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**SUPPLEMENTAL DECLARATION TO THE RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR RIVER PLACE RESIDENTIAL AREAS** **FILM CODE 00005729637**  
[SECTION 21]

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

This Supplemental Declaration to the Restated Declaration of Covenants, Conditions and Restrictions for River Place Residential Areas (the "Declaration") is made by **FIRST RIVER PLACE RESERVE, LTD.**, a Texas limited partnership (the "Declarant"), and is as follows:

**RECITALS**

WHEREAS, the Declarant is the owner of all lots (the "Lots") located within RIVER PLACE SECTION 21, a subdivision in Travis County, Texas, according to the map or plat, of record in Volume 101, Pages 76-80, of the Plat Records of Travis County, Texas (the "Property"); and

WHEREAS, Declarant under Section 2.02 of that certain Restated Declaration of Covenants, Conditions and Restrictions for the River Place Residential Areas, dated July 15, 1991, and recorded in Volume 11479, Page 386, of the Real Property Records of Travis County, Texas, as amended (the "Master Declaration") has the authority to subject the Additional Property to the Master Declaration, and the Declarant has the authority to designate such additional covenants, conditions and restrictions as Declarant deems appropriate for the Property; and

WHEREAS, the Master Declaration permits the Declarant to file Development Area Declarations applicable to specific Development Areas, as those terms are used and defined in the Master Declaration, which shall be in addition to the covenants, conditions, and restrictions of the Master Declaration; and

WHEREAS, Declarant desires to create upon the Property a residential community and carry out a uniform plan for the improvement and development of the Property for the benefit of the present and all future owners thereof; and

WHEREAS, Declarant desires to provide a mechanism for the preservation of the community and for the maintenance of common areas and, to that end, desires to subject the Property to the covenants, conditions, and restrictions set forth in this Declaration for the benefit of the Property, and each owner thereof, which shall be in addition to the covenants, conditions, and restrictions set forth in the Master Declaration.

NOW, THEREFORE, it is hereby declared: (i) that all of the Property shall be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which shall run with the Property and shall be binding upon all parties having right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property, or any portion thereof, shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said

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contract or deed; and (iii) that this Declaration shall supplement and be in addition to the covenants, conditions, and restrictions of the Master Declaration.

## ARTICLE I

### DEFINITIONS

1-01. **Defined Terms.** Unless the context specifies or requires otherwise, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

"Architectural Guidelines" shall mean the architectural guidelines adopted by the Master Architectural Control Committee pursuant to the Master Declaration, as such architectural guidelines may be amended, modified, or restated from time to time.

"Assessment" or "Assessments" shall mean all assessment(s) imposed by the Association under this Declaration.

"Association" shall mean and refer to the River Place Section 21 Sub-Association, Inc., a Texas non-profit corporation.

"Association Restrictions" shall mean this Declaration as the same may be amended from time to time, together with the Articles, Bylaws, and Association Rules, from time to time in effect.

"Association Rules" shall mean the rules and regulations adopted by the Board pursuant to Section 3.04(c) hereof as may be amended from time to time.

"Articles" shall mean the Articles of Incorporation of River Place Section 21 Sub-Association, Inc., to be filed in the office of the Secretary of State of the State of Texas, as the same may be amended from time to time.

"Bylaws" shall mean the bylaws of the Association as adopted by the Board and as amended from time to time.

"Board" shall mean and refer to the Board of Directors of the Association.

"Common Area" shall mean and refer to those areas within the Property which have been or may in the future be conveyed to, or leased by, the Association or held for the benefit of any of the Owners including, without limitation, all private streets and easements for access, landscape, drainage, irrigation, fence or related purposes. The Common Area may be owned by the Association, but held for the use and enjoyment of the Owners. The Common Area to be owned by the Association shall include: (i) all private streets shown on any recorded plat of the Property; (ii) any subdivision entry gates or facilities located upon the Property; and (iii) any land, improvements or easements conveyed to the Association by Declarant.

"Declarant" shall mean First River Place Reserve, Ltd., its successors or assigns; provided that any assignment(s) of the rights of First River Place Reserve, Ltd., as Declarant, must be expressly set forth in writing and the mere conveyance of a portion or all of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

"Declaration" shall mean this instrument as it may be amended from time to time.

"Improvements" shall mean every structure and all appurtenances of every type, whether temporary or permanent, including but not limited to buildings, outbuildings, sheds, patios, tennis courts, swimming pools, garages, driveways, storage buildings, sidewalks, gazebos, signs, fences, gates, screening walls, retaining walls, stairs, decks, landscaping, landscape improvements, poles, mailboxes, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, playground equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, other utilities, or otherwise.

"Lot" or "Lots" shall mean one or more of the subdivided lots within the Property other than Common Areas.

"Master Architectural Control Committee" shall mean the committee created pursuant to the Master Declaration to establish Architectural Guidelines, to review and approve plans for the construction of Improvements upon the Property, and to carry out its duties as set forth in the Declaration and the Master Declaration.

"Master Association" shall mean and refer to River Place Residential Community Association, Inc., a Texas non-profit corporation.

"Master Board" shall mean and refer to the Board of Directors of the Master Association.

"Master Common Area" shall mean and refer to those areas within the Property which have been or may in the future be conveyed to, or leased by, the Master Association, including, without limitation, all private streets and easements for landscape, drainage, irrigation, fence or related purposes.

"Master Declaration" shall mean that certain Restated Declaration of Covenants, Conditions and Restrictions for the River Place Residential Areas, dated July 15, 1991, and recorded in Volume 11479, Page 386, of the Real Property Records of Travis County, Texas, filed against the Property and other real estate in Travis County, Texas, as such declaration may be modified, amended, or restated from time to time.

"Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust securing indebtedness and covering any portion of the Property given to secure the payment of a debt.

"Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage(s).

"Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot, but shall not include the Mortgagee under a Mortgage prior to acquisition of its fee simple interest in such Lot pursuant to foreclosure of the lien of such Mortgage.

1.02. General Definitions. Unless the context specifies or requires otherwise, capitalized terms used but not defined in this Declaration are used and defined as they are used and defined in the Master Declaration.

## ARTICLE II

### GENERAL RESTRICTIONS

2.01. **Construction of Improvements.** Any and all Improvements erected, placed, constructed, painted, altered, modified, or remodeled on any portion of the Property shall strictly comply with the requirements of the Master Declaration and the Architectural Guidelines, unless a variance is obtained pursuant to Section 7.07 of the Master Declaration.

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

- (a) Any residence constructed on any Lot must have a floor area of not less than 2,000 square feet, exclusive of open or screened porches, terraces, patios, decks, driveways, and garages.
- (b) Unless otherwise expressly approved by the Architectural Control Committee the exterior walls, including the chimney, of any residence shall consist of one hundred percent (100%) masonry constructed in strict compliance with the requirements of the Architectural Guidelines. The Architectural Control Committee shall have the authority to permit the use of wood siding in specific circumstances where the Architectural Control Committee determines the limited use of wood siding to be appropriate and consistent with the design requirements set forth in the Architectural Guidelines.
- (c) Fences shall not be required but must be constructed of wrought iron, or a wrought iron/masonry combination to be approved in advance by the Architectural Control Committee and shall be appropriate and consistent with the design requirements of the Architectural Guidelines.
- (d) That portion of the foundation visible from the exterior of the structure must be concealed by extending the exterior masonry material to within eighteen inches (18") of the finished grade.
- (e) The design, specifications, construction materials, and location of all decks shall be approved in advance by the Architectural Control Committee and shall require all vertical supports to be constructed of masonry or masonry veneer.

## ARTICLE III

### THE ASSOCIATION

3.01. **Organization.** The Association shall be a non-profit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Notwithstanding any provision in this Declaration to the contrary, Declarant shall be under no obligation to administer, finance, or cause the creation of the Association.

**3.02. Membership.**

- (a) Any person or entity, upon becoming an Owner, shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the ownership of the Lot that qualifies the Owner thereof for membership. Membership in the Association may not be severed from the ownership of a Lot, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to the said Lot.
- (b) Every Member shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to such Member's Lot, subject to the following restrictions and reservations:
- (i) the right of the Association to suspend the Member's voting right and right to use the Common Area for any period during which any Assessment against such Member's Lot(s) remains past due, and for any period during which a Member is in violation of the Association Restrictions;
  - (ii) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility on such conditions as may be agreed to by the Members;
  - (iii) the right of the Association to borrow money for the purpose of improving or maintaining the Common Area and, in aid thereof, to mortgage said Common Area;
  - (iv) the right of the Association to make reasonable rules and regulations regarding the use of the Common Area and facilities located thereon by the Members and other persons entitled to such use; and
  - (v) the right of the Association to contract for services with third parties on such terms as the Association may determine to be in the best interest of the Association.

**3.03. Voting Rights.** The right to cast votes and the number of votes which may be cast for election of members of the Board and on all other matters to be voted on by the Members shall be calculated as follows:

- (a) The Owner of each Lot shall have one (1) vote for each lot so owned. In no event, except as set forth in Section 3.03(c) below, shall any Lot be entitled to more than one (1) vote; provided, however, that in the event of the resubdivision of any Lot into two or more Lots, the number of votes to which such Lot is entitled shall be increased as necessary to retain the ratio of one (1) vote for each Lot resulting from such resubdivision. In the event of the resubdivision of any Lot into two or more Lots, there shall be one assessment collected for each Lot created by the resubdivision. No resubdivision shall be effective, for purposes of the Association Restrictions, unless the same is approved by the appropriate governmental entity

in accordance with the requirements of Chapter 212 of the Texas Local Government Code then in effect (or its successor statute), and duly recorded in the Real Property Records of Travis County, Texas. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, the Owner of the resulting Lot shall have one (1) vote and there shall be one (1) assessment collected; voting rights and assessments collected shall not be determined according to the number of original Lots contained in such consolidated Lot. Nothing herein shall be construed as authorization for any resubdivision or consolidation of Lots; such actions are subject to and require the prior approval of the Master Architectural Committee pursuant to other provisions of this Declaration.

- (b) In addition to the votes to which Declarant is entitled by reason of Section 3.03(a), for every one (1) vote outstanding in favor of any other person or entity, Declarant shall have four (4) additional votes until such time as Declarant no longer owns any of the Lots.
- (c) The right of any Owner to vote may be suspended by the Association, acting through the Board, for any period during which any Assessment against such Owner's Lot(s) remains past due, for any period during which such Owner or such Owner's Lot(s) is in violation of the Association Restrictions.

3.04. Duties of the Association. Subject to and in accordance with these restrictions, the Association acting through the Board shall have and perform each of the following duties:

- (a) Association Property.
  - (1) Ownership and Control. To accept, own, operate, and maintain all Common Area, together with all improvements of whatever kind and for whatever purpose that may be located in said Common Area, and all sidewalks, subdivision entry gates, and streets located within the Property.
  - (2) Repair and Maintenance. To maintain in good repair and condition the Common Area and all lands, Improvements, security devices, and other property owned by or leased to the Association, including, without limitation, all sidewalks, pathways, private streets, subdivision entry gates, driveways and fences located within the Property.
  - (3) Taxes. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to the Common Area to the extent that such taxes and assessment are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (b) Insurance. To obtain and maintain in effect policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.
- (c) Rules and Bylaws. To make, establish, and promulgate and in its discretion, to amend or repeal and re-enact the Bylaws and such Association Rules not in conflict

with this Declaration, as it deems proper, covering any and all aspects of its functions, including the use and occupancy of Common Area. In the event of any conflict between the terms and provisions of the Articles, Bylaws, or any other Association Rules with this Declaration, the terms and provisions of this Declaration are intended to, and shall be controlling.

(d) Records. To keep books and records of the Association's affairs and to make such books and records, together with current copies of the Association Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(e) Other. To carry out and enforce all duties of the Association set forth in the Association Restrictions.

3.05. Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration, the Articles and the Bylaws. It shall further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

(a) Assessments. To levy assessments as provided herein.

(b) Right of Entry and Enforcement. To enter at any time in an emergency without notice, or in a non-emergency after twenty-four (24) hours written notice, without being liable to any Owner or any other person or entity, upon any Lot, or to enter at any time without notice onto any Common Area, for the purpose of enforcing the Association Restrictions or for the purpose of maintaining or repairing any area, Improvement, or other facility to conform to the Association Restrictions. The expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be deemed a special Assessment against such Lot, shall be a lien upon the Lot entered upon and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VI hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of the Association Restrictions. The Association is also authorized to settle claims, enforce liens, and take all such action as it may deem necessary or expedient to enforce the Association Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns. Notwithstanding any provision herein to the contrary, the Association may not alter or demolish any Improvements on any Lot other than Common Area or Association Property in enforcing the Association Restrictions before judicial proceedings are instituted by the Association or the written consent of the Owner(s) of the affect Lot(s) has been obtained. Each such Owner shall

indemnify and hold harmless the Association, its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Association's acts or activities under this Section 3.05(b) (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Association's gross negligence or wilful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.

(c) **Conveyances.** To grant and convey to any person or entity any real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way, or Mortgages, out of, in, on, over, or under any Association Property for the purpose of constructing, erecting, operating, or maintaining thereon, therein, or thereunder:

- (1) Roads, streets, walks, street lights, driveways, parking lots, trails, paths and fences;
- (2) Lines, cables, wires, conduits, pipelines, or other devices for utility purposes;
- (3) Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; or
- (4) Any similar improvements or facilities.

Nothing set forth above, however, shall be construed to permit the use or occupancy of any improvement or other facility in any way that would violate applicable use and occupancy restrictions imposed thereon by the Association Restrictions, or by any governmental authority.

- (d) **Manager.** To retain and pay for the services of a Manager to manage and operate the Association, including the Association Property, to the extent deemed advisable by the Board; provided, however, that the Board will have no power to discharge, limit the authority of or interfere with the exercise of functions by, a Manager for the Property appointed pursuant to the Master Declaration. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any duties, powers, and functions to the Manager. The Members of the Association hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power, or function so delegated.
- (e) **Legal and Accounting Services.** To retain and pay for legal and accounting services necessary or proper in the operation of the Association.
- (f) **Common Area Services.** To pay for water, sewer, garbage removal, landscaping, gardening, and all other utilities or services to, and all maintenance of the Common Area, including, but not limited to, any recreational facilities; to maintain and repair



any recreational facilities, easements, gates, roads, roadways, rights-of-way, parkways, median strips, sidewalks, paths, trails, fences, ponds, lakes, landscaping (including irrigation facilities) located within or upon the Common Area, and to maintain and repair other portions of the Common Area.

- (g) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or Assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to applicable law or under the terms of the Association Restrictions.
- (h) Construction on Association Property. To construct new Improvements on or additions to Association Property, subject to the approval of the Architectural Committee.
- (i) Contracts: Property Ownership. To enter into contracts with Declarant and with other persons or entities on such terms and provisions as the Board shall determine, and to acquire, own, and dispose of all manner of real and personal property, whether by grant, lease, gift, or otherwise.
- (j) Security Services. To provide for and construct and maintain facilities for the provision of security regarding the Property.

3.06. Indemnification. To the fullest extent permitted by applicable law, but without duplication of (and subject to) any rights or benefits arising under the Articles or Bylaws of the Association, the Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a director, officer, committee member, employee, servant, or agent of the Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court that such person: (i) acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interests of the Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant, or agent of the Association, against any liability asserted against such person or incurred by such person in any such capacity, or arising out of the status of such person as such, whether or not the Association would have the power to indemnify such person against such liability hereunder or otherwise.

3.07. Ownership, Maintenance, and Assessments for Maintenance of Private Streets. Private streets or access easements constructed or held for the use of any Owners and located within the Property are private and constitute a portion of the Common Area which is subject to jurisdiction and administration by the Association. The Board shall have the power to recommend, adopt, implement, and enforce rules, regulations, and procedures governing the use of Common Area, including, but not limited to:

- (a) identification and entry programs for Owners, their respective immediate families, their guests, and vehicles owned or driven by any of them;
- (b) speed limits, designated parking areas, restricted parking areas, and no parking areas;
- (c) signs and graphics to provide announcements to unauthorized persons concerning potential criminal trespass matters;
- (d) a "fine" system through which the Association can levy and collect fines from Owners for violations of applicable rules and regulations; and
- (e) disclaimers of liability for any and all matters or occurrences on or related to the Common Area.

The Association shall have the obligation to maintain, levy, and collect assessments for the maintenance of all Common Areas. Any private street or access easement located within the Property shall not be dedicated to or maintained by Travis County. If the Association requests, and Travis County agrees, to acquire private streets or any access easement located within the Property, all special paving and medians within such areas shall be moved or modified to meet Travis County standards. An express easement is hereby granted across the private streets and any adjoining common areas for the use of the surface for all governmental functions, vehicular and non-vehicular, including fire and police protection, solid and other waste material pick-up, and Declarant hereby acknowledges and agrees that all governmental entities, their agents or employees, shall not be responsible or liable for any damage occurring to the private streets or any access easement and facilities as a result of governmental vehicles' ingress or egress over same.

#### ARTICLE IV

#### COVENANT FOR ASSESSMENTS

4.01. **Assessments.** Each Owner of any Lot, by acceptance of a deed therefor or ownership interest thereto, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant to pay to the Association: (i) Assessments or charges (as specified in Section 4.03 hereof); (ii) Special Assessments (as specified in Section 4.04 hereof); and (iii) late charges (as specified in Section 4.06 hereof). All of such Assessments shall be fixed, established, and collected from time to time as hereinafter provided. The Assessments provided for under this Article VI shall be in addition to the assessments levied pursuant to the Master Declaration.

4.02. **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of promoting the comfort, health, safety, and welfare of the Owners, and the maintenance and improvement of the Property or any part thereof, including, without limitation, Common Area, and for carrying out the purposes of the Association as stated herein or as otherwise provided in the Articles or Bylaws.

4.03. **Establishing Assessments.** Each fiscal year, the Board shall estimate the expenses to be incurred by the Association during each year in performing its functions with respect to the Property, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and as between the Lots within the Property, the amount

of the Assessments levied against each Lot shall be equal and uniform. The level of Assessments set by the Board shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable by each Owner to the Association during the fiscal year in equal monthly, quarterly, semi-annual, annual, or other periodic installments, as the Board determines in its sole discretion, on or before the first day of the applicable period.

**4.04. Special Assessments.** In addition to the Assessments authorized by Section 4.03 hereof, the Board may, as set out in Section 4.04A hereof, levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of any Improvement located upon any of the Common Area, or any portion of the Property owned by the Association, including the necessary fixtures and personal property related thereto, or for carrying out other purposes of or otherwise benefitting the Association.

**4.04A. Vote Required for Special Assessment.** Special Assessments levied against the Owner(s) of a particular Lot to cure violations of the Association Restrictions by such Owner(s) shall be deemed approved and authorized automatically upon the occurrence of the events giving rise to such curative Special Assessments. The Board may levy Special Assessments whenever in the Board's opinion such Special Assessments are necessary to enable the Board to carry out the functions of the Association under this Declaration. The amount of any Special Assessments shall be at the reasonable discretion of the Board. In addition to the Special Assessments authorized above, the Association may, in any fiscal year, levy a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area.

**4.05. Due Date of Assessments.** The first Assessment shall become due and payable on each Lot in accordance with the periodic payment schedule established by the Board in accordance with Section 4.03. The due date of any Special Assessment hereunder shall be fixed in the resolution authorizing such Assessment or, if not so fixed or established by other terms of this Declaration, the first day of the first month following the imposition of such Special Assessment. Payments shall be considered delinquent if not paid within five (5) days after their due date.

**4.06. Late Charges.** If any Assessment is not paid before it is delinquent, the Owner responsible for the payment thereof may be required by the Board to pay a late charge at such rate the Board may designate from time to time, and such late charge (and any reasonable handling costs therefor) shall be a charge upon the Lots owned by the said Owner to which the Assessment relates, collectible in the same manner as herein provided for collection of Assessments, including foreclosure of the lien against such Lot(s); provided, however, such charge shall never exceed the maximum charge permitted under applicable law.

**4.07. Owner's Personal Obligation for Payment of Assessments.** The Assessments and late charges provided for herein shall be the personal and individual debt of each Owner. No diminution or abatement of Assessments shall be allowed for inconveniences arising from the making of repairs or improvements to the Common Area or any Lot, and no Owner may exempt himself from liability for such Assessments and charges through non-use of such Owner's Lot or otherwise.

**4.08. Assessment Lien and Foreclosure.** All sums assessed or charged in the manner provided in this Article but unpaid, together with all costs and expenses of collection, including reasonable attorney's fees, are secured by a continuing Assessment lien and shall constitute a charge on or against the Lot covered

by such Assessment or charge, which shall bind such property in the hands of the Owner, and such Owner's heirs, devisees, and personal representatives, successors or assigns. The obligation to pay Assessments hereunder is part of the purchase price of each Lot when sold to an Owner. An express lien on each Lot is hereby granted and conveyed by Declarant to the Association to secure the payment thereof in each such instance, each such lien to be superior and paramount to any homestead or other exemption provided by law. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for tax liens, and all sums unpaid secured by a first-lien Mortgage securing sums borrowed for the purchase or improvements of the Lot in question, provided such Mortgage was recorded in the Real Property Records of Travis County, Texas before the delinquent Assessment was due. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination must be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Real Property Records of Travis County, Texas. Each Owner, by accepting a deed to a Lot subject to this Declaration, shall be deemed conclusively to have granted a power of sale to the Association to secure and enforce at any time after such payment becomes delinquent by the non-judicial foreclosure of such lien on the defaulting Owner's Lot by the Association in like manner as a deed of trust or real property mortgage with power of sale under Tex. Prop. Code § 51.002. (For such purpose, John W. Gravenor of Travis County, Texas is hereby designated as trustee for the benefit of the Association, with the Association retaining the power to remove any trustee with or without cause and to appoint a successor trustee without the consent or joinder of any other person.) The Assessment liens and rights to foreclosure thereof shall be in addition to and not in substitution of any other rights and remedies the Association may have by law and under the Association Restrictions, including the rights of the Association to institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, the Owner shall be required to pay the costs, expenses, and reasonable trustee's and attorney's fees incurred. The Association shall have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee holding a prior lien on any Lot, the Association shall report to said Mortgagee any Assessments remaining unpaid for longer than thirty (30) days after the same are due. The lien hereunder shall not be affected by the sale or transfer of any Lot; except, however, that in the event of foreclosure of any first-lien Mortgage, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the first-lien Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Lot Owner from paying assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this paragraph, the Association shall upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release shall be signed by an officer of the Association.

4.09. Exemptions. Notwithstanding any provision herein to the contrary, any Lot owned by Declarant, all Common Area and Master Common Area shall be exempt from the payment of any Assessment levied by the Association, regular or special.

## ARTICLE V

### MORTGAGE PROTECTION

5.01. **Notice to Association.** An Owner who mortgages such Owner's Lot and any residence or structure thereon shall notify the Board, giving the name and address of such Owner's Mortgagee. The Board may, at its election, maintain such information in a book entitled "Mortgagees of Owners."

5.02. **Examination of Books.** The Association shall permit Mortgagees to examine the books and records of the Association during normal business hours upon one business day's notice (not less than 24 hours).

5.03. **Taxes, Assessments and Charges.** All taxes, assessments and charges which may become liens prior to first lien mortgages under local law shall relate only to the individual Lots and not to the Property as a whole.

## ARTICLE VI

### GENERAL PROVISIONS

6.01. **Duration.** This Declaration and the covenants, conditions, restrictions, easements, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded in the Real Property Records of Travis County, Texas, and continuing through and including January 1, 2026, after which time this Declaration shall be automatically extended for successive periods of five (5) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by members of the Association, entitled to cast at least seventy percent (70%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of such meeting; provided, however, that such change shall be effective only upon the recording of a certified copy of such resolution in the Real Property Records of Travis County, Texas.

6.02. **Amendment.** This Declaration may be amended or terminated by the recording in the Real Property Records of Travis County, Texas, of an instrument setting forth the amendment executed and acknowledged by (i) the Declarant, acting alone; or (ii) the President and Secretary of the Association certifying that such amendment has been approved by either (a) the Declarant, or (b) Members of the Association entitled to cast at least seventy percent (70%) of the number of votes of the Association and the Declarant.

6.03. **Roadway, Utility and General Fence Easements.** Declarant reserves the right to locate, relocate, construct, erect, and maintain or cause to be located, constructed, erected, and maintained in and on any streets maintained by the Association or areas conveyed to the Association or reserved as Common Area or Master Common Area, roadways, sewer lines, water lines, cable television and other communication lines, electrical lines and conduits, and other pipelines, conduits, wires, and any public utility function beneath or above the surface of the ground and fences common to the entire Property, with the right of access to the same at any time for the purposes of repair and maintenance.

6.04. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Saturday, Sunday, or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Secretary of the Association for the purpose of service of notices, or to the residence located on the Lot owned by such person if no address has been given to the Secretary of the Association. Such address may be changed from time to time by notice in writing given by such person to the Secretary of the Association.

6.05. Interpretation. The provision of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Property, provided, however, that the provisions of this Declaration shall not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Property. This Declaration shall be construed and governed under the laws of the State of Texas.

6.06. Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of improvements upon Lots within the Property, so long as such construction is pursuant to proper approval of the Master Architectural Control Committee.

6.07. Gender. Whenever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

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

6.09. Enforcement and Nonwaiver.

- (a) Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant, the Master Association and/or the Association shall have the right to enforce all of the provisions of this Declaration. The Association or Master Association may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement shall include both damages for and injunctive relief against the breach of any provision hereof.
- (b) Every act or omission whereby any provision of the Association Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant, the Master Association or the Association.
- (c) Any violation of any federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.

(d) The failure to enforce any provision of the Association Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Association Restrictions.

6.10. **Construction.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof shall not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

EXECUTED to be effective as of the 12<sup>th</sup> day of May 1998.

**DECLARANT:**

**FIRST RIVER PLACE RESERVE, LTD.,**  
a Texas limited partnership

**BY: TEXAS HIGHLANDS, INC.,**  
a Texas corporation, General Partner

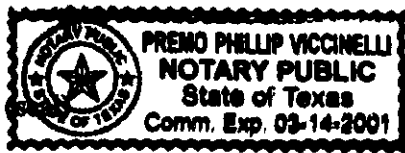
By: John W. Gravenor  
John W. Gravenor  
Authorized Agent

THE STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on this 12<sup>th</sup> day of May, 1998, by John W. Gravenor, Authorized Agent of Texas Highlands, Inc., a Texas corporation, General Partner of First River Place Reserve, Ltd., a Texas limited partnership, on behalf of said corporation and partnership.



[Signature]  
Notary Public Signature

**AFTER RECORDING, RETURN TO:**

Robert D. Burton  
Armbrust Brown & Davis, L.L.P.  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701

29461.1/051298

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REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13182 0278

Unofficial Document

FILED  
MAY 13 1998  
DANA DE BEAUVOR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on  
the date and at the time stamped herein by me, and  
was duly RECORDED, in the Volume and Page of the  
named RECORDS of Travis County, Texas, on

MAY 13 1998



*Dana De Beauvoir*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13182 0279

RECEIPT#: A00115247 TRANS#: A6814 DEPT: REGULAR RECORD \$39.00  
CASHIER: HONED FILE DATE: 5/13/98 TRANS DATE: 5/13/98  
PAID BY: CHECK# 14639