



ST. CHARLES PARISH

DEPARTMENT OF PLANNING AND ZONING

MATTHEW JEWELL
PARISH PRESIDENT

MEMORANDUM

To: Michelle Impastato
Council Secretary

From: Michael J. Albert, AICP *MJA*
Director, Planning and Zoning

Date: October 18, 2023

**RE: Final Plat Approval and Acceptance of Improvements
Heather Oaks Subdivision Phase 2**

Please prepare the Final Plat and Act of Dedication for Heather Oaks, Phase 2 for the Parish Council's consideration with the enclosed copies of required documents detailed below.

- Ordinance
- Letter requesting final plat approval
- Act of Dedication (three originals signed by the developer w/certificates of authority)
- Final Plat (five originals signed by Planning Commission Chair & Developer)
- Approval letters from the following departments:
 - Public Works
 - Wastewater
 - Waterworks
 - Contract Monitor
 - MS4
- Maintenance Agreement
- Letter of Irrevocable Credit (one original)
- GASB 34
- Certification statement re: sewer development connection fee payment
- Documentation that all fees have been paid
- Private Covenants as recorded in the records of the St. Charles Parish Clerk of Courts

The above referenced documents will also be forwarded by email.

Please contact Chris Welker in the Department of Planning and Zoning if you need additional documentation.

2023 _____

**INTRODUCED BY: MATTHEW JEWELL, PARISH PRESIDENT
(DEPARTMENT OF PLANNING & ZONING)**

ORDINANCE NO. _____

An ordinance approving and authorizing the execution of an Act of Dedication for Heather Oaks, Phase 2, Luling.

WHEREAS, Heather Oaks, L.L.C. is the owner and developer of property located in Section 45, T13S – R21E and Section 39, T14S – R21E, Luling as indicated on a Final Plat prepared by Louis J. Gassen, Jr, PLS dated January 20, 2023 entitled FINAL PLAT HEATHER OAKS PHASE 2; and,

WHEREAS, said subdivision has been constructed in accordance with the St. Charles Parish Subdivision Regulations of 1981, as amended; and,

WHEREAS, all required approvals for the subdivision are complete and all required fees are paid.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Act of Dedication by Heather Oaks, L.L.C. for Heather Oaks, Phase 2 is hereby approved and accepted.

SECTION II. That the Parish President is hereby authorized to execute the Final Plat and Act of Dedication on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

Yeas:

Nays:

Absent:

Abstain:

And the ordinance was declared adopted this _____ day of _____, 2023, to become effective five (5) days after publication in the Official Journal.



Civil & Environmental Consulting Engineers
Danny J. Hebert, P.E., L.L.C.

14433 River Road

Hahnville, LA 70057

www.hebertengineering.com

phone: (985) 785-2380



September 27, 2023

Re: Heather Oaks – Phase II Application for Approval of Final Plat

Dear Ms. Impastato and Council Members:

Please be advised that Heather Oaks, LLC is requesting Final Plat approval for Heather Oaks Subdivision – Phase II.

Attached are all documents and fees required for approval. We request that this matter be heard and approved at the earliest available meeting of the St. Charles Parish Council.

Please do not hesitate to contact the undersigned if you require additional information.

Sincerely,

Danny J. Hebert, P.E.

(Engineer of Record for Heather Oaks Subdivision – Phase II)

Mailing Address: 14433 River Road • Hahnville, Louisiana • 70057

Tel: (985) 785-2380 • Email: dhebert@hebertengineering.com

ACT OF DEDICATION

UNITED STATES OF AMERICA

BY: HEATHER OAKS, L.L.C.

STATE OF LOUISIANA

TO: ST. CHARLES PARISH

PARISH OF ST. CHARLES

BE IT KNOWN, that on this 21st day of September, in the year of Our Lord Two Thousand and Twenty-Three,

BEFORE ME, the undersigned authority, a Notary Public, duly commissioned and qualified in and for the aforesaid Parish and State, therein residing, and in the presence of the two competent witnessed hereinafter named and undersigned,

PERSONALLY CAME AND APPEARED:

HEATHER OAKS, L.L.C., a limited liability company organized and existing under and by the laws of the State of Louisiana with its domicile in the Parish of Lafayette, within said State, herein appearing by and through, its Manager, Timothy J. Bradley, duly authorized by Certificate of Authority attached hereto (Hereinafter sometimes referred to as "Developer");

MAILING ADDRESS: 104 S. Jefferson Street
Broussard, Louisiana 70518

Who after being duly sworn, declared unto me, Notary, that it is the owner of a certain tract of real property situated in Section 45, T13S-R21E and Section 39, T14S-R21E, in St. Charles Parish, Louisiana, which lands are designated as Heather Oaks, Phase 2, as shown on a survey of said subdivision prepared by Gassen Surveying, LLC, dated January 20, 2023, signed by Louis J. Gassen, Jr., Registered Land Surveyor, (hereinafter referred to as the "Final Plat"), a copy of which is attached to and made part of this Act; and

Developer further declared unto me that it has caused the above property designated as Heather Oaks Phase 2 on the Final Plat referred to above to be laid out in lots on the plan of survey and/or re-subdivision referred to above, a copy of which is attached and made part hereof; and Developer further declared unto me, Notary, that on the Final Plat, it has laid out certain streets within the Heather Oaks Phase 2 which are named and identified in accordance with the annexed Final Plat as Lake Scott Drive, Olivia Drive, and Gus Street, and within which said streets, the water, sewer, drainage and street light infrastructure lies and all of which improvements are herein dedicated to St. Charles Parish. Also, by this Act, Developer does hereby create the streets and servitudes identified below as being a part of Heather Oaks Phase 2, the description of which streets and servitudes are as follows:

DESCRIPTION
HEATHER OAKS
PHASE 2
STREET RIGHT OF WAY

A certain portion of ground situated in the Parish of St. Charles, State of Louisiana, on the West Bank of the Mississippi River, located in Section 45, Township 13 South, Range 21 East and Section 39, Township 14 South, Range 21 East, being a Right of Way to be dedicated to St. Charles Parish, and more particularly described as follows:

Commence from Heather Oaks Phase 1 Point of Beginning, proceed S73°13'07"E a distance of 285.40 feet to the beginning of Heather Oaks Phase 2, thence continue S73°13'07"E a distance of 112.56 feet to the POB3 (Streets), being the northwesterly corner of Olivia Drive and the southerly right of way of East Heather Drive, proceed S73°13'07"E along said southerly right of way of East Heather Drive a distance of 50.02 feet, thence S14°58'43"W along the easterly right of way of Olivia Drive a distance of 3452.23 feet, thence N75°01'17"W a distance of 50.00 feet, thence N14°58'43"E along the westerly right of way of Olivia Drive a distance of 1280.00 feet to a point of curvature, thence along the arc of a curve to the left having a radius of 25.00 feet a distance of 39.27 feet (a chord of 35.36 feet and a chord bearing of N30°01'17"W) to the southerly right of way of Lake Scott Drive, thence N75°01'17"W along said right of way a distance of 87.50 feet, thence N14°58'43"E a distance of 50.00 feet to the northerly right of way of Lake Scott Drive, thence S75°01'17"E along said right of way a distance of 87.50 feet to a point of curvature, thence along the arc of a curve to the left having a radius of 25.00 feet a distance of 39.27 feet (a chord of 35.36 feet and a chord bearing of N59°58'43"E) to the westerly right of way of Olivia Drive, thence N14°58'43"E along said right of way a distance of 1075.00 feet to a point of curvature, thence along the arc of a curve to the left having a radius of 25.00 feet a distance of 39.27 feet (a chord of 35.36 feet and a chord bearing of N30°01'17"W) to the southerly right of way of Gus Street, thence N75°01'17"W along said right of way a distance of 87.50 feet, thence N14°58'43"E a distance of 50.00 feet to the northerly right of way of Gus Street, thence S75°01'17"E along said right of way a distance of 87.50 feet to a point of curvature, thence along the arc of a curve to the left having a radius of 25.00 feet a distance of 39.27 feet (a chord of 35.36 feet and a chord bearing of N59°58'43"E) to the westerly right of way of Olivia Drive, thence N14°58'43"E along said right of way a distance of 898.80 feet to the POB3 (Streets).

As more fully shown on a plan by Gassen Surveying, LLC, Louis J Gassen Jr, PLS dated January 20, 2023.

and,

HEATHER OAKS
PHASE 2
DRAINAGE SERVITUDES
(IN FAVOR OF ST. CHARLES PARISH)

Certain portions of ground situated in the Parish of St. Charles, State of Louisiana, on the West Bank of the Mississippi River, located in Section 45, Township 13 South, Range 21 East and Section 39, Township 14 South, Range 21 East within Heather Oaks Phase 2, being 15 foot Drainage Servitudes.

Descriptions:

1.

A 15 foot drainage servitude in Heather Oaks Phase 2, is hereby dedicated to St. Charles Parish and described as follows: Along the common boundary of Lots 89 and 90 Heather Oaks Phase 2, being a 5 foot servitude within Lot 89 along the total length of the boundary with Lot 90 and a 10 foot servitude within Lot 90 along the total length of the boundary with Lot 89, Heather Oaks Phase 2, as more fully shown on a plan by Gassen Surveying, LLC, Louis J Gassen Jr, PLS dated January 20, 2023.

2.

A 15 foot drainage servitude in Heather Oaks Phase 2, is hereby dedicated to St. Charles Parish and described as follows: Along the common boundary of Lots 99 and 100 Heather Oaks Phase

2, being a 5 foot servitude within Lot 99 along the total length of the boundary with Lot 100 and a 10 foot servitude within Lot 100 along the total length of the boundary with Lot 99, Heather Oaks Phase 2, as more fully shown on a plan by Gassen Surveying, LLC, Louis J Gassen Jr, PLS dated January 20, 2023.

3.

A 15 foot drainage servitude in Heather Oaks Phase 2, is hereby dedicated to St. Charles Parish and described as follows: Along the common boundary of Lots 115 and 116 Heather Oaks Phase 2, being a 5 foot servitude within Lot 115 along the total length of the boundary with Lot 116 and a 10 foot servitude within Lot 116 along the total length of the boundary with Lot 115, Heather Oaks Phase 2, as more fully shown on a plan by Gassen Surveying, LLC, Louis J Gassen Jr, PLS dated January 20, 2023.

Developer further declared unto me, Notary, that under the covenants, conditions and stipulations hereinafter recited it does, by these presents, dedicate in fee simple title to St. Charles Parish portions of the following streets to the extent that they are located within Heather Oaks, Phase 2, namely: Lake Scott Drive, Olivia Drive, and Gus Street as hereinabove described and within which streets the water, sewer, drainage and street light infrastructure lies and all of which improvements as hereinabove described and, all as shown on the annexed Final Plat by Gassen Surveying, dated January 20, 2023, signed by Louis J. Gassen, Jr., Registered Land Surveyor, and does hereby grant the various servitudes for water, sewer, utility and drainage purposes, all as shown on the annexed Final Plat, to public use, unto and in favor of the Parish of St. Charles, the inhabitants of the Parish of St. Charles, and to the public in general and Developer further declared unto me, Notary, that the aforesaid dedication and grant are subject to all of the following terms and conditions, to wit:

1. The dedication of the fee ownership of the property covered by the streets identified as those portions of Lake Scott Drive, Gus Street, and Olivia Drive only as far as said streets are located in Phase 2 of Heather Oaks and as shown on the Final Plat by Gassen Surveying, LLC, dated January 20, 2023.
2. Developer does hereby reserve all rights of ownership to all of the oil, gas and other minerals in, on and under the property covered and affected by the streets identified hereinabove and by the aforesaid water, sewer, utility and drainage servitudes granted herein. In that connection, Developer does, however, agree to prohibit the use of any part of the surface of any of the property covered by the streets and servitudes with respect to the exploration, development or production of minerals pursuant to this reservation. This reservation is made in accordance with the Developer's plan and intention to impose a restriction on the entire subdivision against any use of the surface of any lot for the exploration, development or production of minerals.
3. The herein grant of the various servitudes for water, sewer, utility and drainage purposes shall constitute the granting only of a "personal servitude of right of use" being a "limited personal servitude" in favor of St. Charles Parish.
4. The herein dedication of streets and grant of servitudes for water, sewer utility and drainage purposes are made by Developer without any warranty whatsoever except as provided for herein.

5. Developer warrants that the various servitudes for water, sewer utility and drainage purposes and streets have been placed within the servitudes granted herein.
6. St. Charles Parish binds and obligates itself not to use the property dedicated herein for street purposes in any manner which is inconsistent with or detrimental to such use as a public street. St. Charles Parish further binds and obligates itself to use the water, sewer, utility and drainage servitudes granted herein only for water, utility and drainage purposes.
7. This dedication and grant are conditioned upon St. Charles Parish maintaining and policing the streets dedicated herein, and maintaining the various water, sewer, utility and drainage facilities within the various water, utility and drainage servitudes areas.
8. The grant herein of various servitudes for water, sewer, utility and drainage purposes is not exclusive and Developer reserves the right to use or grant any other rights with respect to said property not inconsistent with the aforesaid servitude grants. The herein granted water, sewer, utility and drainage servitudes shall not be utilized so as to unreasonably interfere with or impair ingress and egress from the streets dedicated herein to any of the lots in the Heather Oaks Phase 2.
9. The dedication and grant made herein are made subject to any existing servitudes affecting Heather Oaks Phase 2, such as by way of illustration by not limitation pipeline servitudes and levees.
10. The herein dedication and grant shall inure to the benefit of St. Charles Parish or any successor governmental body of St. Charles Parish, which shall be bound by all of the terms and conditions hereof.
11. Developer warrants that the herein dedication of streets and grant of servitudes are free of any liens and/or encumbrances and that no lots have been sold or alienated prior to the date hereof.

AND NOW, to these presents, personally came and intervened:

ST. CHARLES PARISH, herein appearing by and through Matthew Jewell, Parish President, duly authorized by virtue of an Ordinance of the St. Charles Parish Council adopted on _____, a certified copy of which is annexed hereto and made part hereof, and said St. Charles Parish does hereby accept, approve and ratify the herein dedication and grant under all of the terms and conditions as contained hereinabove, and does also hereby acknowledge that the construction of the streets dedicated herein has been satisfactorily completed in accordance with all requirements and that all water, sewer, utility and drainage facilities in Heather Oaks Phase 2 have been likewise satisfactorily completed in accordance with all requirements and St. Charles Parish does hereby accept all of said streets, and water, utility and drainage facilities and assumes the maintenance thereof.

THUS DONE AND PASSED, in triplicate originals, in my office on the 21st day of September, 2023, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said appearer and me, Notary, after reading the whole.

WITNESSES:

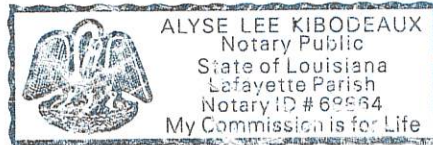
HEATHER OAKS, LLC

Brandi Sons
Print Name: Brandi Sons

Timothy J. Bradley
By: Timothy J. Bradley, Manager

CLIFTON D. GUILBERT
Print Name: CLIFTON D. GUILBERT

Alyse Lee Kibodeaux
Notary Public



THUS DONE AND PASSED, in triplicate originals, in my office on the ___ day of _____, 2023, in the presence of the undersigned competent witnesses, who hereunto sign their names with the said Appearer and me, Notary, after reading the whole.

WITNESSES:

ST. CHARLES PARISH

Print Name: _____

By: Matthew Jewell,
Parish President

Print Name: _____

Notary Public

CERTIFICATE

BY: HEATHER OAKS, L.L.C.

TO: WHOM IT MAY CONCERN

BE IT KNOWN, that on the day and date set forth herein below, Timothy J. Bradley and Clifton D. Guidry, Managers of HEATHER OAKS, L.L.C (the "Limited Liability Company"), a Louisiana Limited Liability Companies authorized to do and doing business in the State of Louisiana with its principal place of business and domicile in Lafayette Parish, Louisiana, do hereby certify as follows:

(1) That Camellia Building, LLC and Guidry Land Development, LLC are the sole members of the Limited Liability Company and Timothy J. Bradley and Clifton D. Guidry, respectively, are the managers of said Camellia Building, LLC and Guidry Land Development, LLC, respectively;

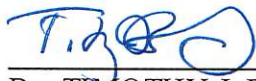
(2) That on the 6th day of October, 2023, a meeting of all of the members of the Limited Liability Company was duly called and properly held in accordance with law, and that at said meeting the following Resolution was duly and legally adopted, and is still in full force and effect, to-wit:

Resolved, That either Timothy J. Bradley or Clifton D. Guidry, who are the sole Managers of the Limited Liability Company are each individually duly authorized by the Limited Liability Company, and all of its Members, to do all things and to sign all documents necessary on behalf of the Limited Liability Company, including but not limited to Sales, Deeds, Donations, Settlement Statements, Affidavits, Acknowledgements, Acts of Dedication, Dedication of Covenants and Restrictions, as the said representative may in his sole discretion consider appropriate, and any other documents that may be necessary for the conduct of the business of the Limited Liability Company, all on such terms and conditions as either of said Managers deems proper in his sole discretion.

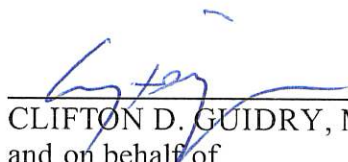
Resolved further that any actions taken, or documents signed by either of said Managers on behalf HEATHER OAKS, L.L.C. are hereby ratified and confirmed.

IN WITNESS WHEREOF, we have hereunto set our hands this 6th day of October, 2023.

HEATHER OAKS, L.L.C.



By: TIMOTHY J. BRADLEY, Manager
and on behalf of
CAMELLIA BUILDING, LLC, Member



CLIFTON D. GUIDRY, Manager
and on behalf of
GUIDRY LAND DEVELOPMENT, LLC, Member



ST. CHARLES PARISH


PUBLIC WORKS

MATTHEW JEWELL
PARISH PRESIDENT

MILES BINGHAM, P.E.
DIRECTOR

MEMORANDUM

To: Mr. Michael Albert
Director of Planning and Zoning

From: Miles B. Bingham, PE 
Director of Public Works

Date: August 24, 2023

Re: **Heather Oaks Subdivision, Phase 2
Final Acceptance**

A final inspection was performed on December 22, 2022 and a punch list was generated. At the time the punch list contained items that prohibited acceptance of the subdivision. As of August 22, 2023 all items that pertain to Public Works were completed and found to be in conformance with the plans and specifications.

Should you have any questions or comments, please do not hesitate to call.

MBB/lpz

cc: Mr. Matthew Jewell, Parish President
Parish Council, c/o Ms. Michelle Impastato
Mr. Eric Berteau, Parish Contract Monitor
Mr. Chris Welker, Development Review Planner
Mr. Danny Hebert, PE, Engineer for the Developer



ST. CHARLES PARISH


WASTEWATER

MATTHEW JEWELL
PARISH PRESIDENT

DAVID DEGENERES
DIRECTOR

MEMORANDUM

To: Mr. Michael Albert
Director of Planning and Zoning

From: David deGeneres 
Director of Wastewater

Date: August 24, 2023

Re: **Heather Oaks Subdivision, Phase 2
Final Acceptance**

A final inspection was performed on December 22, 2022 and a punch list was generated. At the time the punch list contained items that prohibited acceptance of the subdivision. As of August 22, 2023 all items and notably the lift station serving the entire subdivision have been completed and found to be in conformance with the plans and specifications.

Should you have any questions or comments, please do not hesitate to call.

DD/lpz

cc: Mr. Matthew Jewell, Parish President
Parish Council, c/o Ms. Michelle Impastato
Mr. Eric Berteau, Parish Contract Monitor
✓ Mr. Chris Welker, Development Review Planner
Mr. Danny Hebert, PE, Engineer for the Developer



ST. CHARLES PARISH

WATERWORKS

MATTHEW JEWELL
PARISH PRESIDENT

GREG GORDEN
DIRECTOR

August 7, 2023

Mr. Michael Albert
Director, Planning and Zoning
St. Charles Parish
P.O. Box 302
Hahnville, LA 70057

Re: Heather Oaks, Phase II
Waterline Installations

Dear Mr. Albert:

The water main installations as shown on Heather Oaks, Phase II Subdivision plans, dated March 8, 2021, with a latest revision date of February 24, 2023, by Danny J. Hebert, P.E., Civil and Environmental Consulting Engineers have been installed. The completed installation has passed the required Pressure/Leakage and Bacteriological tests.

Final approval is hereby granted.

The owner is responsible for the maintenance of this water system for a period of one year after acceptance by the St. Charles Parish Council.

If there are any questions regarding this matter, please do not hesitate to call.

Sincerely,

Greg Gorden

Cc: Mr. Chris Welker
Ms. Marny Stein

GG:rcj



ST. CHARLES PARISH


PUBLIC WORKS CONTRACT MONITORING

100 RIVER OAKS DRIVE • DESTREHAN, LOUISIANA 70047
(985) 331-8604 • FAX (985) 764-7834

MATTHEW JEWELL
PARISH PRESIDENT
MILES Bingham, P.E.
DIRECTOR

MEMORANDUM

To: Marny Stein, Senior Planner

FROM: Eric Berteau, Contract Administrator 

Date: August 2, 2023

RE: **Final Inspection Approval: Heather Oaks Subdivision Phase II**

The streetlight facilities for Heather Oaks Subdivision have been installed, inspected and comply with the submitted lighting layout plans. The required developer deposit due to Planning and Zoning for 23 streetlights at \$300 per light is \$6,900.00 IAW St. Charles Parish, Louisiana - Code of Ordinances / APPENDIX C - ST. CHARLES PARISH SUBDIVISION REGULATIONS OF 1981 / IV. - Design standards.

CC:
Mr. Miles Bingham, Public Works Director
Mr. Chris Welker, Senior Planner

*Inspected
8-1-23
D+G Electric
Ca*



ST. CHARLES PARISH

PUBLIC WORKS

MATTHEW JEWELL
PARISH PRESIDENT

MILES BINGHAM
DIRECTOR

March 7, 2022

This letter is to certify that Coastal Permitting has submitted their final Storm Water Pollution Prevention Plan inspection documents for the Heather Oaks subdivision to the St. Charles Parish Department of Public Works. Coastal Permitting's submission of these documents have demonstrated adequate implementation of Storm Water Construction Best Management Practices as outlined by Parish Ordinance 14-1-12. MS4 approval is granted for acceptance of the subdivision. This approval is independent of any final inspection or certification that is required from the St. Charles Parish Public Works - Engineering section.

John C. Gutierrez, Jr.
MS4 Coordinator

HEATHER OAKS, L.L.C.

104 S. Jefferson Street
Broussard, LA 70518

September 21, 2023

Mr. Miles Bingham
Director, Public Works
100 River Oaks Drive
Destrehan, LA 70047

Re: Heather Oaks – Phase 2 Maintenance Agreement

Dear Mr. Bingham,

This letter serves as an agreement to provide repair/replacement for bona fide deficiencies in the work product in the construction of the street and other improvements for the Heather Oaks - Phase 2 Subdivision for a period of eighteen (18) months from the date of acceptance by the Parish Council.

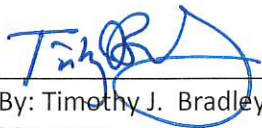
The items covered include the streets, streetlights, water line, sewer line and storm drainage.

Any work product deficiencies will be covered by the installation contractor for the project who is Byron E. Talbot Contractor, Inc. in accordance with Louisiana Law.

Thank you for your assistance and cooperation in this matter.

Sincerely,

Heather Oaks, LLC



By: Timothy J. Bradley
Manager



Letter of Credit No. 1382

October 10, 2023

St. Charles Parish
P.O Box 302
Hahnville, LA 70057

RE: Irrevocable Letter of Credit No.1382
Heather Oaks Phase II
Heather Oaks LLC
104 S Jefferson St
Broussard, La 70518-4508

We hereby irrevocably authorize you to draw on United Community Bank, Louisiana, not to exceed the aggregate of \$237,930.35, available by your draft(s) for the account of Heather Oaks, LLC.

Draft(s) must be presented at our office in Raceland on or prior to the expiration date of April 10, 2025, and must bear upon the face, the clause "Drawn under United Community Bank, Louisiana, Letter of Credit No. 1382, dated October 10, 2023. Draft(s) must be accompanied by this original Letter of Credit and the following document(s):

Statement purportedly signed by the authorized representative of St. Charles Parish reading: "We hereby certify that the amount drawn hereunder is due by Heather Oaks, LLC in conjunction with the Maintenance Agreement and Surety Maintenance Bond for Heather Oaks Phase II, shown more fully on a survey of final plat prepared by Louis J. Gassen Jr/Gassen Surveying LLC, dated January 20, 2023 creating Heather Oaks Phase II".

We hereby agree with you that draft(s) under and in compliance with the terms of this Letter of Credit will be duly honored on delivery of documents as specified, if presented on or before the date mentioned above at the main office of United Community Bank, 4626 LA-1, Raceland, Louisiana, 70394.

This Letter of Credit is subject to the "Uniforms Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Brochure No 400."

Sincerely,

A handwritten signature in blue ink that reads "Nicole Achee Glover". The signature is written in a cursive, flowing style.

Nicole Achee Glover
Sr Vice President / Commercial Lender



Civil & Environmental Consulting Engineers
 Danny J. Hebert, P.E., L.L.C.
 14433 River Road
 Hahnville, LA 70057
 www.hebertengineering.com
 phone: (985) 785-2380

**Heather Oaks Subdivision, Phase II
 GASB 34 REPORT**

Gus Street (137 LF Long, Avg. ±27 LF Wide)					
No.	Description	Quantity	Unit	Unit Cost	Total Cost
Drainage System					
1	18" Reinforced Concrete Pipe (RCP)	96	LF	\$54.25	\$5,208.00
2	Catch Basins	2	EA	\$3,500.00	\$7,000.00
Subtotal Construction Cost of Drainage System					\$12,208.00
Sewer System					
1	Concrete Sewer Manhole	1	EA	\$3,900.00	\$3,900.00
2	8" SDR-26 Sewer Pipe	132	LF	\$80.50	\$10,626.00
Subtotal Construction Cost of Sewer System					\$14,526.00
Streets					
1	Clearing, Grubbing, Excavation, and Grading (For R.O.W.)	0.13530	AC	\$31,844.42	\$4,308.55
2	12" Sand Base (Min.)	583	CY	\$20.50	\$11,947.77
3	Geotextile Fabric (For Base)	555	SY	\$2.10	\$1,165.50
4	7" Concrete Pavement (±166.0 tons based on 145 lbs/ft ³)	436	SY	\$58.50	\$25,506.00
5	Mountable Curb	230	LF	\$8.00	\$1,840.00
6	Stormwater Pollution Prevention Plan	1	LS	\$1,018.82	\$1,018.82
7	Street Signage	2	EA	\$333.33	\$666.66
8	4" Sch. 40 PVC Conduits	180	LF	\$15.00	\$2,700.00
Subtotal Construction Cost of Street					\$49,153.30
Electrical System					
1	20' High Aluminum HPS Single Pole	1	EA	\$5,391.30	\$5,391.30
Subtotal Construction Cost of Electrical System					\$5,391.30
Total Cost (Gus Street)					\$81,278.60



Civil & Environmental Consulting Engineers
 Danny J. Hebert, P.E., L.L.C.
 14433 River Road
 Hahnville, LA 70057
 www.hebertengineering.com
 phone: (985) 785-2380

**Heather Oaks Subdivision, Phase II
 GASB 34 REPORT**

Lake Scott Drive (137 LF Long, Avg. ±27 LF Wide)					
No.	Description	Quantity	Unit	Unit Cost	Total Cost
Drainage System					
1	18" Reinforced Concrete Pipe (RCP)	182	LF	\$54.25	\$9,873.50
2	Catch Basins	2	EA	\$3,500.00	\$7,000.00
Subtotal Construction Cost of Drainage System					\$16,873.50
Sewer System					
1	Concrete Sewer Manhole	1	EA	\$3,900.00	\$3,900.00
2	8" SDR-26 Sewer Pipe	132	LF	\$80.50	\$10,626.00
Subtotal Construction Cost of Sewer System					\$14,526.00
Streets					
1	Clearing, Grubbing, Excavation, and Grading (For R.O.W.)	0.13530	AC	\$31,844.42	\$4,308.55
2	12" Sand Base (Min.)	583	CY	\$20.50	\$11,947.77
3	Geotextile Fabric (For Base)	555	SY	\$2.10	\$1,165.50
4	7" Concrete Pavement (±166.0 tons based on 145 lbs/ft ³)	436	SY	\$58.50	\$25,506.00
5	Mountable Curb	230	LF	\$8.00	\$1,840.00
6	Stormwater Pollution Prevention Plan	1	LS	\$1,018.82	\$1,018.82
7	Street Signage	2	EA	\$333.33	\$666.66
8	4" Sch. 40 PVC Conduits	180	LF	\$15.00	\$2,700.00
Subtotal Construction Cost of Street					\$49,153.30
Electrical System					
1	20' High Aluminum HPS Single Pole	1	EA	\$5,391.30	\$5,391.30
Subtotal Construction Cost of Electrical System					\$5,391.30
Total Cost (Lake Scott Drive)					\$85,944.10



Civil & Environmental Consulting Engineers
 Danny J. Hebert, P.E., L.L.C.
 14433 River Road
 Hahnville, LA 70057
 www.hebertengineering.com
 phone: (985) 785-2380

**Heather Oaks Subdivision, Phase II
 GASB 34 REPORT**

Olivia Drive (3467 LF Long, Avg. ±27 LF Wide)					
No.	Description	Quantity	Unit	Unit Cost	Total Cost
Drainage System					
1	18" Reinforced Concrete Pipe (RCP)	2,931	LF	\$54.25	\$159,006.75
2	24" Reinforced Concrete Pipe (RCP)	302	LF	\$67.50	\$20,385.00
3	Catch Basins	28	EA	\$3,500.00	\$98,000.00
4	Drop Inlets	3	EA	\$2,900.00	\$8,700.00
Subtotal Construction Cost of Drainage System					\$286,091.75
Sewer System					
1	Concrete Sewer Manhole	11	EA	\$3,900.00	\$42,900.00
2	8" SDR-26 Sewer Pipe	3,285	LF	\$80.50	\$264,442.50
3	6" SDR-26 Sewer Pipe	1,840	LF	\$50.00	\$92,000.00
Subtotal Construction Cost of Sewer System					\$399,342.50
Water System					
1	3" Water Service Connection Sleeves	2,212	LF	\$15.00	\$33,180.00
2	8" C900 PVC	3,500	LF	\$40.30	\$141,050.00
3	8" Valves w/ Boxes	4	EA	\$2,200.00	\$8,800.00
4	Fire Hydrants	8	EA	\$5,500.00	\$44,000.00
5	8 x 12 x 12 Hot Tap Sleeve	1	EA	\$5,500.00	\$5,500.00
Subtotal Construction Cost of Water System					\$232,530.00
Streets					
1	Clearing, Grubbing, Excavation, and Grading (For R.O.W.)	4,37744	AC	\$31,844.42	\$139,397.04
2	12" Sand Base (Min.)	18,856	CY	\$20.50	\$386,553.34
3	Geotextile Fabric (For Base)	13,330	SY	\$2.10	\$27,993.00
4	7" Concrete Pavement (±3982.5 tons based on 145 lbs/ft ³)	10,463	SY	\$58.50	\$612,085.50
5	Mountable Curb	6,890	LF	\$8.00	\$55,120.00
6	Stormwater Pollution Prevention Plan	1	LS	\$32,962.37	\$32,962.37
7	Street Signage	8	EA	\$333.33	\$2,666.64
8	4" Sch. 40 PVC Conduits	360	LF	\$15.00	\$5,400.00
Subtotal Construction Cost of Street					\$1,262,177.89
Electrical System					
1	20' High Aluminum HPS Single Pole	21	EA	\$5,391.30	\$113,217.30
Subtotal Construction Cost of Electrical System					\$113,217.30
Total Cost (Olivia Drive)					\$2,293,359.44



Civil & Environmental Consulting Engineers
Danny J. Hebert, P.E., L.L.C.

14433 River Road
Hahnville, LA 70057
www.hebertengineering.com
phone: (985) 785-2380



September 27, 2023

Re: Heather Oaks – Phase II Certification Statement that the Sewer Development Connection Fee has been Paid

Dear Ms. Impastato and Council Members:

Please be advised that Heather Oaks, LLC has paid all required fees for Heather Oaks Subdivision – Phase II, as requested on the August 8, 2023, Letter from SCP Planning & Zoning, attached.

Please do not hesitate to contact the undersigned if you require additional information.

Sincerely,

Danny J. Hebert, P.E.

(Engineer of Record for Heather Oaks Subdivision – Phase II)

Mailing Address: 14433 River Road • Hahnville, Louisiana • 70057
Tel: (985) 785-2380 • Email: dhebert@hebertengineering.com



ST. CHARLES PARISH

PLANNING AND ZONING

MATTHEW JEWELL
PARISH PRESIDENT

MEMORANDUM

To: Grant Dussom
Chief Financial Officer

From: Chris Welker *cw*
Senior Planner

Date: October 3, 2023

RE: **Heather Oaks Subdivision, Phase II
Administrative & Development Fees**

Enclosed please find the fee payment for the above referenced subdivision, detailed as follows:

Fee Type	Amount
Administrative	\$230
Streetlight Standard Deposit	\$6,900
Sewer Development Connection	\$80,000
Warranty Inspection	\$1,000
Testing & Inspection	\$17,648
Recreation	N/A
Total	\$105,778.00

Also enclosed is a copy of the actual cost or fair market values provided to the Department of Public Works for drainage, streets, wastewater, water, and streetlights in the subdivision (GASB 34 data).



Certified Copy

St. Charles Parish Clerk of Court
P.O. Box 424
Hahnville, LA 70057

Phone (985) 783-6632

Lance Marino
Clerk of Court
Parish of St. Charles

Instrument Number: 477755

Book/Index: COB
Document Type: RESTRICTIONS
Recording Date: 10/03/2023 2:14 PM CDT

Grantor 1: HEATHER OAKS LLC
Grantee 1: HEATHER OAKS SUBDIVISION PHASE 2

THIS PAGE IS RECORDED AS PART OF YOUR DOCUMENT AND
SHOULD BE RETAINED WITH ANY COPIES.

THE ATTACHED DOCUMENT IS A **CERTIFIED TRUE AND CORRECT COPY** THAT WAS
RECORDED ON THE DATE AND TIME LISTED ABOVE AND CERTIFIED ON THE SAME.



Brianna Gros

Brianna Gros, Deputy Clerk

DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
HEATHER OAKS SUBDIVISION
PHASE 2
ST. CHARLES PARISH, LOUISIANA

DECLARANT
HEATHER OAKS, LLC

COB: 47755; Page: 1; Filed: 10/3/23 2:14:51 PM [attorney: BG]

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
HEATHER OAKS SUBDIVISION
PHASE 2**

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EXHIBIT A - DESCRIPTION OF LAND INITIALLY COVERED BY DECLARATION
EXHIBIT B - CONSTRUCTION SPECIFICATIONS

COB: 47755; Page: 2; Filed: 10/3/23 2:14:51 PM [scharles: BG]

**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
HEATHER OAKS SUBDIVISION PHASE 2**

STATE OF LOUISIANA

PARISH OF ST. CHARLES

DATE OF SIGNING: SEPTEMBER 21, 2023

BE IT KNOWN, that on the date set forth above, this Declaration of Covenants and Restrictions (this "Declaration") for the above-named subdivision of the Property (as defined below) is made by HEATHER OAKS, LLC ("Declarant"), a Louisiana limited liability company, by and through its duly authorized below-named representatives, who did depose and say that Declarant owns certain immovable property located in the above-named Parish and described in Exhibit A attached hereto together with the improvements thereon (collectively the "Initial Property").

WHEREAS, Declarant desires to establish a general plan of development for the Property (defined below) and to provide for the operation, administration, and maintenance of the Property (defined below) or portions of the Property. Declarant deems it advisable to create a residential planned community on the Property, with a homeowners association to perform the functions and activities more fully described in this Declaration and the other Community Documents.

NOW THEREFORE, in accordance with Louisiana Civil Code Article 775, *et seq.*, and the Louisiana Homeowners Association Act (Louisiana Revised Statutes 9:1141.1, *et seq.*), Declarant hereby establishes and imposes the following building, use and subdivision restrictions and restrictive covenants as charges affecting the Property:

**ARTICLE 1
DEFINITIONS**

The terms used in this Declaration will generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms in this Declaration (including the capitalized terms used above) will be defined as set forth in this Article 1. Additional terms may be defined in the body of this Declaration.

1.1. "Act" means the Louisiana Homeowners Association Act, Louisiana Revised Statutes 9:1141.1, *et seq.*, and any successor statutes to the said Louisiana Homeowners Association Act.

1.2. "Additional Land" means immovable property which may be, following the recordation of this Declaration and as of the date of any identification of Additional Land, added to the Property and subjected to this Declaration by Declarant, as described in Section 15.5.2, or as otherwise permitted in Section 2.2.

1.3. "Architectural Reviewer" means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is Declarant, Declarant's designee, or Declarant's designee. Thereafter, the Board-appointed Architectural Control Committee is the Architectural Reviewer.

1.4. "Articles of Incorporation" or "Articles" means the Articles of Incorporation of the Association, as filed with the Secretary of State for the State of Louisiana, as amended from time to time.

1.5. "Assessment" means any charge levied against a Lot or Owner by the Association, pursuant to this Declaration, any other Community Documents or law of the State of Louisiana.

1.6. "Association" means the HEATHER OAKS OWNERS ASSOCIATION, INC., a Louisiana not-for-profit corporation, its successors and assigns, whose members are the Owners, and who is responsible for maintaining the property designated as Common Area in the Conveyance of the Common Area to the Association and enforcing this Declaration in accordance with the terms and provisions of this Declaration. The Association is an association of Owners of all Lots in the Property serving as a "homeowners association" as that term is defined in Section 1141.2(5) of the Act (Louisiana Revised Statutes 9:1141.2(5)).

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

1.8. "Builder" means any Person, other than Declarant or a Declarant Affiliate, who purchases: (i) one (1) or more Lots for the purpose of constructing improvements for later sale to consumers, or (ii) parcels of land within the Property for further subdivision, development, and/or resale in the ordinary course of such Person's business. A Builder ceases to be a "Builder" as to a particular Lot if the Builder (or a Person authorized by Builder) occupies improvements constructed on that Lot as a residence; the Builder's status as a "Builder" continues with respect to any other: (a) Lots purchased for the purpose of constructing improvements for later sale to consumers and which do not have improvements constructed thereon occupied by a Person as a residence, or (b) parcels of land purchased within the Property for further

subdivision, development, and/or resale in the ordinary course of such Person's business and which do not have improvements constructed thereon which are occupied by a Person as a residence.

1.9. "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.10. "Common Area" means portions of immovable property and improvements thereon that are owned and/or maintained by the Association, and as the term is defined in Section 1141.2(2) of the Act.

1.11. "Community Documents" means, singly or collectively as the case may be, this Declaration, the subdivision Plat, the Bylaws of the Association, the Association's Articles of Incorporation, and any rules of the Association, as any of these may be amended from time to time, and as the term is defined in Section 1141.2(3) of the Act.

1.12. "Declarant" means HEATHER OAKS, LLC which is developing the Property, or the successors and assigns of HEATHER OAKS, LLC, which are designated a Successor Declarant by HEATHER OAKS, LLC, or by any such successor and assign, in a recorded document, executed by both Declarant and Successor Declarant in the case of a voluntary assignment. In executing this instrument, Declarant is the appearer.

1.13. "Declarant Affiliate" means a Person (other than Declarant) that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control, with Declarant. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Declarant, whether through the ownership of voting securities, by contract or otherwise.

1.14. "Declaration" means this document, as it may be amended from time to time, and also has the meaning of "declaration" as defined in Section 1141.2(4) of the Act. This Declaration comes within the meaning of "Building Restrictions" as provided by Louisiana Civil Code Article 775, *et seq.*

1.15. "Development Period" means that period of time during which Declarant has certain rights pursuant to this Agreement, such as rights relating to governance, architectural control, development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own land described in Exhibit A or any Additional Land. The duration of the Development Period will be from the date this Declaration is recorded until the later of (1) 20 years after this Declaration is recorded, or (2) 60 days after title to one hundred percent (100%) of the Lots that may be created in the Property (including without limitation any and all Additional Land) have been improved with dwellings and conveyed to Owners other than Declarant, a Declarant Affiliate, or Builders. Notwithstanding the foregoing, Declarant may voluntarily terminate the Development Period with a written notice executed by Declarant and recorded in the conveyance records of the Parish.

1.16. "Governmental Authority" means any, each and all of the following: (a) the United States of America, (b) the State of Louisiana, (c) any other State of the United States of America, (d) any political subdivision of any of the foregoing, (e) any agency, department, commission, board or bureau of any of the foregoing, and (f) any parish, municipality, tribunal, instrumentality or court having jurisdiction over Heather Oaks Subdivision or any of the uses that may be made of Lots or other portions of HEATHER OAKS Subdivision.

1.17. "Lot" means a portion of the Property intended for independent ownership and residential use, as defined in Section 1141.2(6) of the Act. As a defined term, "Lot" does not refer to Common Areas, even if platted and numbered as a lot. Where the context indicates or requires, "Lot" includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the Lot.

1.18. "Member" means a Person entitled to membership in an Association, as provided in Section 7.2, with voting rights as set forth in Section 7.3. A Member will also mean an Owner. If multiple Persons own a Lot, the Owners of that Lot will, collectively, constitute one (1) Member as Owner of that Lot.

1.19. "Owner" means a holder of recorded fee simple title to a Lot. Every Owner is a Member.

1.20. "Parish" means the parish in which the Property is located.

1.21. "Person" means any natural person, corporation, limited liability company, partnership, trustee, joint venture, association, joint stock company, trust, unincorporated organization, Governmental Authority, government or any agency or political subdivision of a Governmental Authority, or any other form of entity.

1.22. "Plat" means all subdivision plats, singly and collectively, recorded in the conveyance records of the above-named Parish, pertaining to the Property, including all dedications, limitations, restrictions, servitudes, notes, and reservations shown on the plat, as it may be amended from time to time.

1.23. "Property" and "HEATHER OAKS SUBDIVISION PHASE 2" both mean and include the land described in Exhibit A of this Declaration together with all Additional Land, and includes every Lot and any Common Area thereon conveyed to the Association and all improvements, servitudes, easements, rights, and appurtenances to the said Common Area, all of which are subject to this Declaration. The Common Area which is conveyed to the Association, together with all improvements, servitudes, easements, rights, and appurtenances to the said Common Area also has the meaning of "association property" as defined in Section 1141.2(1) of the Act. The Property (i.e., HEATHER OAKS SUBDIVISION PHASE 2) is a "residential planned community" within the meaning of Section 1141.2(7) of the Act. Whenever a situation arises where it is necessary or otherwise relevant to identify the Property, the Property at the time of such identification will

Page | 4

include: (a) the land described on Exhibit A of this Declaration; (b) all Additional Land added to the Property at that time of such identification of the Property as provided in Section 15.5.2, or as otherwise permitted in Section 2.2; and (c) every Lot and any Common Area thereon which has been conveyed to the Association and all improvements, servitudes, easements, rights, and appurtenances to the said Common Area, as of the time of such determination. All references to Property in this Declaration will always be interpreted as including the Additional Land added to the Property at that time of such identification of the Property as provided in Section 15.5.2, or as otherwise permitted in Section 2.2.

1.24. "Unilaterally" means that the Declarant may take the authorized action without the consent, approval, vote, or joinder of any other person, such as Owners, mortgagees, and the Association.

ARTICLE 2 THE PROPERTY

2.1. **GENERAL PROVISIONS.** The terms of this Declaration constitute building restrictions, covenants and real rights running with the Property, which will run with title to the Property and will be binding on the Property and on all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and all parties claiming under them. The Property will be held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to this Declaration, even if the Declaration is not specifically referred to in the instrument of sale, transfer, lease or encumbrance.

2.2. **ADDITIONAL PROPERTY.** Additional immovable property may be annexed to the Property and subjected to the Declaration and the jurisdiction of the Association on approval of Owners representing at least two-thirds of the Lots in the Property, or, during the Development Period, by Declarant as permitted in Article 15. Annexation of additional property is accomplished by recording a supplemental declaration, or amendment of annexation, including an amendment of Exhibit A, in the conveyance records of the Parish.

2.3. **ADJACENT LAND USE.** The Association and Declarant make no representation of any kind as to the current or future uses, actual or permitted, of any land that is adjacent to or near the Property, regardless of what the Plat shows as potential uses of adjoining land.

ARTICLE 3 PROPERTY SERVITUDES AND RIGHTS

3.1. **DECLARANT RIGHTS.** A number of provisions in the Declaration are modified by Declarant's rights and reservations under the Declaration during the Development Period. These rights and reservations are found in Article 15 of this Declaration, which controls over anything to the contrary elsewhere in this Declaration.

3.2. **OWNER'S RIGHT TO BUILD.** That a Lot remains vacant and unimproved for a period of years, even decades, does not diminish the right of the Owner to construct improvements on the Lot, nor does a vacant Lot enlarge the rights of Owners of neighboring Lots, who may have become so accustomed to the open space that they expect it to remain unimproved forever. However, no structure or fence encroachments are allowed within the drainage servitudes shown on the approved subdivision plat of the Property.

3.3. **ASSOCIATION'S ACCESS SERVITUDE.** Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association a servitude of access and entry over, across, under, and through the Property, including without limitation all Common Areas and the Owner's Lot and all improvements thereon - for the below-described purposes.

3.3.1. **Purposes.** Subject to the limitations stated below, the Association may exercise this servitude of access and entry for the following express purposes:

- a. To inspect the property for compliance with maintenance and architectural standards.
- b. To perform maintenance that is permitted or required of the Association by the Community Documents or by applicable law.
- c. To perform maintenance that is permitted or required of the Owner by the Community Documents or by applicable law, if the Owner fails or refuses to perform such maintenance.
- d. To enforce architectural standards.
- e. To enforce use restrictions.
- f. The exercise of self-help remedies permitted by the Community Documents or by applicable law.
- g. To enforce any other provision of the Community Documents.
- h. To respond to emergencies.
- i. To grant servitudes to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.

- j. To perform any and all functions or duties of the Association as permitted or required by the Community Documents or by applicable law.

3.3.2. Limitations. If the exercise of this servitude requires entry onto an Owner's Lot, including into an Owner's fenced yard, the entry will be during reasonable hours and after notice to the Owner. This Subsection does not apply to situations that - at time of entry - are deemed to be emergencies that may result in imminent damage to or loss of life or property. In exercising this servitude on an Owner's Lot, the Association is not liable to the Owner for trespass.

3.4. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed to improve safety in or on the Property. Each Owner and resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property and assumes all risks for loss or damage to the same. Each Owner and resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE 4 COMMON AREA

4.1. OWNERSHIP. The designation of immovable property as a Common Area is determined by the ownership of the property and specifically shall consist of property that has or will be conveyed to the Association as Common Area. At its expense, Declarant may install, construct, or authorize certain improvements on Common Areas in connection with the initial development of the Property. Thereafter, all costs attributable to Common Areas, such as maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, unless this Declaration elsewhere provides for a different allocation for a specific Common Area.

4.2. ACCEPTANCE. By accepting an interest in or title to a Lot, each Owner is deemed (1) to accept the Common Area of the Property, and any improvement thereon, in its then-existing "AS IS" condition; (2) to acknowledge the authority of the Association, acting through its Board, for all decisions pertaining to the Common Area; (3) to acknowledge that transfer of a Common Area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the Common Area, regardless of changes in the Association's Board or management.

4.3. COMPONENTS. The Common Area of the Property consists of the following components on or adjacent to the Property, even if located on a Lot or a public right-of-way:

- a. any area conveyed to the Association as a Common Area or an area to be maintained by the Association;
- b. the entry features, screening feature, walls, fences, and sign monuments - if installed by the Declarant;
- c. a servitude in favor of the Association for the existence of these objects is established for access, maintenance, and repair;
- d. any modification, replacement, or addition to any of the above-described areas and improvements; and
- e. movable property owned by the Association, such as books and records, office equipment, and supplies.

4.4. LIMITED COMMON AREA. If it is in the best interest of the Association, a portion of the Common Area may be licensed, leased, or allocated to one or more Lots for their sole and exclusive use, as a limited Common Area ("Limited Common Area"), whether or not the area is so designated on the Plat. Inherent in the limiting of a Common Area, maintenance of the Limited Common Area becomes the responsibility of the Owner, rather than the Association. For example, a Common Area that is difficult to access and maintain except via the adjoining Lot might be a candidate for Limited Common Area.

ARTICLE 5 ARCHITECTURAL COVENANTS

5.1. PURPOSE. Because the Lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the Lots and Common Areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a Lot. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

5.2. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD. During the Development Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new improvements on

vacant Lots. During the Development Period, the Architectural Reviewer for new improvements on vacant Lots is the Declarant or its delegates.

5.2.1. Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to sell homes constructed within the Property. Accordingly, each Owner agrees that, during the Development Period, no improvements will be started or progressed on Owner's Lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

5.2.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to (a) a modifications or architectural committee appointed by Declarant or by the Board, (b) a modifications or architectural committee elected by the Members, or (c) a committee comprised of architects, engineers, or other persons who may or may not be Members. At all times during the Development period, Declarant may Unilaterally do any of the following, one or more times, to-wit: (i) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (ii) veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

5.3. ARCHITECTURAL CONTROL BY ASSOCIATION. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC, will assume jurisdiction over architectural control; during the Development Period, any such assumption of jurisdiction by the Association will be subject to Declarant's rights as provided in the last sentence of Section 5.2.2.

5.3.1. The ACC is an agency, department or division of the Association, and has the right (after expiration of the Development Period, or earlier if delegated in writing by Declarant) to exercise control over all construction within the Property and review all modifications to structures and Improvements, including but not limited to painting, renovations, and landscaping. Notwithstanding any inference to the contrary, during the Development Period the ACC will be appointed by Declarant unless Declarant expressly waives in writing its right to appoint the ACC; any such waiver may be thereafter revoked by Declarant and in the event of any such revocation, Declarant may dismiss the members of the ACC at that time and appoint other members of the ACC. The ACC will consist of three (3) members. Should such Board wish to declare that there be an increase in the number of members serving on the ACC, it may do so at a regularly called meeting of the Board, except that during the Class B Control Period, no change in the members of the ACC may be made by the Board without the approval of Declarant. The members of the ACC need not be Members or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, will be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. In addition, the ACC may, with the prior approval of the Board, retain architects, engineers or other professionals to assist in the review of any application and the Association may charge any fees incurred for such assistance to the applicant. The ACC may also establish a Modifications Committee, with the approval of the Board, to review and approve any proposed modifications of Property.

5.3.2. The professionals and staff assisting the ACC may be paid reasonable compensation for service on the ACC, as determined from time to time by the Board. All members of the ACC will be reimbursed by the Association for their respective expenses incurred in furtherance of the authorized activities of the ACC, subject to review and approval by the Board. All members of the ACC may be paid compensation for their time and efforts in serving on the ACC if such compensation is approved and authorized by the Board.

5.3.3. The Association will be responsible for all reasonable costs of operation of the ACC. Each Owner submitting plans for the construction or modification of improvements on any Lot will submit with such plans a payment of Two Hundred Fifty Dollars (\$250) as a nonrefundable "Review Fee", and that payment will be made to the Association, or directly to the Architectural Reviewer, if directed by the Association. The standard Review Fee will be used by the Association to defray the costs and expenses incurred by the ACC and the fees and compensation paid, if any, to staff, other professionals and members of the ACC. From time to time, the Board, in its sole discretion, may increase or decrease the amount of the standard Review Fee, but in no event will the standard Review Fee charged in any one (1) calendar year exceed 110% of the standard Review Fee charged during the preceding calendar year; further, the Board in any one situation may waive or reduce the standard Review Fee. Should the Architectural Reviewer reject and/or require modifications or changes to any plans and/or specifications due to noncompliance with this Declaration, then the Owner may be required to pay another review except that the Architectural Reviewer will have the discretion to waive or reduce any such additional review fees in its sole discretion. During the Development Period and prior to any delegation by Declarant to the ACC of rights reserved to Declarant under Section 5.2 of this Declaration, Declarant may, in its discretion, require an Owner to pay the same Review Fee which the ACC will have a right to collect if and when the ACC is delegated the right to approve plans for the construction or modification of improvements on Lots. The plans shall show the proposed location of all improvements and all walkways, driveways, parking areas, sidewalks, exterior walls, swimming pools, landscaping, and other amenities to be constructed on the Lot, the distances measured from the extremity of such improvements on the Lot to the property lines. The plot plan shall be drawn to a scale of one (1) inch equals twenty (20) feet (1"=20') or larger.

5.3.4. The ACC may employ personnel or contract with individuals or companies as necessary to assist in the review process, as authorized pursuant to the budget for the ACC, as established by the Board. All such personnel, individuals and/or companies employed or contracted with by the ACC will be considered independent contractors of the Association.

5.3.5. The ACC is authorized to adopt rules and procedures and to adopt, from time to time, amendments to said rules and procedures for the conduct of its business, consistent with the provisions of this Declaration. Any Owner will be provided with a copy of such rules and procedures within fifteen (15) days of submission of a written request to the Board.

5.4. **LIMITS ON LIABILITY.** The Architectural Reviewer has sole discretion with respect to taste, design, and all standards specified by this Article. The Architectural Reviewer and each of its members has no liability for decisions made in good faith by the Architectural Reviewer and which are not arbitrary or capricious. The Architectural Reviewer is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the Architectural Reviewer, (2) supervising construction for the Owner's compliance with approved plans and specifications, or (3) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

5.5. **PROHIBITION OF CONSTRUCTION, ALTERATION AND IMPROVEMENT.** Without the Architectural Reviewer's prior written approval, a person may not construct a dwelling or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property or to a building (including without limitation dwellings) on the Property, if the proposed dwelling or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction, will be visible from a street, another Lot, or the Common Area. Any construction, addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property or to a building (including without limitation dwellings) must be in accordance with the construction specifications described in Exhibit B. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.

5.6. **ARCHITECTURAL APPROVAL.** To request architectural approval, an Owner must make written application to the Architectural Reviewer and submit a set of plans and specifications via email or mail showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of any application for variance, the Owner may but is not required to submit letters of support or non-opposition from Owners of Lots that may be affected by any proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will issue a response such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the set of plans and specifications, together with the application, for the Architectural Reviewer's files. Oral approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's managing agent does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing.

5.6.1. **Deemed Approval.** The applicant may presume that his request has been approved by the Architectural Reviewer (a) if the applicant has not received the Architectural Reviewer's written response - approving, denying, or requesting additional information - within 60 days after delivering his complete application to the Architectural Reviewer, and (b) if the proposed improvement or modification strictly conforms to requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application. If those conditions are satisfied, the Owner may proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the Owner to document the Architectural Reviewer's actual receipt of the Owner's complete application. Under no circumstance may approval of the Architectural Reviewer be deemed, implied, or presumed for an improvement or modification that would require a variance from the requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application.

5.6.2. **Building Permit.** If the application is for work that requires a building permit from a governmental body, the Architectural Reviewer's approval is conditioned on the issuance of the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, governmental approval does not ensure Architectural Reviewer approval.

5.6.3. **Declarant Approved.** Notwithstanding anything to the contrary in this Declaration, any improvement to the Property made or approved by Declarant during the Development Period is deemed to have been approved by the Architectural Reviewer.

ARTICLE 6 USE RESTRICTIONS

6.1. **VARIANCE.** The use of the Property is subject to the restrictions contained in this Article, and subject to rules adopted pursuant to this Article. The Declarant, during the Development Period, or the Board, thereafter, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance.

6.2. **LIMITS TO RIGHTS.** No right granted to an Owner by this Article or by any provision of the Community Documents is absolute. The Community Documents grant rights with the expectation that the

rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article and the Community Documents as a whole do not try to anticipate and address every creative interpretation of the restrictions. The rights granted by this Article and the Community Documents are at all times subject to the Board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Community Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

6.3. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its Board, is granted the right to adopt, amend, repeal, and enforce reasonable rules, and penalties for infractions of the adopted rules, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property.

6.4. ANIMAL RESTRICTIONS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose or for food. The only animals permitted on the Property are customary domesticated household pets, which may be kept subject to rules adopted by the Board. Pets must be kept in a manner that does not disturb the peaceful enjoyment of residents of other Lots.

6.5. ANNOYANCE. No Lot or Common Area may be used in any way that: (a) may reasonably be considered annoying to neighbors; (b) may be calculated to reduce the desirability of the Property as a residential neighborhood; (c) may endanger the health or safety of residents of other Lots; (d) may result in the cancellation of insurance on the Property; or (e) violates any law. The Board has the sole authority to determine what constitutes an annoyance.

6.6. APPEARANCE. Both the Lot and the dwelling must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Lots. The Architectural Reviewer is the arbitrator of acceptable appearance standards.

6.7. ARTIFICIAL VEGETATION. Artificial grass, plants or other artificial vegetation must not be placed or maintained upon the exterior portion of any Lot unless approved by the Board.

6.8. BUSINESS USE. A resident may use a dwelling for business uses, such as telecommuting, personal business, and professional pursuits, provided that: (a) the uses are incidental to the primary use of the dwelling as a residence; (b) the uses conform to applicable governmental ordinances; (c) the uses do not entail visits to the Lot by employees or the public in quantities that materially increase the number of vehicles parked on the street; and (d) the uses do not interfere with the residential use and enjoyment of neighboring Lots by other residents.

6.9. DECLARANT RIGHTS. Declarant has reserved a number of rights to use the Property in ways that are not available to other Owners and residents, as provided in Article 15 of this Declaration. Declarant's exercise of any right granted to it during the Development Period that appears to violate a rule adopted by the Association or a use restriction included in this Article 6 does not constitute waiver or abandonment of the rule or use restriction by the Association as applied to Owners other than Declarant.

6.10. EQUIPMENT, STRUCTURES AND PERSONAL PROPERTY. Except as allowed by Section 6.40, placement of sports or play equipment or other structures of personal property is not permitted on the exterior portions of any Lot. Play and sports equipment are permitted in the rear fenced portion of any Lot. As used in this Section 6.10, the phrase "exterior portions of any Lot" means any portion of a Lot outside of a fenced area on the Lot.

6.11. DRAINAGE. No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

6.12. FENCES. All fences must be maintained and kept in good repair so as not to detract from the appearance of the development. This Section is subject to the Architectural Reviewer's right to adopt additional or different specifications for construction or reconstruction of fences. No fence or wall shall be located on any Lot closer to any street than the point located ten (10') feet towards the rear from the front sill of the Residence. On corner Lots, fences that front on the side Street may be no closer to the Lot line than the side sill of the Residence; and such fence shall commence only from the rear of the Residence. As to vacant and unimproved Lots which do not have common ownership with an adjoining Lot, no fence or wall shall be permitted to extend nearer than thirty-five (35') feet from the front Lot line facing the street. As to vacant or unimproved Lots owned by an adjoining Lot Owner, no fence or wall shall be permitted to extend nearer than the fence on the adjoining Lot with common ownership. No fence shall be greater than six (6') feet in height. Fences shall be constructed of brick, stucco, wrought iron, redwood, cedar, or similar construction acceptable to the Architectural Control Committee. Chain link, wire, corrugated metal, unfinished concrete, cinder blocks or other unsightly fencing is prohibited. No fence shall be constructed without the prior written consent of the Architectural Reviewer as to location, design, material, color, paint and stain. All framework for any fence shall be on the interior side of the Lot requesting to be fenced. Any portion of a fence that faces a street, alley, or Common Area must have a "finished side" appearance.

6.13. GARAGES. Garage doors must be kept closed, except when vehicles are entering or leaving the Garage. Parking of any vehicle on any Lot other than in the Garage, Carport or Driveway is prohibited.

6.14. MOVABLE STRUCTURES AND OUTBUILDINGS. No structure or any type, dwelling or otherwise, may be moved onto any Lot in the development except as expressly approved by the Board.

6.15. NOISE AND ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring Lots. The rules may prohibit the use of noise-producing security devices.

6.16. OCCUPANCY. Other than the completed principal dwelling, no thing or structure on a Lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage, mobile homes, campers, and storage sheds.

6.17. RESIDENTIAL USE. The use of a Lot (other than a Lot designated on a Plat for use as a park or other Common Area) is limited exclusively to residential purposes or any other use expressly permitted by this Declaration, including limited business uses described above.

6.18. SCREENING. An Owner may be required to screen anything determined by the Architectural Reviewer to be unsightly or inappropriate for a residential subdivision. Screening may be achieved with fencing or with plant material, such as trees and bushes, or any combination of these. If plant material is used, a reasonable period of time is permitted for the plants to reach maturity as an effective screen. As used in this Section 6.18, "screened from view" refers to the view of a person in a passenger vehicle driving on a street or alley, or the view of a person of average height standing in the middle of a yard of an adjoining Lot.

6.19. TANKS. No tanks of any kind (including tanks for storage of fuel) may be erected, placed or maintained on any Lot unless such tanks are buried underground. Propane or similar fuel tanks with capacities of ten (10) gallons or less are allowed.

6.20. TELEVISION/SATELLITE DISHES. No television antenna, receiving "dish", radio receiver or sender or other similar device shall be attached to or installed on any Lot or structure within the Subdivision without the prior written consent of Developer or the Association. Each resident of the Subdivision will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Subdivision. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another Lot are prohibited within the Property, with the exception of an Antenna (as defined below) which are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. As used in this Section 6.20, the term "Antenna" means one of the following: (i) reception-only antennas or satellite dishes designed to receive television broadcast signals, (ii) antennas or satellite dishes that are 39 inches or less in diameter and designed to receive direct broadcast satellite service (DBS), or (iii) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS). If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on the Lot where an acceptable quality signal can be obtained, but in any event the Antenna must not be located where it is visible from a street contiguous with the Lot on which the Antenna is to be installed. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

6.21. VEHICLES.

6.21.1. Except as expressly approved by the Declarant during the Development Period, and by the Board thereafter, the following must not be kept or stored within the Property unless stored inside of a closed garage or enclosed behind an approved fence, with ACC approval: (a) junk or abandoned vehicles, (b) commercial vehicles other than company owned automobiles, (c) trailers, (d) tractor-trailers, (e) recreational vehicles, (f) boats, (g) boat trailers, (h) campers and motor homes.

6.21.2. Minibikes, go-carts, all-terrain vehicles and other similar vehicles must not be operated or stored on any Lot, the Common Area, or any other location within the Property.

6.22. YARD ORNAMENTS.

6.22.1. Artificial flamingos, deer, spinners, gazing balls, progues and similar objects of any type are prohibited on all Lots with the exception of the rear yard of a Lot (i.e., the rear portion of a Lot which faces the rear wall of the dwelling), on which a dwelling is constructed, but only if a fence or other screening makes such items not visible from any street on the Property or any other portion of the Property, other than the rear yard of the Lot where the item is exhibited.

6.22.2. The items allowed to be placed on Lots under Section 6.22.1, and any subsequent rules adopted by the Board or the Association, must be durable in nature and must comply with the following requirements:

- a. No more than three (3) yard decorations or tableaux of any type may be placed in areas that are visible from a street on the Property or any other portion of the Property other than the Lot on which the decoration or other tableau is exhibited.
- b. The yard decorations must be architecturally proportionate to the size of the dwelling constructed on the Lot.
- c. The yard decorations must be of a durable nature and may not be made of plastic.

6.22.3. Notwithstanding any inference to the contrary in this Section 6.22, traditional and typical seasonal decorations are permitted within season (30 days prior to a recognized holiday or event and 15 days following).

6.23. WINDOW COVERINGS AND WINDOW TREATMENTS.

6.23.1. The only window coverings or treatments which may be affixed to the interior of any window visible from a street on the Property or other portion of the Property are drapes, blinds, shades, shutters, and curtains.

6.23.2. No window tinting or reflective coating may be affixed to any window that is visible from any street on the Property or other portion of the Property without the prior approval of Declarant during the Development Period and thereafter from the Board.

6.23.3. No mirrored coatings are allowed on any window that is visible from any street on the Property or other portion of the Property.

6.24. **FLAGS.** No flags may be flown or exhibited outside of a residence on the Property with the following exceptions: official flags of countries, states, parishes, cities or other organization sanctioned flags flown from poles that are six feet (6') above ground height, the construction and color of which must be approved by the Board, and mounted at a 45 degree angle to the wall of the building to which the pole is attached.

6.25. SWIMMING POOLS; TENNIS COURTS.

6.25.1. Swimming pools must not be constructed on any Lot without prior written approval from Declarant, during the Development Period, and thereafter from the Board. Notwithstanding any inference to the contrary in the preceding sentence, permission will not be given for the construction of a swimming pool on a Lot unless the swimming pool is screened from view and is not visible from any street on the Property or any other portion of the Property other than the rear yard of the Lot on which the swimming pool is constructed. Pool decks must not be constructed any closer than four feet (4') from the boundaries of the Lot on which the swimming pool is constructed; in appropriate situations, Declarant, during the Development Period, and thereafter the Board, may grant permission to construct a pool deck as close as three feet (3') from the boundaries of the Lot on which the swimming pool is constructed. If permission is granted for the construction of a swimming pool on a Lot, landscaping must be installed in accordance with the requirements of the Declarant, during the Development Period, and thereafter the Board, between the pool deck and the boundaries of the said Lot. At all times, all swimming pool related equipment must be screened from view and must not be visible from any street on the Property or any other portion of the Property other than the rear yard of the Lot on which the swimming pool is located. No screening will be constructed which has not been approved by the Declarant, during the Development Period, and thereafter by the Board, and all such screening will be required to mitigate noise. Slides, diving boards or other pool accessories will be prohibited unless they can be installed and used without being visible from any street on the Property or from any other portion of the Property other than the Lot on which the swimming pool is constructed. Pools must be constructed and designed so that they will not drain onto adjacent property (including the Common Area) or onto a street on the Property; where a Lot owner has been given permission to construct a swimming pool on a Lot, the Owner of the Lot must take all steps to prevent the swimming pool from draining onto adjacent property (including the Common Area) or onto a street on the Property.

6.25.2. Tennis courts must not be constructed on any Lot.

6.26. **SIGNS.** Unless approved by the Architectural Control Committee, no sign of any kind shall be displayed to the public view on any Lot, except any Lot Owner may display one (1) sign of not more than six (6) square feet on a Lot to advertise the Lot and/or Residence for sale.

6.27. **Furniture for Front Porch, Balcony and Yard.** Furniture placed outside of a dwelling on a Lot, whether on the front porch, balcony or in a yard, if visible from a street on the Property or any other location on the Property other than the rear yard of a Lot (i.e., the rear portion of a Lot which faces the rear wall of the dwelling) on which a dwelling is constructed: (a) must be durable, and (b) must not be made of plastic. All collapsible furniture placed outside of a dwelling on a Lot, whether on the front porch, balcony or in a yard, if visible from a street on the Property or any other location on the Property other than the rear yard of a Lot (i.e., the rear portion of a Lot which faces the rear wall of the dwelling) must be placed in storage and outside of the view of Person(s) on any street in the Property.

6.28. **CLOTHESLINE VIOLATION.** Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained, nor shall any clothing, rug or other items be hung from any railing, fence, hedge or wall.

6.29. **GARDENS.** A non-commercial garden for use by a single household may be located on a Lot provided that it is not visible from any street or any neighboring Lot. Garden compost may be kept in quantities required by one household only, provided it is not visible from any street and is kept free from obnoxious odors and insects.

6.30. **LEASH VIOLATION.** All domestic animals shall be leashed, or detained by fences or invisible fences.

6.31. **OFF-ROAD VEHICLE USAGE.** Streets shall not be used for any skateboarding, motorbikes, motorcycles, or motorized recreational vehicles of any type, except for street legal and state-licensed motorcycles for purposes of ingress and egress only. Golf carts are allowed unless restricted by state, parish,

or local laws or ordinances. If there is a designated walking path in the subdivision it shall be used for walking, jogging and bicycling only.

6.32 GARBAGE CONTAINERS. Household trash containers may not be placed in front of any Lot before 3:00 P.M. on the day before trash pick-up and all trash containers shall be removed from the front of the Lot by 6:00 P.M. on trash pick-up day.

6.33 MAILBOX/PLAQUE. No mailboxes or mailbox numbering or lettering, may be erected or maintained on a Lot except mailboxes approved by Developer. The cost of providing, erecting and maintaining a mailbox, the numbering and lettering, shall be paid by the Property Owner. Developer reserves the right to designate the location of all mailboxes. House numbering schemes, on, upon or within a Dwelling Unit shall be mandated by the Association.

6.34 A/C AND HEATING Air conditioning equipment may not be installed in the front yard of a dwelling. Window units are prohibited. The Architectural Reviewer may require that air-conditioning equipment and apparatus be visually screened from the street and neighboring Lots.

6.35 PARKING VEHICLES. Parking on the paved portion of any roadway not identified as parking areas within the Subdivision shall be permitted for temporary purposes, but in no event shall such parking be overnight or for anything longer than one day. No equipment, or vehicles, shall be parked on any unpaved portion of the lot, nor parked on the lawn/grass of a lot at any time except during construction. No equipment shall be kept or maintained on any Lot in any manner which would detract from the appearance of the Property. No house trailers, mobile homes, campers, motor homes, buses, commercial vehicles or trucks shall be kept, stored, repaired or maintained on any Lot, servitude, common area or right-of-way.

6.36 PLAYGROUND EQUIPMENT. The use of moderately scaled play equipment, play yards or basketball goals are allowed within the Residential Lots. Oversized items such as trampolines will only be allowed behind an approved fence in the rear yard. The location of these features should be carefully considered as to their impact on neighboring views and accessibility, and shall not be visible from any street view. The addition of fenced areas may be required as part of play yards. Unkept or unsightly play areas will not be tolerated. Final placement of these items must be approved by the Design Review Board prior to installation.

6.37 BASKETBALL GOALS. Moveable basketball goals are permitted with ACC approval as to location however under no circumstances shall a basketball goal be attached to any part of a residence or cemented into the ground. Basketball goals are to be kept in good repair and not allowed to remain turned over or fallen for extended periods of time as to detract from the appearance of the residence.

6.38 SOLAR PANELS AND SKYLIGHTS. Skylights shall not be located on the front elevation of any building. Only flat skylights are allowed. No bubble skylights will be permitted. Solar collectors may only be placed where not visible from the street, a common area, or a neighbor's lot.

6.39 SIDEWALK UPKEEP. Each Owner is responsible for installing and maintaining that portion of the sidewalk on his or her Lot in compliance with any requirements and standards set forth by the Design Review Board and the Guiding Principles, if applicable.

6.40 DEBRIS. No Lot or other part of the Property may be used as a dumping ground. Waste materials incident to construction or repair of improvements on a Lot may be stored temporarily on the Lot during construction while work progresses and must be removed when construction or repair is complete.

ARTICLE 7 ASSOCIATION OPERATIONS

7.1. THE ASSOCIATION. The existence and legitimacy of the Association is derived from this Declaration, and the Articles and Bylaws of the Association. The Association must be a nonprofit organization and is incorporated, but may later dissolve and operate as an unincorporated association, as the Association decides from time to time. The subsequent failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association. The duties and powers of the Association are those set forth in the Community Documents, together with the general and implied powers of a Homeowners association. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its Members, subject only to the limitations on the exercise of such powers as stated in the Community Documents. The Association, as a legal corporate entity, will officially come into existence (or came into existence) when the Articles of the Association are (or were) filed with the Louisiana Secretary of State; but the Association (whether or not the Articles have been filed at the time of filing this Declaration) comes into existence when this Declaration is publicly recorded in the Parish conveyance records and will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

7.2. MEMBERSHIP. Every Owner of a Lot will be a Member of the Association. There will be only one (1) membership per Lot. Membership will be appurtenant to and may not be separate nor apart from ownership of any Lot.

A. Co-Owners. If a Lot is owned by more than one (1) Person, all co-Owners will share the rights of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in this Article 7 and in the Bylaws, and all such co-Owners will be solidarily obligated to perform the responsibilities of Owners.

B. Nature of Owner. The membership rights of an Owner who is a natural person may be exercised by the Member or the Member's spouse. The membership rights of an Owner which is a corporation, partnership, other legal entity or some form of Governmental Authority may be exercised by any officer, director, partner, or trustee, or by any other duly authorized individual designated from time to time by the Owner in a written instrument provided to the Secretary of its Association.

7.3. VOTING RIGHTS. The Association will have two (2) classes of membership, which are Class A Membership and Class B Membership, described as follows:

A. Class A. Class A Members of the Association will be all Owners of Lots included within the Property, with the exception that Declarant will not be a Class A Member for so long as Declarant remains a Class B Member. Each Class A Member will have one (1) vote for each Lot which they own; but, in any event: (a) there will be only one (1) vote per Lot, and (b) no votes may be exercised on account of any Lot which is owned by a Builder (other than Declarant or a Declarant Affiliate) and exempt from Assessment under an exemption granted by the Association or by Declarant under Declarant's rights under section 15.1.3. When more than one (1) Person holds an interest in any Lot, all such persons will be Members, provided, however, that the vote for such Lot will be exercised as they determine and advise the Secretary of its Association in writing prior to the close of balloting. In no event will more than one vote be cast with respect to any Lot which is owned by more than one (1) Person. Corporations, limited liability companies, partnerships and other entities must notify the Association of the natural person who is authorized to exercise its vote; such entities must provide such evidence of appointment and authority as its Board may require.

B. Class B. The Class B Member of the Association will be Declarant or its assigns, and no other Person may be a Class B Member of the Association. The Class B Member will be entitled to three (3) votes for each Lot owned at the time of: (1) any meeting of the Members of the Association, or (2) other occasion when Members vote. Other rights of the Class B Member may be included elsewhere in this Declaration and / or in the Bylaws.

C. Termination of Class B Membership. The Class B Membership will terminate two (2) years after termination of the Class B Control Period. The Class B Control Period is that period of time commencing on the date of recordation of this Declaration and continuing until the first of the following to occur:

- (1) when one hundred percent (100%) of the total number of Lots proposed for the Property described on Exhibit A of the Declaration, and for any Additional Land added (by supplemental declaration or an amending declaration) to the Property to become part of HEATHER OAKS Subdivision, have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;
- (2) seventy-five (75) years after the date on which the Declaration is recorded in the public records of Lafayette Parish, Louisiana; or
- (3) when, in its discretion, the Class B Member determines and expressly declares in writing that it is no longer a Class B Member.

Notwithstanding any inference to the contrary: (i) If the Class B Control Period is terminated by the Class B Member pursuant to subpart C(3) of this Section 7.3, the termination must be recorded in the conveyance records of the Parish; and (ii) upon any termination of the Class B Control Period, the Class B Member may, in its sole discretion, terminate its Class B Membership immediately rather than wait until the two (2) year anniversary of the termination of the Class B Control Period, but if the Class B Member desires to terminate the Class B Member early then the Class B Member must expressly declare that intent in writing and such declaration should be included as part of Declarant's recorded termination of the Class B Control Period. After termination of the Class B Control Period, the Class B Member will continue to have a right to disapprove actions of the Association, its Board and any committee to the extent the Association's Bylaws or other Community Documents expressly provide that the Class B Member will continue to have certain rights after termination of the Class B Control Period.

D. Exercise of Voting Rights. Except as otherwise specified in this Declaration or the Bylaws, the vote for each Lot owned by a Class A Member will be exercised by the Owner of each Lot.

E. Declarant's Rights. Declarant's rights (including its special voting rights) as the Class B Member of the Association are independent of, and in addition to, all rights granted to, or reserved by, Declarant in other provisions of this Agreement where there is no reference to Declarant's status as the Class B Member (including without limitation in Articles 5 and 15, and Sections 4.1, 6.9 and 16.1). Further, Declarant's rights created or otherwise reserved under other provisions of this Agreement (including without limitation in Articles 5 and 15, and Sections 4.1, 6.9 and 16.1), or in any other Community Document, are independent of, and in addition to, all rights of Declarant as the Class B Member. For example, if Declarant voluntarily terminates the Class B Control Period and Declarant ceases to be a Class B Member, Declarant will continue to have all rights granted to, or reserved by, Declarant in other provisions of this Declaration (including without limitation in Articles 5 and 15, and Sections 4.1, 6.9 and 16.1) which do not use the term, or otherwise refer to, the term "Class B Member".

7.4. BOARD. The Association is governed by the Board. Unless the Association's Bylaws or Articles of Incorporation provide otherwise, the Board will consist of at least 3 persons elected by the Members at the annual meeting of the Association, or at a special meeting called for that purpose. Unless the Community Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Community Documents to the "Association" will be construed to mean "the Association acting through its Board".

7.5. MEMBERSHIP. Each Owner is a Member of the Association, ownership of a Lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Lot. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Lot is owned by more than one person or entity, each co-Owner is a Member of the Association and may exercise the membership rights appurtenant to the Lot. A Member who sells its Lot under a bond for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all Assessments attributable to his Lot until fee title to the Lot is transferred.

7.6. DECISION-MAKING. Any decision or act of the Association may be made by or at the direction of the Board, unless the Community Documents reserve the decision or act to the Members, the Declarant, or any other person or group. Unless the Community Documents or applicable law provide otherwise, any action requiring approval of the Members may be approved (a) at a meeting by Owners of at least a majority of the Lots that are represented at the meeting, provided notice of the meeting was given to an Owner of each Lot, or (b) in writing by Owners of at least a majority of all Lots, provided the opportunity to approve or disapprove was given to an Owner of each Lot.

7.7. MANAGING AGENT. The Board may delegate the performance of certain functions to one or more managing agents of the Association. Notwithstanding a delegation of its functions, the Board is ultimately responsible to the Members for governance of the Association.

7.8. VOTING. One indivisible vote is appurtenant to each Lot. The total number of votes equals the total number of Lots in the Property. If additional property is made subject to this Declaration, the total number of votes will be increased automatically by the number of additional Lots. Each vote is uniform and equal to the vote appurtenant to every other Lot, except during the Development Period as permitted in Article 15. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's Bylaws.

7.9. INDEMNIFICATION. Indemnified expenses include, without limitation, reasonable attorney's fees, whether or not a lawsuit is filed, and costs at all court levels, including expenses incurred by a person in establishing the right to be indemnified, defended, and held harmless pursuant to this Declaration. The Association may maintain general liability and directors and officer's liability insurance to fund this obligation.

7.9.1. Association Leaders. The Association will indemnify every present and former officer, director, committee chair, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

7.9.2. Indemnity for Common Area Operations. The Association must indemnify, defend, and hold harmless Declarant against any loss, claim, demand, damage, cost, and expense relating to or arising out of the management and operation of the Association, including without limitation, the collection of Assessments, the enforcement of the Community Documents, and the operation and maintenance of the Property's Common Areas.

ARTICLE 8 COVENANT FOR ASSESSMENTS

8.1. PURPOSE OF ASSESSMENTS. The Association will use Assessments for the purposes of preserving and enhancing the Property, and for the common benefit of Owners and residents, including but not limited to maintenance of immovable and movable property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of Assessments is final.

8.2. PERSONAL OBLIGATION. An Owner is obligated to pay Assessments levied by the Board against the Owner or his Lot. An Owner makes payment to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment of his Lot. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

8.3. TYPES OF ASSESSMENTS. There are 3 types of Assessments: Regular, Special, and Individual.

8.3.1. Regular Assessments. Regular Assessments are based on the annual budget. Each Lot is liable for its equal share of the annual budget. If the Board fails to determine new Regular Assessments for any year, Owners will continue to pay the Regular Assessment as last determined. If during the course of a year the Board determines that Regular Assessments are insufficient to cover the estimated common expenses for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Regular Assessments are

used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. maintenance, repair, and replacement, of the Common Area;
- b. utilities and services billed to the Association;
- c. taxes on property owned by the Association and the Association's income taxes;
- d. management, legal, accounting and professional fees for services to the Association;
- e. operating expenses;
- f. premiums and deductibles on insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association;
- g. contributions to the reserve funds; and
- h. any other expense which the Association is required by law or the Community Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Community Documents.

8.3.2. Special Assessments. In addition to Regular Assessments, the Board may levy one or more Special Assessments against all Lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special Assessments do not require the approval of the Owners, except that Special Assessments for the following purposes must be approved by Owners of least a majority of the Lots: (a) acquisition of immovable property, other than the purchase of a Lot at the sale foreclosing the Association's privilege against the Lot; (b) construction of additional improvements within the Property, but not replacement of original improvements; and (c) any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

8.3.3. Individual Assessments. In addition to Regular and Special Assessments, the Board may levy an Individual Assessment against a Lot and its Owner. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or his Lot into compliance with the Community Documents; fines for violations of the Community Documents; fees or charges by the managing agent of the Association for services provided to, or for the benefit of, one Lot; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to benefit received.

8.4. BASIS AND RATE OF ASSESSMENTS. The share of liability for common expenses allocated to each Lot is uniform for all Lots; subject, however, to an exemption for Declarant provided in Article 15.

8.5. ANNUAL BUDGET. The Board will prepare and approve an estimated annual budget for each fiscal year.

8.6. DUE DATE. The Board may levy Regular Assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular Assessments are due on the first day of the period for which levied. Special and Individual Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within 10 days after notice of the Assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

8.7. RESERVE FUNDS. The Association may establish, maintain, and accumulate reserves for operations and for replacement and repair of Common Area improvements. Declarant is not required to fund reserves.

8.8. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of Owners of at least a majority of Lots and the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, or pledge any of its immovable or movable property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.

8.9. LIMITATIONS OF INTEREST. Notwithstanding anything to the contrary in the Community Documents or any other document or agreement executed or made in connection with the Association's collection of Assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law.

8.10. EFFECT OF NONPAYMENT OF ASSESSMENTS. An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Association, acting through the Board, is responsible for taking action to collect delinquent Assessments. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the Board in its sole discretion deems appropriate, to the Association's managing agent, an attorney, or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to

collect or attempt to collect an Assessment. The following remedies and rights are in addition to and not in substitution for all other rights and remedies which the Association has:

- a. Delinquent Assessments bear interest from the date due until paid, at a rate to be determined by the Board from time to time, not to exceed ten percent (10%) per annum, and reasonable late fees, at a rate to be determined by the Board from time to time.
- b. If an Assessment is being paid in installments, the Association may accelerate the remaining installments.
- c. The Owner who has not paid the Assessment is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, such as attorney's fees.
- d. If the delinquent Assessment is more than thirty (30) days past due, the Association may suspend the right to vote appurtenant to the Lot.
- e. The Association may file suit seeking a money judgment against the Owner, without foreclosing or waiving the Association's privilege for Assessments, may notify and communicate with the holder of any privilege against a Lot regarding the Owner's default and payment of Assessments and may foreclose its privilege against the Lot by judicial or non-judicial means.

8.11. MEANING OF PRIVILEGE. As used in this Article 8 and in other provisions of this Declaration (including without limitation Article 9), the word "privilege" has the same meaning as the word "privilege" in Louisiana Revised Statutes 9:1145 - 1148.

ARTICLE 9 ASSESSMENT PRIVILEGE

9.1. ASSESSMENT PRIVILEGE. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the Lot and is secured by a continuing privilege on the Lot. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing privilege for Assessments attributable to a period prior to the date he purchased his Lot.

9.2. SUPERIORITY OF MORTGAGE. The Assessment privilege on a Lot is subordinate and inferior to (a) a recorded mortgage securing a loan for construction of the original dwelling, (b) a first or senior purchase money vendor's privilege or mortgage and any renewal, modification or refinancing of said vendor's privilege or mortgage, (c) a home equity or reverse mortgage which is a renewal, extension, or refinance of a first or senior purchase money vendor's privilege or mortgage recorded before the date on which the delinquent Assessment became due, and (d) an FHA-insured or VA-guaranteed mortgage.

9.3. EFFECT OF MORTGAGEE'S FORECLOSURE. Foreclosure of a superior lien or other superior encumbrance extinguishes the Association's claim against the Lot for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien or other superior encumbrance is liable for Assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

9.4. NOTICE AND RELEASE OF NOTICE. The Association's privilege for Assessments is created by recording of a sworn detailed statement in accordance with the requirements of Louisiana law (currently provided in Louisiana Revised Statutes 9:1145 - 9:1148), which constitutes record notice and perfection of the privilege.

9.5. FORECLOSURE OF PRIVILEGE. The Assessment privilege may be enforced by judicial or non-judicial foreclosure. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorney's fees. The Association has the power to bid on the Lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.

ARTICLE 10 ENFORCING THE COMMUNITY DOCUMENTS

10.1. NOTICE. Before the Association may exercise certain of its remedies for a violation of the Community Documents or damage to the Property, the Association must give an Owner written notice. Notices are also required before an Owner is liable to the Association for certain charges, including reimbursement of attorney's fees incurred by the Association.

10.2. REMEDIES. The remedies provided in this Article for breach of the Community Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Community Documents and by applicable law, the Association has the following rights to enforce the Community Documents, subject to applicable notice and hearing requirements (if any):

10.2.1. Fine. The Association may levy fines for each act of violation or for each day a violation continues.

10.2.2. Suspension. The Association may suspend the right of Owners and residents to use Common Areas for any period during which the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate the Community Documents.

10.2.3. Self-Help. The Association has the right to enter any part of the Property, including Lots, to abate or remove, using force as may reasonably be necessary, any improvement, thing, animal, person, vehicle, or condition that violates the Community Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Lot and Owner as an Individual Assessment. The Board will make reasonable efforts to give the violating Owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the Owner. Prior notice is not required (a) in the case of emergencies, (b) to remove signs which violate the restrictions in this Declaration or in any rules adopted by the Association, (c) to remove violative debris, or (d) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or an eyesore to the neighborhood.

10.2.4. Suit. Failure to comply with the Community Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both.

10.3. BOARD DISCRETION. The Board may use its sole discretion in determining whether to pursue a violation of the Community Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interest, based on hardship, expense, or other reasonable criteria.

10.4. NO WAIVER. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, privileges, and charges now or hereafter imposed by the Community Documents. Failure by the Association or by any Owner to enforce a provision of the Community Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Community Documents at any future time. No officer, director, or Member of the Association is liable to any Owner for the failure to enforce any of the Community Documents at any time.

10.5. RECOVERY OF COSTS. The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Community Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Community Documents or the restraint of violations of the Community Documents, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorney's fees.

ARTICLE 11 MAINTENANCE AND REPAIR OBLIGATIONS

11.1. ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on Lots or Common Areas:

- a. the Common Areas;
- b. any immovable and movable property owned by the Association but which is not a Common Area, such as a Lot owned by the Association;
- c. any property adjacent to the Property if maintenance of same is deemed to be in the best interests of the Association, and if not prohibited by the owner or operator of said property; and
- d. any area, item, servitude, or service - the maintenance of which is assigned to the Association by this Declaration, by the Parish, or by the Plat.

11.2. OWNER RESPONSIBILITY. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural control requirements:

11.2.1. House Maintenance. Each Owner, at the Owner's expense, must maintain all improvements on the/his Lot. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each Owner is expected to maintain his Lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each Owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

11.2.2. Yard Maintenance. Each Owner, at the Owner's expense, must maintain the yards on his Lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. "Yards" means all parts of the Lot other than the dwelling, including fenced and unfenced portions of the Lot.

11.3. OWNER'S DEFAULT IN MAINTENANCE. If the Board determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an Individual Assessment against the Owner and his Lot. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

ARTICLE 12
MORTGAGEE PROTECTION

12.1. PURCHASE MONEY MORTGAGEE RIGHTS. As used in this Article, "Purchase Money Mortgagee" means a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first mortgage against a Lot, or any renewal, modification, or refinancing of said recorded senior or first mortgage. The Purchase Money Mortgagee has the following rights:

- a. its mortgage against the Lot is superior to the Association's privilege for Assessments;
- b. an action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by a majority of the Purchase Money Mortgagees, in addition to the required consents of Owners;
- c. an action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least two-thirds of the Purchase Money Mortgagees;
- d. a Purchase Money Mortgagee may inspect the Association's books and records, by appointment, during normal business hours;
- e. a Purchase Money Mortgagee may have an audited statement prepared at its own expense;
- f. a Purchase Money Mortgagee is exempt from any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Lot; and
- g. a Purchase Money Mortgagee may attend and address any meeting of the Association which an Owner may attend.

12.2. COMMUNICATIONS WITH MORTGAGEE. If the Community Documents or public law require the consent of Purchase Money Mortgagees for an act, decision or amendment by the Association, the approval of a Purchase Money Mortgagee is implied when the Purchase Money Mortgagee fails to respond within thirty (30) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

ARTICLE 13
AMENDMENTS

13.1. CONSENTS REQUIRED. As permitted by this Declaration, certain amendments of this Declaration may be approved by Declarant alone, or by the Board alone. Otherwise, amendments to this Declaration must be approved by a majority vote of the Members. Approval of the Members does not require that an amendment to this Declaration be signed by the consenting Owners, or that consents be executed and acknowledged by the approving Members; where a vote of the Members is required to amend this Declaration, a Certificate signed by the Secretary of the Association will be sufficient to evidence the required consent.

13.2. EFFECTIVE. To be effective, an amendment must be in the form of a written instrument (a) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto, (b) reciting the authority by which approved, and (c) recorded in the conveyance records of the parish in which the Property is located.

13.3. DECLARANT PROVISIONS. Declarant has an exclusive right to Unilaterally amend this Declaration for the purposes stated in Article 15. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without the Declarant's written and acknowledged consent.

13.4. MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. During the Development Period, any amendment effecting or authorizing a merger or consolidation of the Association with another association must be approved by Declarant. After the Development Period, the amendment must be approved by Owners of at least a majority of the Lots.

ARTICLE 14
DISPUTE RESOLUTION

14.1. INTRODUCTION AND DEFINITIONS. The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

14.1.1. "Claim" means any claim, grievance, or dispute between Parties involving the Property, except Exempt Claims, as defined below, and including without limitation (a) claims arising out of or relating to the interpretation, application or enforcement of the Community Documents, (b) claims related to the rights and/or duties of Declarant as Declarant under the Community Documents, and (c) claims relating to the design, construction, or maintenance of the Property.

14.1.2. "Claimant" means any Party having a Claim against any other Party.

14.1.3. "Exempt Claims" means the following claims or actions, which are exempt from this Article:

- a. the Association's claim for Assessments, and any action by the Association to collect Assessments;
- b. an action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration;
- c. enforcement of the servitudes, architectural control, maintenance, and use restrictions of this Declaration; and
- d. a suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

14.1.4. "Respondent" means the Party against whom the Claimant has a Claim.

14.2. MANDATORY PROCEDURES. Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

14.3. NOTICE. Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (a) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (b) the basis of the Claim (i.e., the provision of the Community Documents or other authority out of which the Claim arises); (c) what Claimant wants Respondent to do or not do to resolve the Claim; and (d) that the Notice is given pursuant to this Section.

14.4. NEGOTIATION. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

14.5. MEDIATION. If the parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation by a mediator on which the parties mutually agree. If Claimant does not submit the Claim to mediation within the said thirty (30) day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

14.6. TERMINATION OF MEDIATION. If the Parties do not settle the Claim within 30 days after submission to mediation, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

14.7. ALLOCATION OF COSTS. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

14.8. ENFORCEMENT OF RESOLUTION. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the

Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorney's fees and court costs.

14.9. LITIGATION APPROVAL AND SETTLEMENT. The initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to the above alternate dispute resolution procedures. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Section. This Section may not be amended without the approval of Owners of at least seventy-five percent (75%) of the Lots.

14.9.1. Owner Approval. The Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least a majority of the Lots, except that no such approval is required (a) to enforce provisions of this Declaration, including collection of Assessments; (b) to challenge condemnation proceedings; (c) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (d) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (e) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo.

14.9.2. Higher Approval of Certain Suits. Also, the Association may not initiate any judicial or administrative proceeding against Declarant, a Declarant Affiliate, a Builder, Association officers and directors, or the managing agent of the Association without the approval of Owners representing at least seventy-five percent (75%) of the Lots.

14.9.3. Funding Litigation. Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a Special Assessment, the Association must levy a Special Assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its annual operating income, reserve funds, or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

14.9.4. Settlement. The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

ARTICLE 15 DECLARANT RIGHTS AND RESERVATIONS

15.1. GENERAL PROVISIONS.

15.1.1. General Reservation and Construction. Notwithstanding other provisions of this Declaration and other Community Documents to the contrary: (a) nothing contained in this Declaration or any of the other Community Documents may be construed to prevent, interfere or lessen the rights of Declarant reserved or otherwise contained in this Article 15; and (b) all mortgagees, other Owners, and the Association are all prohibited from preventing or interfering with the exercise by Declarant of the rights of Declarant reserved or otherwise contained in this Article 15. Declarant hereby reserves exclusively unto itself and its successors and assigns all rights of Declarant set forth in this Article 15. In case of conflict between this Article and any other provision of this Declaration or any other Community Document, this Article controls. This Article may not be amended without the prior written consent of Declarant. The terms and provisions of this Article must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

15.1.2. Purpose of Development Period. This Article gives Declarant certain rights during the Development Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees.

15.1.3. Builders. During the Development Period Declarant may declare any other Builder (including without limitation Declarant Affiliates) exempt, in whole or in part, from Assessments by the Association and from any obligation to make contributions to the Association's reserve.

15.2. DEVELOPMENT PERIOD RESERVATIONS - GOVERNANCE. Declarant reserves the following powers, rights, and duties during the Development Period:

15.2.1. Incorporation of Association. Declarant will incorporate the Association as a Louisiana nonprofit corporation before the end of the Development Period.

15.2.2. Officers and Directors. During the Development Period, the Board may consist of 3 persons, or such other number as may be authorized in the Bylaws. During the Development Period, Declarant may appoint, remove, and replace any officer and any director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader." Declarant's unilateral right to remove and replace officers and directors applies to officers and directors who were elected or designated by Owners other than Declarant, as well as to Declarant's appointees.

15.2.3. Association Meetings. During the Development Period, meetings of the Association may be held at a location, date, and time that is convenient to Declarant, whether or not it is mutually convenient for the Owners.

15.2.4. Transition Meeting. Within 60 days after the end of the Development Period, or sooner at the Declarant's option, Declarant will call a transition meeting of the Owners for the purpose of electing, by

vote of the Members, directors to the Board. Written notice of the transition meeting must be given to an Owner of each Lot at least 10 days before the meeting. The directors elected at the transition meeting will serve until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin. Homeowner's in attendance shall constitute quorum.

15.3. DEVELOPMENT PERIOD RESERVATIONS - FINANCIAL. Declarant reserves the following powers, rights, and duties during the Development Period:

15.3.1. Association Budget. During the Development Period, the Declarant-appointed Board will establish a projected budget for the Property as a fully developed, fully constructed, and fully occupied residential community with a level of services and maintenance that is typical for similar types of developments in the general area of the Property, using cost estimates that are current for the period in which the budget is prepared.

15.3.2. Declarant Assessments and Reserves. During the Development Period, any immovable property owned by Declarant is not subject to Assessment by the Association. During the Development Period, Declarant is not required to make contributions to the Association's reserve funds for the Lots owned by Declarant.

15.3.3. Commencement of Assessments. During the Development Period, Declarant will determine when the Association first levies Regular Assessments against the Lots.

15.3.4. Budget Control. During the Development Period, the right of Owners to veto Assessment increases or Special Assessments is not effective and may not be exercised.

15.3.5. Inspect and Correct Accounts. For a period of 5 years after termination of the Development Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association financial records and accounts from the Development Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. Notwithstanding any inferences to the contrary in the preamble paragraph of this Article 16, Declarant's rights under this Section 15.4.7 will not terminate until 5 years following the last day of the Development Period.

15.4. DEVELOPMENT PERIOD ADDITIONAL RESERVATIONS. Declarant reserves the following servitudes and rights, exercisable at Declarant's sole discretion, at any time during the Development Period, regardless of whether Declarant owns any Property at the time of use of the servitude or exercise of the right:

15.4.1. Platting. Unplatted parcels, if any, may be platted in whole or in part, and in phases. The right to plat belongs to the owner of the unplatted parcel, provided, however, that a plat that creates Common Areas or obligations for the Association must also be approved by Declarant.

15.4.2. Expansion. During the Development Period, Declarant may, in its sole discretion, annex to declare to be included as part of the Property: (a) any immovable property any portion of which is contiguous with, adjacent to, or within 1,000 feet of any immovable property that is subject to this Declaration, (b) any immovable property in any addition or subdivision platted by the Parish as a phase or section of the Property, or (c) located in a planned development district created by the Parish for the property subject to this Declaration. Declarant annexes immovable property by subjecting it to the Declaration and the jurisdiction of the Association by recording a supplement or an amendment of this Declaration, executed by Declarant, in the conveyance records of the Parish. The supplement or amendment of annexation must include a description of the additional immovable property or a reference to the recorded plat that describes the additional immovable property.

15.4.3. Withdrawal. Declarant may withdraw immovable property from the effect of this Declaration (a) if the owner of the withdrawn property consents to the withdrawal, and (b) if the withdrawal does not significantly and detrimentally change the appearance, character, operation, or use of the Property.

15.4.4. Changes in Development Plan. As to Phase 2, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Declarant may (a) change the sizes, dimensions, and configurations of Lots and streets; (b) change the minimum dwelling size; (c) change the building setback requirements; and (d) eliminate or modify any other feature of the Property.

15.4.5. Architectural Control. Declarant has the absolute right to serve as the Architectural Reviewer. Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights as Architectural Reviewer. Any such delegation is at all times subject to the unilateral rights of Declarant (a) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (b) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason. Declarant also has the unilateral right to exercise architectural control over vacant Lots in the Property.

15.4.6. Amendment. Declarant or its assigns may Unilaterally amend this Declaration and the other Community Documents, for any purpose, without consent of other Owners or any mortgagee.

15.4.7. Completion. Declarant has (a) the right to complete or make improvements indicated on the Plat; (b) the right to sell or lease any Lot owned by Declarant; and (c) a servitude and right to erect, construct, and maintain on and in the Common Area and Lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion,

management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

15.4.8. Servitude to Inspect and Right to Correct. Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of the Property, including the Lots, and a perpetual nonexclusive servitude of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right.

15.4.9. Promotion. Declarant reserves for itself a servitude and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and residents, for purposes of promoting, identifying, and marketing the Property and/or Declarant's dwellings, Lots, developments, or other products located outside the Property. Declarant reserves a servitude and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events (e.g., open houses, MLS tours, and brokers parties) on the Property to promote the sale of Lots.

15.4.10. Offices. Declarant reserves the right to authorize itself or a Builder on multiple lots to use dwellings owned or leased by Declarant or the Builder as models, storage areas, and offices for the marketing, management, maintenance, customer service, and construction of the Property. Also, Declarant reserves for itself the servitude and right to make structural changes and alterations on and to Lots and dwellings used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted under this Declaration.

15.4.11. Access. Declarant has a servitude and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under this Declaration. Declarant also has the right to provide a reasonable means of access for the homebuying public through any existing or future gate that restricts vehicular access to the Property in connection with the active marketing of Lots and homes by Declarant, including the right to require that the gate be kept open during certain hours and/or on certain days. This provision may not be construed as an obligation or intent to gate the Property.

15.4.12. Utility Servitudes. Declarant may grant permits, licenses, and servitudes over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the servitudes on any Lot, as shown on the Plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a Common Area of the Property or not owned by Declarant, Declarant must have the prior written consent of the Owner.

15.5. DIFFERENT STANDARDS. Declarant has the right (1) to establish specifications for the construction of all initial improvements in the Property, (2) to establish different specifications for each neighborhood within the Property, and (3) to grant variances or waivers from community-wide standards to certain neighborhoods of the Property.

15.6. MARKETING OTHER LOCATIONS. This Declaration grants to Declarant a number of significant rights to market the Property. Declarant hereby reserves for itself and any current or future Declarant Affiliates the right to use each and every such right for the additional purposes of promoting, identifying, and marketing off-site developments of Declarant or Declarant Affiliates for the duration of the Development Period, even though Declarant and Declarant Affiliates may have completed the marketing of Lots or dwellings in the Property.

15.7. COMMON AREAS. For every Common Area capable of being conveyed to the Association, Declarant will convey title to the Common Area to the Association by one or more deeds - with or without warranty. Declarant's conveyance of title is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.

15.8. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the conveyance records of the Parish. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

ARTICLE 16 GENERAL PROVISIONS

16.1. HIGHER AUTHORITY. In the event of a conflict between the Community Documents, the hierarchy of authority is as follows: the Plat (highest), this Declaration, Association's Articles of Incorporation, Bylaws, and the rules (lowest). Within the Declaration, Article 15 has the highest authority. In the event of any conflict between an action by, or decision of, Declarant pursuant to its rights under this Agreement and an action by, or decision of, the Association (including without limitation any agency, department, committee or other division of the Association), the action by, or decision of, Declarant will control.

16.2. **NOTICE.** All demands or other notices required to be sent to an Owner or resident by the terms of this Declaration may be sent by electronic, ordinary, or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association on the date the notice is issued. If an Owner fails to give the Association an address for sending notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not he actually receives it.

16.3. **LIBERAL CONSTRUCTION.** The terms and provisions of each Community Document are to be liberally construed to give effect to the purposes and Intent of the Community Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved first to give effect to Declarant's intent to protect Declarant's interests in the Property, and second in favor of the operation of the Association and its enforcement of the Community Documents, regardless which party seeks enforcement.

16.4. **RULES OF CONSTRUCTION.** Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate. The word "shall" and "will" have the same meaning in this Declaration and are both to be interpreted as mandatory.

16.5. **DURATION.** Unless terminated or amended by Owners as permitted in this Declaration, the provisions of this Declaration run with and bind the Property and will remain in effect perpetually to the extent permitted by law.

THUS DONE AND PASSED, in multiple originals, in my office in Lafayette Parish, Louisiana, on the day, month, and year first above written, and in the presence of the undersigned, competent witnesses, who hereunto sign their names with the said Declarant/Approver and me, Notary, after reading of the whole.

WITNESSES:

Branchi Sons
Printed Name: Branchi Sons

Marcia Bradley
Printed Name: Marcia Bradley

DECLARANT/APPEALER

HEATHER OAKS, LLC

By: [Signature]
Timothy J. Bradley, Manager

Alyse R. Kibodeaux
NOTARY PUBLIC, in and for
Lafayette Parish, Louisiana
My Commission Expires: with life
Printed Name of Notary Public: Alyse Lee Kibodeaux
Number Assigned to Notary Public (or Bar Roll No.): 68864

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EXHIBIT A
LEGAL DESCRIPTION

That subdivision known as **HEATHER OAKS SUBDIVISION, PHASE 2** and designated on the official plan thereof, made and prepared by Civil & Environmental Consulting Engineers, LLC, which will be filed with an Act of Dedication in the records of the Parish of St. Charles, State of Louisiana, including all Common Areas and **LOT NUMBERS EIGHTY-FIVE (85) through ONE HUNDRED SIXTY-NINE (169)** of said subdivision, said lots having such measurements and dimensions and being subject to such servitudes as shown on said subdivision map.

(End of Exhibit A)

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EXHIBIT B
CONSTRUCTION SPECIFICATIONS

All improvements on a Lot must (1) comply with any applicable governmental ordinances and codes, (2) have a building permit issued by the appropriate governmental entity, if the type of improvement requires a permit, and (3) have the Architectural Reviewer's prior written approval. These three requirements are independent and one does not ensure or eliminate the need for another. The Owner and/or Owner's contractor must comply with all three requirements. Without the Architectural Reviewer's prior written approval for a variance, improvements constructed on every Lot must have the following characteristics:

B.1. HOUSES. The principal improvement on a Lot must be one detached single family dwelling serving as a residence. The dwelling size, setbacks, and exterior materials must comply with the applicable ordinances and with any higher standards established by the Architectural Reviewer. Provided, however, that residential homes must contain at least 2,000 square feet of the heated and cooled portion of the residential home, excluding porches, storage areas and garages.

B.2. NEW CONSTRUCTION. The dwelling must be constructed on the Lot. A dwelling or addition constructed elsewhere may not be moved onto a Lot. Factory-built homes are not permitted, even though assembled or finished on the Lot. However, components of dwellings (such as roof trusses) may be manufactured off-site. At the start of construction - but not before - building material to be used in the construction may be stored on the Lot. Once started, the dwelling and all improvements on the Lot must be completed with due diligence. Each Lot Owner shall cause the construction of improvements to be prosecuted with diligence and continuity, and said improvements shall be completed in a good and workmanlike manner in accordance with the plans and specifications approved by the Architectural Reviewer and all applicable governmental requirements. Each Lot Owner agrees that it shall not commence work on improvements until it has received the consent of the Architectural Reviewer to such improvements. Each Lot Owner agrees that it shall not move in and use its Residence until it has received a certificate of occupancy and all other necessary certificates, licenses, consents and other approvals of St. Charles Parish. In no event shall a Lot Owner take more than one (1) year from the commencement of construction of any improvements to the completion of said construction. In no event shall the construction of any of the improvements cease for a period in excess of twenty-one (21) consecutive days. During construction of improvements, the Lot Owner shall place or cause to be placed an adequate container on the Lot for the disposal of construction debris, trash or waste matter. During construction of improvements, the Lot Owner must keep the Street in front of his Lot clear of the container, construction debris, fill, trash or waste matter. It is the responsibility of the Lot Owner to insure that any construction debris, trash or waste matter generated during construction is placed in the above specified container on at least a weekly basis. Upon completion of the improvements, all construction materials shall either be removed from the Lot, or stored in a suitable enclosure on the Lot. During the construction of improvements, the Lot Owner shall insure that all concrete trucks pouring concrete on its Lot shall be washed out on its Lot. The washing out of concrete trucks on any other Lot or anywhere else in the subdivision is strictly prohibited. During the construction of improvements, the Lot Owner shall insure that its contractors and subcontractors do not play loud music.

B.3. EXTERIOR MATERIALS. The type, quality, and color of exterior wall materials for all structures must be approved by the Architectural Reviewer. Generally, the dwelling's total exterior area, minus windows and doors, must be masonry or masonry veneer, such as brick, stone, or stucco or siding which must be a cement fiber board product, such as HardiPlank. Building plans must include the type of exterior materials used on walls, shutters, doors, windows, columns, overhangs, fascia, gutters, roofing and fencing, and the colors of these items. The use of concrete block, dryvit, vinyl, masonite, or metal siding is prohibited.

B.4. ROOFS. Roofs must be covered with material having a manufacturer's warranty of at least 20 years. The use of fiberglass shingles is permitted. The color of roofing material must be weatherwood or an equivalent earth tone color. The Architectural Reviewer may permit or require other weights, materials, and colors. The main roof structure of a Residence shall have a vertical rise of at least six (6") inches for each twelve horizontal (12") inches unless otherwise approved by the Architectural Reviewer. Minor roof structures, such as on attached porches, may have a lesser pitch than the main roof structure, as may be determined and approved by the Architectural Reviewer. All external roofing material shall be composition roof shingles, terra cotta tile or slate. All composition roof shingles shall have an architectural style. Copper and certain types of metal may be used as an external roofing material on a limited basis for accent purposes only.

B.5. GARAGE OTHER STRUCTURES AND DRIVEWAY. Construction on any lot shall include a garage capable of housing at least two, standard-sized automobiles having a minimum width of 22 feet and constructed as part of, and at the same time as, the dwelling on the lot. The driveway must be surfaced with concrete or such other material as is approved by the Architectural Reviewer such as washed gravel, brick pavers or colored concrete and must be of sufficient width to two automobiles side by side. In addition to the residence, detached buildings will be allowed for utility space or storage, for playhouses or for pool side cabanas; provided that the maximum area occupied by such detached buildings shall not exceed ten percent of the total square footage of such Lot and that such detached building shall be of the same architectural style and quality as the residence. Driveways and walkways, or pool decks shall not be located nearer than one and one half feet to any side lot line. With the exception of corner lots, there shall only be one driveway per lot. Two driveways are allowed on corner lots; however only one driveway is allowed for each street front. All garages that are on corner lots or that are side loaded shall have a minimum of 20 foot side setback from the side lot lines.

B.6. CARPORTS. A carport may not be installed, constructed, or maintained on a Lot without the prior written consent of the Architectural Reviewer.

B.7. ACCESSORIES. Installation of all exterior items and surfaces, including address numbers, decorative hardware, external ornamentation, lights fixtures, and exterior paint and stain, is subject to the Architectural Reviewer's prior approval, including approval of design, color, materials, and location.

B.8. NO SUBDIVISION. No Lot may be subdivided. One or more Lots may be replatted with the approval of all Owners of the Lots directly affected by the replatting, and subject to the approval of the city. The parties executing the replat will provide a copy of the recorded replat to the Association. Replatting of Lots may not alter the number of votes and Assessments allocated to the Lots as originally platted. If replatting reduces the number of Lots by combining Lots, the joined Lot will have the votes and Assessments allocated to the Lots as originally platted.

B.9. UTILITIES. All utility lines and equipment must be located underground, except for: (1) elevated or surface lines or equipment required by a public utility or the city; (2) elevated or surface lines or equipment installed by Declarant as part of the development plan; and (3) surface equipment necessary to maintain, operate, or read underground facilities, such as meters, risers, service pedestals, and transformers. The Architectural Reviewer may require that utility meters, risers, pedestals, and transformers be visually screened from the street and neighboring Lots. Each Lot will use city water and sewage systems. Individual water supply and sewage disposal systems are not permitted.

B.10. FINISHED FLOOR AND WALL HEIGHT. The height of the first finished floor of the heated/air-conditioned area of a dwelling must be approved by the Architectural Reviewer. All dwellings must have a minimum ten (10) feet wall height on the front of the first floor and nothing less than nine (9) feet wall heights on garages and on the sides and rear of the dwelling are acceptable, all subject to Architectural Reviewer approval.

B.11. MINIMUM SLAB ELEVATION. The minimum slab or finished first floor elevation of a Residence, garage and/or any detached building on any lot shall be at least eighteen (18") inches above the crown of the street immediately in front of the lot. The maximum slab or finished floor elevation of a residence, garage, and any detached building on any lot shall be forty-eight (48") inches above the crown of the street immediately in front of the lot. All slabs or finished floors greater than eighteen (18") inches above the centerline of the street shall be accomplished with an exposed brick ledge or other approved architectural finish. All slabs or brick ledge grade beams shall not be exposed more than eight (8") inches above the fill surrounding the base of the slab. Retaining walls are not allowed within the boundaries of the lot. Prior to pouring the slab or laying the foundation, the Lot Owner shall provide the Architectural Reviewer with a slab form grade letter signed by a licensed surveyor evidencing that the slab form elevations have been satisfied. If St. Charles Parish or FEMA have slab elevations which are greater or stricter than those herein, the Lot Owner shall be obligated to comply with the stricter requirements.

B.12. LOT GRADING. Lots shall be graded to ensure positive drainage from the rear of the Lot to the front of the lot.

B.13. LOT SEDIMENT CONTROL. Sediment control measures are required during all construction activities on all Lots. Each Lot Owner shall show the locations and types of control measures the Lot Owner intends to use during construction on a survey of such Lot which must be submitted to and approved by the Architectural Control Committee prior to the commencement of construction. Sediment control measures shall be sufficient to prevent surface soil from entering the Street(s), Lakes, drainage system and adjacent Lots and shall comply with all requirements of the State of Louisiana and Parish of St. Charles. Each Lot Owner shall install, regularly inspect, repair, and maintain the sedimentation control measures throughout the duration of the construction. If these measures are not properly maintained or are disrupted to the point that siltation occurs outside of the Lot or construction area, the Lot Owner shall immediately take all necessary actions to remove the identified siltation and repair the sediment control. Each Lot Owner shall be personally responsible and liable for any and all damages, expenses, fees and fines relating from the failure to adhere to proper sedimentation control measures.

If a single Lot Owner is involved in the construction of Improvements on several Lots at any one time, and the total lot area of the construction exceeds one acre, then the Lot Owner shall additionally comply with the State of Louisiana, Department of Environmental Quality requirements by preparing a Storm Water Pollution Prevention Plan which complies with all requirements of the State of Louisiana and Parish of St. Charles.

B.14. LANDSCAPING PLAN AND TREE PLANTING REQUIREMENT. LANDSCAPING OF THE FRONT YARDS IS REQUIRED. ANY AREAS NOT LANDSCAPED IN FRONT YARDS MUST BE SODDED. The amount of landscaping and plant materials and coverage area must be included in plans submitted to the Architectural Reviewer and will be sufficient to insure continuity of landscaping along the streets and to insure compatibility with the overall planting and landscaping in the Subdivision as determined by the Architectural Control Committee.

If the sod or landscaping is not installed, the Architectural Reviewer shall have right, but not the obligation, to cause such sod and landscaping to be planted and such Lot Owner shall be liable to the Architectural Control Committee for one hundred fifty (150%) percent of the out of pocket cost of the Architectural Control Committee to install such sod, plus any attorney's fees or other costs incurred by it in collecting such sums from the Lot Owner.

B.15. ROOF PENETRATIONS. No ventilating, plumbing, or heating or cooling vents shall be placed on the street side of building roofs, unless otherwise approved by the Architectural Reviewer. All vents protruding from roofs shall match, or be painted to match, the color of the roof. Exceptions may be made by the Architectural Control Committee for dwellings on corner lots.

B.16. SETBACKS. No Improvements shall be located on any Lot nearer than twenty (20') feet to

the front Lot line facing the Street or nearer than twenty (20') feet to any side Street Lot line of corner Lots with the side street Lot line being determined by the longest Lot line of a corner Lot. Subject to the provisions herein regarding driveways, walkways and pool decks, no improvements (other than fences or landscaping) shall be located nearer than five (5') feet to an interior side Lot line, thereby maintaining at all times at least a ten (10') feet minimum setback from all Improvements located on adjoining Lots. No Residence shall be located on any Lot nearer than twenty (20') feet to the rear Lot line. All measurements shall be from the sill lines to the edge of the Lot lines. All building setbacks must additionally conform to the St. Charles Parish Zoning Ordinance which may impose stricter setback requirements than those specified herein. The Architectural Control Committee may grant waivers or variations to these requirements in the case of Lots which have irregular shapes and make the compliance with the above setbacks inconsistent with the location of Residences on adjoining Lots; but the Architectural Control Committee shall have no obligation to grant such variances and such variances shall not, in the sole opinion of the Architectural Control Committee, adversely affect the overall aesthetics of the Property.

B.17 FACING OF STRUCTURES. Dwellings must generally face the street except that the Architectural Control Committee shall determine, in its discretion, the facing direction of all structures, including garages and accessory buildings.

B.18 SIDEWALKS. Each Lot Owner shall construct a sidewalk on each Street fronting each Lot owned by it and for corner Lots on both Streets fronting such Lot. Each sidewalk shall be four (4') feet wide and located within the Street right of way, one (1') foot outside of the property line of the Lot parallel to the Street. All sidewalks shall comply with the rules, regulations and codes of St. Charles Parish, including but not limited to St. Charles Parish Subdivision Regulations of 1981, Section N. E. 1, as it may be amended from time to time. The sidewalks shall be constructed prior to substantial completion of the Residence on such Lot, but in no event later than occupancy of the Residence. In the event a Lot does not have a Residence constructed on it, a Lot Owner (other than Declarant) shall construct sidewalks on its Lot in accordance with this Section at the earlier of (i) six (6) months after the construction of sidewalks on the Lots adjoining such vacant Lot (but adjoining on one side for a corner Lot) or (ii) three years after the effective date of these Restrictions; provided however a Lot Owner shall always have six (6) months after the initial purchase of a Lot from Declarant in order to construct sidewalks on its Lot in accordance with this Section.

B.19 SPACING. Following are the spacing rules for similarly designed dwellings located on the same street, provided they have different exterior color selections:

Spacing Rules	
Same Plan & Elevation	3 lots between and 2 across
Same Plan w/ Different Elevation	2 lots between and 1 across

"Between" should be interpreted as when the like elevations are on the same side of the street.
 "Across" means the two like elevations are on opposite sides of the street.

(End of Exhibit B)

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