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OASIS POINTE CONDOMINIUMS

DECLARATION OF CONDOMINIUM

After Recording Return To:

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**OASIS POINTE CONDOMINIUMS**

**DECLARATION OF CONDOMINIUM**

STATE OF TEXAS    §  
     §    KNOW ALL MEN BY THESE PRESENTS:  
 COUNTY OF MONTGOMERY                                    §

THIS DECLARATION OF CONDOMINIUM is made on the date hereinafter set forth by Oasis Pointe Condominiums, L.P., a Texas limited partnership, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the owner of that certain property in Montgomery County, Texas, being Unrestricted Reserve A of that certain 3.254 acres out of the John Taylor Survey, Abstract 547, and also being a Replat of Reserves "D", "E", and "F" of the Woodlands Lake Woodlands East Shore, Section 2 Replat No. 1 as recorded in Cab. "Z", Sheets 153-156, more particularly described in that certain plat recorded in the office of the County Clerk of Montgomery County in Cabinet 1-C, Sheet 161-B and Clerk's File Number 2006-109616 of the Map Records of Montgomery County, Texas, and the improvements thereon (together with any land that may be annexed, hereinafter referred to as the "Property"), desiring to submit such land and improvements to the Texas Uniform Condominium Act for the purpose of establishing a condominium regime, does hereby adopt, establish, and promulgate this Oasis Pointe Condominiums Declaration of Condominium, hereinafter referred to as the "Declaration", upon such Property; and

WHEREAS, Declarant desires to develop the Property as a residential condominium regime, together with any other land and/or improvements which Declarant at its sole discretion may hereinafter add thereto, and to provide and adopt a uniform plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control and preserve the values and amenities of the Property for the development, improvement, sale, use and enjoyment of the Property as a residential condominium regime; and

WHEREAS, Declarant desires to subject the Property, together with additional land as may hereinafter be made subject hereto, to the assessments, conditions, covenants, easements,

reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof; and

WHEREAS, the Property is additionally encumbered by the (i) Declaration of Covenants, Conditions, and Restrictions and Easements of the Lake Woodlands Property Owners' Association, recorded under Clerk's File Number 8500794 in the Official Public Records of Real Property of Montgomery County, Texas, as same may be or may have been amended from time to time (the "Lake Woodlands Declaration"), (ii) Covenants, Restrictions, Easements, Charges and Liens of The Woodlands Association, Inc., recorded under Clerk's File Number 9348561 in the Official Public Records of Real Property of Montgomery County, Texas, as same may be or may have been amended from time to time (the "Woodlands Declaration"), (iii) Annexation of Additional Lands to the Property subject to the Covenants, Restrictions, Easements, Charges and Liens of the Woodlands (TWA), recorded under Clerk's File Number V691732 in the Official Public Records of Real Property of Harris County, Texas, as same may be or may have been amended from time to time (the "Annexation of Additional Lands"), (iv) Declaration of Covenants, Conditions, Restrictions and Easements for East Shore, recorded under Clerk's File Number 2004-125172 in the Official Public Records of Real Property of Montgomery County, Texas, as same may be or may have been amended from time to time (the "East Shore Declaration"), (v) Annexation and Assignment Instrument – Declaration of Covenants, Restrictions, Easements, Charges and Liens of The Woodlands, recorded under Clerk's File Number 2004-125173, in the Official Public Records of Real Property of Montgomery County, Texas, as same may be or may have been amended from time to time (the "Annexation and Assignment Instrument"), (vi) Initial Land Use Designation recorded under Clerk's File Number 2006-065777 in the Official Public Records of Real Property of Montgomery County, Texas, as same may be or may have been amended from time to time (the "First Initial Land Use Designation") and (vii) Initial Land Use Designation recorded under Clerk's File Number 2006-065778 in the Official Public Records of Real Property of Montgomery County, Texas, as same may be or may have been amended from time to time (the "Second Initial Land Use Designation"); and

WHEREAS, the Property was annexed into the Woodlands Declaration and subjected to the East Shore Declaration by the Annexation of Additional Lands to the Property Subject to the Declaration of Covenants, Restrictions, Easements, Charges and Liens of the Woodlands (TWA)

Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for East Shore, recorded under Clerks' File Number 2006011377 in the Official Public Records of Real Property of Montgomery County, Texas (the "East Shore Supplemental Declaration"); and

WHEREAS, the First Initial Land Use Designation and the Second Initial Land Use Designation are hereinafter, collectively referred to as the "Initial Land Use Designation"; and

WHEREAS, Declarant has deemed it desirable for the enforcement of the Declaration and the efficient preservation of the amenities in said condominium regime, to create an owners association (hereinafter defined) to which shall be delegated and assigned the power of administering and enforcing these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the assessments; and

WHEREAS, there has been or will be incorporated, one or more non-profit corporations created under the laws of the State of Texas, including the first being the Oasis Pointe Condominiums Owners' Association, Inc., (hereinafter the "Association") whose directors will establish By-Laws by which said Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid. No more than one such non-profit corporation shall be in existence at any one time.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the Texas Uniform Condominium Act, including the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and shall run with the Property and be binding on all parties, now and at anytime hereinafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each Owner of any part of the Property.

In case of conflict between the provisions of Texas law, this Declaration, and the Restrictions, the provisions of Texas Law, the Restrictive Covenants, and this Declaration (in that order) shall prevail.

**ARTICLE I. DEFINITION OF TERMS**

Section 1.1. Definition of Terms. When used in this Declaration, the words set out below shall have the following meanings:

- A. "Allocated Interests" means the undivided interest in the Common Elements, the common expense liability, and votes in the Association allocated to each Residence Unit as set forth on Exhibit "A" attached hereto and made a part hereof for all purposes. The Allocated Interest of each Residence Unit was established by dividing the number of square feet in such Residence Unit by the total number of square feet of all Residence Units in the Buildings. Notwithstanding anything contained herein to the contrary, the Declarant shall have the unilateral right, without the consent of a mortgagee, or Owner, during Declarant Control Period, to annex additional land, as provided in Section 12.18 hereof, on which Residential Units may be constructed and upon such annexation and addition of Residential Units, the Allocated Interests of the existing Residential Units shall be readjusted by dividing the number of square feet in each Residence Unit by the total number of square feet of all Residence Units in the Buildings after such annexation.
- B. "Appointed Board" means the initial Board of Directors who shall be appointed by the Declarant. The Declarant shall have the right to appoint all or some of the Directors as set out in Article XII, Section 12.16. From and after the termination of the Declarant Control Period (as defined in Article XII, Section 12.16), the then-current Board shall serve until an election can be conducted to elect the Fully Elected Board, pursuant to Article VII, Section 7.1 of the Bylaws.
- C. "Association" means the Oasis Pointe Condominiums Owners' Association, Inc., a Texas non-profit corporation, its successors, assigns and/or replacements, the members of which shall be the Owners of Residence Units during the period of their respective ownerships, and the successors and assigns of such Owners.
- D. "Board of Directors, or Board" means the Board of Directors of the Association, whether such Board be appointed by Declarant or elected by the Association in



accordance with the provisions of this Declaration, or the body, regardless of name, designated to act on behalf of the Association.

- E. "Buildings" means, initially, one (1) residential building of four (4) stories (with the first floor of the Building being designated for parking and storage purposes as provided herein), designed for residential occupancy and shall include such other residential buildings which may be constructed upon land that may be annexed as provided in Section 12.18. The location of the Building(s) on the Property is more particularly described on Exhibit "C" attached hereto and made a part hereof for all purposes as same may be amended from time to time by Declarant, prior to conveyance to any other Owner and upon such amendment, a revised exhibit shall be substituted in place of Exhibit "C". The Building(s), Residential Units, and Storage Rooms are more completely described on the plans that are attached hereto as Exhibit "B" and made a part hereof for all purposes.
- F. "By-Laws" means the By-Laws of the Association, as they may be amended from time to time.
- G. "Certificate of Formation" means the Certificate of Formation of the Association, as same may be amended from time to time.
- H. "Common Area(s) or Common Element(s)" shall be and include all of the Property and Buildings except the Residence Units and shall include both general and Limited Common Elements (as hereafter defined), without limiting the generality of the foregoing, all improvements located or to be located on the Property; Private Garages, Storage Rooms, Parking Spaces, foundations, supporting columns; girders, beams, slabs, supports, load-bearing walls, exterior glass walls, dividing walls between one or more Residence Units or between such Residence Unit and Common Elements, roofs, walkways, stairs, stairways, fire escapes, entrances and exits of the Buildings; grounds, gardens, the parking lot and all approaches, entrances and exits thereon and therefrom; managerial and other offices, mailrooms, areas used for storage of janitorial supplies, maintenance equipment and materials, cable television lines, converters, conduit and facilities, electrical lines and cables up to and including the point of entry into the breaker boxes of a Residence Unit, plumbing fixtures, pipes

and lines installed in the walls of the Buildings or of a Residence Unit that do not exclusively service such Residence Unit, installation of all central services that do not exclusively service a particular Residence Unit, including power, light, water, water lines, heating, air conditioning (including "air handlers" and fan coil units not located within a Residence Unit), water collection facilities, elevators, tanks, pumps, motors, fans, compressors, ducts, driveways, and in general all apparatus and installations existing for the common use or necessary or convenient to the operation, maintenance and use of the Property (as hereafter defined), the Buildings and all other improvements located or to be located on the Property as a condominium building including the Common Areas; and all repairs and replacements of or additions to any of the foregoing. The hallways, stairs, elevators, gardens, and those portions of the Property and other Common Elements intended to be used for passages or temporary occupancy by persons are sometimes referred to herein as "Common Areas."

- I. "Common Expense Charge" means the annual assessment made and levied by the Board against each Owner and its Residence Unit for administration, management and operation of the Condominium and the Condominium Regime and for repairs, maintenance, insurance, additions, alterations, reconstruction and operation of all or any portion of the Common Elements (including reserves for replacements) and other expenses provided by the terms of this Declaration to be paid by the Association, in accordance with the provisions hereof.
- J. "Common Expense Fund" means the accumulated Common Expense Charges and other amounts collected or received by the Association.
- K. "Condominium" means a form of real property with portions of the real property designated for separate ownership or occupancy, and the remainder of the real property designated for common ownership or occupancy solely by the Owners of those portions. The Property, Buildings and all other improvements located or to be located on the Property and all other rights appurtenant to the Property, the Buildings and all other improvements located or to be located on the Property. The components of the Condominium are further herein classified as "Common Elements," "Limited

Common Elements," "Parking Spaces," "Storage Rooms," and "Residence Units" as defined herein.

- L. "Condominium Regime" means the legal rights and duties of ownership, maintenance, and administration created by the terms of the Texas Uniform Condominium Act and all amendments thereto (to the extent that such amendments are applicable in this Declaration and the Condominium), this Declaration of Condominium, and the By-Laws and Rules and Regulations promulgated thereunder.
- M. "Custom Design Criteria" The Custom Design Criteria, as same may be amended or modified from time to time in accordance with this Declaration, may be promulgated by the Board for custom modifications made to Residence Units from time to time by Owners.
- N. "Declarant" means Oasis Pointe Condominiums, L.P., a Texas limited partnership, and its successors and assigns, that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the Office of the County Clerk of Montgomery County, Texas.
- O. "Family" shall mean a single nuclear family. For purposes of this Declaration, a single nuclear family shall be defined as any number of persons related within the first degree of consanguinity or affinity, living with not more than one (1) person who is not so related as a single household unit and one household employee of such household unit. It is not the intent of the Declarant to exclude from a Residential Unit any individual who is authorized to so remain by any local, state or federal law. If it is found that this definition, or any other provision contained in this Declaration is in violation of any applicable law, then this term shall be interpreted to be as restrictive as possible to preserve as much of the original intent of the Declarant as allowed by law.
- P. "Fully Elected Board" means the Board of Directors who shall be elected by the Members upon termination of the Declarant Control Period. Such election is to be held as set out herein below.

- Q. "Limited Common Elements" means those portions of the Common Elements reserved for the exclusive use of the Owners of certain Residence Units to the exclusion of the Owners of all other Residence Units, same being, by way of illustration but not limitation, Terraces, and Parking Spaces. When used herein the term "Common Elements" includes the Limited Common Elements unless otherwise expressly indicated.
- R. "Managing Agent" means the person(s), firm or entity that may be selected by the Board in accordance with the provisions hereof for the purposes of performing any duties, powers or functions of the Board in connection with the administration, management and operation of the Condominium.
- S. "Member" means an Owner, as defined in this article, pursuant to this Declaration.
- T. "Mortgage" means a security interest, mortgage, deed of trust or lien granted by an Owner and covering a Residence Unit to secure the repayment of a loan made to an Owner, duly filed for record in the Office of the County Clerk of Montgomery County, Texas.
- U. "Mortgagee" means the person or entity who holds a Mortgage as security for the payment of a debt.
- V. "Owner" means any person or persons, firm, corporation or other entity that owns, of record, a Residence Unit, or legal interest therein, including the Declarant, but the term "Owner" as in a particular Residence Unit shall not include any Mortgagee of that Residence Unit.
- W. "Private Garages" means the four (4) parking garages available for parking of vehicles as shown the attached Exhibit "C". The Private Garages will be conveyed on a first-come, first-serve basis and shall be conveyed with a corresponding Residence Unit. An Owner may not own a Private Garage without also holding title to a Residence Unit. Upon conveyance of a Residence Unit by an Owner who also purchased a Private Garage, the Private Garage must also be conveyed with the Residence Unit.

- X. "Parking Spaces" means the spaces for the parking of vehicles as shown on the attached Exhibit "C". Two (2) Parking Spaces are assigned for use by Owners of the Unit to which such Parking Spaces are assigned. Two (2) Parking Spaces, as assigned are available to all Unit Owners subject to Rules and Regulations, which may be promulgated by the Declarant and/or the Association. Parking Spaces are not available for Unit Owners' guests.
- Y. "Replacement Reserve Fund": means the fund established pursuant to Article IV hereof for maintenance, repairs and replacements.
- Z. "Residence Unit, Residence Units, Unit, or Units": means those condominium units created pursuant to this Declaration each of which is assigned an Allocated Interest as shown on Exhibit "A". The Private Garages and Storage Rooms shall be part of the Residence Unit with which they are conveyed. The Residence Units shall mean the physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in this Declaration as the condominium units located on floors two (2) through four (4) of the Buildings as shown on Exhibit "B" attached hereto, the boundaries of which shall be the interior surfaces of the perimeter walls, floors, ceilings, windows and window frames, doors and door frames that provide access to and egress from Common Areas and the exterior surfaces of Terraces, the interior surfaces of the perimeter walls, floors, ceilings, doors and door frames, which shall include the portions of the Buildings and the air space within such boundaries as shown on said Exhibit "B" excepting Common Elements. Included within the boundaries of each Residence Unit, without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the interior walls, floors or ceilings (such as, but without limitation, paint, wallpaper, wall or floor coverings and carpets) interior walls and doors separating rooms within a Residence Unit and all utility pipes, lines, systems, fixtures and appliances servicing only that Residence Unit including, without limitation, hot water heaters, water pipes, air handlers, fan coil units and all visible and exposed plumbing fixtures, lines and pipes whether or not within the boundaries of a Residence Unit. It is expressly stipulated, and each and every purchaser of a Residence Unit, their heirs, executors, administrators, assigns, successors and grantees hereby agree, that the

square footage area and dimensions of each Residence Unit, as set out and shown in this Declaration or in the plats attached as exhibits hereto, are approximate and are shown for descriptive purposes only, and that the Declarant does not warrant, represent or guarantee that any Residence Unit actually contains the area, square footage or dimensions shown by the plats attached hereto. Each purchaser and Owner of a Residence Unit or interest therein has had full opportunity and is under a duty to inspect and examine the Residence Unit purchased by them prior to the purchase thereof (if constructed prior to purchase), and agrees that the Residence Unit is purchased as actually and physically existing and/or planned. Each purchaser of a Residence Unit hereby expressly waives any claim or demand which it may have against the Declarant on account of any difference, shortage or discrepancy between the Residence Unit as actually and physically existing and/or planned, and as it is shown on the plats attached hereto.

- AA. "Restrictive Covenants" means collectively, the Lake Woodlands Declaration, the Woodlands Declaration, the Annexation of Additional Lands, the East Shore Declaration, the Annexation and Assignment Instrument, the East Shore Supplemental Declaration, and the Initial Land Use Designation.
- BB. "Rules and Regulations" means the Rules and Regulations which may be adopted by the Association concerning the management and administration of the Condominium and the use of the Common Elements (including the Limited Common Elements) and the enforcement of the terms and provisions of this Declaration and the Rules and Regulations governing the Condominium in order to assure to all Owners the benefits of ownership of a Residence Unit and use of the Common Elements. The initial Rules and Regulations may be promulgated and amended by the Declarant.
- CC. "Special Assessment" means any assessment, approved by the Association as hereinafter set forth, over and above the Common Expense deemed by the Board to be necessary for the preservation, repair, maintenance, improvement, management and administration of the Condominium.
- DD. "Storage Rooms" means the spaces for the storage of personal items shown on the attached Exhibit "B", which are conveyed with Residential Units on a first-come,

first-serve basis. An Owner may not own a Storage Rooms without also holding title to a Residence Unit. Upon conveyance of a Residence Unit by an Owner who also purchased a Storage Room, the Storage Room must also be conveyed with the Residence Unit.

- EE. "Terrace" means the Limited Common Element attached to and allocated exclusively to each Residence Unit that is designated "Terrace" or "Balcony" on Exhibit "B" attached hereto and made a part hereof for all purposes, which improvement may also be referred to as a "Balcony" and/or "Patio".
- FF. "Texas Uniform Condominium Act" means Chapter 82 of the Texas Property Code, enacted in 1993 and effective January 1, 1994, which permits the creation of condominium regimes and provides the basic rules for their operation, together with all amendments thereto to the extent such amendments affect this Declaration or anything covered hereby.

## ARTICLE II. GENERAL PROVISIONS

### Section 2.1 Use Restrictions

In addition to the use restrictions provided herein, the Owners may be subject to other restrictions provided in the Restrictive Covenants.

#### A. Residential Use

No portion of the Condominium shall be used by an Owner, the Board, or the Association for any commercial activity or purpose.

#### B. No Business Use

No trade or business may be conducted in or from any Residence Unit, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential use within a Residence Unit so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence Unit; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (c) the business activity does not involve visitation of the Residence Unit by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of

Oasis Pointe Condominiums; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security of other residents of Oasis Pointe Condominiums, as may be determined in the sole discretion of the Board. By way of illustration but not limitation, a day-care facility, church, nursery, home day care facility, beauty parlor, barber shop, pre-school, or other similar facilities are expressly prohibited.

The terms "business" and "trade" as used in this provision shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods for or to persons other than the provider's family, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Residence Unit shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant with respect to its development and sale of the Property.

C. Nuisance

No noxious or offensive activities of any sort shall be permitted, nor shall anything be done in any Residence Unit, nor shall a nuisance be permitted to exist, or in or about any Common Element, that shall be or may become an annoyance or nuisance to the other Owners, nor shall any loud or disturbing noises be emitted from any Residence Unit and/or Terrace in such a manner as to be an annoyance to or objectionable to another Owner. Owners are hereby put on notice that the installation of hard surface floors within a Residence Unit may be limited and will be subject to Rules and Regulations which may require a certain percentage of coverage by noise-abating material. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for residential monitoring purposes, shall be installed or operated on the Property, unless required by federal, state or local regulation; provided, however, and notwithstanding anything contained herein to the contrary, surround sound speakers may be installed in a Residence Unit, upon prior approval of the Association and the use of such speakers may be subject to Rules and Regulations.



D. Declarant's Use for Sales

Notwithstanding any other provisions of this Article II, the Declarant may make such use of the Common Elements and Units as is reasonably necessary to facilitate and complete the improvements to the Property, construction of the Buildings, the operation of Declarant's sales efforts and the showing of the Condominium and any unsold Residence Units therein (including, without limitation, maintaining up to twenty (20) model units, four (4) sales offices, one (1) design center for selection of allowance items (either or both of which may be located in a Residence Unit), providing space for the closing of sales transactions covering other unsold Residence Units owned by Declarant and the placing of signs or other advertising material in or about such unsold Residence Units and the Common Areas). The provisions of this subsection shall not prohibit the use by the Association of all Common Elements in any reasonable manner necessary in connection with the operation and maintenance of the Condominium.

E. Insurance – Liability for Increase

Nothing shall be done in or kept in or on any Residence Unit, Terrace, Parking Space, Private Garage, Storage Room, Limited Common Element or Common Element that will increase the rate of insurance on the Condominium or any other Residence Unit over that applicable to residential buildings, or result in uninsurability of the Condominium or any part thereof, or the cancellation, suspension, modification or reduction of insurance in or on or covering the Condominium or any part thereof. If, by reason of the occupancy of any Residence Unit, Terrace, Private, Parking Space, Limited Common Element or Common Area by any Owner in contravention of the restrictions set forth in this Section 2.1, the rate of insurance on all or any portion of the Condominium shall be increased, such Owner shall immediately cease any such use and shall be personally liable to the Association for such increase caused thereby and such sum shall be payable to the Association upon presentation to such Owner by the Association of a statement thereof.

F. Electrical Installations

No Owner shall install, attach or hang or allow to be installed, attached or hung any equipment or wiring or electrical installations, television or radio transmitting or receiving antennas, air conditioning units or any other equipment, item, or wiring on, in or across any portion of any Limited Common Element, Common Element or Terrace railing or other portion

of a Terrace that is a Common Element not reserved for the exclusive use of the Owner to whose Residence Unit the Terrace is attached, or through any wall, floor, ceiling, window or door that is a Common Element, except as approved by the Association. All radios, television, electrical equipment or appliances of any kind or nature and the wiring thereof installed or used in a Residence Unit shall fully comply with all rules, regulations or requirements of all state and local public authorities having jurisdiction. The Declarant by promulgating this Section is not attempting to violate the Telecommunications Act of 1996, as same may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating said act.

Each Owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority with respect to the occupancy and use of its Residence Unit, Private Garage and Storage Room and with the provisions hereof, and the By-Laws and Rules and Regulations promulgated hereunder. The Declarant by promulgating this Section II is not attempting to violate applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority, as same may be amended from time to time. This Section II shall be interpreted to be as restrictive as possible while not violating applicable laws, rules, ordinances, statutes or regulations or requirements of any governmental agency or authority.

G. Window Treatments

Within three (3) months of occupying a Residence Unit, an Owner shall install appropriate window treatments in keeping with the aesthetics of Oasis Pointe Condominiums. Appropriate window treatments would include, by way of illustration, curtains and draperies with backing material of white, light beige, cream, light tan, or light gray; blinds or miniblinds of the same colors or natural wood; and/or shutters of the same colors or natural wood. Any window treatment or covering visible from the exterior of the Residence Unit shall be subject to Rules and Regulations, if any, and/or the Custom Design Criteria.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the aesthetics of Oasis Pointe Condominiums, such as reflective materials, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly

made for or commonly used by the general public for window coverings in a condominium of the same caliber as Oasis Pointe Condominiums.

Section 2.2 Decorations, Maintenance of Residence Units and Common Elements

Provided the same do not violate the current Custom Design Criteria, every Owner shall have the right to decorate and redecorate their Residence Unit and may make any non-structural improvements or non-structural alterations within its Unit (but not to Common Elements or Terraces) and the right to paint, repaint, tile, wallpaper, or otherwise finish or decorate any interior of walls, partitions, ceilings and floors within the Residence Unit.

Each Owner shall, at its own cost and expense, maintain their Residence Unit in good condition and repair. Each Owner shall be obligated to clean the exterior glass surface of all windows, which can be accessed from their Residence Unit, Terrace, or any other glass surface accessible from adjoining Common Areas.

The Association shall maintain all Common Elements and Limited Common Elements (except as specifically set out herein), the cost of which shall be an expense for which a Common Expense Charge may be assessed and levied (except to the extent that repair to Common Elements is made necessary by the negligence or misuse of a particular Owner, in which event such Owner shall be responsible to the Association for the cost of such repair), and such Common Expense Charge shall be due and payable upon presentation to each Owner by the Association of a statement thereof. The Association has the right, without the obligation, to enter into and inspect any Residence Unit as necessary to determine the need for maintenance to plumbing or utility service lines, or other items affecting the Common Areas or other Units.

Unless part of a building-wide renovation, maintenance, repair and/or replacement of light fixtures, light bulbs, glass (including window panes), and hardware (including, but not limited to, door knobs and exterior doors in each Residence Unit) shall be the obligation of the Owner. In the event any Owner of any Residence Unit fails to maintain the glass, hardware, exterior doors light fixtures and/or light bulbs in a manner consistent with the overall standard established within the Condominium and satisfactory to the Board of Directors of the Association, the Association, after ten (10) days' notice to the Owners of the Residence Unit, setting forth the action intended to be taken by the Association and after approval by a two-thirds

(2/3) vote of the Board of Directors, shall have the right but not the obligation, through its agent, contractors and/or employees, to enter upon said Residence Unit and to maintain and/or replace such glass, hardware, exterior doors, light fixtures and light bulbs at the Owner's expense.

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance or other work authorized in this Article. The cost of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Residential Unit on which it was performed and shall become part of the Assessment payable by the Owner and secured by the lien retained in the Declaration. Alternately, the Association or any Owner of a Residence Unit may bring an action at law or in equity to cause the Owner to bring said Residence Unit into compliance with these restrictions.

### Section 2.3 Terraces

No Owner shall paint, change the Terrace light fixtures or the type and wattage of light bulbs in the Terrace light fixtures, remodel or enclose any Terrace or store or place any objects or things of any description whatsoever on such Terrace or dry clothing or place materials on such Terrace without the prior written approval of the Board. Any Owner may furnish its Terrace with outdoor furniture upon prior written approval of the Board, in keeping with the provisions of this Declaration and the Rules and Regulations. The Owners of each Residence Unit and its Terrace shall, at each of such Owners' sole risk and expense, perform all repairs upon any approved floor covering of each such Terrace and shall maintain same in a good and safe condition. Floor covering installed by an Owner on a Terrace may be required to be removed, at the Owner's expense, in the event repairs or maintenance must be performed on the Terrace floor.

### Section 2.4 Alterations to Common Elements

No Owner shall do any act or permit any act to be done in, on or to any Residence Unit, Terrace, any Private Garage, Parking Space, Storage Room, and/or any portion of the Common Element that will impair the structural integrity, weaken the support or otherwise adversely affect the Buildings or any Common Elements. No Owner shall do or cause any work to be done on and to the Private Garage Storage Room without the Board's prior written consent.

Decorative wall items such as lights, shelves and art work may be affixed to or installed on the walls of any Residence Unit that are not Common Elements without prior approval of the Association provided such affixation or installation is done in a good and workmanlike manner. No Owner shall make any alterations to any of the Common Elements (including walls, windows and doors that are Common Elements) nor install, attach, affix or nail any article thereto without the prior approval of the Association. No Owner shall place, affix, attach or install any item, including without limitation decorative items, such as lights, shelves, artwork, plants, furniture, accessories, rugs, carpets or any other item of whatsoever nature in any Common Area without the prior approval of the Association.

A Residence Unit Owner may not change or otherwise alter the hardware on the entry door of a Residence Unit without prior approval of the Association.

#### Section 2.5 Additional Provisions

The Association, by provision of its By-Laws or by Rules and Regulations enacted pursuant to the provisions hereof, may provide such additional rules and regulations for use of the Common Elements and Limited Common Elements, Terraces, Private Garages, Parking Spaces, Storage Rooms, and Residence Units as are necessary or desirable in the judgment of the Association for the operation of the Condominium provided such Rules and Regulations and By-Laws are not in conflict with the provision of this Declaration of Condominium.

#### Section 2.6 Custom Design Criteria

In addition to any other provisions hereof relating to the alteration, maintenance, decoration or repair of any Residence Unit, each Owner shall comply with the standards set by the Custom Design Criteria in effect at the time any alteration or modifications are made to such Owner's Residence Unit or such Owner otherwise decorates its Residence Unit. The object of the Custom Design Criteria is to insure the design integrity of the Buildings and to set standards for the alteration, maintenance, decoration or repair of any Residence Unit by an Owner after construction by the Declarant of the Base Building Improvements. The term "Base Building Improvements" shall mean the original improvements constituting the Residence Unit constructed by Declarant, if any. The Custom Design Criteria are not intended to control the construction of the Base Building Improvements by the Declarant. The Board may promulgate the Custom Design Criteria and shall have the sole right to enforce same with respect to

Residence Units. Approval by the Board of any modification, alteration or decoration of a Residence Unit shall be conclusive as to compliance with the standards set by the Custom Design Criteria unless the representations made to the Board by the Owner of such Residence Unit with respect to such modification, alteration or decoration are incorrect or unless the facts upon which the Board makes its decisions shall materially change. Amendment or modification of the Custom Design Criteria shall be in the sole control and at the sole discretion of the Board and may be made from time to time without notice to any Owner. No amendment of the Custom Design Criteria, however, shall be retroactive or shall be applicable to any modification, alteration or decoration of a Residence Unit made upon the approval of the Board or made or undertaken in good faith based upon the Custom Design Criteria in effect immediately prior to the date of enactment of such amendment and in progress at the date the amendment is voted on.

### **ARTICLE III. OWNERS' ASSOCIATION**

#### Section 3.1 Authority to Manage

A. The affairs of the Condominium and Condominium Regime shall be administered by the Association. The Association shall have all rights, powers and duties of an "Association", as that term is used in the Texas Uniform Condominium Act. The Association shall have the right and power to provide for the management, maintenance, and care of the Condominium and Condominium Regime as provided herein, in the By-Laws and in the Rules and Regulations. The business and affairs of the Association shall be managed by its Board of Directors. The Declarant shall determine the number of directors and subject to the terms of Section 12.16 of this Declaration, shall appoint, dismiss and re-appoint members of the Board of Directors to ensure the stability of the Association's and the Condominium's affairs, until the Fully Elected Board is elected. The Board appointed by Declarant pursuant to the provision of this Section 3.1(A) is hereinafter referred to as the "Appointed Board".

B. The Appointed Board may engage the Declarant or any entity, whether or not affiliated with Declarant, as the Managing Agent to perform the day to day functions of the Association and to provide for the maintenance, repair, replacement, administration and operation of the Condominium and Condominium Regime under a contract terminable by either party upon thirty (30) days prior written notice. The members of the Board shall not be liable for any acts or omissions of the Managing Agent.

Section 3.2 Membership in the Association

Each Owner (and only an Owner) shall be a Member of the Association so long as it shall be an Owner, and such membership shall automatically terminate when such ownership ceases. Upon the transfer of ownership of a Residence Unit however achieved, including, without limitation, by foreclosure of a Mortgage or a deed in lieu of, the new Owner succeeding to such ownership shall likewise succeed to membership in the Association. The Association may issue certificates evidencing membership therein. In addition to being a Member of the Association, as provided herein, Owners may also be members of other associations, as may be provided in the Restrictive Covenants.

Section 3.3 Administration of the Condominium

The Association, acting through its Directors, its officers or other duly authorized management representatives (including, but not by way of limitation, a Managing Agent), shall manage the business and affairs of the Condominium without limitation, shall have the powers of collection and enforcement set forth herein; and on behalf of all the Owners in the Condominium, shall provide, perform, cause to be performed, maintained, acquired, constructed and paid for out of the Common Expense Fund, to the extent available, the cost of, including, without limitation, the following:

- A. Utility services used in or for the Common Elements, water and sewer services used by or consumed by the Residence Units, charges for cable television systems and, if not separately metered or charged, other utility service for the Residence Units. Electricity, telephone, utility services separately metered or charged (including without limitation, charges for water as allocated to each Residence Unit by the Board for the use of water in excess of the amount contemplated for such Residence Unit under the Common Expense Charge) shall be paid for by the Owner of the Residence Unit served by such utility service.
- B. The insurance required by Article V hereof and such policies of casualty, liability and/or other insurance covering persons, property and risks as are determined by the Board to be in the best interest of the Condominium.

- C. The services of a Managing Agent and such persons as the Board shall, from time to time, determine are necessary or proper for the management, operation and maintenance of the Condominium.
- D. All supplies, tools, and equipment reasonably required in the management, operation, maintenance, and cleaning of the Condominium.
- E. The cleaning, maintenance, repairing, reconstruction and replacement of the Common Elements as the Board shall determine is necessary unless otherwise provided in this Declaration.
- F. The services of employees or contractors, which may include but shall not be limited to gardeners, parking attendants, doormen, courtesy personnel, valets and such other persons utilized in the operation of the Condominium in the manner determined by the Board.
- G. The removal of all trash, garbage and rubbish from the central garbage receptacle or receptacles of the Buildings including the employment of the services of a garbage collection company or agency, public or private.
- H. Costs of bookkeeping of the accounts of the Association and the annual audit provided for in the By-Laws; costs of legal, accounting and other professional services engaged by the Board; premiums of fidelity bonds; taxes or assessments of whatever type assessed or imposed against any of the Common Elements.
- I. All other costs of management, operation and maintenance of the Condominium.

The Board shall not, without the prior authorization of a majority of the Members of the Association present at a meeting (in person or by proxy) of the Members, contract to pay or pay for any such item of capital addition or improvement (other than replacement of existing Common Elements having an aggregate cost exceeding an amount equal to ten percent (10%) of the amount of the then applicable annual budget referred to in Article IV, Section 4.3.

Nothing herein shall authorize the Board to furnish to any person services primarily for the benefit of or a convenience to any Owner or Owners or any occupant or occupants of any



Residence Unit other than services customarily available to all Owners and occupants of Residence Units. The Board shall have the exclusive right and obligation to contract for all goods, services and insurance in connection with the administration of the Condominium, payment for which is to be made from the Common Expense Fund.

Section 3.4    Right of Entry

The Board, or its duly authorized representative (including any then acting Managing Agent), shall have the right and authority to enter any Residence Unit for the purposes of:

- A. Making necessary repairs to Common Elements;
- B. Performing necessary maintenance to the Common Elements (including, without limitation, cable television facilities), for which the Association is responsible;
- C. Abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Residence Unit or any appurtenance thereto (including, without limitation, removal of objects placed upon or stored on any Terrace without the prior written approval of the Board);
- D. Protecting the property rights and welfare of other Owners;
- E. Enforcing the provisions of this Declaration, the By-Laws or the Rules and Regulations promulgated thereunder, and;
- F. Gaining access to any Terrace for any of the purposes set forth in Section 3.4 (A) through (E), and to permit authorized personnel to maintain, repair and/or replace the perimeter windows (which are the responsibility of the Association) and walls of the Buildings and to store temporarily on any Terrace such equipment as is reasonably necessary to accomplish the purposes set forth in this Section 3.4.

Except in the event of an emergency or, as to Terraces, Private Garage and Storage Rooms, when the periodic cleaning and maintenance of the perimeter walls of the Buildings have been scheduled, such right of entry shall be exercised only in the presence of the Owner or other occupant, or the express approval of the Owner or other occupant, of the Residence Unit that is entered and in the presence of the Managing Agent or its agent. Such right of entry shall be

exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use or enjoyment of the Resident Unit by the Owner or occupant thereof and shall, whenever possible, be preceded by a notice to the Owner or occupant thereof. The rights of entry herein granted to the Association or its duly authorized representative may be accomplished by and exercised subject to such methods and procedures as may be set forth in Rules and Regulations.

### Section 3.5 Notices

Any notice permitted or required to be given to a Member of the Association and to an Owner may be delivered personally, by mail, email, facsimile or other electronic means, or by placing such notice in the mail or in the Residence Unit message center facilities for each Owner if such facilities are present in the Buildings. If delivery is made via mail, it shall be deemed to have been delivered when deposited in the U. S. mail postage prepaid, addressed to an Owner at its Residence Unit or to such other address as the Owner may have given in writing to the Association for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Association.

### Section 3.6 Disputes

In addition to the other powers conferred by law or hereunder, the Board is hereby empowered to create procedures for resolving disputes between Owners and the Board or the Association, including appointment of committees to consider and recommend resolution of or to resolve any such dispute. Mediation of disputes shall be conducted as set out herein.

### Section 3.7 Board Action in Good Faith

An officer, director, or committee member of the Board shall not be liable to the Association or any Owner for any action or omission occurring in such person's capacity as an officer, director, or committee member so long as such action or omission is made or taken in good faith or pursuant to the business judgment rule (as same is defined in the Bylaws).

## **ARTICLE IV. COMMON EXPENSE FUND; ASSESSMENTS; COLLECTION**

In addition to the charges and the lien provided herein, Owners may be subject to additional charges and lien(s) as may be provided in the Restrictive Covenants.

#### Section 4.1 Common Expense Charges

Except as provided in Section 4.2 hereof, all Owners are bound to contribute to the Common Expense Fund by the Common Expense Charge in proportion to their Allocated Interest. The Common Expense Charge, and Special Assessments shall be assessed in accordance with the provisions hereinafter set forth. Additionally, each Owner shall pay, upon demand, for any services rendered to such Owner by the Association or arising as the obligation of such Owner to the Association.

#### Section 4.2 Payment of Common Expense Charges by Declarant

Recognizing that, to some degree, the cost of administration and maintenance of the Condominium and the Common Elements is related to the use of the Common Elements which is in turn related to the number of Residence Units that are occupied, the Declarant may pay to the Association, until the date that is the earliest of: (i) the election of the Fully Elected Board; or (ii) five (5) years after Declarant's first conveyance of a Residence Unit (the "Termination Date"), in lieu of any Common Expense Charge or Special Assessment with respect to all Residence Units that the Declarant continues to own, an amount, if any, by which the "Actual Operating Expenses" (as hereinafter defined) incurred for any fiscal year (or portion thereof) of the Association ending prior to the Termination Date, exceeds the aggregate of the Common Expense Charges (without any obligation to fund reserves) payable during such period by other Owners of Residence Units. Declarant may, but is not obligated to, establish a reserve fund (the "Replacement Reserve Fund"). The Board shall have the authority, but not the obligation, to annually determine the amount of Common Expense Charge for that year, if any, to be contributed to the Replacement Reserve Fund. For the purposes of this provision, the term "Actual Operating Expense" shall mean those expenses reasonably necessary for the normal maintenance and operation of the Condominium and shall not include (i) capital expenditures (determined in accordance with generally accepted accounting principles); or (ii) prepaid items, inventory items or similar expenses to the extent attributable to the period after such fiscal year (or part thereof). After the Termination Date, the Common Expense Charges to be paid by each Owner (including the Declarant) shall be determined as provided in this Article IV. The Declarant, by notice in writing to the Association, may waive the benefits of the first sentence of this Section and in the event of such waiver, shall thereafter be obligated to contribute to the

Common Expense Fund, the Common Expense Charge, and Special Assessments amounts in proportion to the Allocated Interests attributable to the Residence Units owned by the Declarant.

The Replacement Reserve Fund, if any, shall be used for repairs, replacement, and/or enhancement of the Common Elements and/or new improvements or amenities within the Common Elements and may not be used for the general operations of the Association; and further provided that the Replacement Reserve Fund may not be used to pay operational expenses of the Condominium during the Declarant Control Period. The Board shall have the authority to determine the expenditure of the Replacement Reserve Fund, including but not limited to the sole discretion to determine the amount and timing of any such expenditures.

#### Section 4.3 Commencement

For purposes of calculation, the initial Common Expense Charge shall commence on the first day of the first month following the date of the first sale of a Unit to a party other than Declarant. Notwithstanding anything contained herein to the contrary, the Common Expense Charge for a particular Unit shall not commence until such Unit has been conveyed by the Declarant to an Owner, other than Declarant.

#### Section 4.4 Budget, Establishment of Common Expense Charges, and Special Assessments

Until the commencement of the first full fiscal year after the election of the Fully Elected Board, the Appointed Board shall have the right and obligation to establish the annual budgets for each fiscal year projecting all expenses for the forthcoming year that may be required for the proper operation, management and maintenance of the Condominium and Condominium Regime. Such budget, and all successive budgets, shall contain a reasonable allowance for contingencies, maintenance, repairs and replacements to Common Elements, including those that must be replaced on a periodic basis.

Commencing with the first full fiscal year after the election of the Fully Elected Board, the Board of Directors of the Association shall establish an annual budget in advance for each calendar year and such budget shall project all expenses for the forthcoming year that may be required for the proper operation, management and maintenance of the Condominium and the Condominium Regime, including a reasonable allowance for contingencies and a reasonable addition to the Replacement Reserve Fund. The Common Expense Charge for each year shall be

established by the Board after calculation of such annual budget by the Board of Directors. Copies of each such budget and the Common Expense Charge for each particular Residence Unit for each year shall be made available to each Owner on or before the first day of the applicable fiscal year by such reasonable means as the Board of Directors may provide. If the Board of Directors at any time determines that the Common Expense Charges so levied are or may prove to be insufficient to pay the costs of operation, management, or maintenance of the Condominium for such fiscal year or in the event of casualty losses, condemnation losses or other events (including non-payment of Common Expense Charges by Owners) that require that additional funds be supplied for the management, maintenance and operation of the Condominium, the Board of Directors shall have authority, in its discretion, any time or from time to time to increase such Common Expense Charges or to levy such Special Assessments as it shall deem necessary for that purpose. Except as otherwise specifically provided in this Declaration, such Special Assessment in excess of twenty percent (20%) of the Common Expense Charge shall not be levied, however, without the prior approval of Owners having at least a majority of the votes in the Association, unless a greater number of votes is required by law applicable to the Condominium.

The failure or delay of the Board to prepare any annual budget or to deliver copies of such budgets to each Owner shall not constitute a waiver or release in any manner of any Owner's obligation to pay Common Expense Charges whenever the same shall be determined, and in the event of any delay or failure to establish any annual budget each Owner shall continue to pay the Common Expense Charge, monthly, at the rate established for the previous period until a new annual budget is established.

#### Section 4.5 Payment of Common Expense Charges, Special Assessments and Other Sums

The Common Expense Charge shall be allocated among those Owners obligated by the Declaration to pay same according to their respective Allocated Interests. Common Expense Charges shall be due and payable monthly in advance on the first day of each calendar month (or such other day as the Board may designate by written notice to all Owners) during the year for which such Common Expense Charge has been assessed. Special Assessments, Common Expense Charges and other sums for which an Owner may be liable hereunder (including, without limitation, charges for water allocated to a Residence Unit by the Board and other sums

incurred by the Association at the request of or on behalf of an Owner) shall be payable on or before ten (10) days after the date on which an invoice has been sent to an Owner. Payment of Common Expense Charges, Special Assessments, and other sums due hereunder shall be in default if such Common Expense Charges, Special Assessments and other sums or any part thereof, are not paid to the Association on or before ten (10) days from the due date for such payment. Common Expense Charges, Special Assessments and other sums due hereunder in default shall bear interest, from the date due at the lesser of (1) eighteen percent (18%) or (2) the highest non-usurious rate permitted by law from and after the date of delinquency until paid, due credit being given for all charges or fees theretofore contracted for, charged or received that shall be deemed to be interest under applicable law. The Board shall also have the right, in its discretion, by appropriate resolution of the Board, to establish late fees or delinquency charges to be imposed in addition to the interest to which such delinquent Common Expense Charges, Special Assessments and other sums due hereunder are subject. Each Owner (whether one or more persons) shall be personally liable for the payment of all Common Expense Charges, Special Assessments and other sums due hereunder, interest and late fees (or delinquency charges) that may be levied against such Owner and its Residence Unit(s) pursuant to the provisions hereof.

#### Section 4.6 Enforcement

In order to secure the payment of the Common Expense Charges, and Special Assessments levied hereunder and other sums due hereunder (including interest, late fees, legal fees, collection costs, reimbursements, delinquency, and other charges made by the Association), an assessment lien and superior title shall be and is hereby reserved in and to each Residence Unit and to any Storage Room conveyed to the Owner with such Residence Unit (the use of the Storage Room shall be subject to rules and regulations, if any, promulgated by the Association; the ownership of the Storage Room shall run with and may not be severed from the ownership of the Residence Unit) and assigned to the Association, without recourse, which lien shall be enforceable as hereinafter set forth by the Association, or the Board on behalf of the Association. The liens described in this Section 4.6 and the superior title herein reserved shall be deemed subordinate to any Mortgage for the purchase or improvement of any Residence Unit and any renewal, extension, rearrangement or refinancing thereof. Further, the lien described in this Section 4.6 shall be subordinate to the lien on any Unit created in the Restrictive Covenants. The

collection of such Common Expense Charges, Special Assessments and other sums due hereunder may, in addition to any other applicable method at law or in equity, may be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees, shall be chargeable to and be a personal obligation of such defaulting Owner. The right to use the Common Elements and the voting rights of any Owner in default more than thirty (30) days in the payment of the Common Expense Charge, any Special Assessment or any other charges owing hereunder for which an Owner is liable may be revoked by action of the Board of Directors for the period during which such default exists.

Notice of the lien referred to in the preceding paragraph may, but shall not be required to, be given by the recordation in the Official Public Records of Real Property of Montgomery County, Texas of an affidavit, duly executed, sworn to and acknowledged by an officer of the Association or its duly authorized employee or agent, setting forth the amount owed, the name of the Owner (or Owners) of such Residence Unit, according to the books and records of the Association, the legal description of such Residence Unit, or in such other manner as may be specified by the Texas Uniform Condominium Act.

Each Owner, by acceptance of a deed to its Residence Unit, grants a power of sale to the Association to sell such property upon default in payment of any amount owed, and hereby expressly recognizes the existence of such lien as being prior to its ownership of such Residence Unit. Each Owner, by acceptance of a deed to its Residence Unit, hereby vests in the Board or its agents the right and power to bring all actions against such Owner (or Owners) personally for the collection of such unpaid Common Expense Charges, Special Assessments, and other sums due hereunder as a debt and to enforce the aforementioned lien by all methods available for the enforcement of such liens, both judicially and by non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code (as same may be amended or revised from time to time hereafter). In addition to and in connection therewith, by acceptance of the deed to its Residence Unit, each Owner expressly grants, bargains, sells and conveys in the President of the Association from time to time serving as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Residence Unit, and all rights appurtenant thereto, for the purpose of securing the said Common Expense Charges, Special Assessments, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time.

The trustee herein designated may be changed at any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and attested to by the Secretary of the Association and filed in the Official Public Records of Real Property of Montgomery County, Texas. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured to be paid by such lien, it shall be the duty of the trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such Unit, and all rights appurtenant thereto, at the door of the county courthouse of Montgomery County, Texas on the first Tuesday in any month between the hours of 10:00 a.m. and 4:00 p.m. to the highest bidder for cash at public venue after the Trustee and the Board, respectively, shall have given notice of the proposed sale in the manner hereinafter set forth and to make due conveyance to purchaser or purchasers, with general warranty of title to such purchaser or purchasers binding upon the Owner (or Owners) of such Residence Unit and their heirs, executors, administrators and successors. The trustee shall serve notice of such proposed sale by posting a written notice of the time, place and terms of the sale at least twenty-one (21) consecutive days preceding the date of sale at the courthouse door of Montgomery County, Texas and, in addition, the Board shall serve written notice at least twenty-one (21) days preceding the sale or the proposed sale by certified mail on each of such Owner or Owners according to the records of the Association. Service of such notice shall be completed upon depositing the notice, enclosed in a postpaid wrapper, properly addressed to such Owner or Owners at the most recent address as shown by the record of the Association, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of such service.

At the foreclosure, judicial or non-judicial, the Association shall be entitled to bid for and purchase the Residence Unit as a Common Expense, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed, together with costs and attorney's fees. From and after any such foreclosure, the occupants of such Residence Unit shall be required to pay a reasonable rent for the use of such Residence Unit, and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to sue for recovery of possession of the Residence Unit by forcible detainer without further notice.



It is the intent of the provisions of this Section to comply with the provisions of Section 51.002 of the Texas Property Code, relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 hereafter, which amendment is applicable hereto, the President of the Association, acting without joinder of any other Owner or Mortgagee or other person may but is not obligated to, by amendment to this Declaration filed in the Official Public Records of Real Property of Montgomery County, Texas amend the provisions hereof so as to comply with said amendments to Section 51.002.

#### Section 4.7 Common Expense Fund

The Common Expense Charges collected shall be paid into the Common Expense Fund to be held and used for the benefit, directly or indirectly, of the Condominium; and such Common Expense Fund may be expended by the Board for the purposes set forth herein, including, without limitation, providing for the enforcement of the provisions of this instrument, the By-Laws of the Association and Rules and Regulations promulgated thereunder, for the maintenance, insurance, utilities, operation, repair, benefit and welfare of the Common Elements, and generally for doing those things necessary or desirable in the opinion of the Board to maintain or improve the Condominium. The use of the Common Expense Fund for any of these purposes, except as provided herein, is permissive and not mandatory, and the decision of the Board with respect thereto shall be final, so long as made in good faith.

#### Section 4.8 Reserve Assessment

Upon the sale of a Residence Unit (except in case of sale of a Unit from the Declarant to an Owner (other than Declarant)), the purchaser shall pay to the Association Five Hundred and No/100 Dollars (\$500.00) (hereinafter referred to as the "Reserve Assessment") to be paid into a Reserve Account. The Reserve Assessment shall be due and payable on the date the deed conveying the Residence Unit to the new Owner is recorded, or in the case of a contract for deed or similar instrument, the date the contract for deed is executed. Payment of the Reserve Assessment shall be in default if the Reserve Assessment is not paid on or before the due date for such payment. Reserve Assessments in default shall bear interest at the rate of ten percent (10%) per annum from date of delinquency until paid. All Reserve Assessments collected by the Association shall be deposited into the Replacement Reserve Fund. No Reserve Assessment paid by an Owner shall be refunded to the Owner by the Association. The Board of Directors

may, at its sole discretion and without a vote by the Members, increase or decrease the Reserve Assessment in an amount up to twenty percent (20%) over the Reserve Assessment charged for the immediately preceding year. The Reserve Assessment may only be increased or decreased by more than twenty percent (20%) over the preceding year's Reserve Assessment if such increase or decrease is approved by Owners having at least a majority of the votes in the Association, unless a greater number of votes is required by law applicable to the Condominium. The Reserve Assessment shall not be adjusted more than once in a calendar year nor shall any increase or decrease be construed to take effect retroactively.

Further, the Association may enforce payment of the Reserve Assessment in the same manner in which the Association may enforce the payment of Common Expense Charges and Special Assessments pursuant to Section 4.6 of this Article IV.

This Section 4.8 shall not apply in the case of a conveyance to a bona fide Mortgagee, foreclosure purchaser, or judicial sale of a Residence Unit or to any conveyance made by the Owner of a Residence Unit to a bona fide Mortgagee in lieu of foreclosure, provided that the sale of such Residence Unit by such Mortgagee to any other purchaser shall meet the requirements of this Section. Further, this Section 4.8 shall not apply to the following: (i) transfers of any Residence Unit by one spouse to or for the benefit of the other spouse; (ii) sales to the Association or its nominee pursuant to the Declaration; or (iii) transfers provided for in Article IX of the Declaration.

#### Section 4.9 Transfer Fee and Operating Fund Contribution

The Association has the right, without the obligation, to charge a transfer fee (the "Transfer Fee") upon on a sale of a Residence Unit by an Owner (other than a sale of a Residence Unit from the Declarant to a purchaser), which Transfer Fee, if charged, shall be in an amount as set by the Board from time to time.

In addition to the Transfer Fee provided above, upon the sale of a Residence Unit from the Declarant, the purchaser shall pay to the Association an operating fund contribution fee (hereinafter referred to as the "Operating Fund Contribution"), in the amount as provided in the agreement of purchase and sale between the Declarant and a purchaser to be paid into the Association's operating account. The Operating Fund Contribution is estimated to be Five

Hundred and 00/100 Dollars (\$500.00) and shall be due and payable on the date the deed conveying the Residence Unit from the Declarant to the new Owner is recorded, or in the case of a contract for deed or similar instrument, the date the contract for deed is executed. The Operating Fund Contribution may be increased or decreased by the Declarant, in the Declarant's sole and absolute discretion, as provided in the agreement of purchase and sale between the Declarant and a purchaser of a Residence Unit.

Payment of the Operating Fund Contribution and/or the Transfer Fee shall be in default if the Operating Fund Contribution and/or the Transfer Fee is not paid on or before the due date for such payment. The Operating Fund Contribution and/or the Transfer Fee in default shall bear interest at the rate of ten percent (10%) per annum from date of delinquency until paid. All Operating Fund Contributions and Transfer Fees collected by the Association shall be deposited into the Association's operating account and may be used for the operations of the Association or for any other purposes, as determined by the Board of Directors, in its sole discretion. No Operating Fund Contribution and/or the Transfer Fee paid by an Owner shall be refunded to the Owner by the Association.

The Association may enforce payment of the Operating Fund Contribution and the Transfer Fee in the same manner in which the Association may enforce the payment of Common Expense Charges and Special Assessments pursuant to Section 4.6 of this Article IV.

## **ARTICLE V. INSURANCE**

### Section 5.1 General Provisions

The Board of Directors shall have authority to and shall purchase insurance for the Condominium as follows:

- A. Insurance on the Buildings, including the Residence Units (except as set forth in Section 5.2 below) and the Common Elements, against loss or damage by fire and loss or damage by all risks now or hereafter embraced by the so-called all-risk fire and extended coverage policy and any other extended coverage policy, policies, or endorsements thereto, designed for insuring condominium regimes in the State of Texas (with vandalism and malicious mischief endorsements), in amounts sufficient to prevent the Association of the Owners from acting as a co-insurer within the terms of the applicable

policies, but in any event in an amount not less than the full insurable replacement cost thereof and which policy shall contain a replacement cost endorsement so long as the policy is commercially reasonably available. The "full insurable replacement cost" of the Buildings, including the Residence Units and the Common Elements, shall be determined from time to time but not less than once in a twelve-month period by the Board and the Board shall have the authority to obtain and pay for an appraisal by a person or organization selected by the Board in seeking such determination. The cost of any and all such appraisals shall be borne by the Common Expense fund.

- B. Insurance on the Buildings against all loss or damage from explosion of boilers, heating apparatus, pressure valves and pressure pipes installed in, on or about said Buildings, without co-insurance clause, so long as commercially reasonably available, in such amount as the Board may deem desirable.
- C. Comprehensive general liability and property damage insurance (including "umbrella" or "excess" coverage) against claims for personal injury or death or property damage suffered by the public or any Owner, the family, agent, employee or invitee of any Owner, occurring in, on or about the Common Elements or upon, in or about the driveways, roadways, walkways and passageways, on or adjoining the Condominium, which general liability and property damage insurance shall be in a minimum amount of \$1,000,000 combined single limit, or such greater amounts as the Board shall deem desirable. Such general liability and property damage insurance policy shall include medical payments insurance and shall contain a cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not prejudice its, his, her or their action or actions against another named insured.
- D. Such worker's compensation insurance as may be necessary to comply with applicable laws.
- E. Employer's liability insurance in such amount as the Board may deem desirable.
- F. Fidelity bonds indemnifying the Association, the Board and the Owners from loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or

of any other person handling the funds of the Association in such an amount as the Board may deem desirable.

- G. Liability insurance insuring the Board and officers of the Association against any claims, losses, liabilities, damages or causes of action arising out of or in conjunction with or resulting from any act or omission in their representative capacity.
- H. Such other insurance in such reasonable amount as the Board shall deem desirable.

The premiums for all insurance required on behalf of the Association or the Owners pursuant to the provisions hereof shall be borne by the Common Expense Fund.

All insurance provided for in this Section shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Texas if available. Policies of insurance of the character described in Subsections (A), (B) and (C) of this Section 5.1, if commercially reasonably available shall contain an endorsement naming as insureds the Association and each Owner as their interests may appear, shall contain standard mortgagee clause endorsements in favor of the Mortgagee or Mortgagees of each Residence Unit, if any, as their respective interests may appear, shall be without contribution with regard to any other such policies of insurance carried individually by any Owner, whether such other insurance covers the Residence Unit owned by such Owner and/or the additions and improvements made by such Owner to its respective Residence Unit shall waive the right of the insurer of subrogation under the policy against any Owner or the Association; shall provide that such policy shall not be terminated for non-payment of premiums or for any other cause without at least thirty (30) days prior written notice to the Association and at least ten (10) days prior written notice to the Mortgagee of each Residence Unit, if possible. All policies of insurance of the character described in Subsection (A), Section 5.1 shall contain an endorsement extending coverage to include the payment of Common Expense Charges, Special Assessments, and other sums due hereunder with respect to Residence Units damaged during the period of reconstruction for such loss covered by such insurance policies shall be adjusted and settled for the benefit of the affected Owner(s) by the Board acting on behalf of, and as trustee for, the Owners, and the proceeds of such claim shall be paid to the Board as trustee for the Owners and their Mortgagees, as their interests may appear. Subject to Article XI, Section 6.3, the proceeds paid under a policy must be disbursed first for the restoration of the damaged Common Elements and Residence

Units and Owners and Mortgagees shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium Regime is terminated.

Section 5.2 Individual Insurance

Each Owner shall be responsible for insurance on the Owner's Residence Unit and the furnishings, interior walls (non-load bearing or non-shear), appliances and any portion of the Residence Units that are not Common Elements, and personal property therein, including rugs and floor coverings to the extent not covered by the policies of casualty insurance obtained by the Association for the benefit of all Owners as above provided. The Association shall have the authority, without the obligation, to obtain insurance on all or any portion of the above-described contents of an Owner's Residence Unit. All policies of insurance carried by each Owner shall be without contribution with respect to the policies of insurance obtained by the Association for the benefit of all the Owners as above set forth. Owners may carry individual policies of liability, at their own cost and expense, to provide for additional coverages and/or deductibles allocated to any loss.

Section 5.3 Subrogation

Each Owner and the Association hereby agree to waive any rights of subrogation against the Declarant and each other.

**ARTICLE VI. FIRE OR CASUALTY, RESTORATION**

Section 6.1 Duty to Restore

Any portion of the Condominium for which insurance is required under Section 82.111 of the Texas Uniform Condominium Act that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- A. the Condominium Regime is terminated by a vote of Owners of an aggregate Allocated Interests of eighty percent (80%) or more of the Condominium;
- B. repair or replacement would be illegal under any state or local health or safety statute or ordinance; or

- C. at least eighty percent (80%) of the Owners, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt or repaired, vote to not rebuild.

#### Section 6.2 Cost

The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid out of the Common Expense Fund. However, the costs of deductibles may be allocated by resolution of the Board.

#### Section 6.3 Partial Restoration

If the entire Condominium is not repaired or replaced, any insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition comparable with the remainder of the Condominium. The insurance proceeds attributable to Residence Units and Limited Common Elements that are not rebuilt shall be distributed to the Owners of those Residence Units and the Owners of the Residence Units to which the Limited Common Elements were assigned, or to their Mortgagees, as their interests may appear. If the Owners vote not to rebuild any Residence Unit, that Residence Unit's Allocated Interest shall be reallocated automatically as if the Residence Unit had been condemned, and the Association shall prepare, execute and record an amendment to the Declaration reflecting the reallocation.

#### Section 6.4 Repair of Residence Units

Following any such fire or other casualty where there is no termination of the Condominium Regime as provided above, each Owner shall be responsible for the reconstruction, repair, and replacement of all personal property and other property not a Common Element, in or part of its Residence Unit, including, but not limited to, the floor coverings, wall coverings, interior walls, furniture, furnishings, decorative light fixtures and appliances located therein, to the extent each Owner wishes said reconstruction, repair, and replacement to be accomplished in compliance with the Custom Design Criteria and/or the Rules and Regulations; the Association shall have no responsibility for any of same.

**ARTICLE VII. EMINENT DOMAIN****Section 7.1 Taking of Units**

If a Residence Unit is acquired by condemnation, or if part of a Residence Unit is acquired by condemnation leaving the Owner of the Residence Unit with a remnant that may not practically and lawfully be used for any purpose permitted by this Declaration, the condemnation award must compensate the Owner for the Residence Unit and its Common Element interest, whether or not any Common Element interest is acquired. On acquisition, unless the condemnation award provides otherwise, the condemned Residence Unit's entire Allocated Interest shall be automatically reallocated to the remaining Residence Units in proportion to the respective Allocated Interests of those Residence Units before the taking, and the Association acting without joinder of any other Owner or Mortgagee or other person, shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations. A remnant of a Residence Unit remaining after part of a Residence Unit is taken under this subsection is a Common Element.

**Section 7.2 Partial Taking of a Unit**

Except as provided by Section 7.1, if part of a Residence Unit is acquired by condemnation, the award must compensate the Owner for the reduction in value of the Residence Unit and its Common Element interests. On acquisition, the condemned Residence Unit's Allocated Interest shall be reduced in proportion to the reduction in size of the Residence Unit, and the portion of the Allocated Interest divested from the partially acquired Residence Unit shall automatically be reallocated to that Residence Unit and reallocated in proportion to the respective Allocated Interests of those Residence Units before the partially acquired Residence Unit participating in the reallocation on the basis of its reduced interest.

**Section 7.3 Partial Taking of Common Elements**

If part of the Common Elements is lost in condemnation, the award must be paid to the Association, as trustee for the Owners, and the holders of liens on the condemned property, as their interests may appear. The part of the award not used for any restoration or repair of the remaining Common Element shall be distributed to the Owners in proportion to their respective Allocated Interests before the taking. The portion of the award attributable to the acquisition of a



Limited Common Element shall be allocated among the Owners of the Residence Units in which that Limited Common Element was allocated at the time of acquisition.

Section 7.4 Recordation

The court decree in the condemnation proceedings shall be filed in Montgomery County.

**ARTICLE VIII. RENOVATION**

Section 8.1 Decision to Renovate

When it has been determined by the vote of Owners of an aggregate Allocated Interests of eighty percent (80%) or more of the Condominium, that substantially all of the Common Elements can and should be renewed, reconstructed, renovated, replaced (other than as may be called for under Article VI and VII), the expenses shall be borne by the Common Expense Fund and a Special Assessment may be assessed not subject to the limitations set forth in Article IV.

Section 8.2 Renovation

Upon approval by the vote of Owners of an aggregate Allocated Interests of eighty percent (80%) or more of the Condominium to improve, renew, reconstruct, renovate, or replace (hereinafter the "Renovation") substantially all of the Common Element, the details of such Renovation will be determined by the Board of the Association. Provided however, that prior to entering into any contract for such Renovation or otherwise beginning such Renovation, the Board shall call no less than one meeting of the Owners to seek their input as to the details of the Renovation.

**ARTICLE IX. TRANSFER OF UNITS; RIGHT-OF-FIRST-REFUSAL**

Section 9.1 Right-of-First-Refusal With Respect to Residence Units

Except as provided below, should the Owner of any Residence Unit be desirous of leasing (which term shall be deemed to include all types of leases, rental or other occupancy agreements) or selling such Residence Unit, the Association is hereby given and granted the right-of-first-refusal to lease or purchase such Residence Unit, as the case may be, on the terms and conditions herein stated, and no Owners of a Residence Unit shall lease or sell the same to any party without first giving the Association notice in writing of such proposed lease or sale as herein provided and giving the Association the opportunity to determine whether it will exercise

the right-of-first-refusal to lease or purchase said Residence Unit on the same terms and conditions as those contained in any bona fide offer that the Owner of such Residence Unit may have received for the lease or purchase of the Residence Unit, which offer the Owner wishes to accept. The right-of-first-refusal shall be exercised, if at all, in writing by the Board. Any leasing or sale of a Residence Unit without compliance with the terms contained herein, shall be void and of no force or effect and shall confer no title or interest in a Residence Unit to a purchaser or lessee.

#### Section 9.2 Notice and Exercise of Option

Whenever the Owner of any Residence Unit receives a bona fide offer to lease or purchase its Residence Unit and is desirous of accepting said bona fide offer, the Owner of such Residence Unit shall give the Board written notice of its desire to accept such offer for the lease or purchase of his Residence Unit, including the name, address, telephone number, occupation or employment of the offeror, and furnish the Board an executed copy of a bona fide offer/proposal for said lease or purchase. If the Association desires to exercise its option to lease or purchase said Residence Unit on the same terms and conditions as are contained in said offer then the Association shall notify the Owner of said Residence Unit of the exercise of its option, such notice to be in writing and delivered by registered or certified mail to said Owner within ten (10) days from the date of receipt by the Board of the Owner's notice to the Board as hereinabove required, or such notice may be personally delivered, receipt of which to be acknowledged in writing by Owner, to said Owner within said period. If the Board has elected to lease or purchase the Residence Unit, then, within a reasonable time after the giving of written notice to the Owner of such Residence Unit of its election, the Board shall execute a lease or contract evidencing such intent, and shall consummate such lease or contract to purchase on all the same terms and conditions as those contained in said bona fide offer. When any Owner of a Residence Unit has notified the Association as above provided of its desire to lease or sell its Residence Unit, such Owner shall be free to consummate such lease or sale of its Residence Unit unless within ten (10) days of receipt of Owner's notice by the Board, the Board has notified said Owner of its intention to exercise its right-of-first-refusal as set out herein. In the event that the Association elects not to exercise its right-of-first-refusal, or fails to respond to the Owner within said ten (10) day period, the Owner of said Residence Unit shall be free to lease or sell said Residence Unit only to the party and pursuant to the terms described in the required notice. In

the event that the proposed transaction with such offeror, which the Board has declined or failed to exercise its right-of-first-refusal, is not consummated by the transfer of the corresponding deed or execution of a lease, as the case may be, within sixty (60) days of the date of the giving of the required notice, the Owner of such Residence Unit shall again give notice to the Association and the Association shall again have a right-of-first-refusal as herein provided. The right-of-first-refusal to lease or purchase herein set forth shall be a continuing right and the non-exercise of the right in any instance shall not be deemed a waiver in any other instance or against any other Owner or leases. In the event that the Board does not elect to lease or purchase such Residence Unit, the Board, upon written request, shall provide a written instrument stating that the Board has declined to lease or purchase such Residence Unit.

### Section 9.3 Purchase by Nominee of Association

If the Association shall so elect, it may cause its right-of-first-refusal to lease or purchase any Residence Unit to be exercised in its name or for a party approved by the Board, or the Board may elect to cause said Residence Unit to be leased or purchased directly in the name of a party approved by it, which party shall enter into said lease or contract to purchase and consummate the contract to purchase in the same manner as the Board upon its exercise of said right-of-first-refusal to lease or purchase said Residence Unit.

### Section 9.4 Terms of Lease

Notwithstanding that the Board may have declined or failed to exercise its right-of-first-refusal with respect to any leasing of any Residence Unit, no Residential Unit shall be leased for a term of less than six (6) full consecutive calendar months, nor shall any lease be for less than the entire Residence Unit. No Residence Unit shall be leased unless the terms and provisions of such lease specifically provide that such Residence Unit may not be sublet to or be occupied by persons other than those named in the required notice provided for in Section 9.2 above without the prior written approval of the Board being first obtained, and any lease shall provide that the lessee or occupant and any guest or invitee of such lessee or occupant shall comply with and abide by all of the restrictions pertaining to the use of Residence Units and the Common Elements set forth in this Declaration, the By-Laws, Rules and Regulations and the Custom Design Criteria promulgated hereunder and the laws of the State of Texas applicable to the Condominium now or hereafter established governing the use of such Residence Units and the

Common Elements. Should any lessee or occupant not comply with such lease provision, then the Board shall have the right to cancel and terminate such lease, without any obligation or liability imposed upon the Owner, and for such purpose, the Board shall be regarded as the Owner's agent fully authorized to take such steps as may be necessary to effect the cancellation and termination of such lease and the eviction of the tenant under such lease. The Board shall have the right to collect rents from any tenant of an Owner that is more than sixty (60) days delinquent in the payment of any amount due to the Association. It is not the intent of the Declarant to exclude from a Residence Unit any individual who is authorized to so remain by any state or federal law. If it is found that any provision contained in this Declaration is in violation of any law, then this section shall be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by law.

Notwithstanding anything contained herein to the contrary, no Residence Unit may be used as a Timeshare Unit or put to Timeshare Use, as those terms are defined in Chapter 221 of the Texas Property Code, or its successor statute.

#### Section 9.5 Exceptions to Right-Of-First-Refusal

Provided that the Board has received prior written notice (except as to the lease, purchase or sale of any Residence Unit to or by the Declarant or by the Association or its nominee and any transfers covered by Article IX, in all of which cases no prior written notice shall be required) the right-of-first-refusal herein granted to the Association shall not apply to or be operative with respect to (i) transfers of ownership of any Residence Unit by one spouse to or for the benefit of the other spouse and/or members of the Owner's family (as that term is defined in Article I); (ii) transfers by one Owner to another Owner; (iii) transfers provided for in Article XII hereof; (iv) any foreclosure or judicial sale of a Residence Unit; (v) the sale or leasing of a Residence Unit by the Association or its nominee pursuant to Section 9.3 after the Association has acquired such Residence Unit or a leasehold space therein pursuant to the terms of this Article; (vi) any conveyance made by the Owner of a Residence Unit to a bona fide Mortgagee in lieu of foreclosure, provided that the title of a purchase from such Mortgagee or the title of any purchaser that obtains its title at any foreclosure or judicial sale shall thereafter be subject to the terms and provisions of this Article with respect to any further lease or sale of any such Residence Unit; (vii) any lease, rental or occupancy arrangement for any Residence Unit the

Owner of which is a corporation, limited partnership, trust or other legal entity other than a natural person for the housing of its officers, directors, partners, trustees, beneficiaries or other designated agent or employee or a bona fide corporate agent or client, provided that such entity is engaged in substantial business endeavors other than the renting or leasing of Residence Units in the Condominium; (viii) the creation of a Mortgage; or (ix) the lease, sublease or sale of any Residence Unit to or by the Declarant.

#### Section 9.6 Application of Proceeds of Any Sale

Upon the sale or conveyance of a Residence Unit other than by the Declarant, the proceeds of such sale or conveyance shall be applied as follows:

- A. First, to assessments, liens and charges in favor of the State and any political subdivision thereof for taxes past due and unpaid on the Resident Unit;
- B. Secondly, to amounts due under any Mortgage;
- C. Thirdly, to the payment of all unpaid Common Expense Charges, and Special Assessments or other sums due and owing hereunder against the Residence Unit or the Owner thereof;
- D. Fourthly, to the Owner of such Unit.

In the event said Common Expense Charges, Special Assessment or other sums due and owing against the Residence Unit or the Owner thereof are not paid or collected at the time of sale or conveyance of a Residence Unit, the grantee of such sale or conveyance shall be jointly and severally liable with the Owner for all unpaid Common Expense Charges, and Special Assessments and all other sums due and owing hereunder against the Residence Unit or the Owner thereof as to the date of grant or conveyance, without prejudice to the grantee's right to recover from the selling Owner the amounts paid by the grantee therefore.

In the event of a foreclosure of a Mortgage for the purchase or improvement of any Residence Unit, the purchaser at such foreclosure sale and any successor in title to such Residence Unit from the purchaser at such sale (except the Owner upon whom such lien was foreclosed) shall not be liable for the Common Expense Charges, or Special Assessments

chargeable to such Residence Unit or other sums due and that become due prior to such foreclosure or conveyance in lieu thereof.

## **ARTICLE X. AMENDMENTS, CONFLICTS BETWEEN PROVISIONS**

### Section 10.1 Amendment of Declaration

Except as otherwise provided by law and elsewhere in this Declaration, the provisions of this Declaration, except for the specific matters described in 10.2 below, may be amended only by vote or agreement of an aggregate number of members having not less than sixty-seven percent (67%) of the total voting power of the Association and entitled to vote on such amendment, such agreement to be evidenced by written ballot or by vote at a meeting of the Association called for that purpose. Any amendment to this Declaration of Condominium shall become effective only upon the recordation in the Official Public Records of Real Property of Montgomery County, Texas of a written amendment signed and certified by the duly authorized officers of the Association, attesting to the proper adoption of such amendment and containing the text thereof. An action to challenge the validity of an amendment to the Declaration adopted by the Association under this Article X must be brought before the first anniversary of the date the amendment is recorded.

The Declarant hereby reserves the unilateral right to amend this Declaration at any time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Residence Units; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Residence Units; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Residence Units; or (e) as necessary to clarify or resolve ambiguities or conflicts or to correct any inadvertent misstatements, errors or omissions in this Declaration as same may be amended from time to time; provided, however, any such amendment shall not adversely affect the title to any Residence Unit unless the Owner shall consent thereto in writing.

The Declarant further reserves the unilateral right to amend this Declaration at any time prior to the election of the Fully Elected Board.

#### Section 10.2 Exceptional Matters

Except as specifically permitted elsewhere in this Declaration, an amendment to this Declaration may not create or increase special Declarant rights, increase the number of Residence Units, change the boundaries of a Unit (without the agreement of those Unit Owners effected), alter or destroy a Residence Unit or Limited Common Element without the approval of one hundred percent (100%) of affected Unit Owners, change a Residence Unit's Allocated Interest (except in cases of combining), or change the use restrictions on a Residence Unit unless the amendment is approved by agreement of an aggregate number of members having not less than 100% of the total voting power of the Association. The Board or the Declarant, if the Declarant owns a Residence Unit that has never been occupied, may without a vote of the Owners or approval of the Association, amend the Declaration in any manner necessary to meet the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the Veterans Administration.

#### Section 10.3 Amendment of By-Laws

The By-Laws of the Association may be amended from time to time as set out in the By-Laws.

#### Section 10.4 Amendment of Rules and Regulations

The Rules and Regulations may be amended from time to time by the Board as set out in the By-Laws.

#### Section 10.5 Conflict Between Provisions

In the event of any conflict among the terms and provisions of this Declaration, the Certificate of Formation of the Association, the By-Laws, the Rules and Regulations or applicable law, or between any of them, the By-Laws shall control over the Rules and Regulations; the Certificate of Formation shall control over both the By-Laws and the Rules and Regulations; this Declaration shall control over the Certificate of Formation, the By-Laws and the Rules and Regulations; and applicable law shall control over all of the foregoing.

**ARTICLE XI. ALTERNATE DISPUTE RESOLUTION****Section 11.1 Dispute Resolution**

Except as set out in Section 11.4, no lawsuit between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; the Association; or the Managing Agent, if any.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

Disputes of Owners, Members, the Board of Directors, the Association, and/or officers of the Association with or against the Declarant shall be submitted to binding arbitration. The arbitration will be conducted by the AAA in accordance with the rules contained in the Arbitration Rules for the Real Estate Industry (the "**Rules**").

**Section 11.2 Outside Mediator**

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager ("P.C.A.M.") as certified by the Community Associations Institute, or a Certified Property Manager ("C.P.M.") as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in Oasis Pointe Condominiums, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board shall maintain a list of no less than five (05) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will



pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

Section 11.3      Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

Section 11.4      Enforcement by Board

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of assessments, enforcement of the Declaration, and/or Rules and Regulations by the Association.

**ARTICLE XII.      MISCELLANEOUS**

Section 12.1      Estoppel Certificate

Any Mortgagee and any prospective purchaser of a Residence Unit shall be entitled upon written request therefore to a statement from the Board (or any party designated by the Board) setting forth the amount of any unpaid Common Expense Charges, Special Assessments or other sums due and owing to the Association against the Residence Unit or the Owner thereof. The prospective purchaser shall not be liable for, nor shall the Residence Unit conveyed be subject to the lien created in this Declaration of Condominium for any unpaid Common Expense Charges, or Special Assessments made by the Board against the particular Residence Unit involved or other sums due and owing against the Residence Unit or the Owner thereof in excess of the amount set forth in such statement. The purchaser shall, however, be liable for any Special Assessments, Common Expense Charge, and any other sums owing hereunder against such Residence Unit or the Owner thereof becoming due after the date of any such statement and shall be subject to the liens securing same as provided in this Declaration.

Section 12.2      No Partition

Except as may be otherwise specifically provided in this Declaration, the Common Elements shall remain undivided and shall not be subject to an action for partition or division of

the co-ownership thereof so long as the Condominium is maintained as a Condominium Regime in accordance with the provisions hereof, and, in any event, all Mortgagees having an interest in the Common Elements must be paid in full prior to bringing any action for partition or division of the Common Elements, the consent of all holders of such Mortgages must be obtained; provided however, that if a Residence Unit shall be owned by two (2) or more Owners as tenants-in-common or as joint tenants, they shall be deemed to have agreed to not permit a judicial partition of such Residence Unit as between such co-owners.

### Section 12.3 Alteration of Boundaries of Residence Units

(a) If one person, firm or entity (including Declarant) is the Owner of all or part of two (2) Residence Units which are adjoining horizontally (on the same floor of the Buildings) or if two (2) Owners of adjoining Residence Units so agree, then such Owner or Owners shall have the right, upon the Board's prior written consent, to remove all or any part of any intervening partition (which is not load bearing) or to create doorways or other openings in such partition or floor which may in whole or in part be a common Element, so long as no portion of any load bearing wall or load bearing column or structural slab is weakened or removed and no portion of any Common Element other than that partition is damaged, destroyed or endangered. In any of such events, the Owner or Owners involved may relocate the boundaries between adjoining Residence Units by causing an appropriate instrument of amendment to this Declaration to be prepared and executed by such Owners, which instrument, in order to be binding, must first be approved by the Board, in writing and shall be joined in by the President of the Association (and the Mortgagees, if any, of such Residence Units) and filed for record in the Real Property Records of Montgomery County, Texas. The instrument of amendment (i) shall show the boundaries between those Residence Units which are being relocated, (ii) shall recite the occurrence of any conveyance between the Owners of such adjacent Residence Units, and (iii) shall specify any reasonable reallocation as agreed upon between the Owners of the Residences Units involved of the aggregate Ownership Interests in the Common Elements pertaining to those Residence Units. Such plats and floor plans as may be necessary to show the altered boundaries between the Residences Units involved shall be certified as to their accuracy by a registered architect or engineer. Any Owners taking any of the actions permitted by this subsection 12.3 shall do so at their sole cost, risk and expense and shall agree, in form satisfactory, to the Board, to indemnify and hold all other Owners and the Association harmless

from any cost, expense, damage or liability arising or occurring as a result thereof, which obligation shall be secured or bonded in such amount and form as the Board shall determine.

(b) At any time prior to election of the Fully Elected Board, the Declarant shall have the right, at its option and sole cost and expense, without the consent of other Owners or the representative or representatives of any Mortgagee, to (i) make alterations, additions or improvements in, to and upon Residence Units owned by the Declarant (hereinafter called "Declarant-Owned Units or "Declarant-Owned Residence Units"), whether structural or non-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Declarant-Owned Unit; (iii) change the size and/or number of Declarant-Owned Units; (including those resulting from such subdivision or otherwise) into one or more Residence Units, combining separate Declarant-Owned Units (including those resulting from such subdivision or otherwise) into one or more Residence Units, altering the boundary walls between any Declarant-Owned Units, or otherwise; and (iv) reapportion among the Declarant-Owned Units affected by such change in size or number pursuant to the preceding clause their appurtenant interest in the Common Elements; provided, however, that the percentage ownership interest in the Common Elements of any Residence Unit (other than Declarant-Owned Units) shall not be changed by reason thereof. Notwithstanding anything to the contrary in paragraphs (a) and (b) of this Section 12.3, no amendment of this Declaration shall be made pursuant to the provisions of this Section 12.3 unless such amendment is approved in accordance with Section 10.1 hereof unless the Owners and Mortgagees, if any, of such Residence Units shall comply with all laws applicable thereto and shall agree to hold all other Owners and the Association harmless from any liability arising there from. Notwithstanding the terms of Section 10.1 hereof, the provisions of this Section may not be added to, amended or deleted without the prior written consent of the Declarant. The Declarant shall also have the authority, at its sole option, cost and expense, to make improvements to the Common elements without the prior consent of the Board, other Owners or the representative or representatives of holders of any Mortgage. No Owner shall ever be assessed for any such changes or improvements done by the Declarant pursuant to this provision. In the event of any such alteration, combination or improvement, the Declarant, at its sole cost and expense, shall file any amendment to this Declaration necessary to reflect such change or improvement. If Declarant exercises its rights hereunder, Declarant shall record

such amendment evidencing such change in Units and reallocation of percentage of ownership in the Common Area without the joinder of any other Owner.

The boundaries between adjoining Residence Units may be relocated by an amendment to the Declaration on written application to the Association by the Owners of those Residence Units. If the Owners of the adjoining Residence Units have specified a reallocation between their Residence Units of their Allocated Interests, the application must state the proposed reallocations. Unless the Board determines that the reallocation is unreasonable, the Association shall prepare an amendment at the expense of the applying Residence Units Owners involved, that identifies the Residence Units involved, states the reallocation, is executed by the applying Residence Unit Owners, and contains words of conveyance between them. At the expense of the applying Residence Unit Owners, the Association, without the joinder of any other Owner, shall prepare and record the amendment and plats or plans necessary to show the altered boundaries between adjoining units, and the units' dimensions and identifying numbers.

A combined Residence Unit may be subdivided back to its original configuration as originally platted, into two or more Residence Units. Subject to the conditions contained in this Declaration, on written application of a Residence Unit Owner to subdivide a Residence Unit and after payment by the Residence Unit Owner of the cost of preparing and recording amendments and plats, the Association shall prepare, execute, and record an amendment to the Declaration, including the plats and plans, subdividing the Residence Unit. The amendment to the Declaration must be executed by the Owner(s) of the Residence Unit to be subdivided, assign an identifying number to each subsequent Residence Unit created, and reallocate the allocated interests formerly allocated to the subdivided Residence Unit to the new Residence Units in any reasonable manner prescribed by the Owner of the subdivided Residence Unit.

Other than consolidation pursuant to this Section 12.3, all other amendments to the Declaration must be made in accordance with Section 10.1 hereof.

#### Section 12.4 Correction of Errors

In addition to those rights set out in Article X, Section 10.1 of this Declaration, Declarant reserves, and shall have the continuing right until election of the Fully Elected Board, without the consent of other Owners or the representatives of any Mortgagee, to amend this Declaration

or the By-Laws for the purposes of clarifying or resolving any ambiguities or conflicts herein, for correcting any misstatements, errors or omissions herein, provided that no such amendment shall change the stated number of Residence Units nor the Allocated Interest in the Common Elements attributable thereto (except as set forth in Section 10.1).

#### Section 12.5 Enforcement

The Board or any Owner shall have the right to enforce, by an action at law or in equity, all terms and provisions hereof. Failure by the Board or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

#### Section 12.6 Severability

The provisions hereof shall be deemed independent and the invalidity or partial invalidity or unenforceability of any one provision or portion shall not effect the validity or enforceability of any other provision hereof.

#### Section 12.7 Easements

Prior to the election of the Fully Elected Board (and the Association thereafter) the Declarant shall have the right to grant to utility companies and other entities, such easements, rights-of-way, and other rights as may be reasonably necessary to service the Condominium and establish, operate or maintain the same as a viable condominium regime, without the approval or joinder of any other Owners or any Mortgagee.

Each Owner is hereby granted an easement in common with each other Owner for ingress and egress through all Common Elements subject to this Declaration and the Rules and Regulations promulgated from time to time by the Association. Such easement shall be used jointly and in common with the other Owners and tenants of any Owners, each Mortgagee, and the agents, employees, guests, licensees and invitees of each Owner, tenant of each Owner, and each such Mortgagee. Nothing contained herein shall be construed to create any rights of any nature in the public, nor shall any portion of the Common Elements be deemed to be dedicated for public use.

The Board and parties authorized by the Board are hereby granted an easement over, across and upon each of the Terraces, Private Garages, and/or Storage Rooms for the purpose of maintenance and upkeep of the Buildings.

Section 12.8            Declarant's Right to Lease or Rent Residence Units

The Declarant reserves the right to rent or lease Residence Units owned by the Declarant to such parties and upon such terms and conditions as the Declarant in its sole and absolute discretion desires. All tenants or lessees of the Declarant shall have access to the Condominium Common Elements in the same manner as the Owners, and shall be bound by the terms of this Declaration, the By-Laws, and the Rules and Regulations.

Section 12.9            Declarant's Right to Reallocate Residence Units

The Declarant shall have the right to reallocate Residence Units, increase the number of Residence Units, and/or decrease the number of Residence Units thereby reallocating the percentage of ownership of Common Element for each Residence Unit within the Condominium without the joinder of any Owner upon such terms and conditions as the Declarant in its sole and absolute discretion desires.

Section 12.10            Declarant's Restriction Upon Sale of Residence Units

Until the earlier to occur of (i) two (2) years after the sale of the first Residence Unit by Declarant or (ii) the sale of the last Residence Unit owned by Declarant, the Declarant hereby reserves the right to restrict the sale of a Residence Unit by an Owner, such that said Residence Unit offered by an Owner shall not be offered for sale at a price below the current purchase price established by Declarant for similar Residence Units, owned by Declarant, within the same Building in the Condominium. Notwithstanding anything contained herein to the contrary, Declarant may, but shall not be obligated to, waive the foregoing restriction on the sale of a Residence Unit in cases where, in the Declarant's sole and absolute discretion, the imposition of the foregoing restriction may cause hardship for the Owner of the Residence Unit. The waiver of the foregoing restriction by Declarant may not be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming a waiver as to any other Owner and/or Residence Unit. Action of the Declarant in waiving the restriction contained in this Section 12.10 shall be considered a decision

based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

Section 12.11            No Amendment Without Prior Written Consent of Declarant

For so long as Declarant is the Owner of a Residence Unit, the provisions of Sections 2.1, 2.6, 9.5, 12.3, and 12.4 may not be added to, amended or deleted without prior written consent of the Declarant.

Section 12.12            Security

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNIT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND

TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, 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, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

Section 12.13            Notices

Owners of Residence Units are advised that Declarant, or Declarant's related entities, own land adjacent to the Property. Owners of Residence Units hereby agree to hold harmless the Declarant and the Association (as defined herein below), and their successors and assigns, and release them from any liability for the placement, construction, design, operation, maintenance and replacement of any improvement and/or any use Declarant may chose for said adjacent property. 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 any improvement and/or use which may be placed upon said adjacent property. Owners further grant an easement to the Declarant and the Association for access to said adjacent property. Owners hereby acknowledge that Declarant has made no representations, warranties, agreements, statements, or expressions of opinion, oral or written, nor has Owner received from any person or entity whatsoever, including, without limitation, Declarant, any real estate agent or broker, property manager, tenant, governmental official, or seller, its fiduciaries, agents, attorneys, principals, or personal representatives any representations, warranties, agreements, statements, or expressions of opinion, oral or written, as to any future use of said adjacent property upon which any Owner has relied to base the decision to purchase a Residential Unit. Owners further acknowledge that Declarant has no definitive plan(s) as to any expected use of said adjacent property, and Owners are purchasing Residence Units with the understanding that said adjacent property may be used in any number of ways, including without



limitation, a use that is not presently contemplated by Declarant on the date this Declaration is recorded in the Real Property Records of Montgomery County, Texas.

Section 12.14            Indemnity

The Association shall indemnify every Director, and Officer, and committee member of the Association against, and reimburse and advance to every Director, and Officer, and committee member for, all liabilities, costs and expenses incurred in connection with such directorship, or office, or committee membership and any actions taken or omitted in such capacity to the greatest extent permitted under the Texas Nonprofit Corporation Act and all other applicable laws at the time of such indemnification, reimbursement or advance payment. The Association shall also obtain directors and officers insurance coverage for the Directors, Officers, and committee members in amounts approved by a majority vote of the Board of Directors.

Section 12.15            Severability

The invalidity of any one or more of the provisions of this Declaration shall not affect the validity of the other provisions thereof. The provisions of this Declaration shall be interpreted to be as restrictive as possible while not violating any federal, state, or local laws or regulations.

Section 12.16            Declarant Control Period

The Declarant Control Period is the period during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board. The Declarant shall retain the unilateral right to appoint and remove all Directors until not later than the 120<sup>th</sup> day after conveyance of 50 percent (50%) of the Units to Unit Owners other than a declarant at which time not less than one-third (1/3) of the members of the Board must be elected by Unit Owners other than the Declarant.

The Declarant Control Period shall terminate not later than the 120<sup>th</sup> day after conveyance of 75 percent (75%) of the Units to Unit Owners other than a declarant, at which time the Owners shall elect a Board of at least three (3) members pursuant to the provisions in the Bylaws. The persons elected shall take office upon election.

Notwithstanding anything contained herein to the contrary, the Declarant has the right, at any time to transfer all or a portion of its Declarant rights created in this Declaration, so long as such transfer be in writing and recorded in the real property records of Harris County, Texas. The termination of the Declarant Control Period to appoint and remove the officers and members of the Board, shall in no way effect any other rights of the Declarant created in this Declaration.

Section 12.17            Service Mark

Declarant is the prior and exclusive owner and proprietor of, and reserves all rights with respect to the service mark for Oasis Pointe Condominiums ("Service Mark"). Unless and until a written license agreement has been sought and obtained from Declarant (and in this connection Declarant may withhold consent in its sole and absolute discretion), no person or entity may at any time and/or for any reason whatsoever, use, depict, draw, demonstrate, reproduce, infringe, copy or resemble, directly or indirectly, the Service Mark.

Section 12.18            Annexation of Additional Property

Without the joinder of any other Owners or Members, prior to the end of the Declarant Control Period, the Declarant reserves the exclusive right to annex any additional property. Such annexation shall be accomplished by the execution and filing for record of a Supplemental Amendment setting forth the land being annexed and/or the specific restrictions relating to such property, if different. The right of the Declarant to annex land under this Section shall pass to the Association upon the expiration of the Declarant Control Period. Notwithstanding anything contained herein to the contrary, upon such annexation, the Allocated Interests of the existing Residential Units shall be readjusted by dividing the number of square feet in each Residence Unit by the total number of square feet of all Residence Units in the Buildings.

Section 12.19            De-annexation of Property

During Declarant Control Period, the Declarant, without the joinder of any other Owners or Members, may de-annex from the Property any property owned by the Declarant.

Section 12.20            Adjacent Land

During Declarant Control Period, Declarant reserves the right to develop land adjacent to the Property, annex adjacent land into the jurisdiction of the Association, and make such adjacent

land subject to the jurisdiction of the Association. Owners of Condominium Units hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, maintenance and replacement of any improvement and/or any use Declarant may choose for said adjacent land. 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 any improvement and/or use which may be placed upon said adjacent property. Owners further grant an easement to the Declarant and the Association for access to said adjacent property. Owners hereby acknowledge that Declarant has made no representations, warranties, agreements, statements, or expressions of opinion, oral or written, nor has Owner received from any person or entity whatsoever, including, without limitation, Declarant, any real estate agent or broker, property manager, tenant, governmental official, or seller, its fiduciaries, agents, attorneys, principals, or personal representatives any representations, warranties, agreements, statements, or expressions of opinion, oral or written, as to any future use of said adjacent property upon which any Owner has relied to base the decision to purchase a Residence Unit. Owners further acknowledge that Declarant has no definitive plan(s) as to any expected use of said adjacent property, and Owners are purchasing Residence Units with the understanding that said adjacent property may be used in any number of ways, including without limitation, a use that is not presently contemplated by Declarant on the date this Declaration is recorded in the Real Property Records of Montgomery County, Texas.

Section 12.21            Conflict with Restrictive Covenants

The Restrictive Covenants shall remain prior in time to this Declaration. In the event any provision of this Declaration is in conflict with the provisions contained in the Restrictive Covenants, the provision of the Restrictive Covenants shall control. Nothing contained herein shall be construed to confer upon the Association the right to amend or in any manner change the Restrictive Covenants.

IN WITNESS WHEREOF, Declarant has executed this instrument on this the  
17<sup>th</sup> day of May, 2007.

DECLARANT:

OASIS POINTE CONDOMINIUMS, L.P., a Texas limited partnership

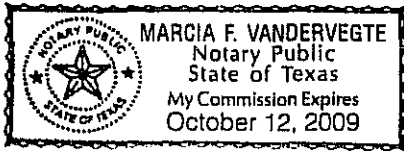
By: United Commercial Group, Inc., a Texas limited partnership, its general partner

By: [Signature]  
JIM MCVAUGH, PRESIDENT

STATE OF TEXAS           §  
   §  
COUNTY OF MONTGOMERY   §

BEFORE ME, the undersigned authority, on this day personally appeared Jim McVaugh, the President of United Commercial Group, Inc., the general partner of Oasis Pointe Condominiums, L.P., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein and herein stated, and as the act and deed of said entity.

Given under my hand and seal of office, this the 17 day of May, 2007.



Marcia F. Vandervegte  
Notary Public - State of Texas )

LIENHOLDER CONSENT AND SUBORDINATION

Wachovia Bank, NA, a(n) \_\_\_\_\_ state \_\_\_\_\_ 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 this Oasis Pointe Condominiums Declaration of Condominium, 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 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 Declaration. No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

WACHOVIA BANK, NA

By: [Signature]  
Print Name: Drew Szilagyi  
Print Title: Asst. Vice President

STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Drew Szilagyi Asst. Vice President of WACHOVIA BANK, NA, known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed and in his/her representative capacity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 18 day of MAY, 2006

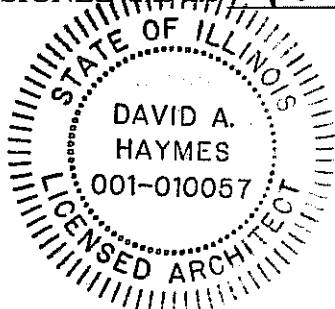
[Signature]  
Notary Public - State of Texas



I, David A. Haymes, being a licensed architect, hereby states that the plans of the Oasis Pointe Condominiums (the "Condominium") to which this certification is attached show:

1. the location and dimensions of all planned improvements within the Condominium;
2. the location and dimensions of the vertical boundaries of each unit, and the unit's identifying number;
3. the horizontal unit boundaries, with reference to established data, and the unit's identifying number;
4. elevations set forth in these plans are based on a finished floor elevation of 0'-0" at ground level.

SIGNED this the 16<sup>th</sup> day of FEBRUARY, 2007.



[Seal]

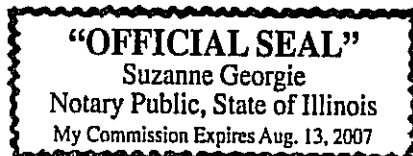
[Signature]  
 DAVID A. HAYMES, AIA

STATE OF ILLINOIS §  
 COUNTY OF Cook §

BEFORE ME, the undersigned authority, on this day personally appeared DAVID A. HAYMES whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 16<sup>th</sup> day of February, 2007.

[Signature]  
 Notary Public - State of Illinois

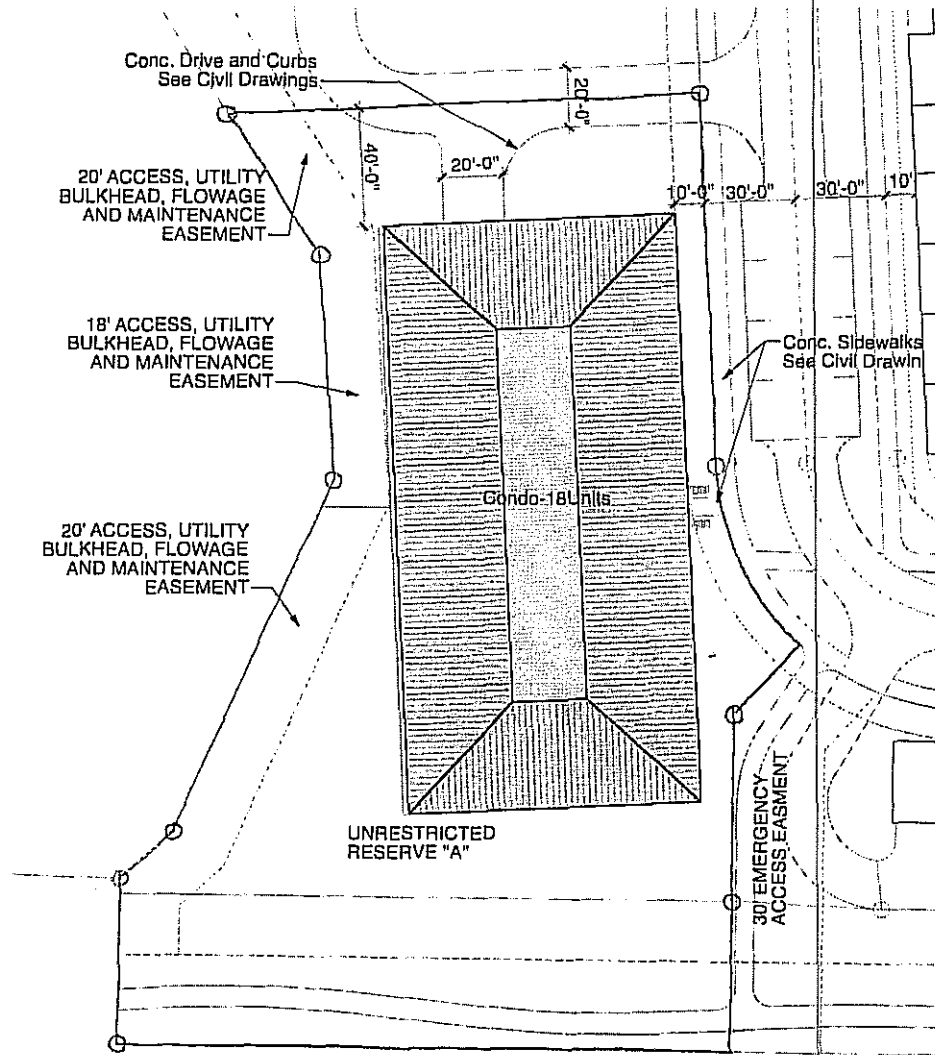
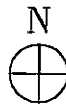


**EXHIBIT "A"**

Oasis Pointe Condos  
Allocation Interest

Reserve "A"	% Allocated	Unit Square Footage
Unit 1A	5.2122%	2,019
Unit 2A	5.8137%	2,252
Unit 3A	5.7079%	2,211
Unit 4A	5.5736%	2,159
Unit 5A	5.2122%	2,019
Unit 6A	5.8137%	2,252
Unit 1B	5.2122%	2,019
Unit 2B	5.8137%	2,252
Unit 3B	5.7079%	2,211
Unit 4B	5.5736%	2,159
Unit 5B	5.2122%	2,019
Unit 6B	5.8137%	2,252
Unit 1C	5.2122%	2,019
Unit 2C	5.8137%	2,252
Unit 3C	5.7079%	2,211
Unit 4C	5.5736%	2,159
Unit 5C	5.2122%	2,019
Unit 6C	5.8137%	2,252
18 Units	100.0000%	38,736

Note: Areas represented are A/C SF which are measured to the interior face of the Demising and Exterior Walls.



352-11-2601

Site Plan

Oasis Pointe Condominiums

Montgomery County, Texas

McVaugh Custom Homes, Inc.  
DEVELOPER

PAPPAGEORGE/HAYMES Ltd.  
ARCHITECTS

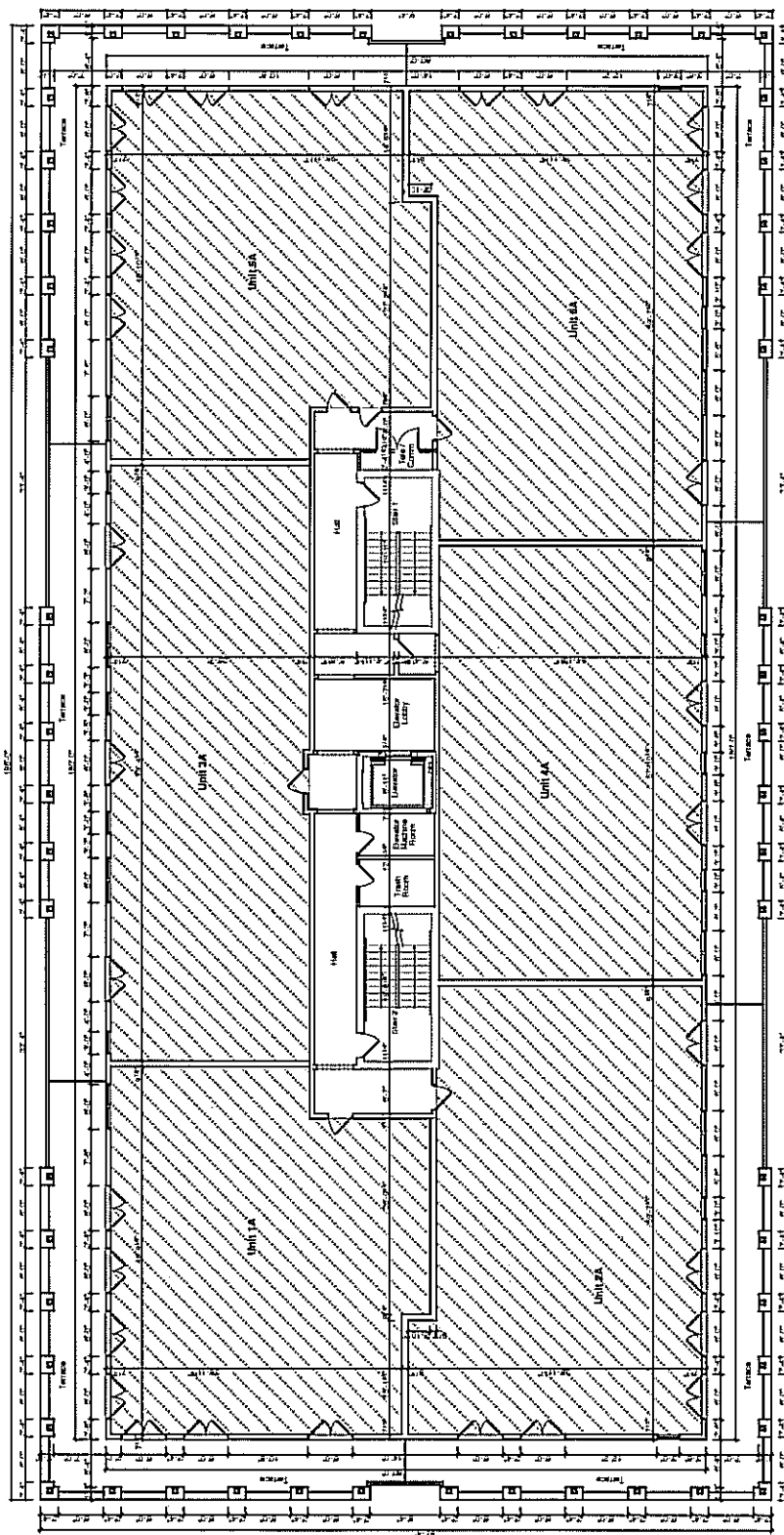


814 N. Franklin, Suite 400, Chicago, IL 60610  
(p) 312.337.3344 (f) 312.337.8009

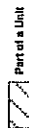
02.12.07



**EXHIBIT "B"**



- 1. Anything that is not part of a Unit is a Common Element.
- 2. Elevator Lobby, Trash Room, Hall, Stair 1, Stair 2, A, the Storage Room are "Common Elements".
- 3. Terraces and the Terrace/Comm. Rooms are "Unfinished Common Elements".



# Second Floor Plan

McVaugh Custom Homes, Inc.  
DEVELOPER

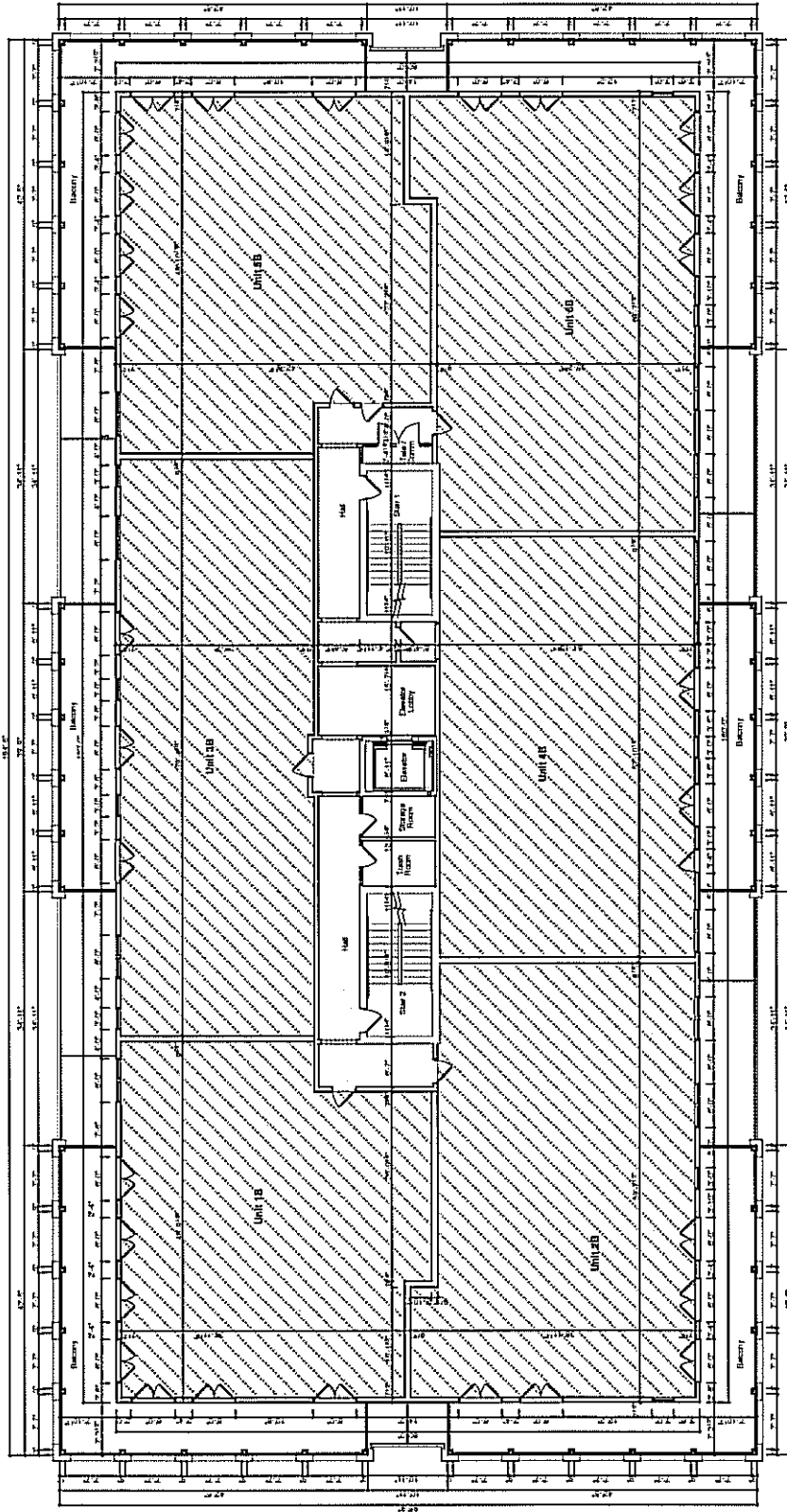
# Oasis Pointe Condominiums

Montgomery County, Texas

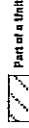
**PAPPAGEORGE/HAYMES Ltd.** ARCHITECTS  
814 N. Franklin, Suite 400, Chicago, IL 60610  
(p) 312.337.3344 (f) 312.337.8009

# Third Floor Plan

McVaugh Custom Homes, Inc.  
DEVELOPER



- 1. Anything that is not part of a unit is a Common Element.
- 2. Elevator Lobby, Trash Room, Hall, Stair 1, Stair 2, & the Storage Room are "Common Elements".
- 3. Balconies and the file/cabinet room are "Limited Common Elements".



# Oasis Pointe Condominiums

Montgomery County, Texas

**PAPPAGEORGE/HAYMES Ltd.**  
ARCHITECTS  
814 N. Franklin, Suite 400, Chicago, IL 60610  
(p) 312.337.3344 (f) 312.337.8009

# Fourth Floor Plan

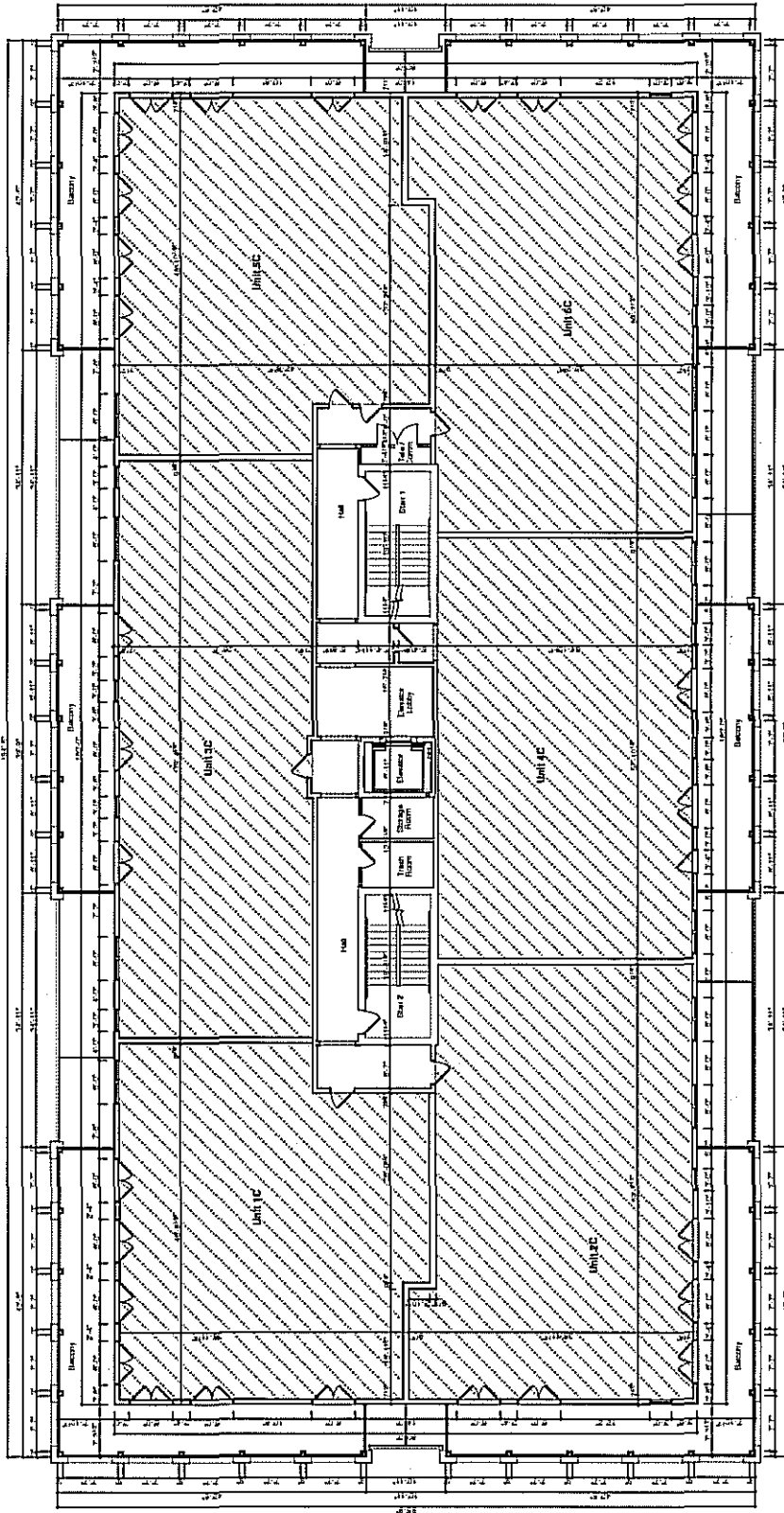
McVaugh Custom Homes, Inc.  
DEVELOPER

Montgomery County, Texas

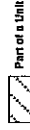
**PAPPAGEORGE/HAYMES Ltd.**  
ARCHITECTS

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(p) 312.337.3344 (f) 312.337.8009

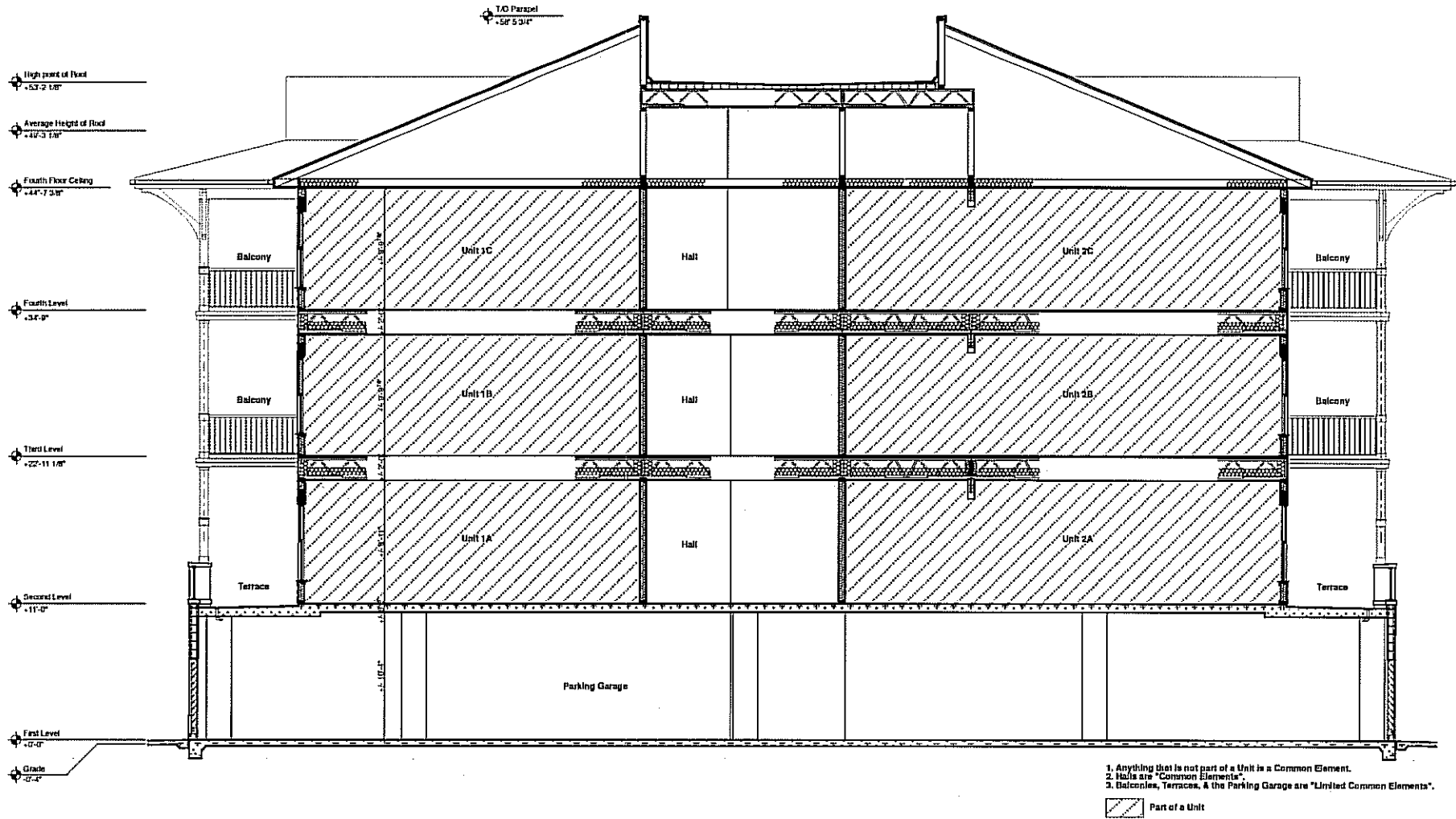
# Oasis Pointe Condominiums



- 1. Anything that is not part of a Unit is a Common Element.
- 2. Elevator Lobby, Trash Room, Hall, Stair 1, Stair 2, & the Storage Room are "Common Elements".
- 3. Balconies and the Title/Comm. Room are "Limited Common Elements".



352-11-2606



# Building Section

# Oasis Pointe Condominiums

Montgomery County, Texas

McVaugh Custom Homes, Inc.  
DEVELOPER

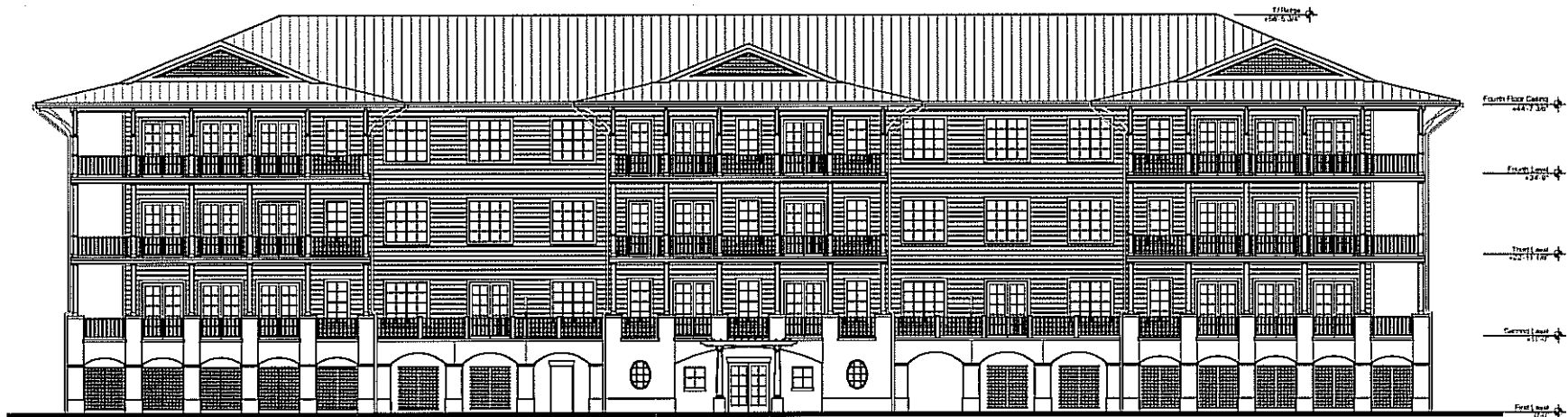
PAPPAGEORGE/HAYMES Ltd.  
ARCHITECTS



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02.12.07

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352-11-2607

East Elevation

Oasis Pointe Condominiums

Montgomery County, Texas

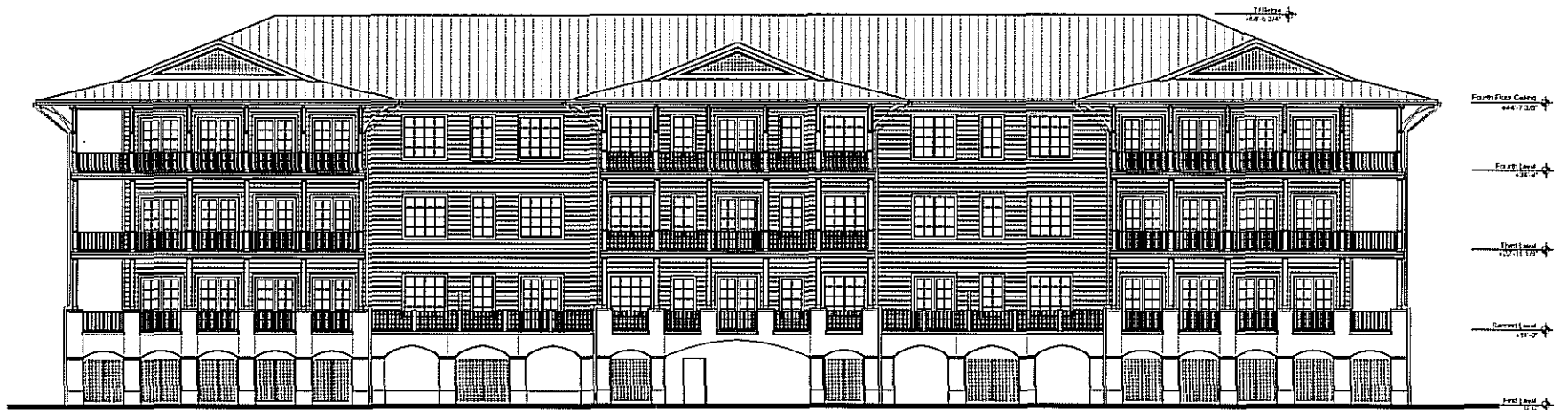
McVaugh Custom Homes, Inc.  
DEVELOPER

PAPPAGEORGE/HAYMES Ltd.  
ARCHITECTS 

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352-11-2608

# West Elevation

# Oasis Pointe Condominiums

Montgomery County, Texas

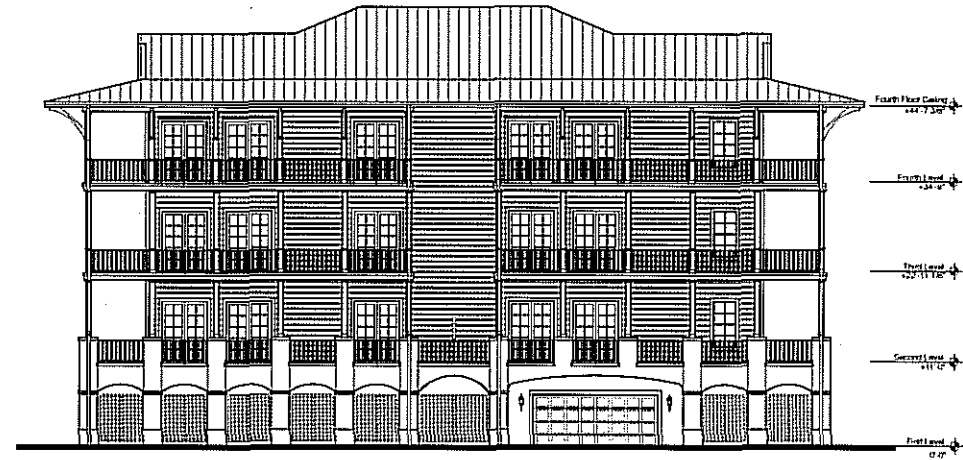
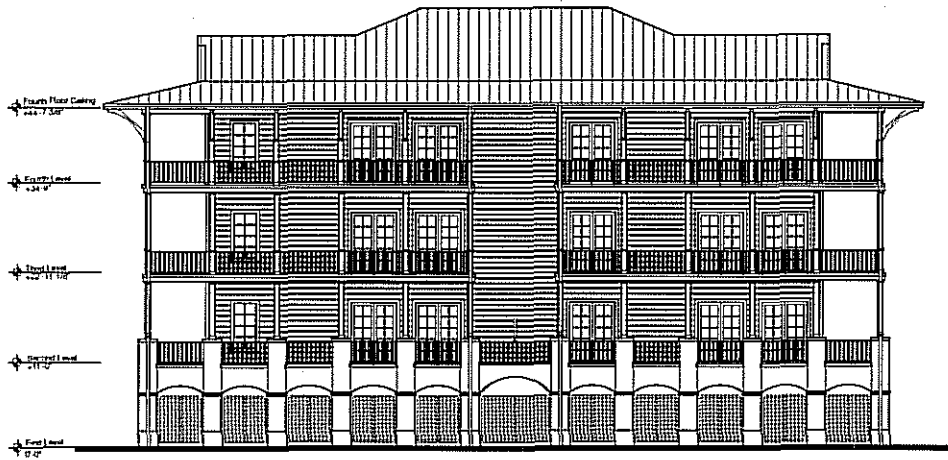
McVaugh Custom Homes, Inc.  
DEVELOPER

**PAPPAGEORGE/HAYMES Ltd.**  
ARCHITECTS



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## South Elevation & North Elevation

## Oasis Pointe Condominiums

Montgomery County, Texas

McVaugh Custom Homes, Inc.  
DEVELOPER

PAPPAGEORGE/HAYMES Ltd.  
ARCHITECTS



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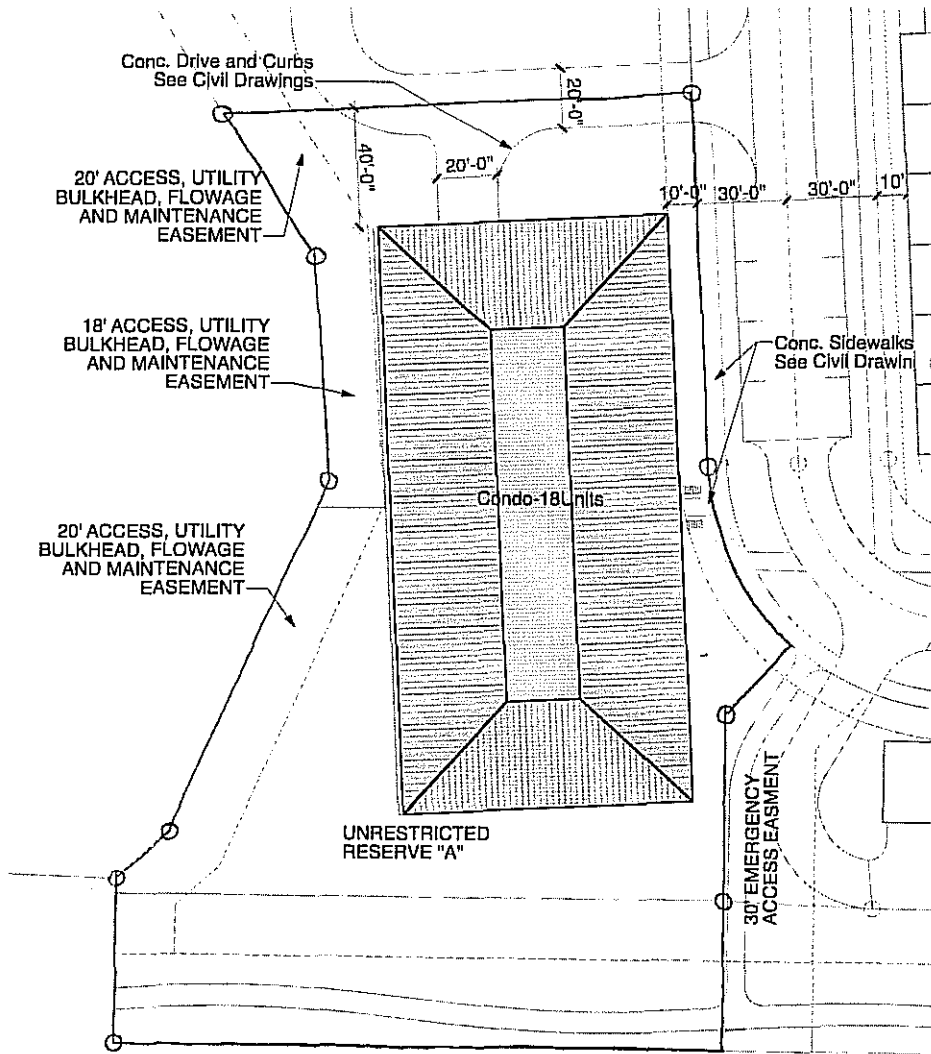
6092-11-2609



Oasis Pointe Condos  
Allocation Interest

Reserve "A"	% Allocated	Unit Square Footage
Unit 1A	5.2122%	2,019
Unit 2A	5.8137%	2,252
Unit 3A	5.7079%	2,211
Unit 4A	5.5736%	2,159
Unit 5A	5.2122%	2,019
Unit 6A	5.8137%	2,252
Unit 1B	5.2122%	2,019
Unit 2B	5.8137%	2,252
Unit 3B	5.7079%	2,211
Unit 4B	5.5736%	2,159
Unit 5B	5.2122%	2,019
Unit 6B	5.8137%	2,252
Unit 1C	5.2122%	2,019
Unit 2C	5.8137%	2,252
Unit 3C	5.7079%	2,211
Unit 4C	5.5736%	2,159
Unit 5C	5.2122%	2,019
Unit 6C	5.8137%	2,252
<b>18 Units</b>	<b>100.0000%</b>	<b>38,736</b>

Note: Areas represented are A/C SF which are measured to the interior face of the Demising and Exterior Walls.



352-11-2610

Site Plan

McVaugh Custom Homes, Inc.  
DEVELOPER

Montgomery County, Texas

PAPAGEORGE/HAYMES Ltd.  
ARCHITECTS



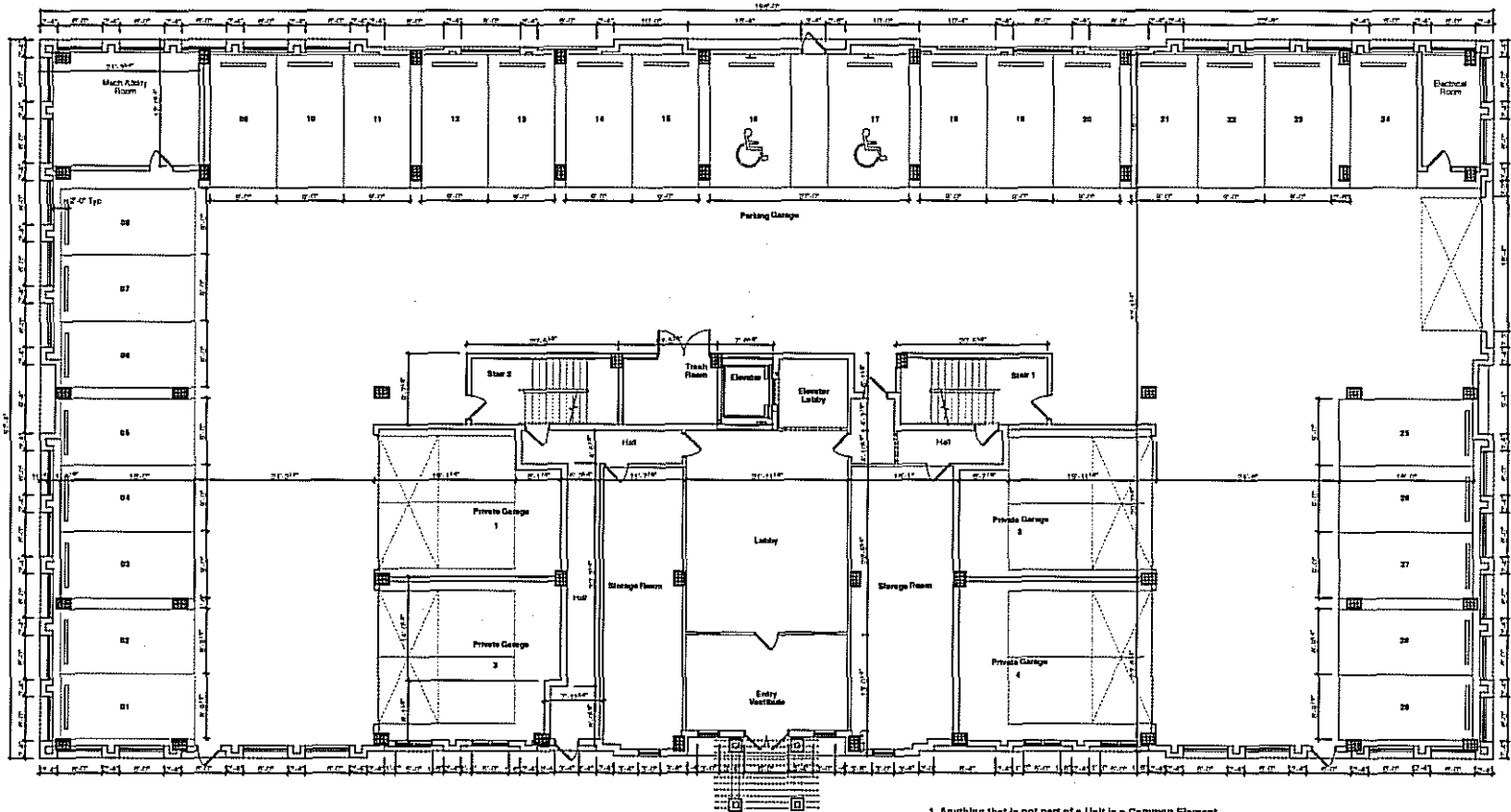
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Oasis Pointe Condominiums

02.12.07

**EXHIBIT "C"**

352-11-2612



- 1. Anything that is not part of a Unit is a Common Element.
- 2. Parking Garage, Entry Vestibule, Lobby, Trash Room, Hall, Stair 1, Stair 2, & Elevator Lobby are "Common Elements".
- 3. Storage Rooms and the Private Garages are "Limited Common Elements".

# Ground Floor Plan

# Oasis Pointe Condominiums

Montgomery County, Texas

McVaugh Custom Homes, Inc.  
DEVELOPER

PAPPAGEORGE/HAYMES Ltd.  
ARCHITECTS



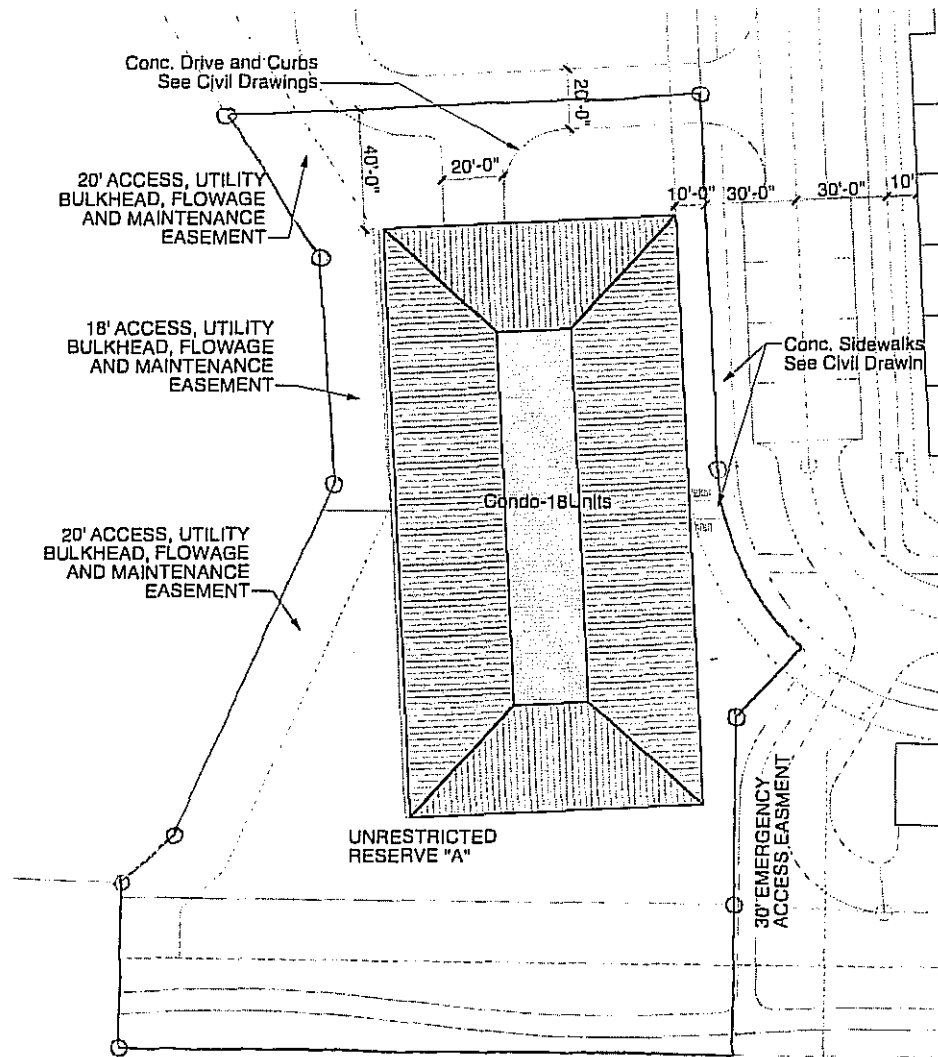
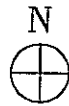
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Oasis Pointe Condos  
Allocation Interest

Reserve "A"	% Allocated	Unit Square Footage
Unit 1A	5.2122%	2,019
Unit 2A	5.8137%	2,252
Unit 3A	5.7079%	2,211
Unit 4A	5.5736%	2,159
Unit 5A	5.2122%	2,019
Unit 6A	5.8137%	2,252
Unit 1B	5.2122%	2,019
Unit 2B	5.8137%	2,252
Unit 3B	5.7079%	2,211
Unit 4B	5.5736%	2,159
Unit 5B	5.2122%	2,019
Unit 6B	5.8137%	2,252
Unit 1C	5.2122%	2,019
Unit 2C	5.8137%	2,252
Unit 3C	5.7079%	2,211
Unit 4C	5.5736%	2,159
Unit 5C	5.2122%	2,019
Unit 6C	5.8137%	2,252
18 Units	100.0000%	38,736

Note: Areas represented are A/C SF which are measured to the interior face of the Demising and Exterior Walls.



352-11-2613

Site Plan

Oasis Pointe Condominiums

McVaugh Custom Homes, Inc.  
DEVELOPER

PAPPAGEORGE/HAYMES Ltd.  
ARCHITECTS



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352-11-2614

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07 MAY 24 PM 1:45

*Mark Turnbull*

COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS  
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in  
File Number Sequence on the date and at the time  
stamped herein by me and was duly RECORDED in  
the Official Public Records of Real Property at  
Montgomery County, Texas.

MAY 24 2007



*Mark Turnbull*

County Clerk  
Montgomery County, Texas

**RECORDER'S MEMORANDUM:**

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All black-outs, additions and changes were present at the time the instrument was filed and recorded.