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**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR FULBROOK, SECTION FIVE-D**

STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND       §

THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FULBROOK, SECTION FIVE-D (this "Supplemental Declaration") is made by Fulbrook Partners, Ltd., a Texas limited partnership (herein referred to and acting as "Declarant").

WHEREAS, Fort Bend/Fulbrook, Ltd. executed that certain DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FULBROOK dated June 15, 1999, which was filed under County Clerk's File No. 1999051521 and recorded in the Official Public Records of Real Property of Fort Bend County, Texas, as amended and supplemented by various amendment instruments recorded in the Official Records (collectively, the "Declaration"); and

WHEREAS, Declarant is the successor in interest to the rights of Fort Bend/Fulbrook, Ltd. as the Declarant under the Declaration by virtue of that certain Assignment of Rights and Designation of Successor Declarant instrument dated August 11, 2003, filed under County Clerk's File Number 2005075239 and recorded in the Official Public Records of Real Property of Fort Bend County, Texas; and

WHEREAS, by that certain Declaration of Annexation instrument dated January 31, 2006, which was filed under County Clerk's File No. 2006070090 and recorded in the Official Public Records of Real Property of Fort Bend County, Texas, Declarant annexed, among other property, that certain tract of land which has been platted as Fulbrook, Section Five-D according to the plat thereof recorded as Plat No. 20140195 in the Plat Records of Fort Bend County, Texas (the "Subdivision") into the jurisdiction of the Fulbrook Homeowners Association, Inc. (the "Association"), and subjected such property to the provisions of the Declaration; and

WHEREAS, Declarant desires to subject the Lots in the Subdivision to the additional covenants, conditions and restrictions set forth in this Supplemental Declaration so as to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of the property within such subdivision.

NOW, THEREFORE, Declarant does hereby declare that the Lots within the Subdivision shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, restrictions, easements, charges and liens set forth in this Supplemental Declaration, in addition of those contained in the Declaration, and shall be subject to the jurisdiction of the Association. All capitalized terms used herein which are not otherwise defined herein shall have the meanings set forth for such terms in the Declaration.

## **ARTICLE I. RESTRICTED RESERVES**

Owners of Lots within the Subdivision are advised that there exists Restricted Reserve "A", restricted to Open Space and Drainage Purposes, and Restricted Reserve "B", restricted to Open Space, Landscape and Drainage Purposes, as shown on the Plat, hereinafter collectively referred to as the "Restricted Reserves." Owners of Lots within the Subdivision hereby agree to hold harmless the Declarant, the Association, and their respective directors, officers, agents, successors and assigns and release them from any liability for the placement of, construction, design, operation, maintenance and replacement the Restricted Reserves, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur in the normal operation of the Restricted Reserves. The Association has the right to promulgate Rules and Regulations governing the use of the Restricted Reserves.

Owners whose Lots are adjacent to or abut the Restricted Reserves shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Restricted Reserves. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Restricted Reserves to their condition immediately prior to said infiltration. Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant, or any successor declarant, have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to the change in use of said Restricted Reserves.

## **ARTICLE II. RIVER LOTS**

Owners of Lots One (1) through Six (6), of Block Two (2) of the Subdivision, as shown on the Plat (collectively the "River Lots") are advised that the Brazos River (sometimes referred to herein as the "River") runs adjacent to portions of southern Lot lines of the River Lots. Owners acknowledge that no representations have been made, nor have they relied upon any representations by the Declarant that it will protect Owners, occupants, licensees and/or invitees of Owners as to the existence of the Brazos River. It should be noted that Declarant knows of dangerous conditions that may currently exist in or along the Brazos River such as, by way of illustration and not limitation, the following: holes, roots, stumps, ditches, gullies, erosion and/or instability of natural topography, insects, snakes, and animals and variable water depth. Owners hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for maintenance and/or flooding of the Brazos River and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental effect, visibility of water, noise, odor, and/or traffic created in the normal operation, flooding, and/or maintenance of the Brazos River. Owners further acknowledge that the Association, its directors, officers, managers, agents, or employees and the Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to any water level variances and/or any future change in the course of the Brazos River.

The following restrictions in this Article II apply only to River Lots. River Lots are also subject to the Declaration, and all other provisions of this Supplemental Declaration. In the case of a conflict between the provisions of this Article II, and the Declaration or other provisions of this Supplemental Declaration, the provisions of this Article shall control unless otherwise stated in this Article.

### **Section 1. Definitions Applicable to River Lots.**

1.1. "Riverfront Area" means the area of a River Lot within 50 feet of the high bank of the River.

1.2. "Landscape Area" means the area of a River Lot between 50 feet and 100 feet from the high bank of the River.

1.3. "Backyard Area" means the area of a River Lot between 100 feet and 150 feet from the high bank of the River.

1.4. "Residential Construction Area" means the area of a River Lot greater than 150 feet from the high bank of the River.

### **Section 2. Restrictions on River Lots**

2.1. Plat. All River Lots are subject to the restrictions on the Plat. In the case of a conflict between a restriction on the Plat and a provision of this Supplemental Declaration, and/or any other dedicatory instrument encumbering the River Lots, the more restrictive will control.

2.2. Architectural and Landscaping Approval. All construction of improvements and modifications, additions, or alterations of existing improvements on River Lots shall be subject to prior written architectural approval as described in the Declaration. Additionally, all landscaping, grading, excavating, or filling of any nature whatsoever implemented or installed on a River Lot shall be subject to prior written approval as described in the Declaration.

2.3. Fences. Approved fences may be constructed on the Side Lot line of all River Lots extending from the Front Lot line of the River Lot to the high bank of the River.

2.4. Erosion and Riverbank. The Owner of each River Lot shall be responsible for all temporary erosion control measures required during construction on the River Lot to ensure that there is no erosion into the River, and such Owner shall be responsible for any repair or maintenance required due to erosion caused by construction on the River Lot. Slope paving, bulk heading, piers, and all other alterations to the riverbank are prohibited on River Lots; provided however, the Board may grant a variance to this restriction if, in its sole discretion, the Board deems it necessary for safety reasons or to prevent erosion. Provided however, that the River is subject to the authority of the Brazos River Authority, and Owners of River Lots are obligated to comply with all requirements of the Brazos River Authority. In the event of a conflict between the restrictions contained herein and the requirements of the Brazos River Authority, the requirements of the Brazos River Authority shall control.

2.5. Drainage. River Lots shall be designed to cause the flow of all drainage toward Oakbluff Court and Riverbluff Court and away from the River.

### **Section 3. Riverfront Area on River Lots.**

3.1. Setbacks and Construction. No landscaping, Accessory Buildings, improvement, or structure of any kind (permanent or temporary), decking, pool, gazebo, fencing (other than fencings as described herein) shall be placed, constructed or allowed to encroach or remain upon the Riverfront Area.

3.2. Fences. Side Lot line fences in the Riverfront Area must be wooden rail fences in the style specified in the Architectural Guidelines adopted by the Fulbrook New Construction Committee. No additional side Lot line fence of any kind shall be placed, constructed or allowed in the Riverfront Area.

### **Section 4. Landscape Area on River Lots.**

4.1. Setbacks and Construction. Landscaping is permitted in the Landscape Area. No Accessory Buildings, improvement, or structure of any kind (permanent or temporary), decking, pool, gazebo, fencing (other than fencing as described herein) shall be placed, constructed or allowed to encroach upon the Landscape Area.

4.2. Fences. Side Lot line fences in the Landscape Area must be wooden rail fences in the style specified in the Architectural Guidelines adopted by the Fulbrook New Construction Committee. No additional side Lot line fence of any kind shall be placed, constructed or allowed in the Landscape Area.

### **Section 5. Backyard Area on River Lots.**

5.1. Setbacks and Construction. No part of the single family residence shall be placed, constructed, or allowed to remain or encroach upon the Backyard Area. Landscaping, Accessory Buildings or other improvements, structures, pools, decking, or gazebos may be placed, constructed or allowed in the Backyard Area.

5.2. Fences. Side Lot line fences in the Backyard Area must be wooden rail fences in the style specified in the Architectural Guidelines adopted by the Fulbrook New Construction Committee. An additional wooden rail fence may be constructed parallel with the Rear Lot line of a River Lot along the rear line of the Backyard Area.

### **Section 6. Residential Construction Area on River Lots.**

6.1. Setbacks and Construction. All construction of improvements and modifications, additions or alterations of existing improvements within the Residential Construction Area must comply with the Declaration and all dedicatory instruments encumbering the River Lots.

6.2. Fences. Front Lot line and Side Lot line fences in the Residential Construction Area of River Lots must be wooden rail fences in the style specified in the Architectural Guidelines adopted by the Fulbrook New Construction Committee.

**Section 7. Lot 6, Block 1, Section Five-D.**

Notwithstanding anything contained in the Declaration or this Supplemental Declaration to the contrary, Lot 6, Block 1, Section Five-D (the "Affected Lot") may be subject to different setback and fencing requirements, as may be set forth by the Architectural Review Committees or in the Architectural Guidelines; provided, however that the Riverfront Area, the Landscape Area, the Backyard Area and the Residential Construction Area shall not be reduced. As such, the definitions contained in Article II, Section 1, and Article III, Subsections 4.1 and 4.2 of this Supplemental Declaration, may be modified as to the Affected Lot by the Architectural Review Committees or as set forth in the Architectural Guidelines.

Owner(s) of the Affected Lot are hereby advised that there exists a 120' Drainage Easement within the northern portion of the Affected Lot. It should be noted that potentially dangerous conditions may exist within the Drainage Easement such as, by way of illustration and not limitation, the following: holes, roots, stumps, ditches, gullies, erosion and/or instability of natural topography, insects, snakes, and animals and variable water depth. Owners hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for maintenance and/or flooding of the Drainage Easement and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental effect, visibility of water, water level fluctuations, noise, odor, and/or traffic created in the normal operation, flooding, and/or maintenance of the Drainage Easement. Owners further acknowledge that the Association, its directors, officers, managers, agents, or employees and the Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, relative to the safety or any water level fluctuations within the Drainage Easement. Owners hereby grant a perpetual non-exclusive access and maintenance easement to the Association and its designees to the extent necessary for the performance of maintenance obligations thereon as set forth on the Fulbrook, Section Five-D Plat.

**ARTICLE III. GENERAL RESTRICTIONS**

**Section 1. Fences.**

1.1. Approval. All fences must be approved in writing by the Fulbrook New Construction Committee prior to commencement of installation.

1.2. Fences on Slopes. All fences on land which slopes shall be constructed so that the fencing stair-steps down the slope in sections, such that each section is level with the horizon. Each fence panel must not be "stepped" or staggered greater than six inches (6") above or below the adjacent fence panel. For steeper slopes, smaller fence panels will be required. Fences may not parallel down the slope.

1.3. Wire Mesh. Wire mesh of a minimum 3-inch square may be used, in conjunction with a wooden rail fence. If used, wire mesh of not less than 3-inch square may be used, must be applied on the inside of the wood fence and must not extend above the top rail. Except as stated above, no cyclone, barbed wire or other wire fencing is permitted. Other fencing materials may be considered by the ARC on a case by case basis. Any devices used to fasten wire mesh to fencing materials must be applied so that any protrusions face toward the inside of the Lot installing the wire mesh.

1.4. Wooden Rail Fence Required. In order to maintain the theme and character of the Properties in general, and the uniform plan and character of the Subdivision in particular, the Owner of each Lot in the Subdivision shall install and maintain a wooden rail fence in the style specified in the Architectural Guidelines adopted by the Fulbrook New Construction Committee at the following location(s) on the Lots in the Subdivision:

<u>LOT</u>	<u>LOCATION OF FENCE</u>
All Lots (including River Lots)	Front Lot line
All Lots (except River Lots)	Rear Lot line (except Rear Lot lines bordering Reserve "A" as shown on the Plat)
All Lots (including River Lots)	Side Lot lines bordering an open space reserve or road right-of-way

**Section 2. Utility Easements.**

Declarant hereby grants to Fort Bend County and to any other public authority or agency, utility district or public or private utility company, a perpetual easement upon, over, under and across the portion of each Lot in the Subdivision which is within twenty-five (25) feet of a Road right-of-way for the purpose of installing, replacing, repairing, maintaining, and operating all utilities, including, but not limited to, electrical, gas, telephone, cable television, water, sanitary sewer and storm sewer lines and related facilities.

**Section 3. Living Area Requirements.**

The square feet of living area of the single family residences, exclusive of open porches and garages, constructed on the Lots in the Subdivision shall comply with the following minimum and maximum square footage requirements:

Number of Stories	Minimum Square Feet	Maximum Square Feet
1 story residence	3,700 s.f.	6,000 s.f.
2 story residence	3,700 s.f.	10,000 s.f.

In the event that two (2) or more adjacent Lots are consolidated into a single Lot by replatting, the applicable maximum square feet of living area numbers specified above shall be the same as above for the resulting replatted consolidated Lot.

#### **Section 4. Building Setbacks.**

All Lots are subject to the setback requirements and easements on the Plat. In the case of a conflict between a setback or easement on the Plat and a provision of this Supplemental Declaration, and/or any other dedicatory instrument encumbering the Subdivision, the more restrictive will control. In the event that two (2) or more adjacent Lots are consolidated into a single Lot by replatting, the applicable setbacks shall apply to the resulting replatted consolidated Lot.

4.1. Front Setback. All single family residences constructed in the Subdivision shall not be closer than sixty (60) feet on Lots One (1) through Five (5) of Block One (1), and seventy-five (75) feet on all River Lots from the right-of-way of the Road at the front of such Lots, subject to the provisions of Section 7.

4.2. Side Setback. All single family residences constructed in the Subdivision shall not be closer than twenty-five (25) feet from the side lot lines of the Lots, subject to the provisions of Section 7.

#### **Section 5. Mailboxes.**

Mailboxes shall be constructed and maintained for all Lots in the Subdivision in accordance with the Architectural Guidelines for the Fulbrook project for a Type 2 mailbox.

### **ARTICLE IV. GENERAL PROVISIONS**

#### **Section 1. Intent and Amendment.**

It is the intent of Declarant that the covenants, conditions and restrictions provided for in this Supplemental Declaration apply only to the Lots in the Subdivision. Notwithstanding any provisions of this Supplemental Declaration to the contrary, it is also the intent of Declarant that the specific restrictions that are imposed on the Lots in the Subdivision only in and by virtue of this Supplemental Declaration (other than those in the Declaration that are, in whole or in part, repeated herein) may be amended by the recording of an instrument in the Official Public Records of Real Property of Fort Bend County, Texas:

(i) unilaterally by the Declarant by an amendment to the Declaration as provided therein at Article X; or

(ii) with the written consent of (a) the Owners of a majority of the Lots subject to this Supplemental Declaration, and if Declarant owns any part of the Properties within the jurisdiction of the Association, (b) Declarant .

#### **Section 2. Agreement.**

Each Owner of a Lot in the Subdivision by such Owner's claim or assertion of ownership or by accepting a deed to any such portion of the Lot in the Subdivision, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a

covenant running with title to such Lot, to accept and abide by this Supplemental Declaration as well as all restrictions, obligations, requirements and liabilities set forth in the Declaration.

**Section 3. Term.**

The provisions of this Supplemental Declaration shall run with the land, shall be binding upon all Persons owning any portion of the Subdivision, and shall be perpetual.

**Section 4. Severability.**

Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

**Section 5. Conflict.**

In the case of a conflict between the provisions of this Supplemental Declaration and the provisions of the Declaration, the more restrictive provision shall control. All other definitions and restrictions shall remain as stated in the Declaration.

This Supplemental Declaration shall remain in full force and effect for the term of the Declaration, and shall be subject to the renewal and other provisions of the Declaration.

[SIGNATURE PAGES FOLLOW]



AS PER ORIGINAL

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 6<sup>th</sup> day of January, 2014. 2015.

**DECLARANT:**

FULBROOK PARTNERS, LTD.,  
a Texas limited partnership

By: New FP Management, LLC,  
a Texas limited liability company,  
its sole general partner



By: \_\_\_\_\_

Name: DAVID A. CANNON

Title: AUTHORIZED SIGNATORY

STATE OF TEXAS §

COUNTY OF Harris §

BEFORE ME, the undersigned authority, on this day personally appeared David A. Cannon, the Authorized Signatory of New FP Management, LLC, a Texas limited liability company, as the sole general partner of Fulbrook Partners, Ltd., a Texas limited partnership, known by me to be the person whose name is subscribed to this instrument, and acknowledged to me that s/he executed the same for the purposes herein expressed and in the capacity herein expressed.

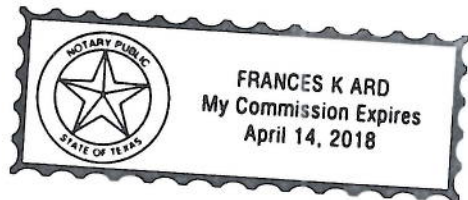
GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 6<sup>th</sup> day of January, 2015 2014.

Frances K. Ard  
Notary Public – State of Texas

After Recording, Return To:

Robin A. Rice, Esquire  
Rice & Associates, P.C.  
1010 Lamar, Suite 1530  
Houston, Texas 77002

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LIENHOLDER CONSENT AND SUBORDINATION

Central Bank, a Texas state banking corporation, being the sole beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Property hereby consents to the terms and provisions of the Supplemental Declaration to which this Lienholder Consent and Subordination is attached and acknowledges that the execution thereof does not constitute a default under the lien document or any other document executed in connection with or as security for the indebtedness above described, and subordinates the liens of the lien document and any other liens and/or security instruments securing said indebtedness to the rights and interests created under said Supplemental Declaration, and acknowledges and agrees that a foreclosure of said liens and/or security interests shall not extinguish the rights, obligations and interests created under this Supplemental Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

By: [Signature]  
Print Name: JIM D. MACINTYRE  
Print Title: EXECUTIVE VICE PRESIDENT

STATE OF TEXAS §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Jim MacIntyre, E.V.P. of Central Bank, known by me to be the person whose name is subscribed to this instrument, and acknowledged to me that s/he executed the same for the purposes herein expressed and in his/her representative capacity.

GIVEN under my hand and seal of office, this 7<sup>th</sup> day of JANUARY, 2015



[Signature]  
Notary Public - State of 6-29-17

AS PER ORIGINAL

RETURNED AT COUNTER TO:

RILEY & ASSOCIATES George E. B. B. B.  
1010 LANAR 1530 419  
HOUSTON TX 77002

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

Laura Richard

Laura Richard, County Clerk  
Fort Bend County, Texas  
January 16, 2015 11:16:15 AM



FEE: \$45.00 ER  
RESTRICT

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