Damage. If the damaged property is to be reconstructed and repaired, the funds shall be disbursed in the following manner.

a. If the estimated costs of reconstruction and repair which are the responsibility of the Condominium Association do not exceed \$60,000.00 in Constant Dollars, the funds shall be disbursed by the Insurance Trustee (if appointed) upon the order of the Condominium Association in payment of these costs.

b. If the estimated costs of reconstruction and repair which are the responsibility of the Condominium Association exceed \$60,000.00 in Constant Dollars, the funds shall be disbursed by the Insurance Trustee (if appointed) in payment of these costs in the manner required by the Board of Directors, which shall supervise the work and approve all disbursements as being due and properly payable.

c. If there is a balance of insurance proceeds after payment of the cost of reconstruction and repair which are the responsibility of the Condominium Association, this balance shall be distributed to owners of damaged Condominium Units who have responsibility for reconstruction or repair of their Condominium Units. The distribution shall be in the shares that the estimated cost of reconstruction and repair of this damage in each damaged Condominium Unit bears to the total of these costs in all damaged Condominium Units; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated cost of repair of his or her Condominium Unit. If there is a mortgage upon a Unit, the distribution shall be paid to the Unit Owner and the mortgagee jointly and they may use the proceeds as they may determine.

(m) Benefit of Mortgagees. The provisions in this Paragraph 19(m) are for the benefit of mortgagees of Units as well as Unit Owners, and may be enforced by any such mortgagee, and shall not be amended without the consent of all Institutional Mortgagees holding first mortgages on Units. Notwithstanding the foregoing, the Condominium Association shall not be responsible for its failure to make a payment jointly to the Unit Owners and the mortgagee of the mortgagee has not previously notified the Condominium Association in writing that it has a mortgage on a Unit.

(n) Policy Copies. A copy of each insurance policy in effect shall be available for inspection by the Unit Owners at reasonable times.

(o) Insurance Trustee. The Board of Directors shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Condominium Association fails or elects not to appoint such Insurance Trustee, the Condominium Association will perform directly all obligations imposed upon such Insurance Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses. The Insurance Trustee, if so appointed, shall be a bank or trust company in Texas, with trust powers, with its principal place of business in the State of Texas. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor the failure to collect any insurance proceeds.

19. Condemnation and Eminent Domain.

(a) Upon the taking of any Condominium Property by condemnation or eminent domain proceedings, the awards for the taking shall be deposited with the Association. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association, and in the event of a failure to do so, in the discretion of the Condominium Association, the Condominium Association may bring an action against a defaulting Unit Owner in the amount of his or her award, or the amount of that award shall be set off against the sums hereafter made payable to that Unit Owner.

(b) In the event of any condemnation or eminent domain proceedings, a meeting of the Members of the Condominium Association shall be called within sixty (60) days after the taking of any Condominium Property by condemnation or eminent domain proceedings

is final to determine whether the Condominium will be terminated. Termination of the Condominium shall be effected as provided in Paragraph 24 of this Declaration.

(c) If the Condominium is terminated after condemnation or eminent domain proceedings, the proceeds of the awards and special assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation or eminent domain proceedings, the property damaged by the taking will be made usable in the manner provided below.

(d) If the taking reduces the size of a Unit and the remaining portion of the Unit can be made tenantable from the award attributable to such Unit, the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

(1) The Unit shall be made tenantable (if the cost of restoration exceeds the amount of the award, the additional funds required shall be paid by the Unit Owner); and

(2) The balance of the award, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and his or her mortgagees.

(e) If the taking is of the entire Unit, if the taking so reduces the size of a Unit that it cannot be made tenantable, or if the award for the taking of the Unit is not sufficient to make the Unit tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominiums:

(1) The award shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Unit Owner and his or her mortgagees;

(2) The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in the manner approved by the Board of Directors; provided, however, that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements; and

(3) The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements among the reduced number of Unit Owners. This shall be done by restating the shares of continuing Unit Owners in the Common Elements based on the number of Units as set forth in Paragraph 9 above.

(f) Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors; provided, that if the cost of the work shall exceed the balance of the funds from the

awards for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements. Awards for the taking of the Common Elements which are not used to rebuild the Common Elements, shall be distributed to the Unit Owners affected by the taking of such Common Elements in the share in which they owned the Common Elements before the condemnation or eminent domain proceedings. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Unit Owner and the mortgagees of the Unit.

(g) The changes in Units, Common Elements and the ownership of the Common Elements that are affected by condemnation shall be evidenced by an amendment of this Declaration of Condominium that need be approved only by the Board of Directors.

20. **Maintenance Of Community Interest.** In order to maintain a community of congenial owners who are financially responsible and thus protect the value of the Units, the transfer of Units by any Unit Owner other than Declarant shall be subject to the following provisions so long as the Condominium exists, which provisions each Unit Owner covenants to observe:

(a) Certain Transfers of Units: Approval.

(1) Lease; Fractional or Time Share. A Unit Owner may lease a Unit without approval of the Board of Directors. No Condominium Unit (other than a Unit owned by the Declarant) or portion thereof shall be used or sold on a "fractional" or "time-share" basis. During the time a Unit is leased or occupied by others, the Unit Owner shall not have the right to use, Common Elements, the Limited Common Elements, or the Condominium Association Property, except as a guest of another Unit Owner or of the lessee, or as landlord to enforce its rights (including access to the Unit) as landlord pursuant to Chapter 92 of the Texas Property Code. A Unit Owner (other than the Declarant) intending to accept a bona fide offer to lease his or her Condominium Unit or any interest therein shall give to the Board of Directors written notice of his or her intention to execute such lease together with the name and address of the intended lessee, an executed copy of the lease and other information as the Board of Directors may reasonably require. Every lease shall contain a clause (i) informing tenant that the lease and the occupancy of the Condominium Unit is subject to this Declaration, and (ii) prohibiting assignment and subletting without the prior consent of the Board of Directors. Notwithstanding the foregoing, if the Unit is owned by the Declarant, the Declarant may lease such Unit on any terms determined by Declarant without the consent of the Association. The Declarant is not required to give the Board of Directors any notice of the lease of the Unit owned by the Declarant.

(b) Mortgage. A Unit Owner may not mortgage his or her Condominium Unit (or any interest appurtenant thereto), without the approval of the Board of Directors, except to an Institutional Mortgagee, as hereinbefore defined. The approval of any other mortgagee may be obtained upon conditions determined by the Board of Directors and the approval shall be, if granted, prepared in recordable form, executed by the president and the Condominium Association. Where a Unit Owner sells his or her Condominium Unit and takes back a purchase money mortgage, the approval of the Board of Directors shall not be required.

(c) Unauthorized Transactions. Any sale, mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Condominium Association.

(d) Notice of Lien or Suit.

(1) Notice of Lien. A Unit Owner shall give written notice to the Condominium Association of every lien upon his or her Unit other than for permitted mortgages, taxes and special assessment within five (5) days after the attachment of the lien.

(2) Notice of Suit. Unit Owner shall give written notice to the Condominium Association of every action or other proceeding which may affect title to his or her Unit, such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

(3) Validity. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

(e) Liability Continues. The liability of a Unit Owner under the covenants and conditions of this Declaration shall continue, notwithstanding the fact that he may have leased, rented or sublet his or her Unit, as provided herein. Every purchaser, tenant, lessee or transferee of a Condominium Unit or any portion thereof shall take subject to and by the acceptance of his or her interest, thereby agrees to be bound by this Declaration, the Bylaws of the Condominium Association, and the provisions of the Condominium Act.

(f) Purchase of Units by the Condominium Association. The Condominium Association shall not purchase a Unit without the approval of the Members pursuant to this Declaration. A Member whose Unit is the subject matter of the proposed purchase shall be ineligible to vote thereon, provided, however, that the limitations hereof shall not apply to Units to be purchased at public sale resulting from a foreclosure of the Condominium Association's lien for delinquent assessments where the bid of the Condominium Association does not exceed the aggregate of the amounts due by virtue of any and all senior or superior liens and encumbrances against the Unit, plus the amount due the Condominium Association including costs of litigation and attorneys' fees, nor shall the limitation of this Paragraph 21(f) apply to the Units to be acquired by the Condominium Association in lieu of foreclosure of a lien or liens if the consideration therefore does not exceed the cancellation of the lien or liens collection costs and attorneys' fees plus the amounts due by virtue of all senior o and encumbrances.

(g) Trustee, Corporation, Partnership or Company Purchaser or Lessee. The purchaser or lessee of a Unit may be a trustee, corporation, general partnership, limited partnership or limited liability company.

21. Restraint Upon Separation and Partition. Any transfer of a Unit must include all elements thereof as described above and appurtenances thereto, whether or not specifically described, including, but not limited to, the Unit Owner's share in the appurtenant Common Elements and Limited Common Elements and his or her Condominium Association membership. The shares in the Common Elements appurtenant to a Unit are undivided and no action for

partition for the Common Elements shall lie. Further, the undivided share in the Common Elements shall not be separated from the Unit, and the share in the Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Unit. In no event shall a Garage or Carport be separated from the appurtenant Unit.

22. **Use Restrictions.** In addition to other obligations and duties heretofore set out in this Declaration, every Unit Owner or occupant of a Unit shall abide by the following use restrictions and any rules and regulations adopted by the Condominium Association which are not inconsistent with the provisions set forth herein or the Exhibits hereto.

(a) Each Unit shall be used only for the purpose of a residence in which (i) there shall not be more than four (4) persons per bedroom continuously residing, temporary visitors and or guests.

(b) Boats, personal watercraft, boat trailers, personal watercraft trailers, shall not be parked or stored in the parking lot designated for Harborview. No hazardous materials may be stored onsite.

(c) No parking of commercial trucks of any nature or similar commercial vehicles shall be permitted upon the Condominium Property except temporarily during periods for purposes of actual construction or repair of a structure, or moving in or out and for moving or transferring furniture or for grounds maintenance. No camper, mobile home, or motor home shall be permitted to be parked or stored within areas designated for parking. No disabled vehicles shall be permitted to be parked or stored within Harborview areas. Each Unit Owner agrees to notify all guests of the regulations regarding parking, and to require guests to abide by the parking requirements set forth in this Section 23. Any such vehicle or other property mentioned in this subparagraph that violate the regulations regarding parking, this Declaration, may be removed by the Condominium Association at the expense of the Unit Owner owning and/or responsible for the same, for storage or public or private sale, at the election of the Condominium Association; and the Unit Owner owning and/or responsible for the same shall have no right of recourse against the Condominium Association therefore.

(d) Each Unit Owner shall maintain his or her Unit in good condition and repair including all internal surfaces within or surrounding his or her Unit and Garage, and each Unit Owner shall maintain and repair the fixtures therein and shall promptly pay for any utilities which are metered separately.

(e) Each Unit Owner shall maintain her or her Unit (and the balcony or patio adjacent thereto), in a clean and sanitary manner.

(f) No Unit Owner or resident of a Unit may make or permit any noxious odors or disturbing noises, as determined by the Board of Directors, within the Condominium Property, whether made by himself, his or her family, friends, guests, pets or employees, nor may he do or permit to be done anything by such persons that would interfere with the rights, comforts, or other conveniences of other occupants or residents. No person may play or suffer to be played any musical instrument, stereo, phonograph, radio or television set in his or her Unit

or on or about the Condominium Property if the same shall in any manner disturb or annoy the other occupants or residents of the Condominium Property.

(g) Unit Owners shall not alter any fire, smoke or security systems within a Unit without the prior written consent of the Condominium Association. No Unit Owner shall install its own fire, smoke or security systems of any kind or type whatsoever in a Unit without the prior written consent of the Condominium Association.

(h) No signs, advertising, or notices of any kind or type whatsoever, including, but not limited to, "For Rent" or "For Sale" signs, shall be permitted or displayed on any Unit, Common Element or Limited Common Element, nor shall the same be posted or displayed in such a manner as to be visible from the exterior of any Unit, except that Declarant can post such signs until all of the Units owned by it are sold.

(i) All damage to the Condominium Property caused by the moving and/or carrying of articles therein shall be paid by the Unit Owner or person in charge of such articles. The Condominium Association may require the Unit Owner to deposit funds with Condominium Association as security for any damage caused by moving and/or carrying articles therein.

(j) Soliciting is strictly forbidden. Unit Owners should notify the Condominium Association if a solicitor appears, so that appropriate action may be taken.

(k) No Unit Owner or resident of a Unit shall permit or suffer anything to be done or kept in such Unit which will increase the insurance rates on his or her Unit, the Limited Common Elements, the Common Elements, or which will obstruct the rights or interfere with the right of other owners, occupants or residents or annoy them by unreasonable noises or otherwise; nor shall a Unit Owner commit or permit any nuisances, immoral or illegal act in a Unit, the Limited Common Elements, or on the Common Elements or on or within the Condominium Property.

(l) Each Unit Owner or resident shall conform to and abide by the Bylaws and uniform rules and regulations in regard to the use of the Unit, Limited Common Elements and Common Elements which may be adopted in writing from time to time by the Board of Directors, and to see that all persons using the Unit Owner's property by, through, or under him do likewise.

(m) Each Unit Owner or resident shall allow the Condominium Association or its authorized agent(s) to enter any Unit and the improvements thereon during reasonable hours when necessary for the maintenance, repair and/or replacement of the Condominium Property, any Common Elements (including Limited Common Elements such as exterior windows, doors, balconies, and patios), or for making emergency repairs which are necessary to prevent damage to the Condominium Property, Common Elements (including Limited Common Elements) or to another Unit.

(n) Unit Owners or residents shall make no repairs to any plumbing, mechanical, heating, ventilation or air conditioning systems, or electrical wiring within a Unit except pursuant to and in accordance with Paragraph 16(b) of this Declaration.

(o) All garbage containers shall be located within the Unit, and all trash shall be disposed of by depositing the same in the trash bin(s) located on the Condominium Property. Garbage shall be disposed of through the kitchen garbage disposal so far as possible and the remainder along with bottles, cans and other trash shall be placed in tied waterproof bags or similar containers before being placed in the trash bins.

(p) No outside antennas, antenna poles, antenna masts, electronic devices, antenna towers, car citizen band (CB), amateur band (ham) antennas, or satellite dishes shall be permitted except to the extent expressly permitted under the Declaration and as approved by the Board of Directors and the Association in writing. No outside satellite receptor dishes or devices or any other type of electronic device now in existence, or that may hereafter come into existence, that is utilized or designed to be utilized for the transmission or reception of electronic or other type of signal shall be allowed without the prior written approval of the Association and the Master Association.

(q) All alterations, modifications, repairs and improvements of the Units shall be made only after prior written approval of the Board of Directors. Unit Owners shall be solely responsible for (i) all costs and expenses incurred by the Condominium Association in connection with the review and approval of any such request, and (ii) complying with all applicable local, state and federal laws, rules, regulations, codes and statutes. Notwithstanding the foregoing, but subject to the next sentence, painting and certain non-structural alterations, modifications, repairs and improvements to the interior of the Units and Garages may be made without the approval of the Board of Directors. However, all alterations, modifications, repairs and improvements which affect the Condominium Property mechanical, heating, ventilation, air conditioning, plumbing or electrical systems and or which affect the floor coverings of the Unit or Garage shall require the approval of the Board of Directors regardless of the cost.

(r) Any change to the exterior lighting of a Unit must be approved in writing by the Board of Directors.

(s) No household pets shall be permitted by Unit Owners on the Condominium Property, except as approved by the Board of Directors in writing, which approval is subject to the Board's sole and absolute discretion and any rules and regulations adopted by the Board of Directors from time to time. Notwithstanding the foregoing, not more than two of the following: dogs, cats and birds which are usually and commonly kept as household pets, are quiet and inoffensive and not being kept or raised for commercial purposes shall be permitted in a Unit. Such household pets must not constitute a nuisance or cause unsanitary conditions. Incessant barking or howling of a dog or other noise caused by a pet that is clearly audible in another Unit shall be a nuisance. Pets shall not be allowed on Common Elements unless the pet acts in a non-threatening way to other persons and is under leash or is carried by a responsible person. No pet shall be permitted to leave its excrement on Common Elements and the owner of such pet shall cause such excrement to be immediately removed. The Board of Directors shall have the right to determine, in its sole discretion, whether a particular pet meets the criteria set forth above, and, if not, it may require the owner of the pet to remove such pet from the Property. All permitted pets must be contained in the Owner's Unit and shall not be permitted to roam free. Further, all approved pets must be leashed at all times when not located in the Unit and may be walked only in designated areas. No goats, pigs, chickens, pigeons, livestock, or any other obnoxious animals, fowl or reptiles shall be kept or permitted to be kept.

(t) No ceramic tiles or wood floors which are not supplied or installed by Declarant may be installed above the first floor of a Building unless the Condominium Association has approved the plan for providing adequate noise insulation.

(u) No Unit Owner shall change, modify, or alter the floor covering in the balconies and patios installed by Declarant without the prior written approval of the Condominium Association, including, but not limited to, the placement of any soft or water absorbing materials on the balconies and patios.

(v) Bicycles must be stored inside the Unit Owner's Unit.

(w) Unless otherwise determined by the Condominium Association, in its sole discretion, all window coverings shall be lined with white or off-white lining on the side exposed to the public.

(x) Unit Owners shall not be permitted access to or use of any equipment/mechanical rooms.

(y) No furniture, ceiling fans, light fixtures (other than those installed by Declarant), or hot tubs shall be permitted or used in the balconies or patios without the prior written consent of the Condominium Association. Any approved items shall at all times comply with the rules and regulations of the Condominium Association.

(z) No grills (charcoal, electric, gas, smokers, or any kind) shall be permitted for use on patios.

The Association has the right to establish additional rules and regulations governing the conduct of all residents and also the use of the Units, Limited Common Elements and Common Elements, so long as such additional rules and regulations are not inconsistent with the terms and conditions of this Declaration.

23. **Declarant's Rights.** Declarant, its successors or assigns expressly reserve the following rights:

(a) The right, at any time, and without the joinder of any other person, to add additional land within or without Harborview to this Declaration.

(b) The right, at any time, and without the joinder of any other person, to add and/or construct additional Units, Common Elements, and Limited Common Elements. Such additions may be made on the existing land subject to this Declaration or to such additional land as may be added to this Declaration from time to time. However, the maximum number of Units subject to this Declaration shall not exceed 50.

(c) The right to amend this Declaration, at any time, and without the joinder of any other person, to reflect additional land, Units, Common Elements, and Limited Common Elements added to this Declaration, including additional legal descriptions, plats, surveys, drawings, plans and specifications.

(d) The right to prohibit access to any uncompleted portion of the Condominium Property to any of the residents of the Condominium, while such uncompleted portion of the Condominium Property is under construction and development. No Unit Owner or his or her guests, or invitees shall in any way interfere or hamper Declarant, its employees, contractors, successors or assigns, in connection with such construction. Thereafter, during such time as Declarant, its successors or assigns, owns any Units within the Condominium Property and is carrying on any business in connection therewith, including the selling, renting or leasing of such Units, the Unit Owners, their guests and invitees shall in no way interfere with such activities or prevent access to such Units by Declarant, its successors or agents.

(e) An easement for pedestrian traffic over, through and across halls, lobbies, center cores, streets, roads, and other portions of the Common Elements as may be from time to time necessary and intended for such purpose of going from one portion of the Condominium Property to another, as may be necessary for Declarant, its guests, assigns and invitees for the purpose of crossing over various portions of the Condominium Property to obtain ingress and egress to any other part of the Condominium Property. Provided, however, that nothing contained herein shall be construed to allow any person or entity to enter upon the Condominium Property unless it is upon an area specifically designated for such traffic and necessary for such ingress and egress as described above and under no circumstances shall such traffic be allowed through or over any Unit not owned by Declarant its successors or assigns, or any Limited Common Element appurtenant thereto.

(f) The right to maintain and operate sales, management and/or leasing offices and models within the Condominium or any Unit owned by the Declarant as provided for in Section 8 above. Any such office maintained in a Common Element shall be subject to the exclusive use of Declarant.

(g) To the extent and only if permitted by the Condominium Act, and at all times while Declarant owns any Unit or any other real property interest in the Condominium or for such lesser time as may be permitted by the Condominium Act, Declarant reserves, as a part of the "Special Declarant Rights" (as defined in the Condominium Act) the following rights: (i) to make and record corrections to the Survey and Plot Plan to conform the same to the actual location of all improvements to the Condominium Property, including the actual size and location of the Units, Garages, Carports and/or the proper designation of the elements of the improvements as Units, General Common Elements or Limited Common Elements; (ii) to establish, vacate, relocate and use the Easements as set forth in this Declaration; provided, however, that no modification of any Easement shall have the effect of altering or destroying a Unit or a Limited Common Element unless consented to by the Owner of such Unit or by the Owner to whose Unit such Limited Common Element is appurtenant, as well as by the Institutional Mortgagee of any such Unit; (iii) to include, in any instrument initially conveying a Unit, such additional reservations, exceptions and exclusions as it may deem consistent with and in the best interests of the Owners and the Condominium Association; (iv) have and use an easement over, under and across any and all of the Common Elements to the extent that same may be necessary or useful in constructing, repairing or completing the Units or as may be reasonably necessary for the exercise of any "Special Declarant Rights" (as defined in the Condominium Act) or the performance of any obligations of the Declarant; and (v) exercise any

“Development Rights” (as defined in the Condominium Act). Declarant’s Development Rights are further described in Exhibit “F” attached hereto.

(h) Working Capital Fund.

(1) Each Owner shall, at the time such Owner purchases a Unit from Declarant, contribute an amount to the Condominium Association equal to the Initial Working Capital Contribution to be held in an account for the future working capital needs or any unforeseen expenses of the Condominium Association as determined by the Board of Directors (the “Working Capital Fund”). Such amount shall be a contribution of working capital to the Condominium Association and shall not be considered as an advance payment of the Monthly Assessment.

(2) Anyone who purchases a Unit from Declarant after Declarant has made the Initial Working Capital Contribution with respect to such Unit, shall at the time of such purchase, in lieu of the obligation set forth in subparagraph (a) hereof, reimburse Declarant for the Initial Working Capital Contribution which Declarant made on behalf of such Unit.

(3) Any purchaser of a Unit from a Unit Owner other than Declarant shall contribute an amount to the Condominium Association equal to the Initial Working Capital Contribution. Such amount shall be a contribution of working capital to the Condominium Association and shall not be considered as an advance payment of Monthly Assessments.

(4) No portion of the Working Capital Fund shall be used to pay operational expenses until such time as the Declarant Control period has expired.

24. Termination. The Condominium may be terminated in the following manner.

(a) Except as provided in Paragraph 19(1)(1), the termination of the Condominium may be effected by unanimous agreement of all Unit Owners and all mortgagees holding mortgages on said Units, which agreement shall be evidenced by an instrument or instruments executed in the manner required for conveyances of real property. The termination shall become effective when such agreement has been recorded in the County.

(b) Upon termination of the Condominium, the Condominium Property shall be owned in common by all the Unit Owners in the same undivided shares as each Unit Owner had in the Common Elements pursuant to the provisions of this Declaration. All liens shall be transferred to the undivided share in the Condominium Property attributable to the Unit originally encumbered by the lien in its same priority.

25. Covenants. All provisions of this Declaration shall be construed to be covenants running with the land and with every part thereof and interest therein, and every Unit Owner and claimant of the Condominium Property or any part thereof or interest therein, and his or her heirs, executors, administrators, personal representatives, successors, assigns and leases shall be bound by all the provisions of this Declaration.

26. **Invalidation and Operation.**

(a) Invalidation of any portion of this Declaration or of any provision contained in a conveyance of a Unit, whether by judgment or court order or law, shall not affect any of the other provisions, which shall remain in full force and effect.

(b) In the event any court should hereafter determine that any provision as originally drafted herein violates the rule against perpetuities or any other rule of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law and for such purpose measuring lives shall be those of the incorporator of the Association.

27. **Interpretation.** Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the plural shall include the singular shall, and the singular shall include the plural. The provisions of this Declaration shall be literally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium in accordance with the Condominium Act, as of the date hereof,

28. **Consent by Mortgagees.** In the event that mortgagee consent is required for any amendment to this Declaration pursuant to Paragraph 13, the approval of fifty-one percent (51%) of the Institutional Mortgagees holding mortgages of record on Units in the Condominium shall be required.

An addition or amendment shall not be considered material if it is for correcting technical or scrivener's errors, or for clarification only. An Institutional Mortgagee who receives a written request from the Condominium Association to approve material additions or amendments to the above items that does not deliver or post a negative response to the Condominium Association within thirty (30) days shall be deemed to have approved such addition or amendment.

29. **Notice to Institutional Mortgagees.** Upon written request to the Condominium Institutional Mortgagees will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage.

(b) Any sixty (60) day delinquency in the payment of assessments or charges owed by a Unit Owner on which it holds the mortgage.

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Condominium Association.

(d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

30. **Additional Rights of Institutional Mortgagees.** Institutional Mortgagees shall have the following rights:

(a) Upon written request of an Institutional Mortgagee to the Condominium Association, any Institutional Mortgagee is entitled to a copy of the financial statements of the Condominium Association for the immediately preceding fiscal year as soon as such financial statements are available; and

(b) The Condominium Association shall make available for inspection upon the Institutional Mortgagee's request, during normal business hours of the Condominium Association, current copies of the Declaration, Bylaws, other rules concerning the Condominium Property, and the books, records and financial statements of the Condominium Association.

31. **Combined Units.** A Unit Owner may purchase two adjacent Units (which may be adjacent either horizontally or vertically) and customize and combine said Units to form one living residence, provided, said construction is performed in accordance with all applicable governmental regulations and building codes, said construction does not affect the structural soundness of any other Unit or the Condominium Property and is otherwise performed in accordance with the Condominium Act. Moreover, for purposes of ascertaining the undivided share of the Common Expenses, the percentage share of ownership interest in the Common Surplus and Common Elements, voting rights and payment of assessments, the combined Units shall be deemed as separate Units, as reflected on the Survey and Plot Plan.

32. **Governing Law.** THIS DECLARATION AND THE BYLAWS, ARTICLES, AND RULES AND REGULATIONS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THE CONDOMINIUM SHALL BE IN PALO PINTO COUNTY, TEXAS.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 1st day of June, 2020.

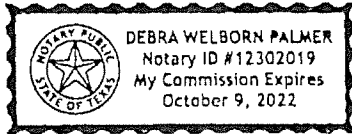
Harbor PK Partners, L.L.C.,
a Texas limited liability company

By:  _____

Name: GRANT MAY
Title: MANAGER

STATE OF TEXAS §
 §
COUNTY OF PALO PINTO §

The foregoing instrument was acknowledged before me this 1st day of June, 2020, by GRANT May, as manager of HARBOR PK PARTNERS, LLC, a Texas limited liability company, on behalf of the partnership.



Debra Welborn Palmer
Notary Public for the State of Texas

Print Name DEBRA PALMER

My Commission Expires 10-9-2022

EXHIBIT "A"

SURVEYOR'S DECLARATION

That I, René Silvas, do hereby certify that this survey was made under my direct supervision and the plat of survey shown herein is a true and accurate representation of the property as determined by survey. There are no visible or apparent easements, encroachment, conflicts or protrusions except as shown herein.

The plat depicted herein contains the information required by Section 82.059 of the Texas Property Code.



René Silvas, RPLS No. 5921



NOTES:

1. Basis of bearings for this survey are based on a bearing of South 37° 21' 01" East for the east line of Lot 35, Block A, Hill Country Harbor, Phase 1A Addition as recorded in Volume 10, Page 183 of the Plat Records of Palo Pinto County, Texas.
2. This survey was prepared with the aid of a title commitment. A thorough search of county public deed records was performed for easements, rights-of-way, limitations, restrictions, or encumbrances. The surveyor did not abstract the property and any valid claim that may affect, restrict, or otherwise encumber subject tract not found or shown hereon shall not create liability on the part of the Surveyor.

HARBORVIEW

LOCATED IN PALO PINTO COUNTY, TEXAS
AND BEING OUT OF THE
A.J. SMITH SURVEY, ABSTRACT NUMBER 393,
PALO PINTO COUNTY, TEXAS
JULY 2019



BGE, Inc.

777 Main Street, Suite 1900, Fort Worth, TX 76102

Tel: 817-887-6130 • www.bgeinc.com

TBPELS Registration No. 10194416

JOB No. 6729-00 RS/JMH PAGE 1 OF 9

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PAGE 5	LOT 35, BLOCK A BEARING AND CALLS
PAGE 6	3412 SCENIC POINT ROAD UNITS 101-106 FIRST FLOOR
PAGE 7	3412 SCENIC POINT ROAD UNITS 201-206 SECOND FLOOR
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PAGE 9	LOT 35, BLOCK A UNIT ALLOCATION TABLE

HARBORVIEW

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JULY 2019

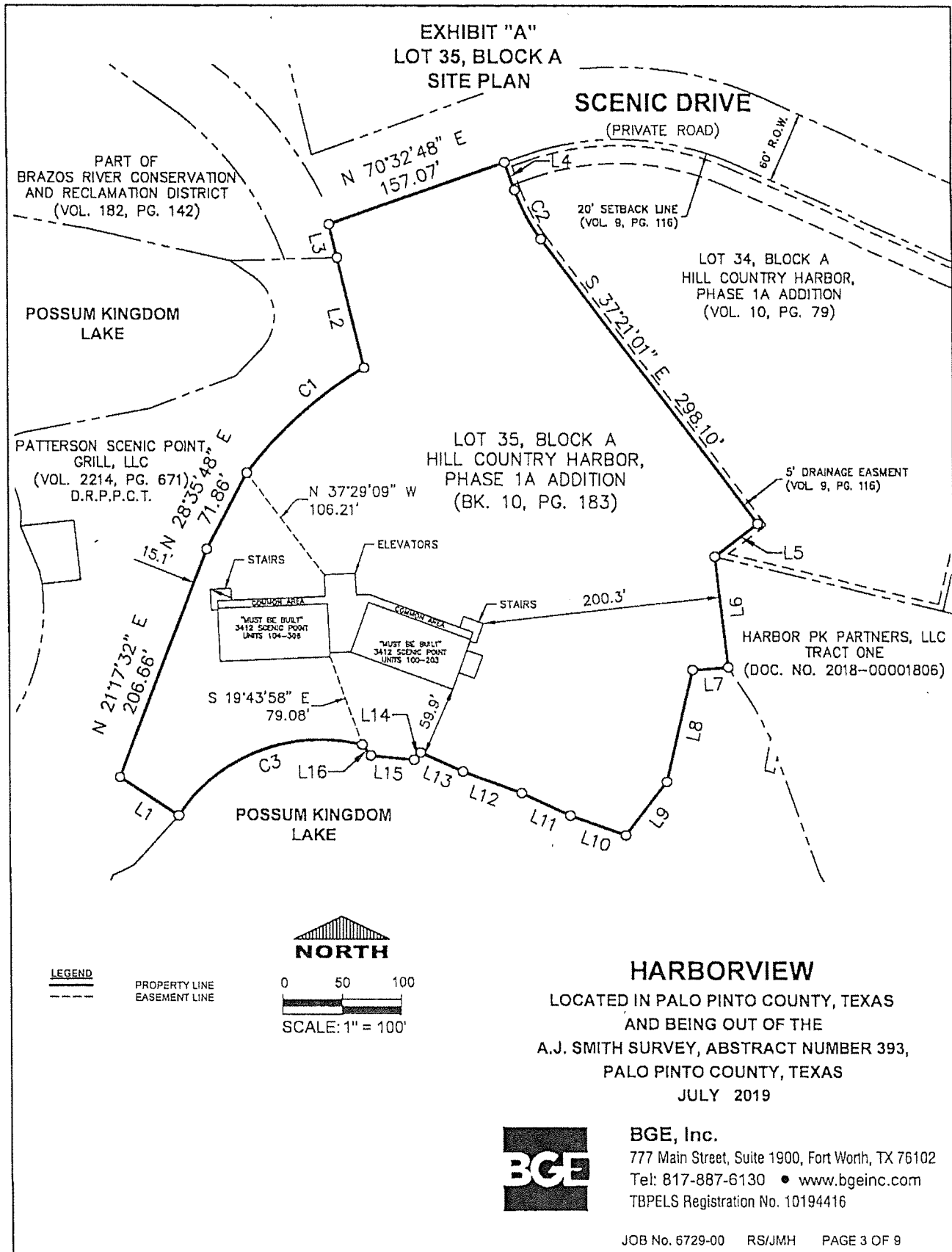


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**EXHIBIT "A"
LOT 35, BLOCK A
SITE PLAN**

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N 57°37'00" W	59.53'
L2	N 13°34'38" W	94.80'
L3	N 13°34'38" W	28.51'
L4	S 19°27'12" E	24.64'
L5	S 52°39'56" W	45.22'
L6	N 06°38'12" W	94.42'
L7	S 85°40'13" W	30.06'
L8	S 12°59'02" W	97.04'
L9	S 37°32'48" W	56.66'
L10	N 70°37'11" W	49.59'
L11	N 65°27'43" W	45.06'
L12	N 69°40'23" W	52.82'
L13	N 66°03'40" W	38.99'
L14	S 42°06'02" W	8.31'
L15	N 84°34'07" W	36.85'
L16	N 38°13'01" W	11.40'

CURVE TABLE					
NUMBER	ARC LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	133.58'	350.00'	21°52'00"	N 48°12'58" E	132.77'
C2	46.85'	150.00'	17°53'50"	S 28°24'06" E	46.66'
C3	176.88'	144.45'	70°09'45"	S 68°58'34" W	166.04'

HARBORVIEW

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TBPELS Registration No. 10194416

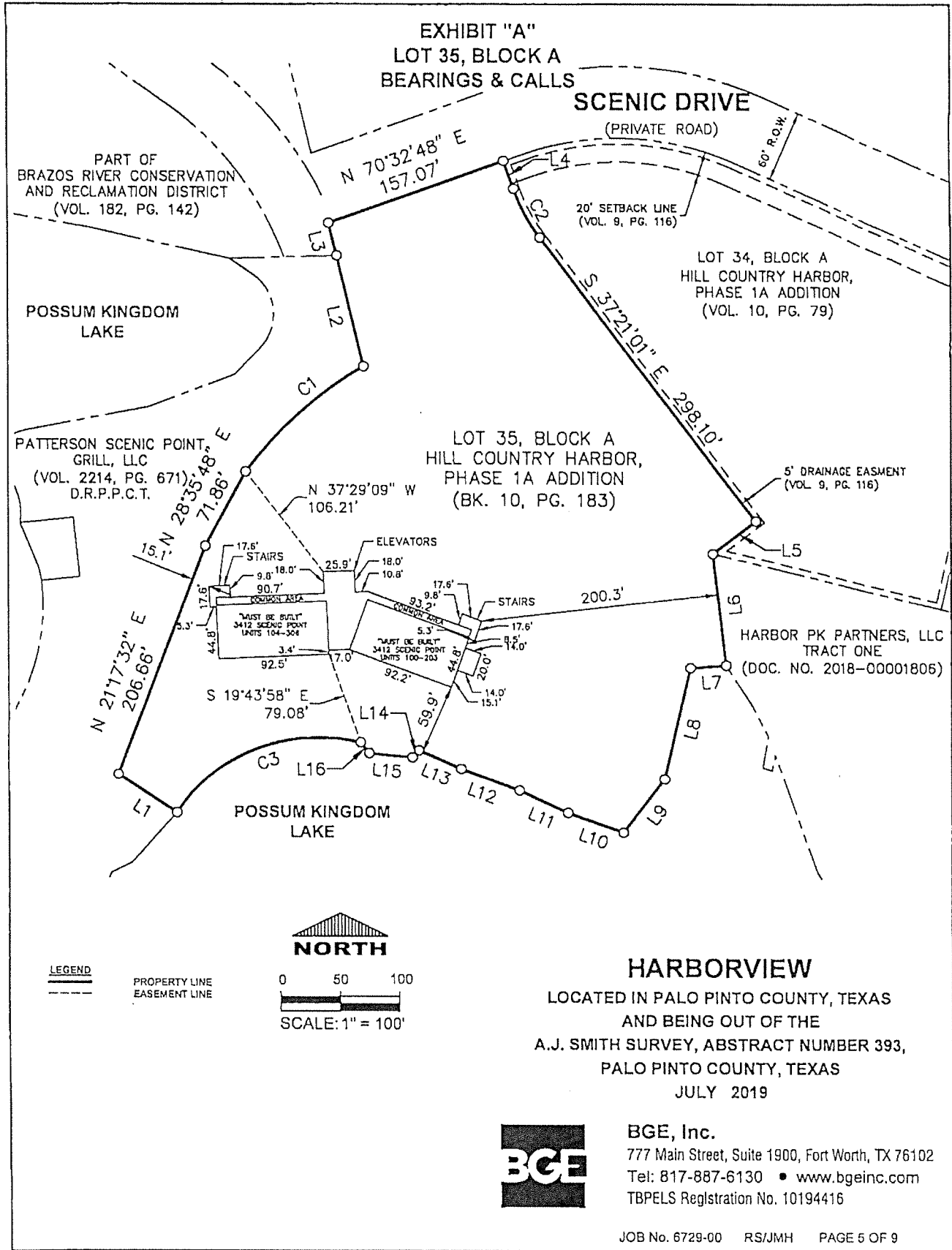
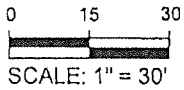
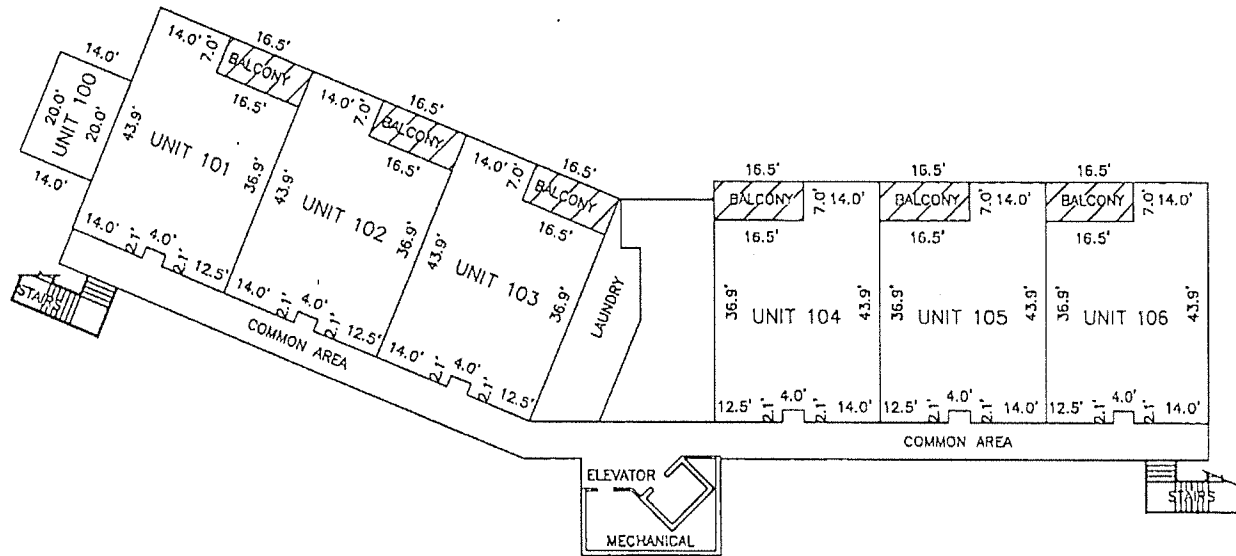


EXHIBIT "A"
3412 SCENIC POINT ROAD

UNITS 101-106
FIRST FLOOR



LEGEND	
	LIMITED COMMON ELEMENTS
	UNIT NUMBERS

HARBORVIEW
LOCATED IN PALO PINTO COUNTY, TEXAS
AND BEING OUT OF THE
A.J. SMITH SURVEY, ABSTRACT NUMBER 393,
PALO PINTO COUNTY, TEXAS
JULY 2019

NOTES

The elevations on the first floor are between 100' and 109' based on a finished floor elevation of 100' at ground level.

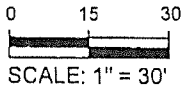
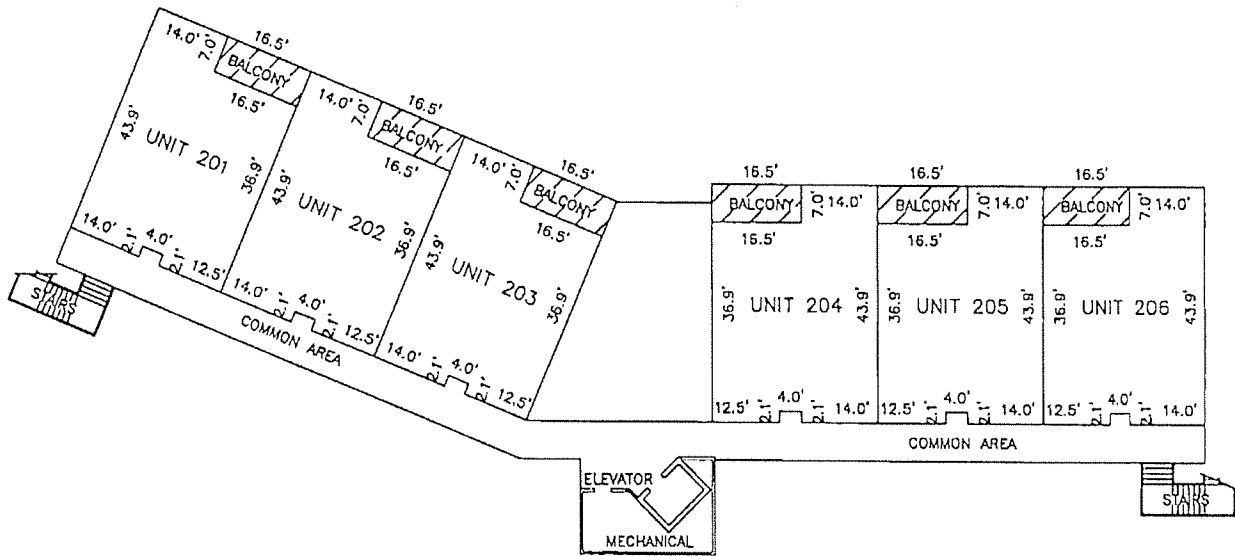
All interior dimensions shown are from out edge of walls on both exterior and party walls according to the architectural plans provided by Cobalt Creek Construction, L.L.C.



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EXHIBIT "A"
3412 SCENIC POINT ROAD

UNITS 201-206
SECOND FLOOR



LEGEND	
	LIMITED COMMON ELEMENTS
	UNIT NUMBERS

HARBORVIEW
LOCATED IN PALO PINTO COUNTY, TEXAS
AND BEING OUT OF THE
A.J. SMITH SURVEY, ABSTRACT NUMBER 393,
PALO PINTO COUNTY, TEXAS
JULY 2019

NOTES

The elevations on the second floor are between 111' and 120' based on a finished floor elevation of 100' at ground level.

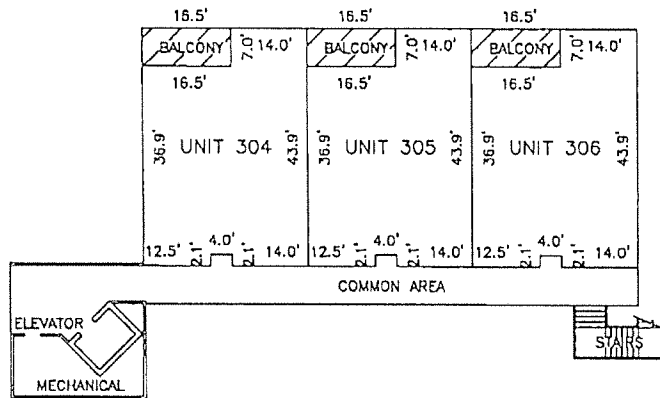
All interior dimensions shown are from out edge of walls on both exterior and party walls according to the architectural plans provided by Cobalt Creek Construction, L.L.C.



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EXHIBIT "A"
3412 SCENIC POINT ROAD

UNITS 301-303
THIRD FLOOR



0 15 30
SCALE: 1" = 30'

LEGEND	
	UNITED COMMON ELEMENTS
	UNIT NUMBERS

HARBORVIEW
LOCATED IN PALO PINTO COUNTY, TEXAS
AND BEING OUT OF THE
A.J. SMITH SURVEY, ABSTRACT NUMBER 393,
PALO PINTO COUNTY, TEXAS
JULY 2019

NOTES

The elevations on the third floor are between 122' and 131' based on a finished floor elevation of 100' at ground level.

All interior dimensions shown are from out edge of walls on both exterior and party walls according to the architectural plans provided by Cobalt Creek Construction, L.L.C.



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**EXHIBIT "A"
UNIT ALLOCATION TABLE**

UNIT TABLE			
UNIT	UNIT AREA	PATIO/BALCONY	SUBTOTAL
UNIT 100	280	0	280
UNIT 101	1,212	115	1,327
UNIT 102	1,212	115	1,327
UNIT 103	1,212	115	1,327
UNIT 104	1,212	115	1,327
UNIT 105	1,212	115	1,327
UNIT 106	1,212	115	1,327
UNIT 201	1,212	115	1,327
UNIT 202	1,212	115	1,327
UNIT 203	1,212	115	1,327
UNIT 204	1,212	115	1,327
UNIT 205	1,212	115	1,327
UNIT 206	1,212	115	1,327
UNIT 304	1,212	115	1,335
UNIT 305	1,212	115	1,335
UNIT 306	1,212	115	1,335
TOTAL	18,460	1,725	20,185

HARBORVIEW

LOCATED IN PALO PINTO COUNTY, TEXAS
AND BEING OUT OF THE
A.J. SMITH SURVEY, ABSTRACT NUMBER 393,
PALO PINTO COUNTY, TEXAS
JULY 2019

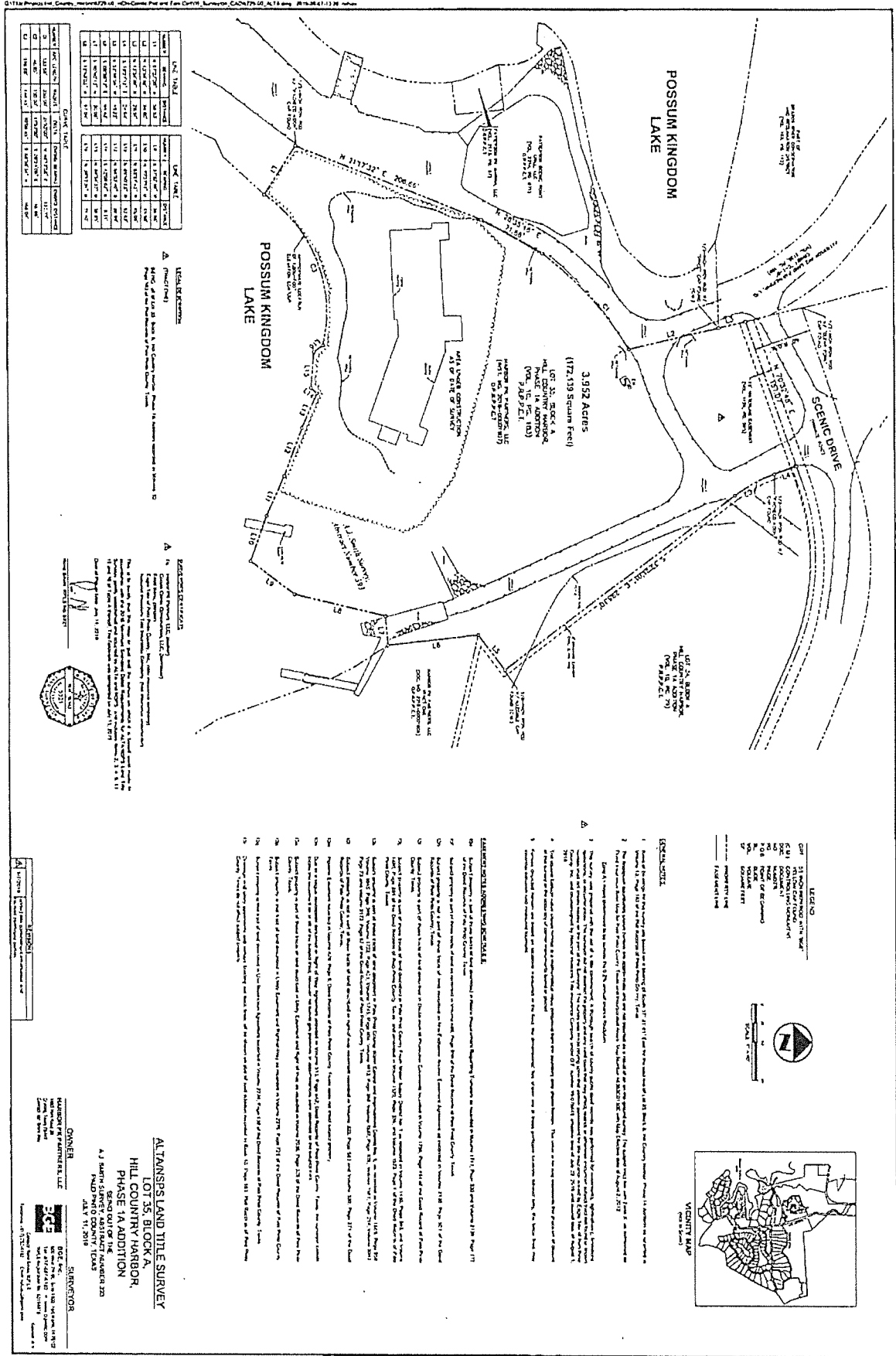


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NOTES

All areas shown are in square feet.

EX: B.



Lot	Area	Notes
1	0.100	...
2	0.100	...
3	0.100	...
4	0.100	...
5	0.100	...
6	0.100	...
7	0.100	...
8	0.100	...
9	0.100	...
10	0.100	...
11	0.100	...
12	0.100	...
13	0.100	...
14	0.100	...

LEGAL REQUIREMENTS
 All of the above described lots are subject to the provisions of the Oregon Land Use Decree Act, ORS 227.010 to 227.080.

NOTICE OF RECORDATION
 This map is being recorded for the purpose of creating a new title survey. The map is subject to the provisions of the Oregon Land Use Decree Act, ORS 227.010 to 227.080.



LEGEND

- 1" = 100' SCALE
- ...

EXPLANATIONS

1. The map is prepared for the purpose of creating a new title survey...
2. The map is subject to the provisions of the Oregon Land Use Decree Act...
3. The map is prepared for the purpose of creating a new title survey...
4. The map is subject to the provisions of the Oregon Land Use Decree Act...

NEAREST NEIGHBORING SURVEYS

1. Survey of the property of the Oregon Land Use Decree Act...
2. Survey of the property of the Oregon Land Use Decree Act...
3. Survey of the property of the Oregon Land Use Decree Act...
4. Survey of the property of the Oregon Land Use Decree Act...
5. Survey of the property of the Oregon Land Use Decree Act...
6. Survey of the property of the Oregon Land Use Decree Act...
7. Survey of the property of the Oregon Land Use Decree Act...
8. Survey of the property of the Oregon Land Use Decree Act...
9. Survey of the property of the Oregon Land Use Decree Act...
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11. Survey of the property of the Oregon Land Use Decree Act...
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14. Survey of the property of the Oregon Land Use Decree Act...
15. Survey of the property of the Oregon Land Use Decree Act...
16. Survey of the property of the Oregon Land Use Decree Act...
17. Survey of the property of the Oregon Land Use Decree Act...
18. Survey of the property of the Oregon Land Use Decree Act...
19. Survey of the property of the Oregon Land Use Decree Act...
20. Survey of the property of the Oregon Land Use Decree Act...

VICINITY MAP

OWNER
 AL TANGS LAND TITLE SURVEY
 LOT 35, BLOCK A,
 HILL COUNTRY HARBOR,
 PHASE 1A ADDITION,
 SHERWOOD, OR 97139

PREPARED BY
 SURVEYOR

DATE
 09/04/2020

EXHIBIT "C"

Ownership in Common Elements

Unit #101 – 1/15th

Unit #102 – 1/15th

Unit #103 – 1/15th

Unit #104 – 1/15th

Unit #105 – 1/15th

Unit #106 – 1/15th

Unit #201 – 1/15th

Unit #202 – 1/15th

Unit #203 – 1/15th

Unit #204 – 1/15th

Unit #205 – 1/15th

Unit #206 – 1/15th

Unit #304 – 1/15th

Unit #305 – 1/15th

Unit #306 – 1/15th

EXHIBIT "D"

Certificate of Formation of Association

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Ruth R. Hughes
Secretary of State

Office of the Secretary of State

CERTIFICATE OF FILING OF

HarborView Owners Association, Inc.
File Number: 803691022

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 07/20/2020

Effective: 07/20/2020



A handwritten signature in black ink, appearing to read "Ruth R. Hughes".

Ruth R. Hughes
Secretary of State

CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Janette Green

Janette K. Green Palo Pinto County Clerk
Palo Pinto County, TX
09/04/2020 10:54 AM
Fee: \$218.00
2020-00004935 DECL

B: OR V: 2334 P: 97