



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HIGHPOINT PHASE ONE,**

AN ADDITION TO THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made and executed on the date hereinafter set forth by Beaumont Highpoint Partners, Ltd. (the "Declarant"), a Texas limited partnership.

WHEREAS, Declarant is the owner of the following described real property located in Jefferson County, Texas (the "Land"), to-wit:

Being a 8.2813 acre tract of land lying in the W. B. Dyches Survey, Abstract No. 17, in Jefferson County, Texas, being out of and a portion of that certain called 10 acre tract of land described in an instrument to Clyde E. Allen and wife, Shirley Allen, of record in County clerk's Film Code No. 102-67-1291 of the Official Public Records of Jefferson County, Texas, and that certain called 4.99 acre tract of land described in an instrument to Clyde E. Allen and wife, Shirley Allen of record in County Clerk's Film Code No. 102-65-1913 of the said Official Public Records, said 15.417 acres being more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes;

and

WHEREAS, Declarant has caused the Land to be subdivided and platted into an addition to the City of Beaumont, Jefferson County, Texas, known and to be known as "Highpoint, an Addition to the City of Beaumont, Jefferson County, Texas" (the "Addition"), in accordance with the Final Plat of said Addition filed for record in the office of the County Clerk of Jefferson County, Texas, contemporaneously with the filing of this Declaration (the "Plat"); and

WHEREAS, Declarant desires to (i) dedicate the easements for access, utilities and storm sewer reflected on the Plat or described herein; (ii) reserve in favor of itself and/or the Association herein established certain easements on and across the Lots in the Addition; and (iii) impose the protective and restrictive covenants set forth later herein on the Lots in the Addition and on the Common Area of the Addition:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Declarant hereby adopts the Plat of the Addition and hereby dedicates the easements for access, utilities and storm drainage as reflected upon the Plat or as described herein, and hereby imposes on the Lots in the Addition the basic restrictions set forth on the Plat.

For the purpose of enhancing and protecting the value, attractiveness, and desirability of the Lots in the Addition, and for the purpose of providing for the orderly development, use and enjoyment of the Lots in the Addition, Declarant hereby declares that all of the Land in the Addition shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions hereinafter set forth, which shall constitute covenants running with the Land and shall be binding upon all parties having any right, title or upon such parties' respective heirs, successors, legal representatives, devisees, lessees and assigns, and shall inure to the benefit of such parties and their respective heirs, successors, legal representatives, devisees, lessees and assigns.

ARTICLE I - DEFINITIONS

Section 1. "Association" shall mean and refer to the Highpoint Homeowners' Association, Texas non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is part of the Addition, including contract sellers, but excluding (a) those holding title merely as security for the performance of an obligation, or (b) those holding title to, or an interest in, the mineral estate only, with no title to, or interest in, the surface estate.

Section 3. "Lot" shall mean and refer to each and every platted lot shown and reflected upon the final recorded plat or plats of said Addition.

Section 4. "Member" shall mean and refer to each and every person or entity who holds membership in the Association, as provided herein.

Section 5. "Declarant" shall mean and refer to Beaumont Highpoint Partners, Ltd., a Texas limited partnership, its successors and assigns. However, as used in this paragraph, the term "assigns" shall not be construed to mean, refer to or include any person or entity which shall acquire from Beaumont Highpoint Partners, Ltd. one (1) or more of the Lots in the Addition, whether improved or unimproved, for occupancy or resale, unless Beaumont Highpoint Partners, Ltd., or its successor, expressly assigns to such assignee all of its rights and privileges as "Declarant" under this Declaration.

Section 6. "Common Area" shall mean and refer to and include any real property (including all improvements now or hereafter placed, erected, constructed, installed or located thereon) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be all of the property in the Addition, excluding:

(a) The platted Lots reflected on the recorded plat or plats of the Addition and the improvements located thereon; and

(b) The water, sanitary sewer, storm sewer, electric, telephone, natural gas, cable television and other utility lines (and all appurtenances thereto) now or hereafter lying, installed and maintained in any street, utility or storm sewer easements reflected on the recorded plat or plats of the Addition or in any utility or storm sewer easements herewith or hereafter granted, conveyed or dedicated in, on or across any Lots in the Addition or the Common Area of the Addition.

Without limitation of the foregoing, the Common Area of the Addition includes:

(1) The "Landscaping Area" along and adjacent to the south side of Highpoint Avenue and the most easterly boundary of the Addition (being the west right-of-way of RFD Road) shown and reflected on the Plat of the Addition, together with the sidewalks, perimeter fences and other improvements now or hereafter constructed thereon, any lighting or sprinkler system now or hereafter installed therein, and all plantings and landscaping now or hereafter planted and maintained therein;

(2) The island or esplanade located within the Highpoint Avenue right-of-way at its intersection with RFD Road, as shown and reflected on the Plat of the Addition, together with the Addition identification sign and other improvements now or hereafter constructed thereon, any lighting and sprinkler systems now or hereafter installed therein, and all plantings and other landscaping now or hereafter planted and maintained therein;

(3) The "Mail Kiosk/LDSC Common Area" along and adjacent to the north side of Highpoint Avenue and the most easterly boundary of the Addition (being the west right-of-way of RFD Road) shown and reflected on the Plat of the Addition,, together with the mail kiosk, kiosk shelter, the sidewalks, perimeter fences and all other buildings and other improvements now or hereafter constructed thereon, any lighting and sprinkler systems now or hereafter installed therein, and all plantings and other landscaping now or hereafter planted and maintained therein; and

(4) The private street identified on the Plat of the Addition as Highpoint Avenue.

Section 7. "Future Development Tract" shall mean and refer to all or any part of that certain 7.1360 acre tract of land lying in the W. B. Dyches Survey, Abstract No. 17, in Jefferson County, Texas, being out of and a portion of that certain called 10 acre tract of land described in an instrument to Clyde E. Allen and wife, Shirley Allen, of record in County clerk's Film Code No. 102-67-1291 of the Official Public Records of Jefferson County, Texas, said 7.1360 acres being more particularly described in Exhibit "B" attached hereto and incorporated herein for all purposes;

Section 8. "Supplemental Declaration" shall mean and refer to any supplemental or supplementary declaration of covenants, conditions and restrictions bringing additional property within the scheme of this Declaration and within the jurisdiction of the Association, as provided later herein.

Section 9. "Mortgage", "Dead of Trust" or "Trust Deed" shall mean and refer to a pledge of a security interest in or the creation of a lien upon a Lot (or Lots), together with any improvements thereon, to secure repayment of a loan made to the owner(s) of such Lot or Lots (or made to another, but secured by such Lot or Lots).

Section 10. "Mortgagee" shall mean and refer to the beneficiary of, or secured party in, a Mortgage on a Lot or Lots.

ARTICLE II - PROPERTY SUBJECT TO DECLARATION; ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the terms, covenants, conditions, restrictions, easements and reservations contained in this Declaration is Highpoint, an Addition to the City of Beaumont, Jefferson County, Texas, as shown and reflected upon the above referenced Plat of the Addition, which property may be sometimes referred to herein as the "Existing Property" or "Highpoint, Phase I".

Section 2. Additions of Property. Declarant, at its sole election, may bring within the scheme of this Declaration and within the jurisdiction of the Association all or any part of the Future Development Tract by Declarant's filing of record in the office of the County Clerk of Jefferson County, Texas, a Supplemental Declaration describing such additional property and expressly subjecting such additional property to the scheme of this Declaration and to the jurisdiction of the Association, together with a plat of

such additional property. such Supplemental Declaration may contain complementary and supplementary provisions, conditions, covenants, restrictions and reservations, and may amend and modify the provisions, conditions, covenants, restrictions and reservations contained herein as they relate to or affect such additional property, but such Supplemental Declaration shall not in any manner revoke, modify or add to the covenants established by this Declaration as to the Existing property. After any additional part or parts of the Future Development Tract are brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of this paragraph or section, the term "Addition", as used herein, shall be deemed to mean, refer to and include Highpoint, Phase I, together with such additional part or parts of the Future Development Tract so brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to this Section 2.

Section 3. Waiver of Right to Add Property to Addition. At any time, the Declarant, in its sole discretion, may waive and relinquish its right to bring all or any specifically described part of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association pursuant to Section 2 above. Such waiver or relinquishment shall be effected by Declarant's execution and filing for record in the office of the County Clerk of Jefferson County, Texas, a written statement stating (in essence) that the Declarant waives and relinquishes its right to bring any further part or parts of the Future Development Tract, or any specifically described part or parts of the Future Development Tract, within the scheme of this Declaration and within the jurisdiction of the Association. Subsequent to the execution and recordation of any such waiver, Declarant shall have no further right to bring any additional part or parts of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association; except, however, if the waiver or relinquishment is only as to any specifically described part or parts of the Future Development Tract, then Declarant shall have no right to thereafter bring such specifically described part or parts of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association, but shall have the right to bring all or any part or parts of the remainder of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of Section 2 above.

ARTICLE III - PROPERTY RIGHTS AND EASEMENTS

Section 1. Owners' Easements of Enjoyment. Each and every owner shall have a right and easement of use and enjoyment in and to the Common Area, subject, however, to the provisions, limitations and restrictions contained in this Declaration or in the Bylaws of the Association and to any reasonable rules and regulations adopted by the Association, from time to time, relating to the use of the Common Area. Such right and easement shall be appurtenant to and pass with the title to every Lot, whether or not so stated in any deed or other instrument of conveyance or encumbrance affecting any Lot in the Addition.

Section 2. Platted Utility Easements. Easements for installation and maintenance of utilities and storm sewer are shown and designated as such on the recorded plat or plate of the Addition. Except as expressly provided in this instrument, no building or structure of a permanent nature may be erected or constructed within these easements, nor shall any structure, planting or other material be placed or permitted to remain in any such easements which may damage or interfere with the installation and maintenance of utilities in the easements. Easements for installation and maintenance of underground utilities may be crossed with sidewalks and driveways, provided that (a) there are prior arrangements made for such crossings with the public authority or utility company providing services therein, and (b) neither the Declarant, the Association nor any public authority or utility company using such easements shall be liable for any damage done by them, or their respective agents, employees, representatives or contractors, to such sidewalks or driveways in the course of installing, repairing, maintaining, relocating or removing

any utility lines or other installations, or any appurtenances thereto, within any of such easements. Each Owner shall mow and maintain the utility easement area of his Lot, together with unpaved portion of the street easement(s) abutting his Lot.

Section 3. Blanket Utility Easement. There is hereby reserved upon each Lot in the Addition a blanket utility easement in the width shown on the Final Plat of the Addition. Such blanket utility easement shall be in favor of any franchised public electric utility company for the purpose of installing, operating and maintaining electric utility service to the residence constructed on that Lot.

Section 4. Blanket Easements. An easement over and upon every Lot in the Addition is hereby reserved by Declarant in favor itself and the Association, and their respective representatives, agents, employees and contractors, to enter in and upon any Lot for the purpose of exercising any rights or performing any obligations herein granted to or imposed on the Declarant or the Association.

Section 5. Additional Rights of Declarant. Declarant shall have the right to place, erect, construct, maintain and utilize (either for itself or its authorized agents and brokers) a "sales" office on any Lot in the Addition during the period of Declarant's ownership of such Lot, as may be determined, from time to time, by the Declarant in its sole discretion. The right reserved by Declarant in this Section 5 shall be in addition to the right to use, with the prior consent of the Architectural Control Committee, Lots in the Addition for "sales" and "construction" offices, as provided in Section 1 of Article VIII of this Declaration.

ARTICLE IV – MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every owner of a Lot shall be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. Classes of Members. The Association shall have two (2) classes of Members, as follows:

Class A. Class "A" Members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in a given Lot, all of such persons shall be members, and the vote for such Lot shall be exercised as they may determine among themselves; but in no event shall more than one (1) vote be cast with respect to any Lot owned by Class "A" Members.

Class B. The Class "B" Member shall be the Declarant, which shall be entitled to three (3) votes for each Lot owned. The Class "B" membership shall cease and be converted to Class "A" membership upon the happening of either of the following events, whichever shall first occur:

(a) when the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership;
or

(b) January 1, 2015.

Section 3. Voting by Class. Excepting those instances where voting (or agreement) by class is specifically required in this Declaration or in the Bylaws of the Association, voting shall be by the Members as a whole, and not by class.

ARTICLE V - ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it in the Addition, hereby covenants, and each owner of a Lot in the Addition is hereby deemed to covenant by acceptance of a deed to such Lot (whether or not is shall be so expressed in such deed), to pay to the Association (a) regular annual assessments, (b) special assessments for capital improvements, and (c) additional Lot assessments. Such assessments shall be established and collected in the manner hereinafter provided. The regular annual assessments, special assessments for capital improvements, and additional Lot assessments, together with interest, costs and reasonable attorney's fees thereon, shall be a charge upon the land and a continuing lien on each Lot against which an assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees thereon, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title unless expressly assumed by them. Declarant hereby reserves and assigns to the Association, without recourse, a vendor's lien on each Lot (including all improvements thereon) to secure the payment of all assessments levied on such Lot, together with interest, costs and reasonable attorney's fees thereon.

Section 2. Purpose of Regular Annual Assessments. The regular annual assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Addition and for the performance of the Association's maintenance obligations hereunder. Regular annual assessments shall include, and the Association shall acquire and pay for out of the funds derived from the regular annual assessments, the following:

(a) Costs of maintaining and repairing the Common Area of the Addition and all improvements now or hereafter constructed, erected, placed, installed or located in the Common Area (exclusive, however, of any water, sanitary sewer, storm sewer, natural gas or other utility lines, together with any appurtenances thereto, constructed, installed or located in any easement on the common Area, which lines and appurtenances are owned and maintained, or are to be owned and maintained, by any public authority or franchised public utility company);

(b) Costs of landscaping, mowing, edging and maintaining the Common Area and the right-of-way of any street or road abutting the Addition (including, without limitation, the RFD Road right-of-way);

(c) Taxes and assessments levied by any taxing authorities on the Common Area and premiums for insurance maintained by the Association, including (i) fire and extended coverage insurance on any insurable improvements on the Common Area, together with any equipment, fixtures or other personal property of the Association located on the Common Area, and (ii) liability insurance in favor of the Association, including premises liability coverage on the Common Area of the Addition;

(d) Cost of water, electricity and other utility services for the Common Area of the Addition;

(e) Any expenses which the Association is required to incur or pay pursuant to the terms of this Declaration or the Bylaws, or which shall be necessary or proper in the opinion of the Board of Directors of the Association, for (i) the administration of the affairs

of the Association, (ii) the performance of the duties of the Association, or (iii) the enforcement of the provisions of this Declaration, the Bylaws of the Association or any rules and regulations of the Association) and

(f) Any other costs or expenses which shall be determined by a vote of the Members, from time to time, to be a common expense of the Association.

Section 3. Power to Fix Regular Annual Assessments. The power and authority to fix and levy the regular annual assessments shall rest exclusively with the Board of Directors of the Association, and when the same are determined and fixed by the Board of Directors, as herein provided, same shall be final, conclusive and binding upon each Owner, his heirs, personal representatives, successors and assigns, including contract purchasers.

Section 4. Special Assessments for Capital Improvements. In addition to the regular annual assessments authorized and provided for above, the Association may fix and levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying the costs of construction, reconstruction, repair or replacement of any capital improvement on the Common Area. Any such special assessment, before becoming effective and a binding obligation of the Owners, must be approved by a two-thirds (2/3rds) vote of each class of Members who are voting, either in person or by proxy, at a meeting duly called for that purpose.

Section 5. Notice and Quorum for Action Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 above shall be sent to all members not less than ten (10) days, nor more than sixty (60) days, in advance of such meeting. Such notice shall state that the purpose (or one of the purposes) of the meeting is to vote upon a special assessment, specifying the purpose of the proposed special assessment. At the first such meeting called, the presence of members, either in person or by proxy, entitled to cast fifty percent (50%) or more of all the votes of each class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum for the first meeting. No such second meeting shall be held more than sixty (60) days after the first called meeting.

Section 6. Uniform Rate of Assessment. Except as provided below in this Section, regular annual assessments and special assessments for capital improvements (but not the additional Lot assessments provided for later herein) must be fixed at a uniform rate for all Lots in the Addition. Where two (2) or more adjacent platted Lots, or one (1) platted Lot and a portion of an adjacent platted Lot, have been combined and consolidated into a single Lot pursuant to Section 17 of Article VIII of this Declaration, such resulting Lot shall be assessed (for regular annual assessment and special assessment for capital improvement purposes) on the basis of the number of platted Lots constituting the resulting Lot. By way of example, a consolidated Lot consisting of two (2) platted Lots will be assessed two hundred percent (200%) of the regular annual assessment or special assessment for capital improvements fixed for a single platted Lot.

Section 7. Collection of Regular Annual Assessments and Special Assessments. The Association shall collect the regular annual assessment on a monthly, quarter-annual, semi annual or annual basis, as determined by the Board of Directors from time to time. Special assessments for capital improvements shall be collected on such basis as shall be determined by the vote of the membership in approving the establishment and levy of such special assessments.

Section 8. Establishment and Notice of Regular Annual Assessment. At the organizational meeting of the initial Board of Directors of the Association, the regular annual assessment for the first calendar year shall be fixed and established by the Board of Directors, and written notice thereof (including the basis upon which such regular annual assessment is to be collected) shall be forthwith given to each owner subject thereto. The first such regular annual assessment shall be adjusted according to the number of months remaining in the annual (calendar year) assessment period. Thereafter, not less than thirty (30) days prior to the commencement of each calendar-year assessment period, the Board of Directors of the Association shall fix and establish the regular annual assessment for the ensuing assessment year and shall give written notice thereof (including the basis upon which such regular annual assessment is to be collected) to every Owner subject to such regular annual assessment. Upon a person or entity becoming the owner of a Lot in the Addition (and upon notification of such fact given to the Board of Directors of the Association), it shall be the duty of the Board of Directors to notify such new owner of the regular annual assessment charged upon his Lot (in the same manner as notice is given to those Owners owning Lots as of the commencement of any annual assessment period). The failure of the Board of Directors to give written notice to any owner, as herein required, shall not in any manner exempt or relieve such Owner from his obligation to pay the regular annual assessment on his Lot or Lots, but such owner shall not be in default for failure to pay his regular annual assessment (on the due date or dates thereof) until notice of such regular annual assessment is given to such Owner in the manner herein provided. Each Owner (including Declarant) covenants and agrees to give written notice to the Board of Directors of the Association upon the sale or transfer by such owner of his Lot, including the name and mailing address of the Lot purchaser(s) and the date upon which the sale or transfer was or will be effected.

Section 9. Limited Exemption from Regular Annual Assessments. Notwithstanding anything herein to the contrary, Declarant shall not be liable for or obligated to pay regular annual assessments on any unimproved Lot, nor on any improved Lot until thirty (30) days after improvements have been substantially completed thereon. Further, notwithstanding anything herein to the contrary, a Builder (as that term is hereinafter defined) shall not be liable for or obligated to pay regular annual assessments on any Lot owned by such Builder until the earliest of (i) the substantial completion of improvements thereon, (ii) the conveyance by such Builder of the Lot (except a reconveyance to Declarant), or (iii) one hundred eighty (180) days after such Builder has acquired record title to such Lot. For the purposes of this paragraph, the term "Builder" shall be construed to mean a person or entity who shall purchase or acquire from Declarant one (1) or more unimproved Lots for the purpose of construction of improvements thereon for sale to the public.

Section 10. Date of Commencement of Regular Annual Assessments. The regular annual assessments provided for above in this Article shall commence as to each lot on the first (1st) day of the calendar month next following:

- (a) The conveyance of a Lot by Declarant to an owner (other than a Builder);
- (b) Thirty (30) days following the substantial completion of improvements upon a Lot owned by Declarant; or
- (c) With respect to a Lot conveyed by Declarant to a Builder, the earlier of (i) the substantial completion improvements thereon, (ii) the conveyance by the Builder of such Lot (except for a reconveyance to Declarant), or (iii) one hundred eighty (190) days after the Builder has acquired record title to such Lot.

Section 11. Certification of Payment of Assessments. The Association shall, upon demand, furnish a certificate signed by an officer of the Association setting forth whether the assessments on any specified Lot have been paid. A properly executed certificate as to the status of assessments on a particular Lot shall be conclusive and binding upon the Association as of the date thereof as to any and all persons or entities relying thereon (other than the owner of such Lot). The Association may establish and collect a reasonable charge for the issuance of such certificates.

Section 12. Effect of Nonpayment of Assessments; Remedies of Association.

(a) Any assessment (of whatever kind or character, whether a regular annual assessment, special assessment for capital improvements, or additional Lot assessment) not paid within ten (10) days of the due date thereof shall be delinquent. Any delinquent assessment shall bear interest from the due date thereof at the rate of eighteen percent (18%) per annum. All unpaid assessments, together with interest thereon as provided above, shall constitute a lien upon the Lot (together with all improvements thereon) against which the Association levied the unpaid assessments. To evidence such lien, the Association may, but is not required to, prepare and file for record in the office of the County Clerk of Jefferson County, Texas, a written notice, signed by an officer of the Association, setting forth the amount of the unpaid assessments, the name of the Lot owner, and a description of the Lot upon which such assessments are unpaid.

(b) The Association may bring an action at law against the Lot owner personally obligated to pay the same or foreclose the lien upon such Lot in the manner hereinafter provided. No owner may exempt himself or otherwise escape liability for the assessments herein provided by abandoning his Lot or in any other manner. Suit to recover a money judgment against a defaulting owner shall be maintainable without foreclosing or waiving the lien securing the assessments owing by such defaulting owner.

(c) The assessment lien may be enforced by the Association by judicial proceedings or non-judicial proceedings (pursuant to the provisions of Section 13 below) to foreclose the lien on the defaulting owner's Lot (including all improvements thereon) in like manner as a mortgage (with a power of sale) on real property upon the recording of a notice of lien, as provided in Subsection (a) above. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, including (in the case of a non-judicial foreclosure) a trustee's fee equal to five percent (5%) of the gross sales proceeds, the costs of preparing and filing the notice of lien, and all other expenses of foreclosure, including reasonable attorney's fees. The Association shall have the power to bid on the Lot at foreclosure sale (whether judicial or non-judicial) and to acquire and hold, lease, mortgage or convey the same.

(d) The Association may not foreclose its assessment lien if the debt securing the lien consists solely of fines assessed by the association or attorney's fees incurred by the Association solely associated with fines assessed by the Association.

Section 13. Nonjudicial Foreclosure of Lien. To secure and enforce the payment of all assessments provided for in this Declaration, together with all interest accrued or accruing thereon and attorney's fees and other costs reasonably incurred by the Association in collecting the same, and for the auxiliary and cumulative enforcement of said lien, and in consideration of the sum of \$1.00 to Declarant in hand paid by the Trustee hereinafter named, and for the further consideration of the uses, purposes and trusts hereinafter set forth, Declarant has granted, sold, and conveyed, and by these presents does grant, sell, and convey unto John W. Johnson, Trustee, of Jefferson County, Texas, whose mailing address is P. O. Box 1751, Beaumont, Texas 77704-1751, and any substitute or successor trustee appointed hereunder, each of the Lots in the Addition, to have and to hold the said Lots unto the said Trustee, and to

his substitutes or successors forever. Declarant does hereby bind itself, its successors and assigns, to warrant and forever defend the Lots unto the said Trustee, his substitutes, successors and assigns forever, against the claim or claims of all persons claiming or to claim the same, or any part thereof, subject to any superior liens, for and upon the following trusts, terms, covenants, and agreements, to-wit:

(a) This conveyance, however, is made in trust to secure the payment of all assessments provided for in this Declaration (whether now owed or hereafter ever accruing to the Association). Should Declarant, its successors and assigns, make full payment of the assessments hereby secured as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect.

(b) In the event, however, of default in the payment of any assessment hereby secured, in accordance with the terms of this Declaration, it shall thereupon, or at any time thereafter, be the duty of the Trustee or his successor or substitute, at the request of the Association (which request is hereby conclusively presumed), to enforce this trust against the Lot against which the assessment is due and owing in the manner provided in § 51.002 of the Texas Property Code, as then amended; and after giving notice and advertising the sale as provided in said § 51.002 (but without any other action than is required by said § 51.002 as then amended) and otherwise complying with that statute, the Trustee shall sell the Lot (including any improvements thereon) at public sale as provided in said § 51.002 and make due conveyance to the purchaser or purchasers thereof, with covenants of general warranty binding upon the then owner of such Lot and such owner's heirs, executors, administrators and successors.

(c) Out of the money arising from such sale, the Trustee acting shall first pay all expenses of advertising said sale and making the conveyance (including a Trustee's fee of 5% of the gross sales proceeds), and then to the Association the full amount of assessments owing, together with interest thereon, and reasonable attorney's fees, rendering the balance of the sale price, if any, to the owner of said unit prior to such sale, his heirs or assigns, or to such other person as may be legally entitled thereto. The recitals in the conveyance to the purchaser or purchasers of such Lot shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against of such Lot prior to such sale, his heirs, executors, administrators, successors and assigns.

(d) It is agreed that in the event foreclosure should be commenced by the Trustee, or his substitute or successor, the Association, as beneficiary hereunder, may at any time before the sale of the Lot direct the abandonment of the sale and may then institute suit for the collection of the assessments, interest and collection costs then owing to the Association, and, at the election of the Association, for judicial foreclosure of the assessment lien. It is further agreed that if the Association should institute suit for collection and for judicial foreclosure of the assessment lien, the Association may, at any time prior to the entry of a final judgment in said suit, dismiss the same and require the Trustee, or his substitute or successor, to sell the Lot against which the assessment is then owing in accordance with the provisions of this Section 13.

(e) In case of the absence, resignation, death, inability, failure or refusal of the Trustee herein named or of any substitute trustee appointed hereunder to act, or in the event that the Association shall deem it desirable to remove without cause the Trustee or any substitute trustee and appoint another to execute this trust, then in any of such events, the

Association shall have the right and is hereby authorized and empowered to appoint a successor and substitute without any formality other than an appointment and designation in writing; and this appointment shall vest in him, as substitute or successor trustee, the estate and title in and to all said Lots, and he shall thereupon hold, possess, and execute all the rights, title, powers and duties herein conferred upon the Trustee named herein. The right to appoint a successor or substitute trustee shall exist as often and whenever from any of said causes any trustee, original or substitute, cannot or will not act, resigns, or has been removed without cause.

(f) The exercise or attempted exercise of the power of sale herein contained shall not exhaust the power of sale and shall not prevent and subsequent exercise thereof.

(g) The Association, as beneficiary hereunder, if it is the highest bidder, shall have the right to purchase at any sale of a Lot pursuant hereto and to have the amount for which such lot is sold credited against the indebtedness then owing on such Lot to the Association.

(h) It is especially agreed that in the event of a foreclosure under the powers granted herein, the person in possession of the Lot sold shall thereupon become a tenant at will of the purchaser or purchasers at the foreclosure sale. Should such tenant then refuse to surrender possession of the Lot upon demand, the purchaser or purchasers shall be entitled to institute and maintain a statutory action for forcible detainer of said Lot in the justice of the peace court for the justice precinct in which the Lot is situated. The bringing of an action for forcible detainer shall not preclude the bringing of any other action for the possession of said Lot, and the bringing of one character of action shall not preclude the other and same may be exercised separately or simultaneously.

Section 14. Subordination of Assessment Lien to Mortgages. The assessment lien herein provided shall be and remain subordinate to the lien of any perfected First Mortgage. A "First Mortgage" is defined as a Mortgage which has first and paramount priority under applicable law. A sale or transfer of a Lot shall not affect the assessment lien thereon. However, the sale of a Lot pursuant to the foreclosure of a First Mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to unpaid charges which accrued prior to such foreclosure sale or transfer in lieu thereof. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due and payable or from the lien thereof. The holder of any First Mortgage shall be entitled, upon written request made to the Association, to written notification from the Association of any default by such holder's mortgagor (or grantor under a Deed of Trust or Trust Deed) in any obligation under this Declaration or the Bylaws of the Association which is not cured within sixty (60) days from the date upon which such default occurred. Any Mortgagee holding a First Mortgage on a Lot may pay any unpaid assessment payable with respect to such Lot, and upon such payment such Mortgagee shall have a lien on such Lot for the amounts paid to the Association of the same rank as the lien of its Mortgage.

Section 15. Additional Lot Assessments. Separately and apart from the regular annual assessments and special assessments provided for above in this Article, the Board of Directors shall have the right to make a special assessment against any Lot owner and his Lot for the costs incurred by the Association in:

(a) Making any repairs or replacements, or in performing any maintenance (other than lawn mowing or other lawn maintenance), which an owner, although otherwise obligated to make or perform under this Declaration, fails to make or perform within thirty

(30) days after the Association has given such Owner written notice specifying the repairs or replacements to be made or maintenance to be performed by the Owner;

(b) Performing any lawn mowing or maintenance which an owner, although otherwise obligated to perform under this Declaration, fails to perform within three (3) days after the Association has given such owner written notice specifying the lawn mowing or other lawn maintenance to be performed by the Owners; or

(c) Enforcing compliance by an Owner with any covenants, limitations, prohibitions or restrictions contained in this Declaration or the Bylaws of the Association or any rules or regulations adopted by the Association, where any such non-compliance continues for more than ten (10) days after the Association has given such owner written notice specifying such non-compliance; plus an administrative charge equal to the greater of (i) twenty-five percent (25%) of the costs incurred by the Association in performing the obligations of the non-performing Owner or in enforcing compliance by the non-complying Owner, or (ii) the sum of \$25.00.

Section 16. Levy and Collection of Additional Lot Assessments. Any additional Lot assessment shall be fixed and levied by the Board of Directors of the Association, and written notice thereof shall be given to the owner of the Lot against which assessment is made. Such notice shall specify the nature and amount of the additional Lot assessment and the date upon which the same shall be due and payable (which due date shall be not less than 10 days from the date of such notice). Collection of any such additional Lot assessment shall be made in the same manner as the regular annual assessments provided for herein, and a lien therefor shall exist in favor of the Association upon the Lot (together with the improvements thereon) of the Owner against whom the assessment is made.

Section 17. Acceptance of Lot Subject to Lien. Each Owner, by acceptance of a deed to a Lot, (a) accepts such Lot subject to and encumbered with the assessment lien (with power of sale) set forth above herein, (b) grants and confirms to the Association a contractual lien upon his Lot (together with all improvements thereon) to secure all assessments then or thereafter made against such Lot, and (c) expressly vests in the Association or its agents the right and power to bring all actions against such defaulting Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for foreclosure and enforcement of such lien, including, without limitation, non-judicial foreclosure pursuant to the provisions of Section 13 above.

Section 18. Books and Records. Proper books and records shall be kept by the Association with respect to all assessments made by the Association, and each owner shall at all reasonable times have access to such books and records. The books and records shall be kept in such a manner as to separately identify the assessments and payments thereof on each Lot in the Addition. No payment made on any individual assessment account shall be transferred or credited to another account without the express written consent of the party making such payment.

ARTICLE VI - OBLIGATION TO MAINTAIN, REPAIR AND REBUILD

Section 1. Owner's Obligation to Maintain and Repair. Each Owner shall, at his sole cost and expense, perform such maintenance and make such repairs and replacements to his residence, together with all other structures, installations and improvements located upon his Lot as shall be required to keep his residence and all other structures, installations and improvements on his Lot in substantially the same condition as at the completion of the original construction thereof, excepting only ordinary wear and tear. Additionally, each owner shall regularly mow and maintain, and keep in a neat and attractive condition, the

grassed and landscaped areas of his yard and the unpaved portion of the private street (a) abutting his Lot; and each Owner shall maintain in good repair and condition all sidewalks and driveways serving his Lot, even though such sidewalks and/or driveways may be located partly on the street easement(s) abutting his Lot. If any perimeter privacy fence constructed or installed on an owner's Lot requires replacement, it shall be replaced with a fence of the same design, type of materials and height as the fence being replaced. If any Owner fails to perform the maintenance or make the repairs required of such owner hereunder, the Association, after giving such owner written notice specifying the required maintenance or repairs, may perform such maintenance or make such repairs if such Owner does not, within the applicable time periods after notice specified in Section 15 of Article V above, perform the maintenance or make the repairs or replacements specified in such notice. The costs incurred by the Association in performing such maintenance or making such repairs or replacements (together with the administrative charge specified in Section 15 of Article V above) shall, at the election of the Board of Directors of the Association, be the basis for levying an additional Lot assessment against such owner and his Lot pursuant to the provisions of Section 15 of Article V above.

Section 2. Owner's Obligation to Rebuild. If any residence or other structure on any Lot in the Addition is damaged or destroyed by fire or other casualty, it shall be the duty and obligation of the Owner thereof to repair, restore or reconstruct such residence or other improvement to substantially the same condition as before such damage or destruction. Architectural Control Committee approval of the plans and specifications for making such repairs, restoration or reconstruction must be obtained prior to commencement thereof, as more fully provided later in this Declaration. The owner of such damaged or destroyed residence or other improvement shall commence such repairs, restoration or reconstruction within a reasonable period of time after the occurrence of such damage or destruction and thereafter prosecute the work of repair, restoration or reconstruction of such residence or other improvement with due diligence and shall complete such repairs, restoration or reconstruction within six (6) months from the occurrence of such damage or destruction, subject only to delays occasioned by matters beyond the reasonable control of such owner.

Section 3. Maintenance by Association. It shall be the duty and obligation of the Association to:

(a) Maintain and repair the Common Area of the Addition and all improvements now or hereafter constructed, erected, placed, installed or located in the Common Area (exclusive, however, of any water, sanitary sewer, storm sewer, natural gas or other utility lines, together with any appurtenances thereto, constructed, installed or located in any easement on the Common Area, which lines and appurtenances are owned and maintained, or are to be owned and maintained, by any public authority or franchised public utility company); and

(b) Landscape, mow, edge and maintain the Common Area and the right-of-way of any street or road abutting the Addition (including, without limitation, the RFD Road right-of-way).

Section 4. Optional Maintenance by Association. The Association may perform any other reasonable and necessary maintenance, repairs or replacements as determined by the Board of Directors or by the members of the Association, from time to time, including, but not limited to lawncare for the portion of each lot abutting Highpoint Avenue.

ARTICLE VII - ARCHITECTURAL CONTROL

Section 1. General Authority of Architectural Control Committee. No building, fence, wall, screening device, patio, patio enclosure, swimming pool, spa, tennis court, driveway, sidewalk or other improvements (of whatever kind or description) shall be commenced, constructed, erected, placed or reconstructed on any Lot in the Addition; nor shall any exterior addition to or change or alteration of any structure or improvement on any Lot in the Addition be commenced or made; nor shall any exterior repainting or reroofing involving any change in the exterior color scheme be commenced or performed; until two (2) complete sets of plans and specifications therefor (the "Plans") showing: (a) the kind, shape, size, height and exterior color scheme thereof; (b) the location of all improvements, including driveways, sidewalks and off-street parking; (c) utility installations; (d) the kind, nature and quality of materials; (e) finished grade, topography and elevation; and (f) site landscaping; have been submitted to and approved by the Architectural Control Committee (herein called the "Committee") as to: (1) the type and quality of materials; (2) the conformity of the planned improvements with the covenants contained in this Declaration; (3) the harmony of external design (including type, quality and color of roof, exterior materials and color scheme) with other existing or planned structures in the Addition; and (4) location of the planned improvements with respect to topography and in relation to other existing or planned structures in the Addition. The Plans shall also reflect all driveways and sidewalks serving the Lot, even though same may, in part, extend beyond the perimeter boundaries of the lot. Plan approval or disapproval shall be as provided in Section 5 below. The Committee may, in its discretion, provide developmental guidelines for site planning, architecture, fencing and landscaping; and if and when such guidelines are provided, they shall be used as the basis for review and approval (or disapproval) of Plans.

Section 2. Composition of Committee. The Committee shall be composed of three (3) members. The initial members of the Committee are Barry Allen, Mike Allen and Kristy Allen. The Committee shall have the power to designate a representative (who may or may not be a member of the Committee) to act for the Committee; and upon the designation of such representative by the Committee, such representative shall have the power and authority to do any act or make any decision which the Committee itself could do or make under this Declaration. Neither the Committee nor its authorized representative shall have the right to demand, charge or receive any fee or other compensation as a condition to the examination of any Plans submitted hereunder or for granting approval (or disapproval) thereof.

Section 3. Vacancies and Filling of Vacancies. In the event of the death or resignation of any of the members of the Committee, the remaining members of the Committee (even though less than a majority thereof) may appoint, by written instrument signed by such remaining member(s) and filed for record in the office of the county Clerk of Jefferson County, Texas, a successor or successors to the Committee. If all the members of the Committee die or resign, then the Declarant (or its successor) shall have the authority to appoint successor members of the Committee; provided, however, if all members of the Committee die or resign, and the Declarant (or its successor) has not appointed successor members within ninety (90) days after the death or resignation of the last of the Committee members, then the Association, through its Board of Directors, shall exercise the authorities herein granted to the Committee. Furthermore, at any time after fifteen (15) years from the date of this Declaration, the Association, by written agreement executed by a majority of the Members of the Association and filed for record in the office of the County Clerk of Jefferson County, Texas, may (i) change the membership of the Committee; or (ii) withdraw powers and duties from, or restore powers and duties to, the Committee.

Section 4. Term of Committee; Surrender of Authority. The herein granted powers and duties of the Committee shall cease and terminate twenty (20) years after the date of this Declaration, and the approval of the Committee shall not be thereafter required, unless, prior to the expiration of said twenty (20) year period, a majority of the Members of the Association shall exercise their right to restore to the Committee its powers and duties under this Declaration in the manner provided in Section 3 above.

Section 5. Manner of Approval. Plan approval or disapproval by the Committee, or its designated representative, as required in this Declaration, shall be in writing and signed by at least one (1) member of the Committee or by its designated representative (if a representative has been appointed to act for the Committee). If the Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after Plans meeting the requirements of Section 1 of this Article VII have been submitted to it, approval will not be required, and the covenants contained in said Section 1 above shall be deemed to have been fully satisfied. However, the approval or disapproval of Plans by the Committee, or the failure of the Committee to approve or disapprove the Plans within thirty (30) days after the submission thereof, shall in no way authorize any use or improvement of any Lot in violation of any of the other covenants contained in this Declaration, except where the Committee had express authority to grant a waiver or variance from such covenant. Approval of Plans (whether actual or deemed) shall not be valid or effective for more than one hundred twenty (120) days; and if, within one hundred twenty (120) days from Plan approval, construction, reconstruction, addition, change or alteration for which Plan approval was obtained, has not commenced, then the Plans must be resubmitted and approved by the Committee before any such construction, reconstruction, addition, change or alteration may be commenced. There shall be no review of any action of the Committee, except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall the Committee, any member of the Committee, or the representative of the Committee be subject to any suit by anyone for damages for any actions, or failures to act, on the part of the Committee, any member of the Committee, or the Committee's representative.

Section 6. No Liability for Plan Approval. Neither the Committee, nor any member or representative thereof, shall be liable to any person or entity under any theory or under any circumstances in connection with the Committee's approval (whether actual or deemed) of any Plans submitted to the Committee for approval, including, without limitation, any liability based upon the soundness of construction or adequacy of plans and specifications, mistake of judgment, negligence or nonfeasance. Neither the Committee, nor any member or representative thereof, shall have any liability to any person or entity by reason of the construction of buildings or the making of other improvements which shall depart from or be at variance with the approved Plans.

ARTICLE VIII - USE RESTRICTIONS

Section 1. Single Family Residential Use. No Lot or building site in the Addition shall be used for any purpose except for single family residential purposes. As used in this Declaration, the term "family" shall have the same meaning as set forth in the City of Beaumont's Zoning Ordinance. However, temporary construction and sales offices may be placed or constructed on specific Lots in the Addition with the prior written approval of the Committee, and provided further that any such office shall be removed not later than the date specified in the Committee's written approval.

Section 2. Permitted Structures. No structure shall be erected on any Lot other than one (1) detached single-family dwelling not to exceed two (2) stories in height and a private garage for not less than two (2) nor more than four (4) cars, and such other accessory buildings as are incidental to single-

family residential use and are not inconsistent with the other restrictive covenants set forth and contained in this Declaration, if the Plans for such accessory buildings are submitted to and approved by the Committee in the manner provided above herein.

Section 3. Construction in Accordance with Plans. All buildings and other improvements shall be constructed or made strictly in accordance with the Plans submitted to and approved by the Committee or its representative, or in strict accordance with Plans submitted to the Committee, but for which no approval is required by reason of the failure of the Committee or its representative to approve or disapprove the same within thirty (30) days after the submission thereof, as provided in Section 5 of Article VII above.

Section 4. Use of Common Area. Nothing shall be done in the Common Area which will increase the rate of insurance (whether of fire and casualty insurance or liability insurance), without the prior approval of the Board of Directors.

Section 5. Prohibited Acts. No Owner shall do, or permit any members of his family, his guests or tenants to do, any act on any lot or on the Common Area of the Addition which shall be in violation of (i) any applicable ordinance, statute, rule or regulation of any municipal or other governmental authority, (ii) the provisions of this Declaration, (iii) the Bylaws of the Association, or (iv) the rules and regulations of the Association relating to the use of the Common Area of the Addition; nor shall any noxious or offensive activity be carried on or anything be done on any Lot or on the Common Area of the Addition which may become an annoyance or nuisance to the other Owners or their tenants. No business or commercial activities of any kind or any "garage sales", "sidewalk sales" or similar activities or events (even though not commercial in nature) shall be conducted on any Lot in the Addition or on the Common Area of the Addition.

Section 6. Chimney Screening. If any metal chimney is used in the construction or remodeling of any residence in the Addition, it shall be encased in wood, brick or other material approved by the Committee in the same manner as any other exterior building materials.

Section 7. Parking or Storage of Boats, Etc. No boats, trailers, campers, buses, mobile homes, recreational vehicles, trucks (except for pickup trucks or vans having a manufacturer's rated carrying capacity of not more than three-quarter [3/4] ton), or similar vehicles (any of the foregoing being herein referred to as a "Restricted Vehicle") may be parked or stored upon any Lot in the Addition on a Permanent Basis (as that term is defined below in this Section) except wholly within an enclosed garage or other fully enclosed accessory building; nor may any Restricted Vehicle be parked or allowed to remain on a Permanent Basis on any street in the Addition. Further, no Restricted Vehicle shall be parked or left unattended on any portion of the Common Area of the Addition, whether or not on a Permanent Basis. A "Permanent Basis", as that term is used herein, shall mean any period or periods in excess of twenty-four (24) consecutive hours, or periods in excess of eight (8) consecutive hours on three (3) or more successive days. No commercial trucks, vans, tractor-trailers or trailers (any of the foregoing being herein referred to as a "Commercial Vehicle") shall be parked or left unattended on any Lot or in street in the Addition, except for the limited time period(s) during which the owner or operator of the Commercial Vehicle is (a) making deliveries to the Declarant, the Association or a Lot Owner (or to their respective employees, agents, representatives or contractors), or (b) performing maintenance, repairs or construction on a Lot or the common Area for the Declarant, the Association or a Lot Owner (or for their respective employees, agents, representatives or contractors); nor shall any Commercial Vehicle be parked or left unattended for any period of time on any portion of the Common Area. As used in this Section, the term "commercial trucks, vans, tractor-trailers or trailers" means any truck or van having a manufacturer's rated carrying capacity of more than one (1) ton, truck-tractor, tractor-trailer or trailer that is owned, leased or operated for commercial purposes and bears some indicia (whether by way of a sign, logo, color scheme or distinctive

markings) that it is owned, leased or operated for commercial purposes, including any such vehicle that is owned, leased to or operated by the Owner of a Lot in the Addition.

Section 8. Minimum Ceiling Heights; Permitted Roofing Materials; Gutters. Any dwelling constructed on a Lot in the Addition must have a first-floor ceiling height of not less than nine feet (9'), and the upper floor of any story and one-half or two-story dwelling must have a ceiling height of not less than eight feet (8'). Only architectural grade composition shingles or comparable roofing materials approved by the Committee may be used on any dwelling or other structure constructed on any Lot in the Addition. All roofs must have gutters on the Zero Lot Line side of the dwelling that must be painted the trim color of the house or such other color as the Architectural Control Committee may approve.

Section 9. Temporary Structures. No structures of a temporary character, mobile home, manufactured home, trailer, tent, garage or other outbuilding or accessory building shall be used on any lot at any time as a residence, either temporarily or permanently.

Section 10. New Construction Only. No existing or used dwelling or other structure shall be moved onto or placed on any Lot in the Addition from another location, and all dwellings and other structures must be of new construction. No modular or mobile homes shall be located on any Lot in the Addition. The term "modular home" shall, for the purposes hereof, mean and refer to a prefabricated home which is constructed in a number of parts or sections off the Lot and then brought upon the Lot to be assembled.

Section 11. Signs. No sign of any kind shall be displayed to public view on any Lot in the Addition, except one (1) sign of not more than five feet (5') square advertising a property for sale or rent or used by Declarant or a Builder to advertise the property during the construction phase or sales period.

Section 12. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining or storage, quarrying or mining operations, or like activities of any kind shall be permitted upon or in any Lot; nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot; nor shall any derrick or other structure or machinery designed for use in boring or drilling for gas or oil be erected, maintained or permitted on any Lot.

Section 13. Antennas. No antenna or other device for the transmission or reception of "ham radio", citizen's band or short wave radio signals shall be permitted on any Lot. Except as provided below in this Section, no antenna of any type, including, but not limited to, a dish-type satellite signal receiver, shall be erected on any Lot until Plans for the installation and location of such antenna have been submitted to and approved by the Committee in the same manner as for the construction of a residence and other improvements on a Lot. Without the prior submission to and approval by the Committee of Plans for its installation and location, a dish-type satellite signal receiver not exceeding twenty-four inches (24") in diameter may be installed on a dwelling or other structure on a Lot, provided that it is installed at the rear of the dwelling or other structure and is not visible from the street located in front or at the side of a Lot. Except as provided in the preceding sentence of this Section, the Committee, in its absolute discretion, shall have the right to absolutely refuse the approval of the placement of any such dish-type receiver on any Lot in the Addition.

Section 14. Livestock, Poultry and Household Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot in the Addition, except that dogs, cats and other household pets, not to exceed two (2) in number for any residence, may be kept provided (i) they are not kept, bred or maintained for any commercial or breeding purposes, (ii) they do not become a nuisance, and (iii) they are not allowed to roam or wander unattended in the Addition.

Section 15. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, refuse or other waste materials. Trash, garbage and other waste shall be kept in sanitary closed containers pending collection thereof; and garbage cans and other receptacles shall (except when placed on a private drive for regular collection purposes) be hidden or screened from public view. No Lot shall be used for the open storage of any materials whatsoever, except for materials used or to be used in the construction of improvements upon any Lot, and then only for so long as such construction progresses. Upon completion of the improvements, any remaining materials, together with all rubble, rubbish, trash and debris shall be promptly removed from such Lot.

Section 16. Sprinkler System and Yard Landscaping. Before any dwelling constructed on the Lot may be occupied as a residence, in a manner acceptable to the Committee, the front yard, side yards and rear yard of such Lot must (a) have installed sprinkler system sufficient for watering the grass, shrubs, and other vegetation on the lot, (b) be planted with grass, and (c) be landscaped.

Section 17. No Construction on Less Than a Platted Lot. No dwelling shall be constructed on a building site consisting of less than one (1) platted Lot. Nothing contained herein shall prohibit the construction of a dwelling on a building site consisting of more than one (1) full platted Lot, such as a building site consisting of two (2) platted Lots or one (1) platted Lot and a portion of an adjacent platted Lot, provided that, in the case of a "lot split" any replatting required by the City of Beaumont Subdivision Regulations is accomplished prior to commencement of construction on the composite building site. Any such composite building site, if same meets all of the foregoing requirements, shall be deemed to constitute a "Lot" under the terms and provisions of this Declaration.

Section 18. Exterior Christmas Lights. No exterior Christmas lights or Christmas decorations shall be erected, placed, installed or displayed on any Lot in the Addition between February 1 and October 31 of any calendar year. Whether exterior lights or decorations constitute "Christmas lights" or "Christmas decorations" shall be determined by the Committee in its sole and absolute discretion.

Section 19. Garage Door Openers. Any garage located on any Lot in the Addition having an entrance facing a street must have garage doors and be equipped with an electronic automatic garage door opener. Each Owner shall maintain, repair and (as needed) replace the garage doors and electronic automatic garage door openers so that the garage door and the opener are at all times in good working order and repair.

Section 20. Minimum Set Back Lines. No dwelling structure, including attached or detached garage or other accessory building, shall be located nearer to the front Lot line, back lot line or side lot line than the building set back line shown the recorded plat or plats of the Addition.

Section 21. Lot Lines.

A. Zero Lot Line Side (Southern Side Lot Line). The walls of each building located on the zero lot line side of each lot must be solid, have no windows, be composed of the same material as the dwelling, and together with a privacy wall or privacy fence constructed of wood, brick or other masonry product and being not less than six feet in height, the finished side of which will face the adjoining lot, must extend from the front building set back line to the rear building set back line of the Lot. No windows on a second story may face or open to a side, but shall open or face the front or rear of the Lots only. All plans submitted to the Architectural Control Committee shall show the physical location of the electric and gas meters, if any.

B. Non-Zero Lot Line Side (Northern Side Lot Line). There shall be and is hereby reserved an easement on the Non-Zero Lot Line Side of each Lot between the lot line and the building setback line shown on the Final Plat of the Addition, which easement shall extend from the front lot line to the rear lot line. Such easement shall be for the benefit of the lot whose Zero Lot Line Side (south side) is in common with the lot on which the easement is located ("Benefited Lot"). Such easement shall be for access to and construction, repairs and maintenance of the home and privacy wall or fence on the Benefited Lot. No building of a permanent nature may be erected or placed on such easement nor may any temporary structure, plant, or other material be placed thereon which would impair or prevent access to the home located on the lot immediately north of the subject or servient lot for which the benefit of this easement is reserved. Easements for overhanging roofs on the zero lot line side are reserved herein and shall easement shall extend two feet from the zero lot line side into the easement reserved herein on the Non-Zero Lot Line Side of the adjacent lot.

Section 22. Minimum Square-footages. No dwelling shall be permitted on any Lot in which the living floor area (inclusive of enclosed utility and storage rooms, but exclusive of garages and open porches, patios or courtyards) is less than seventeen hundred (1,700) square feet, nor shall any story and one-half or two-story dwelling be permitted on any Lot in which such living floor area of the first or ground floor is less than one thousand (1,000) square feet.

Section 23. Fences, Walls, Etc. Except as set forth in Section 21 above, no fence, wall, hedge, structure or other improvements (including, without limitation, a swimming pool, tennis court or other recreational facility) shall be constructed, erected, placed, altered or permitted on any Lot except as approved by the Committee in accordance with the earlier provisions of this Declaration. No privacy fence or like screening device shall be located nearer to the front Lot line than the front of the dwelling, nor, if on a corner Lot, shall any privacy fence or like screening device be located nearer to the street-side Lot line than the side of the dwelling. No hedge, tree or other planting shall be permitted on any corner Lot which obstructs lines of sight at elevations of between two feet (2') and six feet (6') above the adjacent private drives within the triangular area formed by the street-side property lines of the Lot and a line connecting them at points twenty-five feet (25') from the intersection of the street-side property lines of such Lot. No tree shall be permitted to remain within such triangular area unless the foliage line is maintained at sufficient height to prevent obstruction of such lines of sight.

Section 24. Utility Service and Meters, Mechanical Equipment Screening. All utility service lines between meter points and dedicated utility easements shall be underground. Air conditioning compressors and other external mechanical equipment must be screened from view from the private drives in the Addition in a manner acceptable to the Committee.

Section 25. Sidewalk Requirements. Prior to the first occupancy of a dwelling constructed on any Lot in the Addition, there must be constructed and completed on the Lot (in accordance with the "Sidewalk Construction Guidelines" promulgated by the Committee) a sidewalk along the street-side Lot line of the Lot. The required sidewalk(s) shall be constructed of reinforced concrete, with a minimum thickness of four inches (4") and with expansion joints spaced at intervals of not more than four feet (4') each, and shall be located four feet (4') from the curb line of each street abutting the Lot.

Section 26. Conflict Between Ordinances and Restrictions. In the event of any conflict between the restrictions contained in this Declaration and any ordinances, laws, rules or regulations of municipal or other governmental authorities having jurisdiction over the Addition or the construction of improvements therein, then such ordinances, laws, rules and regulations shall control; except, however, that if the restrictions contained herein are in any respect more restrictive than such ordinances, laws, rules or regulations, then the restrictions contained herein shall control.

ARTICLE IX - ENFORCEMENT OF COVENANTS

Section 1. Enforcement. In the event of any violation or breach, or attempted violation or breach, of any of the terms or provisions of this Declaration, Declarant, the Association or any Lot Owner shall be authorized to enforce the terms, covenants and restrictions hereof by any proceedings at law or in equity against the person(s) violating or breaching, or attempting to violate or breach, the same, including actions for prohibitive or mandatory injunctive relief; and it shall not be a prerequisite to the granting of any such injunctive relief that there be any showing that irreparable damage or harm will result if such injunctive relief is not granted. Additionally, any person or entity entitled to enforce the terms, covenants or restrictions of this Declaration may recover such damages, both actual and punitive, as such party may show that he or it is entitled by reason of any such violation or breach. In any action for enforcement of the terms, covenants or restrictions hereof, whether for injunctive relief or damages, if the party prosecuting such action is successful, he or it shall be entitled to recover, in addition to any damages awarded, reasonable attorney's fees and all costs of court.

Section 2. Forbearance Not a Waiver. The forbearance of enforcement of any restriction herein contained for any violation or proposed or attempted violation of any restriction herein contained shall not constitute a waiver of the right of Declarant, the Association or any Owner to thereafter enforce such restriction as to any subsequent violation or proposed or attempted violation.

Section 3. Time for Enforcement. Any action for enforcement of the restrictions or other covenants contained herein shall be commenced within one (1) year after such violation, or attempted violation, began or first occurred, and not thereafter.

Section 4. Notice Required Before Enforcement Action. Before Declarant, the Association or any Lot Owner shall be authorized to enforce the terms, covenants and restrictions hereof by any proceedings at law or in equity against the person(s) violating or breaching, or attempting to violate or breach, the same, other than institution of an action for prohibitive or mandatory injunctive relief, written notice must be given to the owner by certified mail, return receipt requested. Such notice must describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner. Such notice must inform the owner that the owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months. The notice must also advise the owner that the owner may request a hearing under Texas Property Code Section 209.007 on or before the 30th day after the date the owner receives the notice.

Section 5. Attorney's Fees. Declarant, the Association or any Lot Owner may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the association relating to collecting amounts, including damages, due the association for enforcing restrictions or the bylaws or rules of the association as provided by Texas Property Code Section 209.008.

ARTICLE X - TERM AND AMENDMENT OF COVENANTS

Section 1. Term of Covenants. The covenants and restrictions contained in this Declaration shall be binding for a period of twenty (20) years from the date of this Declaration. Upon the expiration of such twenty (20) year period, such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

Section 2. Amendment or Termination of Covenants. This Declaration may be amended, or the covenants and restrictions herein contained may be terminated, in whole or in part as follows:

(a) During the initial twenty (20) year period, any such amendment or termination shall be effected only by a written instrument signed by the Owners of not less than eighty percent (80%) of the Lots in the Addition and duly recorded in the office of the County Clerk of Jefferson County, Texas.

(b) At any time after the initial twenty (20) year period, any such amendment or termination shall be effected only by a written instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots in the Addition and duly recorded in the office of the County Clerk of Jefferson County, Texas.

For the purposes of calculating the foregoing respective percentages of Lots in the Addition, there shall be taken into account not only the Lots in Highpoint, Phase I, but also any additional Lots brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of Article II of this Declaration.

ARTICLE XI - SEVERABILITY

Section 1. Severability. In the event that any provision of this Declaration, or any portion thereof, shall be held to be invalid or unenforceable by judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect, invalidate or impair any other provision, or part of a provision, hereof, and all remaining provisions, or parts of provisions, shall remain valid and in full force and effect in accordance herewith.

ARTICLE XII - JOINDER OF LIENHOLDER

Section 1. Lienholder Joinder. Texas State Bank and Clyde E. Allen and wife, Shirley Allen (hereinafter collectively referred to as "Lienholder"), being the holder of a lien or liens on the Existing Property, joins with Declarant in the execution of this Declaration for the purposes of (a) consenting to and adopting the Plat of the Addition; (b) consenting to the grant or dedication by Declarant of all easements shown and reflected upon the Plat of the Addition, together with all other easements granted or reserved by Declarant in this Declaration; (c) subordinating its lien to all of the aforementioned easements and easement rights; and (d) subordinating its lien to the restrictions, covenants and conditions imposed by Declarant upon the Addition by this Declaration. However, Lienholder joins herein solely and only as a lienholder and only for the purposes set forth above in this paragraph and it does not assume any of the liabilities, duties, covenants, warranties or obligations of Declarant, or Declarant's successors or assigns, nor does it make any warranties, representations or guaranties, whether express or implied, with respect to any undertaking, covenant, warranty or representation on the part of Declarant, or Declarant's successors or assigns.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, Declarant and Lienholder have caused this Declaration to be executed on this 21 day of February, 2006.

DECLARANT:

BEAUMONT HIGHPOINT PARTNERS, LTD.

By: Beaumont Highpoint Partners GP, L.L.C.,
General Partner

By: [Signature]
Name: Barry W. Allen
Its: Manager

LIENHOLDER:

TEXAS STATE BANK

By: [Signature]
Name: G A Wimberly
Its: Senior Vice Presidents

[Signature]
CLYDE E. ALLEN

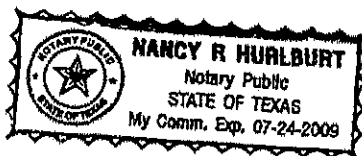
[Signature]
SHIRLEY ALLEN

THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§

BEFORE ME, the undersigned authority, on this day personally appeared Barry Allen, Manager of Beaumont Highpoint Partners GP, LLC, General Partner of Beaumont Highpoint Partners, Ltd., a Texas limited partnership, known to me (or proved to me through the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21 day of February 2006.



[Signature]
Notary Public, State of Texas

Page 22 of 23

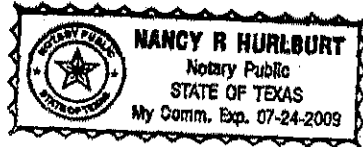
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THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§

BEFORE ME, the undersigned authority, on this day personally appeared GA Wumberly, Senior Vice President of TEXAS STATE BANK, a Texas banking corporation, known to me (or proved to me through the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21 day of February, 2006.



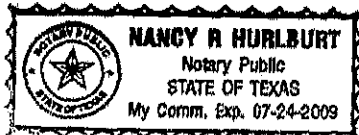
Nancy R. Hurlburt
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§

BEFORE ME, the undersigned authority, on this day personally appeared CLYDE E. ALLEN, known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21 day of February, 2006.

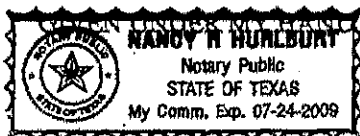


Nancy R. Hurlburt
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§

BEFORE ME, the undersigned authority, on this day personally appeared SHIRLEY ALLEN, known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.



GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21 day of February, 2006.

Nancy R. Hurlburt
Notary Public, State of Texas

FILED AND RECORDED

AFTER RECORDING RETURN TO:
John W. Johnson
P. O. Box 1751
Beaumont, Texas 77704-1751

OFFICIAL PUBLIC RECORDS

Carolyn L. Guidry

2006 Mar 03 09:32 AM

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CAROLYN L. GUIDRY COUNTY CLERK
JEFFERSON COUNTY TEXAS

Page 23 of 23

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**FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HIGHPOINT PHASE ONE,
AN ADDITION TO THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS**

This First Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made and executed on the date hereinafter set forth by Beaumont Highpoint Partners, Ltd. (the "Declarant"), a Texas limited partnership and is being made pursuant to Article X, Section 2 of the Declaration of Covenants, Conditions and Restrictions of Highpoint Phase One recorded under Clerk's File No. 2006007966 of the Official Public Records, Jefferson County, Texas, Declarant being the sole owner of the Lots in the Addition.

WHEREAS, Declarant is the owner of the following described real property located in Jefferson County, Texas (the "Land"), to-wit:

Being a 7.861 acre tract of land lying in the W. B. Dyches Survey, Abstract No. 17, in Jefferson County, Texas, being out of and a portion of that 15.417 acre tract conveyed by Clyde E. Allen and wife, Shirley Allen to Beaumont Highpoint Partners, Ltd., a Texas limited partnership, as recorded under Clerk's File No. 2005017468 of the Official Public Records, Jefferson County, Texas, said 7.861 acre tract being more fully described on Exhibit "A" attached hereto and incorporated herein for all purposes;

WHEREAS, Declarant has caused the Land to be subdivided and platted into an addition to the City of Beaumont, Jefferson County, Texas, known and to be known as "Highpoint Phase One, an Addition to the City of Beaumont, Jefferson County, Texas" (the "Addition"), according to the plat thereof filed for record under Clerk's File No. 2006007965 in the office of the County Clerk of Jefferson County, Texas, (the "Plat"); and

WHEREAS, Declarant desires to (i) dedicate the easements for access, utilities and storm sewer reflected on the Plat or described herein; (ii) reserve in favor of itself and/or the Association herein established certain easements on and across the Lots in the Addition; and (iii) impose the protective and restrictive covenants set forth later herein on the Lots in the Addition and on the Common Area of the Addition:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Declarant hereby adopts the Plat of the Addition and hereby dedicates the easements for access, utilities and storm drainage as reflected upon the Plat or as described herein, and hereby imposes on the Lots in the Addition the basic restrictions set forth on the Plat.

For the purpose of enhancing and protecting the value, attractiveness, and desirability of the Lots in the Addition, and for the purpose of providing for the orderly development, use and enjoyment of the Lots in the Addition, Declarant hereby declares that all of the Land in the Addition shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions hereinafter set forth, which shall constitute covenants running with the Land and shall be binding upon all parties having any right, title or upon such parties' respective heirs, successors, legal representatives, devisees, lessees and assigns, and shall inure to the benefit of such parties and their respective heirs, successors, legal representatives, devisees, lessees and assigns.

ARTICLE I - DEFINITIONS

Section 1. "Association" shall mean and refer to the Beaumont Highpoint Homeowners' Association, a Texas non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is part of the Addition, including contract sellers, but excluding (a) those holding title merely as security for the performance of an obligation, or (b) those holding title to, or an interest in, the mineral estate only, with no title to, or interest in, the surface estate.

Section 3. "Lot" shall mean and refer to each and every platted lot shown and reflected upon the final recorded plat or plats of said Addition.

Section 4. "Member" shall mean and refer to each and every person or entity who holds membership in the Association, as provided herein.

Section 5. "Declarant" shall mean and refer to Beaumont Highpoint Partners, Ltd., a Texas limited partnership, its successors and assigns. However, as used in this paragraph, the term "assigns" shall not be construed to mean, refer to or include any person or entity which shall acquire from Beaumont Highpoint Partners, Ltd. one (1) or more of the Lots in the Addition, whether improved or unimproved, for occupancy or resale, unless Beaumont Highpoint Partners, Ltd., or its successor, expressly assigns to such assignee all of its rights and privileges as "Declarant" under this Declaration.

Section 6. "Common Area" shall mean and refer to and include any real property (including all improvements now or hereafter placed, erected, constructed, installed or located thereon) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be all of the property in the Addition, excluding:

(a) The platted Lots reflected on the recorded plat or plats of the Addition and the improvements located thereon; and

(b) The water, sanitary sewer, storm sewer, electric, telephone, natural gas, cable television and other utility lines (and all appurtenances thereto) now or hereafter lying, installed and maintained in any street, utility or storm sewer easements reflected on the recorded plat or plats of the Addition or in any utility or storm sewer easements herewith or hereafter granted, conveyed or dedicated in, on or across any Lots in the Addition or the Common Area of the Addition.

Without limitation of the foregoing, the Common Area of the Addition includes:

(1) The Common Area along and adjacent to the southwest side of Highpoint Avenue and the most southern boundary of the Addition shown and reflected on the Plat of the Addition, together with the sidewalks, perimeter fences and other improvements now or hereafter constructed thereon, any lighting or sprinkler system now or hereafter installed therein, and all plantings and landscaping now or hereafter planted and maintained therein;

(2) The island or esplanade located within the Highpoint Avenue right-of-way at its intersection with RFD Road, as shown and reflected on the Plat of the Addition, together with the Addition identification sign and other improvements now or hereafter

constructed thereon, any lighting and sprinkler systems now or hereafter installed therein, and all plantings and other landscaping now or hereafter planted and maintained therein;

(3) The Common Area along and adjacent to the northeast side of Highpoint Avenue and the most southern boundary of the Addition (being the northwest right-of-way of RFD Road) shown and reflected on the Plat of the Addition, together with the mail kiosk, kiosk shelter, the sidewalks, perimeter fences and all other buildings and other improvements now or hereafter constructed thereon, any lighting and sprinkler systems now or hereafter installed therein, and all plantings and other landscaping now or hereafter planted and maintained therein; and

(4) The private street identified on the Plat of the Addition as Highpoint Avenue.

Section 7. "Future Development Tract" shall mean and refer to all or any part of that certain tract of land calculated to contain 6.869 acres, more or less, lying in the W. B. Dyches Survey, Abstract No. 17, in Jefferson County, Texas, being out of and a portion of that certain parcel described as containing 15.417 acres, more or less, as set forth in deed dated April 29, 2005 recorded under Clerk's File No. 2005017468 Official Public Records, Jefferson County, Texas executed by Clyde E. Allen and Shirley Allen to Beaumont Highpoint Partners, Ltd., reference to which is hereby made for all purposes, save and except therefrom (a) that portion of said 15.417 acre parcel that is within the boundaries of Highpoint Phase One, an addition to the City of Beaumont, Jefferson County, Texas as said addition is more particularly described on plat recorded under Clerk's File No. 2006007965 Official Public Records, Jefferson County, Texas, and (b) that certain 0.687 acre parcel as described in deed dated September 1, 2005 recorded under Clerk's File No. 2006001372 Official Public Records, Jefferson County, Texas executed by Beaumont Highpoint Partners, Ltd. to Jefferson County Drainage District No. 6, reference to which is hereby made for all purposes.

Section 8. "Supplemental Declaration" shall mean and refer to any supplemental or supplementary declaration of covenants, conditions and restrictions bringing additional property within the scheme of this Declaration and within the jurisdiction of the Association, as provided later herein.

Section 9. "Mortgage", "Deed of Trust" or "Trust Deed" shall mean and refer to a pledge of a security interest in or the creation of a lien upon a Lot (or Lots), together with any improvements thereon, to secure repayment of a loan made to the owner(s) of such Lot or Lots (or made to another, but secured by such Lot or Lots).

Section 10. "Mortgagee" shall mean and refer to the beneficiary of, or secured party in, a Mortgage on a Lot or Lots.

ARTICLE II - PROPERTY SUBJECT TO DECLARATION; ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the terms, covenants, conditions, restrictions, easements and reservations contained in this Declaration is Highpoint, an Addition to the City of Beaumont, Jefferson County, Texas, as shown and reflected upon the above referenced Plat of the Addition, which property may be sometimes referred to herein as the "Existing Property" or "Highpoint Phase One".

Section 2. Additions of Property. Declarant, at its sole election, may bring within the scheme of this Declaration and within the jurisdiction of the Association all or any part of the Future Development

Tract by Declarant's filing of record in the office of the County Clerk of Jefferson County, Texas, a Supplemental Declaration describing such additional property and expressly subjecting such additional property to the scheme of this Declaration and to the jurisdiction of the Association, together with a plat of such additional property. such Supplemental Declaration may contain complementary and supplementary provisions, conditions, covenants, restrictions and reservations, and may amend and modify the provisions, conditions, covenants, restrictions and reservations contained herein as they relate to or affect such additional property, but such Supplemental Declaration shall not in any manner revoke, modify or add to the covenants established by this Declaration as to the Existing property. After any additional part or parts of the Future Development Tract are brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of this paragraph or section, the term "Addition", as used herein, shall be deemed to mean, refer to and include Highpoint Phase One, together with such additional part or parts of the Future Development Tract so brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to this Section 2.

Section 3. Waiver of Right to Add Property to Addition. At any time, the Declarant, in its sole discretion, may waive and relinquish its right to bring all or any specifically described part of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association pursuant to Section 2 above. Such waiver or relinquishment shall be effected by Declarant's execution and filing for record in the office of the County Clerk of Jefferson County, Texas, a written statement stating (in essence) that the Declarant waives and relinquishes its right to bring any further part or parts of the Future Development Tract, or any specifically described part or parts of the Future Development Tract, within the scheme of this Declaration and within the jurisdiction of the Association. Subsequent to the execution and recordation of any such waiver, Declarant shall have no further right to bring any additional part or parts of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association; except, however, if the waiver or relinquishment is only as to any specifically described part or parts of the Future Development Tract, then Declarant shall have no right to thereafter bring such specifically described part or parts of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association, but shall have the right to bring all or any part or parts of the remainder of the Future Development Tract within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of Section 2 above.

ARTICLE III - PROPERTY RIGHTS AND EASEMENTS

Section 1. Owners' Easements of Enjoyment. Declarant and each and every owner shall have a right and easement of use and enjoyment in and to the Common Area, subject, however, to the provisions, limitations and restrictions contained in this Declaration or in the Bylaws of the Association and to any reasonable rules and regulations adopted by the Association, from time to time, relating to the use of the Common Area. Such right and easement shall be appurtenant to and pass with the title to every Lot, whether or not so stated in any deed or other instrument of conveyance or encumbrance affecting any Lot in the Addition.

Section 2. Platted Utility Easements. Easements for installation and maintenance of utilities and storm sewer are shown and designated as such on the recorded plat of the Addition. Except as expressly provided in this instrument, no building or structure of a permanent nature may be erected or constructed within these easements, nor shall any structure, planting or other material be placed or permitted to remain in any such easements which may damage or interfere with the installation and maintenance of utilities in the easements. Easements for installation and maintenance of underground utilities may be crossed with sidewalks and driveways, provided that (a) there are prior arrangements made for such crossings with the public authority or utility company providing services therein, and (b) neither

the Declarant, the Association nor any public authority or utility company using such easements shall be liable for any damage done by them, or their respective agents, employees, representatives or contractors, to such sidewalks or driveways in the course of installing, repairing, maintaining, relocating or removing any utility lines or other installations, or any appurtenances thereto, within any of such easements. Each Owner shall mow and maintain the utility easement area of his Lot, together with unpaved portion of the street easement(s) abutting his Lot.

Section 3. Blanket Utility Easement. There is hereby reserved upon each Lot in the Addition a blanket utility easement in the width shown on the Final Plat of the Addition. Such blanket utility easement shall be in favor of any franchised public electric utility company for the purpose of installing, operating and maintaining electric utility service to the residence constructed on that Lot.

Section 4. Blanket Easements. An easement over and upon every Lot in the Addition is hereby reserved by Declarant in favor itself and the Association, and their respective representatives, agents, employees and contractors, to enter in and upon any Lot for the purpose of exercising any rights or performing any obligations herein granted to or imposed on the Declarant or the Association.

Section 5. Additional Rights of Declarant. Declarant shall have the right to place, erect, construct, maintain and utilize (either for itself or its authorized agents and brokers) a "sales" office on any Lot in the Addition during the period of Declarant's ownership of such Lot, as may be determined, from time to time, by the Declarant in its sole discretion. The right reserved by Declarant in this Section 5 shall be in addition to the right to use, with the prior consent of the Architectural Control Committee, Lots in the Addition for "sales" and "construction" offices, as provided in Section 1 of Article VIII of this Declaration.

ARTICLE IV – MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every owner of a Lot shall be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. Classes of Members. The Association shall have two (2) classes of Members, as follows:

Class A. Class "A" Members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in a given Lot, all of such persons shall be members, and the vote for such Lot shall be exercised as they may determine among themselves; but in no event shall more than one (1) vote be cast with respect to any Lot owned by Class "A" Members.

Class B. The Class "B" Member shall be the Declarant, which shall be entitled to five (5) votes for each Lot owned. The Class "B" membership shall cease and be converted to Class "A" membership upon the happening of either of the following events, whichever shall first occur:

(a) when the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership;
or

(b) January 1, 2020.

Section 3. Voting by Class. Excepting those instances where voting (or agreement) by class is specifically required in this Declaration or in the Bylaws of the Association, voting shall be by the Members as a whole, and not by class.

ARTICLE V - ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it in the Addition, hereby covenants, and each owner of a Lot in the Addition is hereby deemed to covenant by acceptance of a deed to such Lot (whether or not is shall be so expressed in such deed), to pay to the Association (a) regular annual assessments, (b) special assessments for capital improvements, and (c) additional Lot assessments. Such assessments shall be established and collected in the manner hereinafter provided. The regular annual assessments, special assessments for capital improvements, and additional Lot assessments, together with interest, costs and reasonable attorney's fees thereon, shall be a charge upon the land and a continuing lien on each Lot against which an assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees thereon, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title unless expressly assumed by them. Declarant hereby reserves and assigns to the Association, without recourse, a vendor's lien on each Lot (including all improvements thereon) to secure the payment of all assessments levied on such Lot, together with interest, costs and reasonable attorney's fees thereon.

Section 2. Purpose of Regular Annual Assessments. The regular annual assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Addition and for the performance of the Association's maintenance obligations hereunder. Regular annual assessments shall include, and the Association shall acquire and pay for out of the funds derived from the regular annual assessments, the following:

(a) Costs of maintaining and repairing the Common Area of the Addition and all improvements now or hereafter constructed, erected, placed, installed or located in the Common Area (exclusive, however, of any water, sanitary sewer, storm sewer, natural gas or other utility lines, together with any appurtenances thereto, constructed, installed or located in any easement on the common Area, which lines and appurtenances are owned and maintained, or are to be owned and maintained, by any public authority or franchised public utility company);

(b) Costs of landscaping, mowing, edging and maintaining the Common Area and the right-of-way of any street or road abutting the Addition (including, without limitation, the RFD Road right-of-way);

(c) Taxes and assessments levied by any taxing authorities on the Common Area and premiums for insurance maintained by the Association, including (i) fire and extended coverage insurance on any insurable improvements on the Common Area, together with any equipment, fixtures or other personal property of the Association located on the Common Area, and (ii) liability insurance in favor of the Association, including premises liability coverage on the Common Area of the Addition;

(d) Cost of water, electricity and other utility services for the Common Area of the Addition;

(e) Any expenses which the Association is required to incur or pay pursuant to the terms of this Declaration or the Bylaws, or which shall be necessary or proper in the opinion of the Board of Directors of the Association, for (i) the administration of the affairs of the Association, (ii) the performance of the duties of the Association, or (iii) the enforcement of the provisions of this Declaration, the Bylaws of the Association or any rules and regulations of the Association) and

(f) Any other costs or expenses which shall be determined by a vote of the Members, from time to time, to be a common expense of the Association.

Section 3. Power to Fix Regular Annual Assessments. The power and authority to fix and levy the regular annual assessments shall rest exclusively with the Board of Directors of the Association, and when the same are determined and fixed by the Board of Directors, as herein provided, same shall be final, conclusive and binding upon each Owner, his heirs, personal representatives, successors and assigns, including contract purchasers.

Section 4. Special Assessments for Capital Improvements. In addition to the regular annual assessments authorized and provided for above, the Association may fix and levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying the costs of construction, reconstruction, repair or replacement of any capital improvement on the Common Area. Any such special assessment, before becoming effective and a binding obligation of the Owners, must be approved by a two-thirds (2/3rds) vote of the Members who are voting, either in person or by proxy, at a meeting duly called for that purpose.

Section 5. Notice and Quorum for Action Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 above shall be sent to all members not less than ten (10) days, nor more than sixty (60) days, in advance of such meeting. Such notice shall state that the purpose (or one of the purposes) of the meeting is to vote upon a special assessment, specifying the purpose of the proposed special assessment. At the first such meeting called, the presence of members of one or both classes, either in person or by proxy, entitled to cast fifty percent (50%) or more of the votes shall constitute a quorum. A quorum may be comprised solely by the members of one class. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum for the first meeting. No such second meeting shall be held more than sixty (60) days after the first called meeting.

Section 6. Uniform Rate of Assessment. Except as provided below in this Section, regular annual assessments and special assessments for capital improvements (but not the additional Lot assessments provided for later herein) must be fixed at a uniform rate for all Lots in the Addition. Where two (2) or more adjacent platted Lots, or one (1) platted Lot and a portion of an adjacent platted Lot, have been combined and consolidated into a single Lot pursuant to Section 17 of Article VIII of this Declaration, such resulting Lot shall be assessed (for regular annual assessment and special assessment for capital improvement purposes) on the basis of the number of platted Lots constituting the resulting Lot. By way of example, a consolidated Lot consisting of two (2) platted Lots will be assessed two hundred percent (200%) of the regular annual assessment or special assessment for capital improvements fixed for a single platted Lot.

Section 7. Collection of Regular Annual Assessments and Special Assessments. The Association shall collect the regular annual assessment on a monthly, quarter-annual, semi annual or annual basis, as determined by the Board of Directors from time to time. Special assessments for capital

improvements shall be collected on such basis as shall be determined by the vote of the membership in approving the establishment and levy of such special assessments.

Section 8. Establishment and Notice of Regular Annual Assessment. At the organizational meeting of the initial Board of Directors of the Association, the regular annual assessment for the first calendar year shall be fixed and established by the Board of Directors, and written notice thereof (including the basis upon which such regular annual assessment is to be collected) shall be forthwith given to each owner subject thereto. The first such regular annual assessment shall be adjusted according to the number of months remaining in the annual (calendar year) assessment period. Thereafter, not less than thirty (30) days prior to the commencement of each calendar-year assessment period, the Board of Directors of the Association shall fix and establish the regular annual assessment for the ensuing assessment year and shall give written notice thereof (including the basis upon which such regular annual assessment is to be collected) to every Owner subject to such regular annual assessment. Upon a person or entity becoming the owner of a Lot in the Addition (and upon notification of such fact given to the Board of Directors of the Association), it shall be the duty of the Board of Directors to notify such new owner of the regular annual assessment charged upon his Lot (in the same manner as notice is given to those Owners owning Lots as of the commencement of any annual assessment period). The failure of the Board of Directors to give written notice to any owner, as herein required, shall not in any manner exempt or relieve such Owner from his obligation to pay the regular annual assessment on his Lot or Lots, but such owner shall not be in default for failure to pay his regular annual assessment (on the due date or dates thereof) until notice of such regular annual assessment is given to such Owner in the manner herein provided. Each Owner (including Declarant) covenants and agrees to give written notice to the Board of Directors of the Association upon the sale or transfer by such owner of his Lot, including the name and mailing address of the Lot purchaser(s) and the date upon which the sale or transfer was or will be effected.

Section 9. Limited Exemption from Regular Annual Assessments. Notwithstanding anything herein to the contrary, Declarant shall not be liable for or obligated to pay regular annual assessments on any unimproved Lot, nor on any improved Lot until thirty (30) days after improvements have been substantially completed thereon. Further, notwithstanding anything herein to the contrary, a Builder (as that term is hereinafter defined) shall not be liable for or obligated to pay regular annual assessments on any Lot owned by such Builder until the earliest of (i) the substantial completion of improvements thereon, (ii) the conveyance by such Builder of the Lot (except a reconveyance to Declarant), or (iii) one hundred eighty (180) days after such Builder has acquired record title to such Lot. For the purposes of this paragraph, the term "Builder" shall be construed to mean a person or entity who has purchased or acquired from Declarant one (1) or more unimproved Lots for the purpose of construction of improvements thereon for sale to the public.

Section 10. Date of Commencement of Regular Annual Assessments. The regular annual assessments provided for above in this Article shall commence as to each lot on the first (1st) day of the calendar month next following:

- (a) The conveyance of a Lot by Declarant to an owner (other than a Builder);
- (b) Thirty (30) days following the substantial completion of improvements upon a Lot owned by Declarant; or
- (c) With respect to a Lot conveyed by Declarant to a Builder, the earlier of (i) the substantial completion improvements thereon, (ii) the conveyance by the Builder of such Lot (except for a reconveyance to Declarant), or (iii) one hundred eighty (180) days after the Builder has acquired record title to such Lot.

Section 11. Certification of Payment of Assessments. The Association shall, upon demand, furnish a certificate signed by an officer of the Association setting forth whether the assessments on any specified Lot have been paid. A properly executed certificate as to the status of assessments on a particular Lot shall be conclusive and binding upon the Association as of the date thereof as to any and all persons or entities relying thereon (other than the owner of such Lot). The Association may establish and collect a reasonable charge for the issuance of such certificates.

Section 12. Effect of Nonpayment of Assessments; Remedies of Association.

(a) Any assessment (of whatever kind or character, whether a regular annual assessment, special assessment for capital improvements, or additional Lot assessment) not paid within ten (10) days of the due date thereof shall be delinquent. Any delinquent assessment shall bear interest from the due date thereof at the rate of eighteen percent (18%) per annum. All unpaid assessments, together with interest thereon as provided above, shall constitute a lien upon the Lot (together with all improvements thereon) against which the Association levied the unpaid assessments. To evidence such lien, the Association may, but is not required to, prepare and file for record in the office of the County Clerk of Jefferson County, Texas, a written notice, signed by an officer of the Association, setting forth the amount of the unpaid assessments, the name of the Lot owner, and a description of the Lot upon which such assessments are unpaid.

(b) The Association may bring an action at law against the Lot owner personally obligated to pay the same or foreclose the lien upon such Lot in the manner hereinafter provided. No owner may exempt himself or otherwise escape liability for the assessments herein provided by abandoning his Lot or in any other manner. Suit to recover a money judgment against a defaulting owner shall be maintainable without foreclosing or waiving the lien securing the assessments owing by such defaulting owner.

(c) The assessment lien may be enforced by the Association by judicial proceedings or non-judicial proceedings (pursuant to the provisions of Section 13 below) to foreclose the lien on the defaulting owner's Lot (including all improvements thereon) in like manner as a mortgage (with a power of sale) on real property upon the recording of a notice of lien, as provided in Subsection (a) above. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, including (in the case of a non-judicial foreclosure) a trustee's fee equal to five percent (5%) of the gross sales proceeds, the costs of preparing and filing the notice of lien, and all other expenses of foreclosure, including reasonable attorney's fees. The Association shall have the power to bid on the Lot at foreclosure sale (whether judicial or non-judicial) and to acquire and hold, lease, mortgage or convey the same.

(d) The Association may not foreclose its assessment lien if the debt securing the lien consists solely of fines assessed by the association or attorney's fees incurred by the Association solely associated with fines assessed by the Association.

(e) The Association must comply with the provisions of Texas Property Code Section 209.006, as same may be amended from time to time, unless such section is deleted in its entirety and not replaced by similar legislation or law before taking any enforcement action, including those specified in Section 13 below.

Section 13. Nonjudicial Foreclosure of Lien. To secure and enforce the payment of all assessments provided for in this Declaration, together with all interest accrued or accruing thereon and attorney's fees and other costs reasonably incurred by the Association in collecting the same, and for the auxiliary and cumulative enforcement of said lien, and in consideration of the sum of \$1.00 to Declarant in hand paid by the Trustee hereinafter named, and for the further consideration of the uses, purposes and

trusts hereinafter set forth, Declarant has granted, sold, and conveyed, and by these presents does grant, sell, and convey unto John W. Johnson, Trustee, of Jefferson County, Texas, whose mailing address is P. O. Box 1751, Beaumont, Texas 77704-1751, and any substitute or successor trustee appointed hereunder, each of the Lots in the Addition, to have and to hold the said Lots unto the said Trustee, and to his substitutes or successors forever. Declarant does hereby bind itself, its successors and assigns, to warrant and forever defend the Lots unto the said Trustee, his substitutes, successors and assigns forever, against the claim or claims of all persons claiming or to claim the same, or any part thereof, subject to any superior liens, for and upon the following trusts, terms, covenants, and agreements, to-wit:

(a) This conveyance, however, is made in trust to secure the payment of all assessments provided for in this Declaration (whether now owed or hereafter ever accruing to the Association). Should Declarant, its successors and assigns, make full payment of the assessments hereby secured as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect.

(b) In the event, however, of default in the payment of any assessment hereby secured, in accordance with the terms of this Declaration, it shall thereupon, or at any time thereafter, be the duty of the Trustee or his successor or substitute, at the request of the Association (which request is hereby conclusively presumed), to enforce this trust against the Lot against which the assessment is due and owing in the manner provided in § 51.002 of the Texas Property Code, as then amended; and after giving notice and advertising the sale as provided in said § 51.002 (but without any other action than is required by said § 51.002 as then amended) and otherwise complying with that statute, the Trustee shall sell the Lot (including any improvements thereon) at public sale as provided in said § 51.002 and make due conveyance to the purchaser or purchasers thereof, with covenants of general warranty binding upon the then owner of such Lot and such owner's heirs, executors, administrators and successors.

(c) Out of the money arising from such sale, the Trustee acting shall first pay all expenses of advertising said sale and making the conveyance (including a Trustee's fee of 5% of the gross sales proceeds), and then to the Association the full amount of assessments owing, together with interest thereon, and reasonable attorney's fees, rendering the balance of the sale price, if any, to the owner of said unit prior to such sale, his heirs or assigns, or to such other person as may be legally entitled thereto. The recitals in the conveyance to the purchaser or purchasers of such Lot shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against of such Lot prior to such sale, his heirs, executors, administrators, successors and assigns.

(d) It is agreed that in the event foreclosure should be commenced by the Trustee, or his substitute or successor, the Association, as beneficiary hereunder, may at any time before the sale of the Lot direct the abandonment of the sale and may then institute suit for the collection of the assessments, interest and collection costs then owing to the Association, and, at the election of the Association, for judicial foreclosure of the assessment lien. It is further agreed that if the Association should institute suit for collection and for judicial foreclosure of the assessment lien, the Association may, at any time prior to the entry of a final judgment in said suit, dismiss the same and require the Trustee, or his substitute or successor, to sell the Lot against which the assessment is then owing in accordance with the provisions of this Section 13.

(e) In case of the absence, resignation, death, inability, failure or refusal of the Trustee herein named or of any substitute trustee appointed hereunder to act, or in the event that the Association shall deem it desirable to remove without cause the Trustee or any substitute trustee and appoint another to execute this trust, then in any of such events, the Association shall have the right and is hereby authorized and empowered to appoint a successor and substitute without any formality other than an appointment and designation in writing; and this appointment shall vest in him, as substitute or successor trustee, the estate and title in and to all said Lots, and he shall thereupon hold, possess, and execute all the rights, title, powers and duties herein conferred upon the Trustee named herein. The right to appoint a successor or substitute trustee shall exist as often and whenever from any of said causes any trustee, original or substitute, cannot or will not act, resigns, or has been removed without cause.

(f) The exercise or attempted exercise of the power of sale herein contained shall not exhaust the power of sale and shall not prevent and subsequent exercise thereof.

(g) The Association, as beneficiary hereunder, if it is the highest bidder, shall have the right to purchase at any sale of a Lot pursuant hereto and to have the amount for which such lot is sold credited against the indebtedness then owing on such Lot to the Association.

(h) It is especially agreed that in the event of a foreclosure under the powers granted herein, the person in possession of the Lot sold shall thereupon become a tenant at will of the purchaser or purchasers at the foreclosure sale. Should such tenant then refuse to surrender possession of the Lot upon demand, the purchaser or purchasers shall be entitled to institute and maintain a statutory action for forcible detainer of said Lot in the justice of the peace court for the justice precinct in which the Lot is situated. The bringing of an action for forcible detainer shall not preclude the bringing of any other action for the possession of said Lot, and the bringing of one character of action shall not preclude the other and same may be exercised separately or simultaneously.

Section 14. Subordination of Assessment Lien to Mortgages. The assessment lien herein provided shall be and remain subordinate to the lien of any perfected First Mortgage. A "First Mortgage" is defined as a Mortgage which has first and paramount priority under applicable law. A sale or transfer of a Lot shall not affect the assessment lien thereon. However, the sale of a Lot pursuant to the foreclosure of a First Mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to unpaid charges which accrued prior to such foreclosure sale or transfer in lieu thereof. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due and payable or from the lien thereof. The holder of any First Mortgage shall be entitled, upon written request made to the Association, to written notification from the Association of any default by such holder's mortgagor (or grantor under a Deed of Trust or Trust Deed) in any obligation under this Declaration or the Bylaws of the Association which is not cured within sixty (60) days from the date upon which such default occurred. Any Mortgagee holding a First Mortgage on a Lot may pay any unpaid assessment payable with respect to such Lot, and upon such payment such Mortgagee shall have a lien on such Lot for the amounts paid to the Association of the same rank as the lien of its Mortgage.

Section 15. Additional Lot Assessments. Separately and apart from the regular annual assessments and special assessments provided for above in this Article, the Board of Directors shall have the right to make a special assessment against any Lot owner and his Lot for the costs incurred by the Association in:

(a) Making any repairs or replacements, or in performing any maintenance (other than lawn mowing or other lawn maintenance), which an owner, although otherwise obligated to make or perform under this Declaration, fails to make or perform within thirty (30) days after the Association has given such Owner written notice specifying the repairs or replacements to be made or maintenance to be performed by the Owner;

(b) Performing any lawn mowing or maintenance which an owner, although otherwise obligated to perform under this Declaration, fails to perform within three (3) days after the Association has given such owner written notice specifying the lawn mowing or other lawn maintenance to be performed by the Owners; or

(c) Enforcing compliance by an Owner with any covenants, limitations, prohibitions or restrictions contained in this Declaration or the Bylaws of the Association or any rules or regulations adopted by the Association, where any such non-compliance continues for more than ten (10) days after the Association has given such owner written notice specifying such non-compliance; plus an administrative charge equal to the greater of (i) twenty-five percent (25%) of the costs incurred by the Association in performing the obligations of the non-performing Owner or in enforcing compliance by the non-complying Owner, or (ii) the sum of \$25.00.

Section 16. Levy and Collection of Additional Lot Assessments. Any additional Lot assessment shall be fixed and levied by the Board of Directors of the Association, and written notice thereof shall be given to the owner of the Lot against which assessment is made. Such notice shall specify the nature and amount of the additional Lot assessment and the date upon which the same shall be due and payable (which due date shall be not less than 10 days from the date of such notice). Collection of any such additional Lot assessment shall be made in the same manner as the regular annual assessments provided for herein, and a lien therefor shall exist in favor of the Association upon the Lot (together with the improvements thereon) of the Owner against whom the assessment is made.

Section 17. Acceptance of Lot Subject to Lien. Each Owner, by acceptance of a deed to a Lot, (a) accepts such Lot subject to and encumbered with the assessment lien (with power of sale) set forth above herein, (b) grants and confirms to the Association a contractual lien upon his Lot (together with all improvements thereon) to secure all assessments then or thereafter made against such Lot, and (c) expressly vests in the Association or its agents the right and power to bring all actions against such defaulting Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for foreclosure and enforcement of such lien, including, without limitation, non-judicial foreclosure pursuant to the provisions of Section 13 above.

Section 18. Books and Records. Proper books and records shall be kept by the Association with respect to all assessments made by the Association, and each owner shall at all reasonable times have access to such books and records. The books and records shall be kept in such a manner as to separately identify the assessments and payments thereof on each Lot in the Addition. No payment made on any individual assessment account shall be transferred or credited to another account without the express written consent of the party making such payment.

ARTICLE VI - OBLIGATION TO MAINTAIN, REPAIR AND REBUILD

Section 1. Owner's Obligation to Maintain and Repair. Each Owner shall, at his sole cost and expense, perform such maintenance and make such repairs and replacements to his residence, together with all other structures, installations and improvements located upon his Lot as shall be required to keep his

residence and all other structures, installations and improvements on his Lot in substantially the same condition as at the completion of the original construction thereof, excepting only ordinary wear and tear. Additionally, each owner shall regularly mow and maintain, and keep in a neat and attractive condition, the grassed and landscaped areas of his yard and the unpaved portion of the private street (a) abutting his Lot; and each Owner shall maintain in good repair and condition all sidewalks and driveways serving his Lot, even though such sidewalks and/or driveways may be located partly on the street easement(s) abutting his Lot. If any perimeter privacy fence constructed or installed on an owner's Lot requires replacement, it shall be replaced with a fence of the same design, type of materials and height as the fence being replaced. If any Owner fails to perform the maintenance or make the repairs required of such owner hereunder, the Association, after giving such owner written notice specifying the required maintenance or repairs, may perform such maintenance or make such repairs if such Owner does not, within the applicable time periods after notice specified in Section 15 of Article V above, perform the maintenance or make the repairs or replacements specified in such notice. The costs incurred by the Association in performing such maintenance or making such repairs or replacements (together with the administrative charge specified in Section 15 of Article V above) shall, at the election of the Board of Directors of the Association, be the basis for levying an additional Lot assessment against such owner and his Lot pursuant to the provisions of Section 15 of Article V above.

Section 2. Owner's Obligation to Rebuild. If any residence or other structure on any Lot in the Addition is damaged or destroyed by fire or other casualty, it shall be the duty and obligation of the Owner thereof to repair, restore or reconstruct such residence or other improvement to substantially the same condition as before such damage or destruction. Architectural Control Committee approval of the plans and specifications for making such repairs, restoration or reconstruction must be obtained prior to commencement thereof, as more fully provided later in this Declaration. The owner of such damaged or destroyed residence or other improvement shall commence such repairs, restoration or reconstruction within a reasonable period of time after the occurrence of such damage or destruction and thereafter prosecute the work of repair, restoration or reconstruction of such residence or other improvement with due diligence and shall complete such repairs, restoration or reconstruction within six (6) months from the occurrence of such damage or destruction, subject only to delays occasioned by matters beyond the reasonable control of such owner.

Section 3. Maintenance by Association. It shall be the duty and obligation of the Association to:

(a) Maintain and repair the Common Area of the Addition and all improvements now or hereafter constructed, erected, placed, installed or located in the Common Area (exclusive, however, of any water, sanitary sewer, storm sewer, natural gas or other utility lines, together with any appurtenances thereto, constructed, installed or located in any easement on the Common Area, which lines and appurtenances are owned and maintained, or are to be owned and maintained, by any public authority or franchised public utility company); and

(b) Landscape, mow, edge and maintain the Common Area and the right-of-way of any street or road abutting the Addition (including, without limitation, the RFD Road right-of-way).

Section 4. Optional Maintenance by Association. The Association may perform any other reasonable and necessary maintenance, repairs or replacements as determined by the Board of Directors or by the members of the Association, from time to

time, including, but not limited to lawncare for the portion of each lot abutting Highpoint Avenue.

ARTICLE VII – ARCHITECTURAL CONTROL

Section 1. General Authority of Architectural Control Committee. No building, fence, wall, screening device, patio, patio enclosure, swimming pool, spa, tennis court, driveway, sidewalk or other improvements (of whatever kind or description) shall be commenced, constructed, erected, placed or reconstructed on any Lot in the Addition; nor shall any exterior addition to or change or alteration of any structure or improvement on any Lot in the Addition be commenced or made; nor shall any exterior repainting or reroofing involving any change in the exterior color scheme be commenced or performed; until two (2) complete sets of plans and specifications therefor (the “Plans”) showing: (a) the kind, shape, size, height and exterior color scheme thereof; (b) the location of all improvements, including driveways, sidewalks and off-street parking; (c) utility installations; (d) the kind, nature and quality of materials; (e) finished grade, topography and elevation; and (f) site landscaping; have been submitted to and approved by the Architectural Control Committee (herein called the “Committee”) as to: (1) the type and quality of materials; (2) the conformity of the planned improvements with the covenants contained in this Declaration; (3) the harmony of external design (including type, quality and color of roof, exterior materials and color scheme) with other existing or planned structures in the Addition; and (4) location of the planned improvements with respect to topography and in relation to other existing or planned structures in the Addition. The Plans shall also reflect all driveways and sidewalks serving the Lot, even though same may, in part, extend beyond the perimeter boundaries of the lot. Plan approval or disapproval shall be as provided in Section 5 below. The Committee may, in its discretion, provide developmental guidelines for site planning, architecture, fencing and landscaping; and if and when such guidelines are provided, they shall be used as the basis for review and approval (or disapproval) of Plans.

Section 2. Composition of Committee. The Committee shall be composed of three (3) members. The initial members of the Committee are Barry Allen, Mike Allen and Kristy Allen. The Committee shall have the power to designate a representative (who may or may not be a member of the Committee) to act for the Committee; and upon the designation of such representative by the Committee, such representative shall have the power and authority to do any act or make any decision which the Committee itself could do or make under this Declaration. Neither the Committee nor its authorized representative shall have the right to demand, charge or receive any fee or other compensation as a condition to the examination of any Plans submitted hereunder or for granting approval (or disapproval) thereof.

Section 3. Vacancies and Filling of Vacancies. In the event of the death or resignation of any of the members of the Committee, the remaining members of the Committee (even though less than a majority thereof) may appoint, by written instrument signed by such remaining member(s) and filed for record in the office of the county Clerk of Jefferson County, Texas, a successor or successors to the Committee. If all the members of the Committee die or resign, then the Declarant (or its successor) shall have the authority to appoint successor members of the Committee; provided, however, if all members of the Committee die or resign, and the Declarant (or its successor) has not appointed successor members within ninety (90) days after the death or resignation of the last of the Committee members, then the Association, through its Board of Directors, shall exercise the authorities herein granted to the Committee. Furthermore, at any time after fifteen (15) years from the date of this Declaration, the Association, by written agreement executed by a majority of the Members of the Association and filed for record in the office of the County Clerk of Jefferson County, Texas, may (i) change the membership of the Committee; or (ii) withdraw powers and duties from, or restore powers and duties to, the Committee.

Section 4. Term of Committee; Surrender of Authority. The herein granted powers and duties of the Committee shall cease and terminate twenty (20) years after the date of this Declaration, and the approval of the Committee shall not be thereafter required, unless, prior to the expiration of said twenty (20) year period, a majority of the Members of the Association shall exercise their right to restore to the Committee its powers and duties under this Declaration in the manner provided in Section 3 above.

Section 5. Manner of Approval. Plan approval or disapproval by the Committee, or its designated representative, as required in this Declaration, shall be in writing and signed by at least one (1) member of the Committee or by its designated representative (if a representative has been appointed to act for the Committee). If the Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after Plans meeting the requirements of Section 1 of this Article VII have been submitted to it, approval will not be required, and the covenants contained in said Section 1 above shall be deemed to have been fully satisfied. However, the approval or disapproval of Plans by the Committee, or the failure of the Committee to approve or disapprove the Plans within thirty (30) days after the submission thereof, shall in no way authorize any use or improvement of any Lot in violation of any of the other covenants contained in this Declaration, except where the Committee had express authority to grant a waiver or variance from such covenant. Approval of Plans (whether actual or deemed) shall not be valid or effective for more than one hundred twenty (120) days; and if, within one hundred twenty (120) days from Plan approval, construction, reconstruction, addition, change or alteration for which Plan approval was obtained, has not commenced, then the Plans must be resubmitted and approved by the Committee before any such construction, reconstruction, addition, change or alteration may be commenced. There shall be no review of any action of the Committee, except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall the Committee, any member of the Committee, or the representative of the Committee be subject to any suit by anyone for damages for any actions, or failures to act, on the part of the Committee, any member of the Committee, or the Committee's representative.

Section 6. No Liability for Plan Approval. Neither the Committee, nor any member or representative thereof, shall be liable to any person or entity under any theory or under any circumstances in connection with the Committee's approval (whether actual or deemed) of any Plans submitted to the Committee for approval, including, without limitation, any liability based upon the soundness of construction or adequacy of plans and specifications, mistake of judgment, negligence or nonfeasance. Neither the Committee, nor any member or representative thereof, shall have any liability to any person or entity by reason of the construction of buildings or the making of other improvements which shall depart from or be at variance with the approved Plans.

ARTICLE VIII - USE RESTRICTIONS

Section 1. Single Family Residential Use. No Lot or building site in the Addition shall be used for any purpose except for single family residential purposes. As used in this Declaration, the term "family" shall have the same meaning as set forth in the City of Beaumont's Zoning Ordinance. However, temporary construction and sales offices may be placed or constructed on specific Lots in the Addition with the prior written approval of the Committee, and provided further that any such office shall be removed not later than the date specified in the Committee's written approval.

Section 2. Permitted Structures. No structure shall be erected on any Lot other than one (1) detached single-family dwelling not to exceed two (2) stories in height and a private garage for not less than two (2) nor more than four (4) cars, and such other accessory buildings as are incidental to single-

family residential use and are not inconsistent with the other restrictive covenants set forth and contained in this Declaration, if the Plans for such accessory buildings are submitted to and approved by the Committee in the manner provided above herein.

Section 3. Construction in Accordance with Plans. All buildings and other improvements shall be constructed or made strictly in accordance with the Plans submitted to and approved by the Committee or its representative, or in strict accordance with Plans submitted to the Committee, but for which no approval is required by reason of the failure of the Committee or its representative to approve or disapprove the same within thirty (30) days after the submission thereof, as provided in Section 5 of Article VII above.

Section 4. Use of Common Area. Nothing shall be done in the Common Area which will increase the rate of insurance (whether of fire and casualty insurance or liability insurance), without the prior approval of the Board of Directors.

Section 5. Prohibited Acts. No Owner shall do, or permit any members of his family, his guests or tenants to do, any act on any lot or on the Common Area of the Addition which shall be in violation of (i) any applicable ordinance, statute, rule or regulation of any municipal or other governmental authority, (ii) the provisions of this Declaration, (iii) the Bylaws of the Association, or (iv) the rules and regulations of the Association relating to the use of the Common Area of the Addition; nor shall any noxious or offensive activity be carried on or anything be done on any Lot or on the Common Area of the Addition which may become an annoyance or nuisance to the other Owners or their tenants. No business or commercial activities of any kind or any "garage sales", "sidewalk sales", auctions or similar activities or events (even though not commercial in nature) shall be conducted on any Lot in the Addition or on the Common Area of the Addition.

Section 6. Chimney Screening. If any metal chimney is used in the construction or remodeling of any residence in the Addition, it shall be encased in wood, brick or other material approved by the Committee in the same manner as any other exterior building materials.

Section 7. Parking or Storage of Boats, Etc. No boats, trailers, campers, buses, mobile homes, recreational vehicles, trucks (except for pickup trucks or vans having a manufacturer's rated carrying capacity of not more than three-quarter [3/4] ton), or similar vehicles (any of the foregoing being herein referred to as a "Restricted Vehicle") may be parked or stored upon any Lot in the Addition on a Permanent Basis (as that term is defined below in this Section) except wholly within an enclosed garage or other fully enclosed accessory building; nor may any Restricted Vehicle be parked or allowed to remain on a Permanent Basis on any street in the Addition. Further, no Restricted Vehicle shall be parked or left unattended on any portion of the Common Area of the Addition, whether or not on a Permanent Basis. A "Permanent Basis", as that term is used herein, shall mean any period or periods in excess of twenty-four (24) consecutive hours, or periods in excess of eight (8) consecutive hours on three (3) or more successive days. No commercial trucks, vans, tractor-trailers or trailers (any of the foregoing being herein referred to as a "Commercial Vehicle") shall be parked or left unattended on any Lot or in street in the Addition, except for the limited time period(s) during which the owner or operator of the Commercial Vehicle is (a) making deliveries to the Declarant, the Association or a Lot Owner (or to their respective employees, agents, representatives or contractors), or (b) performing maintenance, repairs or construction on a Lot or the common Area for the Declarant, the Association or a Lot Owner (or for their respective employees, agents, representatives or contractors); nor shall any Commercial Vehicle be parked or left unattended for any period of time on any portion of the Common Area. As used in this Section, the term "commercial trucks, vans, tractor-trailers or trailers" means any truck or van having a manufacturer's rated carrying capacity of more than one (1) ton, truck-tractor, tractor-trailer or trailer that is owned, leased or operated for commercial purposes and bears some indicia (whether by way of a sign, logo, color scheme or distinctive

markings) that it is owned, leased or operated for commercial purposes, including any such vehicle that is owned, leased to or operated by the Owner of a Lot in the Addition.

Section 8. Minimum Ceiling Heights: Permitted Roofing Materials: Gutters. Any dwelling constructed on a Lot in the Addition must have a first-floor ceiling height of not less than nine feet (9'), and the upper floor of any story and one-half or two-story dwelling must have a ceiling height of not less than eight feet (8'). Only architectural grade composition shingles or comparable roofing materials approved by the Committee may be used on any dwelling or other structure constructed on any Lot in the Addition. All roofs must have gutters on the Zero Lot Line side of the dwelling that must be painted the trim color of the house or such other color as the Architectural Control Committee may approve.

Section 9. Temporary Structures. No structures of a temporary character, mobile home, manufactured home, trailer, tent, garage or other outbuilding or accessory building shall be used on any lot at any time as a residence, either temporarily or permanently.

Section 10. New Construction Only. No existing or used dwelling or other structure shall be moved onto or placed on any Lot in the Addition from another location, and all dwellings and other structures must be of new construction. No modular or mobile homes shall be located on any Lot in the Addition. The term "modular home" shall, for the purposes hereof, mean and refer to a prefabricated home which is constructed in a number of parts or sections off the Lot and then brought upon the Lot to be assembled.

Section 11. Signs. No sign of any kind shall be displayed to public view on any Lot in the Addition, except one (1) sign of not more than five feet (5') square advertising a property for sale or rent or used by Declarant or a Builder to advertise the property during the construction phase or sales period.

Section 12. Oil and Mining Operations. No gas or oil drilling, gas or oil development operations, oil refining or storage, quarrying or mining operations, or like activities of any kind shall be permitted upon or in any Lot; nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot; nor shall any derrick or other structure or machinery designed for use in boring or drilling for gas or oil be erected, maintained or permitted on any Lot.

Section 13. Antennas. No antenna or other device for the transmission or reception of "ham radio", citizen's band or short wave radio signals shall be permitted on any Lot. Except as provided below in this Section, no antenna of any type, including, but not limited to, a dish-type satellite signal receiver, shall be erected on any Lot until Plans for the installation and location of such antenna have been submitted to and approved by the Committee in the same manner as for the construction of a residence and other improvements on a Lot. Without the prior submission to and approval by the Committee of Plans for its installation and location, a dish-type satellite signal receiver not exceeding twenty-four inches (24") in diameter may be installed on a dwelling or other structure on a Lot, provided that it is installed at the rear of the dwelling or other structure and is not visible from the street located in front or at the side of a Lot. Except as provided in the preceding sentence of this Section, the Committee, in its absolute discretion, shall have the right to absolutely refuse the approval of the placement of any such dish-type receiver on any Lot in the Addition.

Section 14. Livestock, Poultry and Household Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot in the Addition, except that dogs, cats and other household pets, not to exceed two (2) in number for any residence, may be kept provided (i) they are not kept, bred or maintained for any commercial or breeding purposes, (ii) they do not become a nuisance, and (iii) they are not allowed to roam or wander unattended in the Addition.

Section 15. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, refuse or other waste materials. Trash, garbage and other waste shall be kept in sanitary closed containers pending collection thereof; and garbage cans and other receptacles shall (except when placed on a private drive for regular collection purposes) be hidden or screened from public view. No Lot shall be used for the open storage of any materials whatsoever, except for materials used or to be used in the construction of improvements upon any Lot, and then only for so long as such construction progresses. Upon completion of the improvements, any remaining materials, together with all rubble, rubbish, trash and debris shall be promptly removed from such Lot.

Section 16. Sprinkler System and Yard Landscaping. Before any dwelling constructed on the Lot may be occupied as a residence, in a manner acceptable to the Committee, the front yard, side yards and rear yard of such Lot must (a) have installed sprinkler system sufficient for watering the grass, shrubs, and other vegetation on the lot, (b) be planted with grass, and (c) be landscaped.

Section 17. No Construction on Less Than a Platted Lot. No dwelling shall be constructed on a building site consisting of less than one (1) platted Lot. Nothing contained herein shall prohibit the construction of a dwelling on a building site consisting of more than one (1) full platted Lot, such as a building site consisting of two (2) platted Lots or one (1) platted Lot and a portion of an adjacent platted Lot, provided that, in the case of a "lot split" any replatting required by the City of Beaumont Subdivision Regulations is accomplished prior to commencement of construction on the composite building site. Any such composite building site, if same meets all of the foregoing requirements, shall be deemed to constitute a "Lot" under the terms and provisions of this Declaration.

Section 18. Exterior Christmas Lights. No exterior Christmas lights or Christmas decorations shall be erected, placed, installed or displayed on any Lot in the Addition between February 1 and October 31 of any calendar year. Whether exterior lights or decorations constitute "Christmas lights" or "Christmas decorations" shall be determined by the Committee in its sole and absolute discretion.

Section 19. Garage Door Openers. Any garage located on any Lot in the Addition having an entrance facing a street must have garage doors and be equipped with an electronic automatic garage door opener. Each Owner shall maintain, repair and (as needed) replace the garage doors and electronic automatic garage door openers so that the garage door and the opener are at all times in good working order and repair.

Section 20. Minimum Set Back Lines. No dwelling structure, including attached or detached garage or other accessory building, shall be located nearer to the front Lot line, back lot line or side lot line than the building set back line shown the recorded plat or plats of the Addition.

Section 21. Lot Lines.

A. Zero Lot Line Side (Southern Side Lot Line). The walls of each building located on the zero lot line side of each lot must be solid, have no windows, be composed of the same material as the dwelling, and together with a privacy wall or privacy fence constructed of wood, brick or other masonry product and being not less than six feet in height, the finished side of which will face the adjoining lot, must extend from the front building set back line to the rear building set back line of the Lot. No windows on a second story may face or open to a side, but shall open or face the front or rear of the Lots only. All plans submitted to the Architectural Control Committee shall show the physical location of the electric and gas meters, if any.

B. Non-Zero Lot Line Side (Northern Side Lot Line). There shall be and is hereby reserved an easement on the Non-Zero Lot Line Side of each Lot between the lot line and the building setback line shown on the Final Plat of the Addition, which easement shall extend from the front lot line to the rear lot line. Such easement shall be for the benefit of the lot whose Zero Lot Line Side (south side) is in common with the lot on which the easement is located ("Benefited Lot"). Such easement shall be for access to and construction, repairs and maintenance of the home and privacy wall or fence on the Benefited Lot. No building of a permanent nature may be erected or placed on such easement nor may any temporary structure, plant, or other material be placed thereon which would impair or prevent access to the home located on the lot immediately north of the subject or servient lot for which the benefit of this easement is reserved. Easements for overhanging roofs on the zero lot line side are reserved herein and shall easement shall extend two feet from the zero lot line side into the easement reserved herein on the Non-Zero Lot Line Side of the adjacent lot.

Section 22. Minimum Square-footages. No dwelling shall be permitted on any Lot in which the living floor area (inclusive of enclosed utility and storage rooms, but exclusive of garages and open porches, patios or courtyards) is less than seventeen hundred (1,700) square feet, nor shall any story and one-half or two-story dwelling be permitted on any Lot in which such living floor area of the first or ground floor is less than one thousand (1,000) square feet.

Section 23. Fences, Walls, Etc. Except as set forth in Section 21 above, no fence, wall, hedge, structure or other improvements (including, without limitation, a swimming pool, tennis court or other recreational facility) shall be constructed, erected, placed, altered or permitted on any Lot except as approved by the Committee in accordance with the earlier provisions of this Declaration. No privacy fence or like screening device shall be located nearer to the front Lot line than the front of the dwelling, nor, if on a corner Lot, shall any privacy fence or like screening device be located nearer to the street-side Lot line than the side of the dwelling. No hedge, tree or other planting shall be permitted on any corner Lot which obstructs lines of sight at elevations of between two feet (2') and six feet (6') above the adjacent private drives within the triangular area formed by the street-side property lines of the Lot and a line connecting them at points twenty-five feet (25') from the intersection of the street-side property lines of such Lot. No tree shall be permitted to remain within such triangular area unless the foliage line is maintained at sufficient height to prevent obstruction of such lines of sight.

Section 24. Utility Service and Meters, Mechanical Equipment Screening. All utility service lines between meter points and dedicated utility easements shall be underground. Air conditioning compressors and other external mechanical equipment must be screened from view from the private drives in the Addition in a manner acceptable to the Committee.

Section 25. Sidewalk Requirements. Prior to the first occupancy of a dwelling constructed on any Lot in the Addition, there must be constructed and completed on the Lot (in accordance with the "Sidewalk Construction Guidelines" promulgated by the Committee) a sidewalk along the street-side Lot line of the Lot. The required sidewalk(s) shall be constructed of reinforced concrete, with a minimum thickness of four inches (4") and with expansion joints spaced at intervals of not more than four feet (4') each, and shall be located four feet (4') from the curb line of each street abutting the Lot.

Section 26. Conflict Between Ordinances and Restrictions. In the event of any conflict between the restrictions contained in this Declaration and any ordinances, laws, rules or regulations of municipal or other governmental authorities having jurisdiction over the Addition or the construction of improvements therein, then such ordinances, laws, rules and regulations shall control; except, however, that if the restrictions contained herein are in any respect more restrictive than such ordinances, laws, rules or regulations, then the restrictions contained herein shall control.

ARTICLE IX - ENFORCEMENT OF COVENANTS

Section 1. Enforcement. In the event of any violation or breach, or attempted violation or breach, of any of the terms or provisions of this Declaration, Declarant, the Association or any Lot Owner shall be authorized to enforce the terms, covenants and restrictions hereof by any proceedings at law or in equity against the person(s) violating or breaching, or attempting to violate or breach, the same, including actions for prohibitive or mandatory injunctive relief; and it shall not be a prerequisite to the granting of any such injunctive relief that there be any showing that irreparable damage or harm will result if such injunctive relief is not granted. Additionally, any person or entity entitled to enforce the terms, covenants or restrictions of this Declaration may recover such damages, both actual and punitive, as such party may show that he or it is entitled by reason of any such violation or breach. In any action for enforcement of the terms, covenants or restrictions hereof, whether for injunctive relief or damages, if the party prosecuting such action is successful, he or it shall be entitled to recover, in addition to any damages awarded, reasonable attorney's fees and all costs of court.

Section 2. Forbearance Not a Waiver. The forbearance of enforcement of any restriction herein contained for any violation or proposed or attempted violation of any restriction herein contained shall not constitute a waiver of the right of Declarant, the Association or any Owner to thereafter enforce such restriction as to any subsequent violation or proposed or attempted violation.

Section 3. Time for Enforcement. Any action for enforcement of the restrictions or other covenants contained herein shall be commenced within one (1) year after such violation, or attempted violation, began or first occurred, and not thereafter.

Section 4. Notice Required Before Enforcement Action. Before Declarant, the Association or any Lot Owner shall be authorized to enforce the terms, covenants and restrictions hereof by any proceedings at law or in equity against the person(s) violating or breaching, or attempting to violate or breach, the same, other than institution of an action for prohibitive or mandatory injunctive relief, written notice must be given to the owner by certified mail, return receipt requested. Such notice must describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner. Such notice must inform the owner that the owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months. The notice must also advise the owner that the owner may request a hearing under Texas Property Code Section 209.007 on or before the 30th day after the date the owner receives the notice.

Section 5. Attorney's Fees. Declarant, the Association or any Lot Owner may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the association relating to collecting amounts, including damages, due the association for enforcing restrictions or the bylaws or rules of the association as provided by Texas Property Code Section 209.008.

ARTICLE X - TERM AND AMENDMENT OF COVENANTS

Section 1. Term of Covenants. The covenants and restrictions contained in this Declaration shall be binding for a period of twenty (20) years from the date of this Declaration. Upon the expiration of such twenty (20) year period, such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each.

Section 2. Amendment or Termination of Covenants. This Declaration may be amended, or the covenants and restrictions herein contained may be terminated, in whole or in part as follows:

(a) During the initial twenty (20) year period, any such amendment or termination shall be effected only by a written instrument signed by the Owners of not less than eighty percent (80%) of the Lots in the Addition and duly recorded in the office of the County Clerk of Jefferson County, Texas.

(b) At any time after the initial twenty (20) year period, any such amendment or termination shall be effected only by a written instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots in the Addition and duly recorded in the office of the County Clerk of Jefferson County, Texas.

For the purposes of calculating the foregoing respective percentages of Lots in the Addition, there shall be taken into account not only the Lots in Highpoint Phase One, but also any additional Lots brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of Article II of this Declaration.

ARTICLE XI - SEVERABILITY

Section 1. Severability. In the event that any provision of this Declaration, or any portion thereof, shall be held to be invalid or unenforceable by judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect, invalidate or impair any other provision, or part of a provision, hereof, and all remaining provisions, or parts of provisions, shall remain valid and in full force and effect in accordance herewith.

ARTICLE XII - JOINDER OF LIENHOLDER

Section 1. Lienholder Joinder. Clyde E. Allen and wife, Shirley Allen (hereinafter collectively referred to as "Lienholder"), being the holder of a lien or liens on the Existing Property, joins with Declarant in the execution of this Declaration for the purposes of (a) consenting to and adopting the Plat of the Addition; (b) consenting to the grant or dedication by Declarant of all easements shown and reflected upon the Plat of the Addition, together with all other easements granted or reserved by Declarant in this Declaration; (c) subordinating its lien to all of the aforementioned easements and easement rights; and (d) subordinating its lien to the restrictions, covenants and conditions imposed by Declarant upon the Addition by this Declaration. However, Lienholder joins herein solely and only as a lienholder and only for the purposes set forth above in this paragraph and it does not assume any of the liabilities, duties, covenants, warranties or obligations of Declarant, or Declarant's successors or assigns, nor does it make any warranties, representations or guaranties, whether express or implied, with respect to any undertaking, covenant, warranty or representation on the part of Declarant, or Declarant's successors or assigns.

ARTICLE XIII - AMENDMENT AND RATIFICATION

As herein and hereby amended and supplemented, Declarant and each of the undersigned lienholders do hereby confirm and ratify each and every of the other provisions, covenants, conditions, restrictions and reservations set forth and contained in the Declaration of Covenants, Conditions and Restrictions of Highpoint Phase One recorded under Clerk's File No. 2006007966 of the Official Public Records, Jefferson County, Texas, Declaration, as modified and supplemented hereby,

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, Declarant and Lienholder have caused this Declaration to be executed on this 29th day of December, 2006.

DECLARANT:

BEAUMONT HIGHPOINT PARTNERS, LTD.

By: Beaumont Highpoint Partners GP, L.L.C.,
General Partner

By: [Signature]
Name: Barry W. Allen
Its: Manager

LIENHOLDER:

Clyde E. Allen
CLYDE E. ALLEN

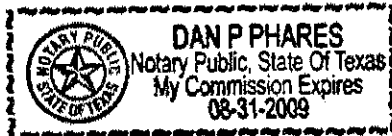
[Signature]
SHIRLEY ALLEN

THE STATE OF TEXAS
COUNTY OF JEFFERSON

§
§

BEFORE ME, the undersigned authority, on this day personally appeared Barry Allen, Manager of Beaumont Highpoint Partners GP, LLC, General Partner of Beaumont Highpoint Partners, Ltd., a Texas limited partnership, known to me ~~(or proved to me through the oath of~~ or through [Signature] to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 29th day of December, 2006.



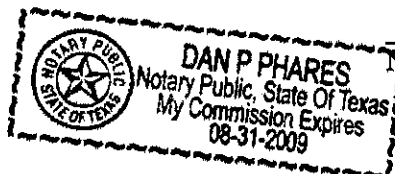
[Signature]
Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF JEFFERSON

உயர்வு

BEFORE ME, the undersigned authority, on this day personally appeared CLYDE E. ALLEN, known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 29th day of April, 2006.



Notary Public, State of Texas

THE STATE OF TEXAS
COUNTY OF JEFFERSON

con con

BEFORE ME, the undersigned authority, on this day personally appeared SHIRLEY ALLEN, known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 27 day of December, 2006.



Notary Public, State of Texas

AFTER RECORDING RETURN TO:

John W. Johnson
P. O. Box 1751
Beaumont, Texas 77704-1751

Exhibit A

FIELD NOTE DESCRIPTION OF A 7.861 ACRE (342,418 SQUARE FEET) TRACT OF LAND OUT OF THE WESLEY DIKES SURVEY, ABSTRACT NO. 17, LOCATED IN BEAUMONT JEFFERSON COUNTY, TEXAS, SAID TRACT BEING OUT AND A PART OF THAT CERTAIN 15.417 ACRE TRACT CONVEYED BY CLYDE E. ALLEN AND WIFE SHIRLEY ALLEN, TO BEAUMONT HIGHPOINT PARTNERS, LTD. AS RECORDED UNDER CLERK'S FILE NO. 2005017468 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, JEFFERSON COUNTY, TEXAS, SAID 7.861 ACRE TRACT BEING MORE FULLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A ½ INCH (½ ") IRON ROD/CAP MARKING THE MOST SOUTHERLY SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, SAID CORNER BEING LOCATED IN THE NORTHERLY LINE OF RFD ROAD, A SIXTY FOOT (60') WIDE PUBLIC STREET RIGHT-OF-WAY, AND ALSO MARKING THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID 15.417 ACRE BEAUMONT HIGHPOINT PARTNERS TRACT;

THENCE WITH THE COMMON BOUNDARY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT WITH THE RESIDUAL OF THAT CERTAIN 4.99 ACRE TRACT CONVEYED TO CLYDE E. ALLEN AND WIFE, SHIRLEY ALLEN AS RECORDED UNDER COUNTY CLERK'S FILM CODE NO. 102-65-1913 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, JEFFERSON COUNTY, TEXAS, NORTH 38 DEGREES 41 MINUTES 04 SECONDS WEST (N 38° 41' 04" W) FOR A DISTANCE OF 137.60 FEET (137.60') TO A ½ INCH (½ ") IRON ROD WITH CAP MARKING AN ELL CORNER OF SAID 15.417 ACRE BEAUMONT HIGHPOINT PARTNERS TRACT AND OF THE HEREIN DESCRIBED TRACT ;

THENCE CONTINUING WITH THE COMMON BOUNDARY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT AND RESIDUAL OF SAID 4.99 ACRE ALLEN TRACT, SOUTH 51 DEGREES 18 MINUTES 56 SECONDS WEST (S 51° 18' 56" W) FOR A DISTANCE OF 99.98 FEET (99.98') TO A ½ INCH (½ ") IRON ROD WITH CAP MARKING THE MOST WESTERLY, SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, SAID CORNER BEING LOCATED IN THE MOST WESTERLY EAST LINE OF THAT CERTAIN 0.687 ACRE TRACT OF LAND CONVEYED BY BEAUMONT HIGHPOINT PARTNERS, LTD. TO JEFFERSON COUNTY DRAINAGE DISTRICT NO. 6 (DD6) AS RECORDED UNDER COUNTY CLERK'S FILE NO. 2006001372 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, JEFFERSON COUNTY, TEXAS;

THENCE WITH THE MOST WESTERLY EAST LINE OF SAID 0.687 ACRE DD6 TRACT AND THE MOST WESTERLY LINE OF THE HEREIN DESCRIBED TRACT, NORTH 41 DEGREES 15 MINUTES 45 SECONDS WEST (N 41° 15' 45" W) FOR A DISTANCE OF 890.36 FEET (890.36') TO A ½ INCH (½ ") IRON ROD/CAP MARKING AN ANGLE POINT IN SAID 0.687 ACRE DD6 TRACT AND IN THE WESTERLY LINE OF THE HEREIN DESCRIBED TRACT;

THENCE CONTINUING WITH THE MOST WESTERLY EAST LINE OF SAID 0.687 ACRE DD6 TRACT AND THE MOST WESTERLY LINE OF THE HEREIN DESCRIBED TRACT, NORTH 37 DEGREES 15 MINUTES 45 SECONDS WEST (N 37° 15' 45" W) FOR A DISTANCE OF 25.55 FEET (25.55') TO A ½ INCH (½") IRON ROD/CAP MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE WITH THE MOST NORTHERLY LINE OF THE HEREIN DESCRIBED TRACT, NORTH 51 DEGREES 18 MINUTES 56 SECONDS EAST (N 51° 18' 56" E) FOR A DISTANCE OF 380.35 FEET (380.35') TO A ½ INCH (½") IRON ROD/CAP MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, SAID CORNER BEING LOCATED IN THE MOST WESTERLY LINE OF THAT CERTAIN 26.251 ACRE TRACT OF LAND CONVEYED BY DEED TO MAGNA PROPERTIES, LTD. AS RECORDED UNDER COUNTY CLERK'S FILE NO. 2003025480 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, JEFFERSON COUNTY, TEXAS, AND IN THE MOST EASTERLY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT;

THENCE WITH THE MOST WESTERLY LINE OF SAID 26.251 ACRE MAGNA PROPERTIES TRACT, THE MOST EASTERLY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT, AND THE MOST EASTERLY LINE OF THE HEREIN DESCRIBED TRACT, SOUTH 38 DEGREES 41 MINUTES 04 SECONDS EAST (S 38° 41' 04" E) AT 583.50 FEET (583.50') PASS A 5/8 INCH (5/8") IRON ROD FOUND MARKING THE NORTHWEST CORNER OF THAT CERTAIN 1.995 ACRE TRACT CONVEYED BY DEED TO CHARLENE McDANIEL AND JOHN D. OLSEN AS RECORDED UNDER COUNTY CLERK'S FILE NO. 97-9730365 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, JEFFERSON COUNTY, TEXAS, AND CONTINUING ALONG SAID COURSE FOR A TOTAL DISTANCE OF 865.00 FEET (865.00') TO A ½ INCH (½") IRON ROD/CAP MARKING THE MOST EASTERLY SOUTHEAST CORNER OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT AND OF THE HEREIN DESCRIBED TRACT SAID CORNER ALSO BEING THE NORTHEAST CORNER OF LOT 1 OF THE ALLEN ADDITION AS RECORDED IN VOLUME 17, PAGE 346 OF THE MAP RECORDS OF JEFFERSON COUNTY, TEXAS;

THENCE WITH THE COMMON BOUNDARY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT AND THE NORTHWESTERLY LINE OF LOTS 1 AND 2 OF THE ALLEN ADDITION, SOUTH 51 DEGREES 18 MINUTES 56 SECONDS WEST (S 51° 18' 56" W) FOR A DISTANCE OF 105.00 FEET (105.00') TO A ½ INCH (½") IRON ROD WITH CAP MARKING AN INTERIOR ELL CORNER OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT AND THE NORTHWEST CORNER OF LOT 2 OF SAID ALLEN ADDITION;

THENCE CONTINUING WITH THE COMMON BOUNDARY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT AND THE SOUTHWESTERLY LINE OF

LOT 2, ALLEN ADDITION, SOUTH 38 DEGREES 41 MINUTES 04 SECONDS EAST (S 38° 41' 04" E) FOR A DISTANCE OF 160.74 FEET (160.74') TO A ½ INCH (½") IRON ROD WITH CAP MARKING THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT AND THE SOUTHWEST CORNER OF LOT 2, ALLEN ADDITION, SAID CORNER BEING LOCATED IN THE NORTHERLY RIGHT-OF-WAY LINE OF SAID RFD ROAD;

THENCE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SAID RFD ROAD, THE MOST SOUTHERLY LINE OF SAID 15.417 ACRE HIGHPOINT PARTNERS TRACT, AND MOST SOUTHERLY LINE OF THE HEREIN DESCRIBED TRACT, SOUTH 40 DEGREES 08 MINUTES 27 SECONDS WEST (S 40° 08' 27" W) FOR A DISTANCE OF 138.59 FEET (138.59') TO THE PLACE OF BEGINNING.

CONTAINING IN AREA, 7.861 ACRES (342,418 SQUARE FEET) OF LAND, MORE OR LESS.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Carolyn L. Guidry

2007 Jan 03 02:32 PM

2007000327

ANNUAL FEE \$116.00

CAROLYN L. GUIDRY COUNTY CLERK

JEFFERSON COUNTY TEXAS



AND
5 PGS

2008028144

**SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
HIGHPOINT PHASE ONE,
AN ADDITION TO THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS**

This Second Amended Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made and executed on the date hereinafter set forth by Beaumont Highpoint Partners, Ltd. (the "Declarant"), a Texas limited partnership and is being made pursuant to Article X, Section 2 of the First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Highpoint Phase One recorded under Clerk's File No. 2007000327 of the Official Public Records, Jefferson County, Texas (the "First Amended Declaration"), Declarant being the owner of not less than 80% of the Lots in the Addition.

WHEREAS, there has been subdivided and platted into an addition to the City of Beaumont, Jefferson County, Texas, certain real property now known and to be known as "Beaumont Highpoint Phase One, an Addition to the City of Beaumont, Jefferson County, Texas" (the "Addition"), according to the plat thereof filed for record under Clerk's File No. 2006007965 in the office of the County Clerk of Jefferson County, Texas, (the "Plat"); and

WHEREAS, Declarant desires to amend the First Amended Declaration of Highpoint Phase One as same appears of recorded under Clerk's File No. 2007000327 of the Official Public Records, Jefferson County, Texas;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that Declarant hereby amends the First Amended Declaration as follows:

The Declaration is made for the purpose of enhancing and protecting the value, attractiveness, and desirability of the Lots in the Addition, and for the purpose of providing for the orderly development, use and enjoyment of the Lots in the Addition, Declarant hereby declares that after the date hereof, all of the Land in the Addition shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions hereinafter set forth, which shall constitute covenants running with the Land and shall be binding upon all parties having any right, title or upon such parties' respective heirs, successors, legal representatives, devisees, lessees and assigns, and shall inure to the benefit of such parties and their respective heirs, successors, legal representatives, devisees, lessees and assigns.

All capitalized terms used herein, but not otherwise defined shall have the meanings set forth in the First Amended Declaration.

1. Article VIII, Section 16 of the First Amend Declaration is hereby deleted in its entirety and in its place is substituted the following:

ARTICLE VIII - USE RESTRICTIONS

Section 16. Yard Landscaping. Before any dwelling constructed on the Lot may be occupied as a residence, in a manner acceptable to the Committee, the front yard, side yards and rear yard of such Lot must be planted with grass, and be landscaped.

2. Article VIII, Section 25 of the First Amend Declaration is hereby deleted in its entirety and in its place is substituted the following:

Section 25. Intentionally Omitted.

3. Except as expressly modified herein, all of the terms, conditions, provisions and covenants of the First Amended Declaration are in all other respects hereby ratified and confirmed and shall remain in full force and effect.

4. Severability. In the event that any provision of this Declaration, or any portion thereof, shall be held to be invalid or unenforceable by judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect, invalidate or impair any other provision, or part of a provision, hereof, and all remaining provisions, or parts of provisions, shall remain valid and in full force and effect in accordance herewith.

5. Lienholder Joinder. Wachovia Bank, National Association and Clyde E. Allen and wife, Shirley Allen (hereinafter collectively referred to as "Lienholder"), being the holder of a lien or liens on the Existing Property, joins with Declarant in the execution of this Declaration for the purposes of consenting to and adopting and subordinating their respective liens to the restrictions, covenants and conditions imposed by Declarant upon the Addition by this Declaration. However, Lienholder joins herein solely and only as a lienholder and only for the purposes set forth above in this paragraph and it does not assume any of the liabilities, duties, covenants, warranties or obligations of Declarant, or Declarant's successors or assigns, nor does it make any warranties, representations or guaranties, whether express or implied, with respect to any undertaking, covenant, warranty or representation on the part of Declarant, or Declarant's successors or assigns.

6. Ratification. As herein and hereby amended, Declarant and each of the undersigned lienholders do hereby confirm and ratify each and every of the other provisions, covenants, conditions, restrictions and reservations set forth and contained in the of the First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Highpoint Phase One recorded under Clerk's File No. 2007000327 of the Official Public Records, Jefferson County, Texas, as amended hereby,

IN WITNESS WHEREOF, Declarant and Lienholder have caused this Declaration to be executed on this 1 day of August, 2008.

DECLARANT:

BEAUMONT HIGHPOINT PARTNERS, LTD.

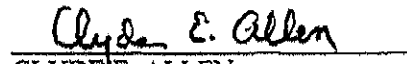
By: Beaumont Highpoint Partners GP, L.L.C.,
General Partner

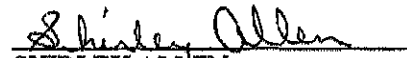
By: 
Name: Barry W. Allen
Its: Manager

LIENHOLDERS:

Wachovia Bank, National Association


BY: JOAN O'BURKE
ITS: VICE PRESIDENT


CLYDE E. ALLEN

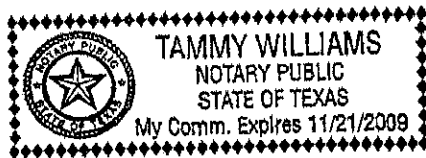

SHIRLEY ALLEN

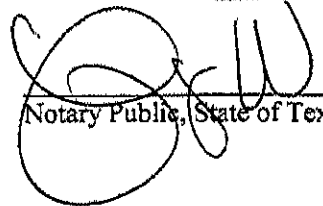
THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared Barry Allen, Manager of Beaumont Highpoint Partners GP, LLC, General Partner of Beaumont Highpoint Partners, Ltd., a Texas limited partnership, known to me (or proved to me through the oath of TOL) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 1 day of August, 2008.



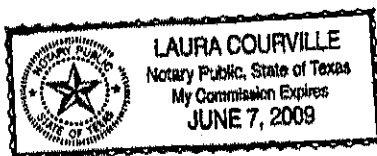

Notary Public, State of Texas

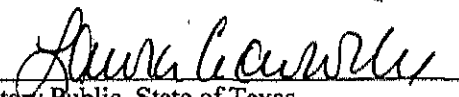
THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared Laura Courville Vice President of Wachovia Bank, National Association, known to me (or proved to me through the oath of) or through to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purposes and consideration and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4 day of August, 2008.



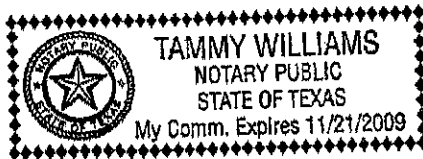

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared CLYDE E. ALLEN, known to me (or proved to me on the oath of _____ or through _____) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4 day of August, 2008.



[Signature]
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF JEFFERSON §

BEFORE ME, the undersigned authority, on this day personally appeared SHIRLEY ALLEN, known to me (or proved to me on the oath of _____ or through Drivers License) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4 day of August, 2008.



[Signature]
Notary Public, State of Texas

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Carolyn L. Guidry

2008 Aug 04 04:07 PM

2008028144

CAROL \$32.00

CAROLYN L. GUIDRY COUNTY CLERK
JEFFERSON COUNTY TEXAS

AFTER RECORDING RETURN TO:
John W. Johnson
P. O. Box 1751
Beaumont, Texas 77704-1751