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SPACE ABOVE RESERVED FOR RECORDER'S USE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AND  
ESTABLISHMENT OF EASEMENTS  
FOR  
WESTLAKE ENTRADA

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AND ESTABLISHMENT OF EASEMENTS  
FOR  
WESTLAKE ENTRADA

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND ESTABLISHMENT OF EASEMENTS FOR WESTLAKE ENTRADA ("Declaration") is made and executed this 1st day of July, 2017 by MRW Investors, LLC, a Texas limited liability company ("Declarant") with reference to the facts set forth below.

**RECITALS**

All initially capitalized terms used but not defined in the Recitals shall have the meanings set forth in Article 1.

A. **Description of Westlake Entrada.** Declarant is the master developer of an approximately 85+ acre mixed use village situated in the Town of Westlake, State of Texas, more particularly described on Exhibit "A" attached hereto ("Covered Property"). Declarant may, at any time during the Development Period (as hereinafter defined), annex the real property described on Exhibit "B" to this Declaration and upon such annexation the Annexable Property will be included within the Covered Property.

B. **Purpose of the Westlake Entrada Association.** The Westlake Entrada Association has been or will be formed to govern and manage Westlake Entrada. It will own the Association Property and be primarily responsible for the maintenance and operation (on behalf of the City pursuant to the PID Maintenance Agreement substantially in the form attached hereto as Exhibit "F") of PID Improvements as described and/or depicted on Exhibit "A-2" attached hereto as Exhibit "F" of PID Improvements as described and/or depicted on Exhibit "A-2" attached hereto, which include, but are not limited to, the plaza, park and gathering areas commonly referred to and referred to on the Site Plan as the "Plaza Mayor," the "Farmer's Market", the "Ricardo Bridge", and the "Retail Harbor", certain Private Streets and Pedestrian Access Areas and other areas described herein as PID Improvements, and will maintain the Association Property, PID Improvements and other areas and improvements described in this Declaration as the Association Maintenance Areas and will provide certain services for the benefit of Westlake Entrada and Owners and Occupants thereof. The Association will have the responsibilities, powers and obligations set forth in this Declaration and the Governing Documents including the power to ensure the performance by the Owners and any Subassociations of the maintenance and other obligations imposed under this Declaration and the Governing Documents. In performing these obligations and exercising these powers the Association will seek to preserve the value and foster a sense of community for all of Westlake Entrada.

C. **Areas Within Westlake Entrada.** If developed as planned, Westlake Entrada will consist of various Areas described in this Declaration which are generally depicted on the Site Plan attached hereto as Exhibit "C" and described in this Declaration. Each of these Areas may have distinct characteristics and features. Subassociations may be formed for some Areas to govern the Areas and perform the maintenance and other obligations imposed on the Areas hereunder. In such case, Assessments levied hereunder by the Association will be allocated to the Subassociation and the Subassociation will be obligated to collect the Assessments from the Individual Interest Owners. Other Areas will be comprised of Owners of Parcels and each of the Owners will be allocated Assessments by the Association and will be obligated to perform certain obligations as provided for herein. Throughout this Declaration there are references to Owners and Individual Interest Owners. An Owner is the fee title Owner of a Parcel which is not governed by a Subassociation. An Individual Interest Owner is an owner of a Parcel or Condominium which is governed by a Subassociation.

D. **Members of the Association.** Unless otherwise specified in a Supplemental Declaration, and subject to Declarant's rights as a Class C Member, if a Subassociation has been formed to govern an Area within Westlake Entrada, all Owners who are Members of the Subassociation shall be Members of the Association, provided that a Subassociation, by and through its president or other

representative(s) elected or appointed as the Area Representative by the members of such Subassociation, will be Director(s) to serve on the Board of the Association and will represent the interests of the Owners subject to the jurisdiction of such Subassociation for all Association matters. In any Area where Subassociations have not been formed, each Owner of a Parcel within the Area will be a Member of the Association, and shall designate by majority vote or written consent of the of a majority of the voting rights of Owners of such Area, one (1) Member to act as its Area Representative and to serve as director on the Board of Directors of the Association to represent the interests of Owners of such Area for all Association Matters.

E. Budget Allocations. The Owners will benefit from the maintenance of the Association Maintenance Areas and other services provided by the Association for the overall benefit of the Owners and Occupants of Westlake Entrada. Some of the services and Maintenance Obligations performed by the Association will benefit some but not all Owners. Accordingly, the Annual Budget for the Association may include General Allocations and Special Allocations. The General Allocations will be allocated among all of the Owners based upon the Allocable Assessment Share. The Special Allocations may (subject to the terms of this Declaration) be allocated among fewer than all of the Owners as set forth in the Annual Budget or may be allocated to all of the Owners, but the allocations may be based upon a variable formula depending upon the particular service provided or obligation performed. There may also be Special Benefit Areas which will be established to provide special services or benefits to Areas or Parcels within Westlake Entrada and the Owners within the Special Benefit Area will pay Special Benefit Area Assessments in addition to any other Assessments levied hereunder. Declarant has further imposed certain limitations on the amount of the Assessments that will be levied against certain Residential Areas. Having the Residential Areas subject to the jurisdiction of the Association is a benefit for all of Westlake Entrada and by imposing such limitations on Assessments and limitations increases to the Assessments, Declarant can create a community with many diverse uses which will include the Owners and Occupants within the Residential Areas.

F. Establishment of Easements. Westlake Entrada is a mixed use integrated development. Accordingly, this Declaration, will establish easements for the benefit of the Owners and all of Westlake Entrada. The easement rights will include non-exclusive easements for access, ingress, egress, parking, utilities, encroachments, drainage and other easements established hereunder. Such easements shall become effective upon the date of recordation of this Declaration in the Official Records. No easement may conflict with recorded Town easements.

G. Future Development of Westlake Entrada. Westlake Entrada will be a mixed use development with uses that will evolve and change over time. As described herein, some or all of the Parcels may be further subdivided into additional Parcels or Condominiums. There could be other configurations or adjustments that occur in the future and other changes in Westlake Entrada may also occur as it continues to develop. This Declaration establishes and provides the Association with the powers it needs to govern, operate and maintain Westlake Entrada. This Declaration shall be liberally construed to effectuate its purpose of creating a flexible plan for the subdivision, maintenance, governance, development and marketing of Westlake Entrada. To achieve the foregoing goals and to ensure a flexible governance structure, further rights, obligations, allocations, easements and other matters affecting Westlake Entrada or portions thereof will be identified in Supplemental Declarations recorded in the future.

H. Town Authority. The Town has certain authorities and rights with respect to this Declaration and the Association as specifically set forth in Article 19 hereof. The terms of this Declaration in no way modify, amend or supersede the restrictions, requirements, terms or provisions of the Zoning and Entitlement related Ordinances #703, #720, #759, and #760 and Resolution 13-34, or any other Community Entitlements applicable to the Covered Property. In the event that there is a conflict between the terms of this Declaration or any Governing Documents of the Association, and the terms of the Zoning Ordinance or any Community Entitlements, the most restrictive terms shall apply provided that enforcement of such terms do not result in a violation of the Zoning Ordinance or any other Community Entitlement.

NOW, THEREFORE, Declarant and the fee title Owners of the Covered Property executing this Declaration declare that all of the Covered Property is, and shall be, held, conveyed, encumbered, hypothecated, leased, rented, used, occupied and improved subject to the following limitations, covenants, conditions, restrictions, easements, liens and charges, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, protection, maintenance and conveyance of all of the Covered Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value, synergy and appearance of the Covered Property. All of the limitations, covenants, conditions, restrictions, easements, liens and charges are equitable servitudes and shall run with the Covered Property, shall be binding on and inure to the benefit of Declarant, the Subassociations, and all Owners having or acquiring any right, title or interest in the Covered Property.

*Throughout this Declaration, there are summaries (like this summary), which appear in italics, to aid the reader's comprehension and use of this Declaration. In the event of a conflict between any summary and the text of any of the Governing Documents, the text shall control.*

## ARTICLE 1

### DEFINITIONS

*The defined terms which are set forth in this Article are used throughout this Declaration and many of Governing Documents. The definitions in this Article will assist in reading and reviewing the balance of this Declaration and Governing Documents.*

Unless the context otherwise specifies or requires, the terms defined in this Article shall, for all purposes of this Declaration, have the meanings specified below.

1.1 "Additional Charges" means costs, fees, charges and expenditures incurred by the Association in collecting and/or enforcing payment of Assessments, and other amounts levied under this Declaration. Additional Charges include, without limitation, the following:

1.1.1 Reasonable attorneys' fees and costs incurred in the event an attorney is employed to collect any Assessment or sum due, whether by suit or otherwise;

1.1.2 A late charge in an amount to be fixed by the Association in accordance with Applicable Laws to compensate the Association for additional collection costs incurred in the event any Assessment or other sum is not paid when due or within any "grace" period established by this Declaration, the Association Rules or Applicable Laws;

1.1.3 Costs of suit and court costs incurred as are allowed by the court;

1.1.4 Interest on delinquent Assessments or other amounts permitted to be levied under this Declaration and the other Governing Documents at the Applicable Rate; and

1.1.5 Any such other additional costs that the Association may incur in the process of collecting delinquent Assessments.

1.2 "Affiliate" means with respect to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the specified Person. "Control" as used herein is defined as possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

- 1.3 **"Allocable Share"** means a share of the Assessments, or votes allocated to an Area or a Parcel based upon the Allocable Assessment Share described below.
- 1.4 **"Allocable Assessment Share"** means the Allocable Share allocated to each Assessed Area or Parcel as set forth below.
- 1.4.1 **Residential Property.** The Allocable Assessment Share for the Residential Areas initially subject to this Declaration are set forth on Exhibit "D." The Allocable Assessments Share for any Residential Areas which are annexed in the future shall be set forth in a Supplemental Declaration.
- 1.4.2 **Commercial and Retail Property.** The Allocable Assessment Share for any Parcel within the Covered Property included within a Commercial Area is equal to the ratio which the Square Footage within the Buildings on a Parcel bears to the total Square Footage of all Parcels within the Commercial Areas as to which Assessments have commenced.
- 1.4.3 **Other Assessed Share Allocations.** Declarant may designate other Allocable Assessment Shares in Supplemental Declarations prior to the conveyance of a Parcel to an Owner or if the Parcel has been conveyed, with the consent of the Owner of the applicable Parcel to reflect the character or use of a particular area within Westlake Entrada.
- 1.5 **"Annexable Property"** means any or all of the real property described on Exhibit "B," together with any additional land located in the vicinity of (but not necessarily adjacent to) the Covered Property, which may be made subject to this Declaration in accordance with the provisions set forth in Article 14.
- 1.6 **"Annexation"** means the process by which the Annexable Property may be made subject to this Declaration set forth in Article 13.
- 1.7 **"Annual Budget"** means the annual budget for Common Expenses adopted by the Association from time to time.
- 1.8 **"Applicable Laws"** means any law, regulation, rule, order and ordinance of any Governmental Agencies having jurisdiction over the Covered Property which are applicable to Westlake Entrada, now in effect or as hereafter promulgated, including all Governmental Requirements.
- 1.9 **"Applicable Rate"** means the rate of interest established by the Board from time to time which shall not, in any event exceed the maximum rate allowed by Applicable Laws.
- 1.10 **"Area"** means an area within a Parcel or a Building to which special rights, obligations or allocation formulas may apply. For example, if a Building on a Parcel is subdivided into either a residential vertical airspace Parcel or Residential Condominiums and either a retail vertical airspace Parcel or Retail Condominiums, the Residential Parcel or Residential Condominium(s) shall be an Area and the Retail Parcel or Retail Condominium(s) shall be an Area.
- 1.11 **"Area Representative"** means the individual appointed or elected by the Owners or Subassociation for an Area to serve as a director on the Association's Board and otherwise represent and exercise the rights of Members of the Association.
- 1.12 **"Assessment" or "Assessments"** means the assessments which are levied to cover the Common Expenses under Article 6 or other Assessments permitted to be levied by the Association under this Declaration and the other Governing Documents, which include the Assessments described below.

- 1.12.1 "Compliance Assessments" means the Compliance Assessments that are levied by the Association pursuant to Section 6.6.
- 1.12.2 "Regular Assessments" means the Regular Assessments that are levied by the Association pursuant to Section 6.3.
- 1.12.3 "Special Assessments" means the Special Assessments that are levied by the Association pursuant to Section 6.4.
- 1.12.4 "Special Benefit Area Assessments" means the Special Benefit Area Assessments that may be levied pursuant to Section 6.5.
- 1.13 "Assessed Areas" means an Area or portion of an Area for which Assessments have commenced as provided in Article 6.
- 1.14 "Assessment Commencement Date" has the meaning set forth in Section 6.3.
- 1.15 "Association" means the Westlake Entrada Owners Association, a Texas non-profit corporation, or any successor entity charged with the duties, obligations and powers of the Association.
- 1.16 "Association Access Roads" means any Private Streets owned by the Association depicted on the Site Plan as Association Access Roads and any other Association Access Roads described in a Supplemental Declaration.
- 1.17 "Association Articles" means the Articles of Incorporation of the Association as they may from time to time be amended, filed in the Office of the Secretary of State for the State of Texas.
- 1.18 "Association Board" means the Board of Directors of the Association, which shall be comprised of the Area Representative of each Area elected or appointed by Owners or the members of the Subassociation, as applicable, of each Area within Westlake Entrada, subject to Declarant's rights as a Class C Member.
- 1.19 "Association Bylaws" means the Bylaws of the Association adopted by the Association as they may from time to time be amended or supplemented.
- 1.20 "Association Landscape Areas" means the landscape areas, including, without limitation, any landscaping, planters, retaining walls, irrigation systems and other landscape improvements located within the Association Maintenance Areas, including, without limitation, those located within the Front Yard Area of any Parcel within the Covered Property. The Association Landscape Areas may be (but still not be required to be) designated in a Supplemental Declaration. The Retaining Walls that are part of the Association Landscape Areas are further described and/or depicted on Exhibit "A-4" attached hereto and incorporated herein by reference. Notwithstanding anything to the contrary contained herein, upon the Town's assumption of maintenance obligations with respect to any of the Association Landscape Areas (including, without limitation, any Retaining Walls that are part thereof), such Association Landscape Areas then being maintained by the Town shall be automatically removed from the Association Maintained Areas for purposes of this Declaration, unless and until the Town ceases its maintenance thereof, whereupon such areas and improvements shall be reincorporated into Association Maintained Areas hereunder.
- 1.21 "Association Maintenance Areas" means the areas to be maintained by the Association within the Covered Property for the non-exclusive use and benefit of all of the Owners and Parcels and Condominiums including, without limitation, (a) the Association Access Roads, (b) the Pedestrian Access Areas, (c) Association Landscape Areas, (d) the Monument Signs described on Exhibit "A-1" attached hereto and any additional Monument Signs which may subsequently be included within the Association Maintained Areas pursuant to the terms of this Declaration, (e) any other

Association Property; (f) the PID Improvements (including the "Plaza Mayor," the "Farmer's Market", the "Ricardo Bridge", and the "Retail Harbor"); (g) the Shared Private Stormwater System, (h) the Shared Private Sewer System, (i) the Westlake Entrada Signage; and (j) any other areas designated in a Supplemental Declaration, on a Plat Map or by a separate instrument of record as Association Maintenance Areas or areas to be maintained by the Association (whether or not title is held by the Association).

1.22 "Association Maintenance Manual" means the maintenance manual which may be provided by Declarant or its consultants to the Association which sets forth the Community Standards and obligations and schedules for the maintenance and preservation of the Improvements situated within the Association Property and/or the Association Maintenance Areas (which may include, without limitation, the PID Improvements) by the Association, as updated and amended from time to time by the Declarant or the Board, pursuant to the terms of the Governing Documents. The Association Maintenance Manual requires the review and approval of the Town Manager and shall include procedures and policies as they apply to any public streets that are part of the Association Maintained Areas or Private Streets to be maintained by the Association. In any event, the Association Maintenance Manual shall include at minimum the 30-Year Replacement Schedule for Streets attached hereto as Exhibit "H" and incorporated herein by reference.

1.23 "Association Property" means the Monument, Signs at the locations depicted on Exhibit "A-1" attached hereto and incorporated herein by reference, and the real property owned in fee title by the Association (or subsequently conveyed by Declarant to the Association to be held as Association Property) and any other real property depicted as Association Property in a Supplemental Declaration from time to time, which may include, without limitation, certain Private Streets and Pedestrian Access Areas. Notwithstanding anything to the contrary contained herein, the "Teatro Merida", the "Bell Tower", and the "Wedding Chapel," as shown on the Site Plan shall each be a Commercial Area, and shall in no event be part of the Association Property.

1.24 "Association Rules" means the rules of the Association adopted by the Association as amended or supplemented from time to time.

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

1.25 "Building" or "Buildings" means individually or collectively, as the context requires, the building or buildings situated on a Parcel, which may include a mixed use building (e.g., Residences and Retail Areas) with multiple uses.

1.27 "Building Exteriors" means exterior walls, parking areas, roofs and equipment and other portions of any Buildings, Residences and other Improvements (including landscaping and hardscaping) located within the Covered Property that are visible within Westlake Entrada.

1.28 "Building Portion" means (a) the separate areas of a Building that have been depicted on a Condominium Plan as a three-dimensional division of the Building within which Condominiums are located or (b) any Parcels created under a Plat Map which creates a vertical subdivision for a Building.

1.29 "Claims" means all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses and/or expenses, including, without limitation, reasonable attorneys' fees and costs and the costs and expenses of enforcing any indemnification, defense or hold harmless obligations under this Declaration or the other Governing Documents.

1.30 "Commercial Area" means a Retail Area, Office Area, or any other Area primarily used for commercial purposes, including without limitation, hospitality purposes and any other Area which is not a Residential Area and the "Teatro Merida", "Bell Tower" and "Wedding Chapel", as shown on the Site Plan.

1.31 "Commercial Owner" means a Retail Owner, Office Owner, or any other Owner of an Area or Building primarily used for non-residential purposes.

1.32 "Common Expenses" means the following costs and expenses to the extent actually incurred by the Association associated with the maintenance, operation, governance and other services relating to the Covered Property required to be provided hereunder by the Association including, without limitation, the following:

1.32.1 expenses incurred for the maintenance, management, operation, repair and replacement of the Association Maintenance Areas, and all other areas and facilities which are required to be maintained by the Association or for which services are required to be provided by the Association;

1.32.2 expenses incurred in performing the duties and obligations of the Association set forth in this Declaration and the Governing Documents;

1.32.3 expenses incurred in maintaining any Special Benefit Areas or providing any Special Benefit Services, which expenses shall be included in a Special Benefit Area Budget;

1.32.4 expenses incurred in complying with the Community Entitlements and Applicable Laws;

1.32.5 expenses incurred in administering any committees formed by the Association;

1.32.6 expenses incurred to cover due but unpaid Assessments and to enforce the collection of such Assessments;

1.32.7 expenses of management and administration of the Association, including, compensation actually paid by the Association to third party managers, accountants, attorneys, architects, employees and consultants;

1.32.8 expenses incurred in maintaining the legal status and qualifications of the Association as an entity in good standing and qualified to do business in the State of Texas;

1.32.9 expenses incurred for attractions, promotional events, and decorations and seasonal displays if sponsored by the Association;

1.32.10 expenses of any inspections required or deemed appropriate by the Association (e.g. inspections of the Shared Stormwater Drainage Facilities or Shared Private Sewer Lines);

1.32.11 expenses of operating and maintaining any Shared Utility Facilities, trash pickup and disposal, landscaping, patrols and other services benefiting Westlake Entrada to the extent such services are obtained and paid for by the Association;

1.32.12 expenses, if any, required for the maintenance of (i) any areas required by any Governmental Agency to be maintained by the Association, or (ii) any Association Property and/or PID Improvements, (iii) Association Maintenance Areas in accordance with this Declaration and the PID Maintenance Agreement, or (iv) Offsite Maintenance Areas required to be maintained by the Association, or for which the Association has agreed to contribute to the maintenance costs thereof, pursuant to that certain "Amended and Restated Cost Sharing and Reciprocal Easement Agreement" (herein so called) dated \_\_\_\_\_, 2017, recorded as \_\_\_\_\_ in the Real Property Records of Tarrant County, Texas.

1.32.13 expenses of insurance and bonds maintained by the Association;

1.32.14 reasonable reserves as deemed appropriate by the Association or otherwise required to be maintained under the Governing Documents or Applicable Laws;

1.32.15 taxes and assessments incurred by the Association, including, without limitation any taxes payable in connection with any reserves of the Association;

1.32.16 expenses incurred by the Association for the discharge of any lien or encumbrance levied against all or any portion of the Association Property or Association Maintenance Areas; and

1.32.17 expenses of any other services or items designated by, or in accordance with other expenses incurred by the Association in connection with the operation, maintenance and/or governance of Westlake Entrada or to discharge any obligations imposed on the Association under the Governing Documents.

To the extent such Common Expenses are for the benefit of a Special Benefit Area and are included in a Special Benefit Area, such Common Expenses attributable to the Special Benefit Area Services will be allocated to the Owners within the Special Benefit Area.

1.33 "Community Entitlements" means the Zoning Ordinance #703 as amended, and any other entitlements, including but not limited to Ordinance #720, #759, #760 and Resolution 13-34, permits, requirements, regulations and authorizations relating to the Covered Property and any conditions or requirements imposed from time to time by the Town or other Governmental Agencies as such Community Entitlements may be amended or supplemented from time to time.

1.34 "Community Standards" means the higher of the following standards: (a) the standards established by the Town in the Community Entitlements for the operation and maintenance of Westlake Entrada, (b) the standards and quality required to maintain, repair and restore the Association Maintenance Areas and any other applicable portions of the Covered Property to the condition that existed as of the date the Buildings, Residences and other Improvements within an Area were first completed, or (c) a first class/best of class standard comparable to other mixed use communities in the Westlake, Texas area.

1.35 "Condominium" means a condominium within the Covered Property established pursuant to the applicable laws of the State of Texas.

1.36 "County" means the County of Tarrant.

1.37 "Covered Property" means all the real property described on Exhibit "A" attached hereto and all Improvements thereon, together with any Annexable Property if, as and when all or a portion of such Annexable Property shall become subject to this Declaration by annexation. In the event of the de-annexation of any Covered Property previously subject to this Declaration, the term "Covered Property" shall not be deemed to include any such de-annexed land.

1.38 "CPI Index" means the Consumer Price Index, All Items, 1982-1984=100, All Urban Consumers, for the Tarrant County, Texas Area, as published by the United States Department of Labor, Bureau of Labor Statistics, or its successor index.

1.39 "Declarant" means MRW Investors, LLC, a Texas limited liability company ("MRW Investors"). Declarant is not the Owner of any portion of the Covered Property, but has been delegated by the Owners of the Covered Property all power, right and authority to act on its behalf. Declarant shall include those successors and assigns of MRW Investors who acquire or hold title to any portion or all of the Property or are assigned the rights of Declarant hereunder, for purposes of development and are expressly named as a successor Declarant to all or a portion of Declarant's rights in an Assignment of Declarant's Rights ("Assignment of Declarant's Rights") executed by the Declarant, or a successor



Declarant, and recorded in the Official Records assigning the rights and duties of Declarant to such successor Declarant, with such successor Declarant accepting and assuming the assignment of such rights and duties. Any such assignment may be subject to such conditions or limitations as Declarant may impose in its sole and absolute discretion. A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all or any portion of the Property, which beneficiary has acquired any such property by foreclosure, power of sale or deed in lieu of such foreclosure or sale and a Person who acquires Declarant or substantially all of its assets, or who merges with Declarant by sale, merger, reverse merger, consolidation sale of stocks or assets, operation of law or otherwise.

1.40 "Declarant Party" means the current and future Affiliates of Declarant.

1.41 "Declarant's Rights Termination Date" means the date which is the earlier to occur of (a) the date that Declarant voluntarily terminates its Class B and Class C Membership, which termination shall be evidenced in the records of Association or by recording a written notice of such termination in the Official Records or (b) December 31, 2000.

1.42 "Design Guidelines" means the design standards, guidelines and procedures established by the Declarant and adopted by the Board in accordance with Section 8.4. Initially the Design Guidelines shall be the design standards, guidelines and procedures established by the Zoning Ordinance # 760, adopted on 12/14/15 by the Town Council; provided that the Association may establish additional or more restrictive design standards, guidelines and procedures than set forth in the Zoning Ordinance in accordance with the terms of this Declaration; provided further that in no way shall the Design Guidelines violate any restrictions, requirements or other terms of the Zoning Ordinance.

1.43 "Design Review Committee" means the Design Review Committee which may be formed in accordance with the provisions of this Article 8 of this Declaration which will govern and administer the design and signage review process for Westlake Entrada.

1.44 "Director" means any director on the Board of Directors of the Association, which shall be the Area Representative elected or appointed for an Area.

1.45 "Eligible Mortgage Holder" means any First Mortgagee who has given written notice to the Association specifying its name, address and the Parcel or Condominium Area encumbered by the Mortgage and requesting written notice of certain events specified in this Declaration.

1.46 "Emergency" means any situation, condition or event which threatens imminent damage or injury to the Covered Property or any portion of the Covered Property.

1.47 "Exterior Facades" means the exterior façade and architectural features of any Building or Residences within Westlake Entrada.

1.48 "First Mortgage" means a Mortgage which has priority under the recording statutes of the State of Texas over all other Mortgages encumbering the applicable Parcel or Area.

1.49 "First Mortgagee" means the Mortgagee of a First Mortgage.

1.60 "Fiscal Year" means the fiscal accounting and reporting period of the Association selected by the Board.

1.51 "Front Yard Area" shall have the meaning ascribed to such term in Section 4.3.1(f) hereof.

- 1.52 **"Gas Well Pad Site"** means that certain land which is located within or adjacent to the Covered Property on which a gas well is or may be located, which Gas Well Pad Site is further described and/or depicted on Exhibit "G" attached hereto and incorporated herein by reference.
- 1.53 **"Governing Documents"** means, collectively, this Declaration, the Articles, the Bylaws, the Association Rules, the Design Guidelines and any Supplemental Declarations.
- 1.54 **"Governmental Agency"** means the Town, the County, the PID and any other federal, state, county, city or local governmental entity or quasi-governmental entity or body or any departmental agency thereof (including without limitation utility companies) exercising jurisdiction over a particular subject matter for any portion of the Covered Property.
- 1.55 **"Governmental Requirements"** means all Applicable Laws and any other rules, regulations, orders, ordinances, subdivision requirements, zoning restrictions, map conditions, and all other applicable requirements (including all requirements to have or to obtain permits) of any Governmental Agencies and/or imposed under the Community Entitlements.
- 1.56 **"Guest Builder"** means a Person designated by Declarant as a Guest Builder in a recorded document who acquires a portion of the Covered Property for the purpose of (a) developing such portion of the Covered Property for resale to the general public, (b) developing any commercial, retail, hospitality or other business operation on the Covered Property, or (c) are otherwise designated as a Guest Builder by Declarant in a Supplemental Declaration or other recorded document. Upon issuance of a certificate of occupancy or its equivalent by a Governmental Agency for a Building within the Commercial Area, the Owner of the building ceases to be a Guest Builder for purposes of that Building. The term "Guest Builder" does not include Declarant.
- 1.57 **"Hazardous Materials"** means any biologically or chemically active, or toxic or hazardous waste or materials as defined or regulated by Applicable Laws. Without limitation, "Hazardous Materials" shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et seq.*; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901 *et seq.*; any applicable state, local or federal laws, and the regulations adapted under any such Applicable Laws.
- 1.58 **"Improvements"** means any or all, as the context requires, of the improvements constructed on a Parcel from time to time, including without limitation the Buildings and Residences, any outdoor eating areas, stormwater drainage facilities, the walkways, parkways, landscaped and hardscaped areas, irrigation systems, improvements constructed or installed above or below ground, including, without limitation, all Buildings, parking areas and structures, roadways, walkways, curbs, gutters, sewer laterals, all types of walls and fences, paint on all exterior surfaces, poles, signs, exterior gutters, awnings, stairways, railings, ramps, Utility Facilities, pipes and conduits and any replacements, lighting and light standards, antennae, Exterior Facades on all Buildings and Residences, plazas, planters, additions, repairs or alterations thereto of any kind whatsoever. The Design Guidelines may identify additional items that are Improvements which require approval of the Reviewing Party under Article 8 and the Design Guidelines.
- 1.59 **"Individual Interests"** means any Condominium or Parcel which is governed by a Subassociation.
- 1.60 **"Individual Interest Declaration"** means any declaration of covenants, conditions and restrictions which encumbers an Area within the Property and which establishes a Subassociation.
- 1.61 **"Individual Interest Governing Documents"** means an Individual Interest Declaration and any bylaws, articles of incorporation, rules, architectural guidelines, supplemental declarations and other governing instruments of an individual interest.

- 1.62 "Individual Interest Owner" means the fee title owner of an Individual Interest.
- 1.63 "Institutional Mortgagee" means a First Mortgagee that is (a) a bank, savings and loan association, insurance or mortgage company or other entity or institution chartered under federal and/or state law; (b) an insurer or governmental guarantor of a First Mortgage; or (c) any federal or state agency.
- 1.64 "Lease" means any lease, sublease, license or other agreement whereby a Person acquires rights to use or occupy any portion of a Building or Residence for a specified term.
- 1.65 "Lessee" means any tenant or lessee occupying a Building or Residence or a portion of a Building pursuant to a written lease.
- 1.66 "Maintenance Obligations" means the maintenance obligations imposed upon the Owners and the Association under Article 4 of this Declaration and/or the Community Entitlements.
- 1.67 "Member" means each Owner of a Parcel or Condominium, except that for any Parcel or Condominium for which a Subassociation has been formed, the Member shall be the Individual Interest and not the Individual Interest Owners.
- 1.68 "Mixed Use Building" means any Building containing more than one primary use.
- 1.69 "Mortgage" means each mortgagee under a mortgage and each beneficiary under a deed of trust.
- 1.70 "Mortgages" means the holder of a Mortgage, including, without limitation, a beneficiary under a deed of trust.
- 1.71 "Occupant" means each Lessee and any other Person entitled to occupy from time to time all or a portion of a Parcel or Condominium, whether pursuant to ownership, lease, sublease, license, concession or other similar agreement.
- 1.72 "Office Area" means a Building or a portion of a Building or Parcel (which may be a Condominium) used primarily for office purposes.
- 1.73 "Office Owner" means the Owner of any Office Area.
- 1.74 "Official Records" means the official public records of the County Recorder of the County.
- 1.75 "Offsite Maintenance Areas" means any real property or facilities located outside of Westlake Entrada, if any, which the Association is obligated to maintain, or contribute to the cost of maintenance of, designated as an Offsite Maintenance Area herein or in a Supplemental Declaration. The property described on Exhibit "E" attached hereto is hereby designated as an Offsite Maintenance Area to be maintained pursuant to the Amended and Restated Cost Sharing and Reciprocal Easement Agreement.
- 1.76 "Outdoor Dining Areas" means any areas with dining tables and chairs for the use of the customers of any Retail Owner or other Commercial Owner, and its Occupants for outdoor dining or other related purposes from time to time used in connection with the operation of any restaurants or other food-serving establishments.
- 1.77 "Owner" means the record owner from time to time, whether one (1) or more Persons, of fee simple title to any Parcel or Condominium. "Owner" shall exclude those Persons merely having a security interest in a Parcel or Condominium, unless and until such Person acquires fee title thereto. In

In the event a Parcel is divided into one or more separate legal lots, each of such separate legal lots shall thereafter be considered to be a "Parcel" and the Owner of each such legal lot shall be an "Owner." In the event a Parcel is divided into one or more Condominiums, each of the Owners of such Condominiums shall be an "Owner." However, for any Individual Interests, unless the context otherwise requires, or as otherwise specified in a Supplemental Declaration, any reference herein to Owner means the Subassociation and not the Individual Interest Owners.

1.78 "Parcel" or "Parcels" means individually or collectively, as the context requires, any parcels or lots within the Covered Property depicted on a Plat Map.

1.79 "Pedestrian Access Areas" means the portions of the Parcels consisting of walkways, passageways, trails and paseos (including any bicycle paths) which are to be used for the accommodation and passage of pedestrians. Notwithstanding such depictions on the Site Plan, the Pedestrian Access Areas means the areas wherever such walkways and passageway may be located from time to time and shall be subject to the rights of the Owners to use such areas for its Outdoor Dining Areas as described in Section 2.10.4.

1.80 "Permitted Users" means all Occupants and any Person whose presence within the Project is approved by or is at the request of the Owner or Lessee of such Parcel or Condominium, including, without limitation, the respective employees, agents, contractors, customers, family, guests, invitees, licensees and concessionaires of such Persons as Owner or Lessee.

1.81 "Person" means a natural individual or any legal entity recognized under Texas law. When the word "person" is not capitalized, the word refers only to natural persons.

1.82 "PID Improvements" means and refers to that certain real property and/or improvements thereon owned by the Town and designated by applicable ordinance or other Town resolution (which includes, without limitation, any service and assessment plan adopted by the Town) as improvements to be constructed and/or maintained by the PID, which includes, without limitation, the plaza, park and gathering areas commonly referred to and referred to on the Site Plan as the "Plaza Mayor," the "Farmer's Market", the "Ricardo Bridge", the "Retail Harbor", landscape buffers around the perimeter of the Covered Property and Parcels located therein, lakes and park areas located within the Covered Property, and certain public streets and roadways and Pedestrian Access Areas and other areas now or hereafter designated by the City as PID Improvements. The initial PID Improvements are further described and/or depicted on Exhibit "A-2" attached hereto and incorporated herein by reference.

1.83 "PID Maintenance Agreement" means that certain Management and Improvement Services Agreement dated March \_\_\_\_, 2017, by and between the Association and the Town, a form of which is attached hereto as Exhibit "F."

1.84 "Plat Map" means any parcel map, subdivision map, parcel map waiver, lot line adjustment or any other subdivision of a Parcel in conformance with Applicable Laws which creates or adjusts the boundaries of any Parcel.

1.85 "Private Streets" means those streets, roads, drives, and/or alleys and lighting improvements and other corresponding infrastructure, if any, which are owned or maintained by the Association, as further described and/or depicted on Exhibit "A-3" attached hereto and incorporated herein by reference.

1.86 "Public Improvement District or "PID"" means and refers to the Solana Public Improvement District No. 1.

1.87 "Residence" means a residential dwelling unit, including a Condominium located within the Covered Property.

- 1.88 **"Residential Area"** means any Area within the Covered Property with "for-sale" or "for rent" Residences, including any portions of any Mixed Use Buildings used primarily for residential purposes.
- 1.89 **"Retail Area"** means a Building or a portion of a Building or Parcel (which may be a Condominium) used primarily for retail purposes.
- 1.90 **"Retail Owner"**, means the Owner of any Retail Area.
- 1.91 **"Reviewing Party"** has the meaning set forth in Section 8.2.
- 1.92 **"Shared Point of Connection"** means the point where any sewer lines or storm drain lines connect to and transport flow into a Shared Private Sewer Line or Shared Stormwater Drainage Facilities.
- 1.93 **"Shared Private Sewer System"** means any private sewer lines that are not owned or maintained by the City (directly or as PID Improvements) serving more than one (1) Parcel including any Shared Private Sewer System located within the Association Access Roads or any other portion of a Parcel from the Shared Point of Connection to any public street.
- 1.94 **"Shared Private Stormwater Systems"** means any detention basins and all structures, pipes, inlets, manholes, connectors and other equipment which are part of the shared stormwater collection and discharge system for Westlake Entrada that are not owned or maintained by the City (directly or as PID Improvements), including the portions of the Shared Private Stormwater System located within Association Access Roads, and any portions of a Parcel from the Shared Point of Connection to any public drainage facilities.
- 1.95 **"Shared Telecommunication Systems"** means any common telecommunication lines and similar facilities which are not maintained by a telecommunication or other utility provider.
- 1.96 **"Sign Panel Beneficiary"** means an Owner or Occupant who has been assigned the right to place a Sign Panel on any Monument Sign by Declarant pursuant to Section 2.4.4.
- 1.97 **"Sign Panels"** means each sign panel on the Monument Signs.
- 1.98 **"RESERVED"**
- 1.99 **"Site Plan" or "Site Plans"** means the Site Plan attached hereto as Exhibit "C" which is included solely as a pictorial illustration of the approximate, current and potential future locations of certain areas within Westlake Entrada.
- 1.100 **"Special Benefit Area"** means the portions of the Covered Property which may directly receive a special benefit from the Association (which benefit may be in the form of amenities provided or maintenance or other services offered) and for which additional Assessments will be imposed on the Owners within the applicable Special Benefit Areas pursuant to the provisions of this Declaration or any Supplemental Declaration.
- 1.101 **"Special Benefit Area Budget"** means any Budget or supplement to the Annual Budget which sets forth the Common Expenses for any Special Benefit Area Services provided to a Special Benefit Area.
- 1.102 **"Special Benefit Area Services"** means those services and activities provided by the Association to a Special Benefit Area, including services provided by the Association that are specified in a Supplemental Declaration as Special Benefit Areas Services.

1.103 **"Square Feet" or "Square Footage"** means the floor area of a Building which is the fully enclosed space that is available for the exclusive use of an Occupant of the Building for the Occupant's personnel, materials, furniture, fixtures, and equipment and operation of the Occupant's business thereon, areas (including outdoor seating areas with sliding or removable enclosures) as determined by Declarant for the purpose of calculating the Allocable Assessment Share to a Building or Buildings located on a Parcel, which determination shall be binding as provided in this Declaration. References to "Square Feet" or "Square Footage" also includes any variation of such term (e.g., Square Foot, Square Footage, etc.). In determining the Square Footage of a Building, Declarant shall be entitled to rely upon its own calculations of Square Footage undertaken in good faith and with due care based upon a recognized method of measurement, which may or may not be consistent with the measurements of rentable or usable measurements which are used for other purposes (such as BOMA measurements) or the square footage designated for development within a Parcel under the Community Entitlements.

1.104 **"Subassociation"** means any owners association formed to govern Individual Interests on an Area or Parcel.

1.105 **"Supplemental Declaration(s)"** means those certain declarations of covenants, conditions and restrictions, or similar instruments, which may be recorded pursuant to this Declaration, without the consent of any Owner, by Declarant or which may be recorded by the Association (with the prior written consent of Declarant until the Declarant's Rights Termination Date) to do any or all of the following: (a) annex all or a portion of the Annexable Property and in connection with such annexation, impose additional covenants and restrictions or make such other complementary additions and/or modifications necessary to reflect the different character of the real property to be annexed, (b) designate Special Benefit Areas and Special Benefit Areas Services, (c) identify Association Maintenance Areas to be maintained by the Association, including any Offsite Maintenance Area, (d) conform this Declaration or any previously recorded Supplemental Declarations to Applicable Laws or any Governmental Agency or other Governmental Requirements or the requirements of any Institutional Mortgagee, (e) comply with any requirements of any government finance programs such as FNMA, FHA or VA or as may be required by a title insurance company insuring fee title to a Residence within the Covered Property, (f) supplement or correct any of the exhibits to this Declaration or any previously recorded Supplemental Declarations, (g) designate any Allocable Assessment Shares for any Areas which are being annexed to this Declaration, (h) make corrections to the provisions of this Declaration or any previously recorded Supplemental Declaration(s) and/or (i) for any of the other purposes for which a Supplemental Declaration may be recorded under this Declaration.

1.106 **"Telecommunications Facilities"** means systems, equipment, improvements, wiring and services for cable television, communications, telecommunications, fiber optics, antenna, high-speed data, telephone and all related intranet, internet, information transfer, transmission, video and other similar services and any technological evolutions of the foregoing.

1.107 **"Town"** means the Town of Westlake, Texas.

1.108 **"Utility Facilities"** means all utility, communication, heating and ventilation and other similar facilities including, without limitation, intake and exhaust systems, any back flow preventers, and utility services, natural gas systems, electrical systems, fire life safety systems, Telecommunication Facilities, emergency generators, central utility services and all other utility systems, conduits, cabling and facilities servicing Westlake Entrada which are situated in, on, over and under, or located within Westlake Entrada.

1.108.1 **"Separate Utility Facilities"** means Utility Facilities solely serving a Parcel or Condominium and any Utility Facilities from the point where the Utility Facilities breaks off from the Shared Utility Facilities to solely serve a single Parcel or Condominium.

1.108.2 **"Shared Utility Facilities"** means all Utility Facilities serving the Maintenance Areas or that service more than one Parcel or Condominium.

- 1.109 **"Voting Power"** means the votes attributable to the Members as provided under Article 5.
- 1.110 **"Westlake Entrada"** means all of the Covered Property and the Improvements situated thereon.
- 1.112 **"Westlake Entrada - Bell Tower"** or **"Bell Tower"** means the open space, bell tower and plaza area depicted on the Site Plan as the Bell Tower.
- 1.113 **"Westlake Entrada - Farmers' Market"** or **"Farmer's Market"** means the open space and market area depicted on the Site Plan as the Farmer's Market.
- 1.114 **"Westlake Entrada Monument Signs"** or **"Monument Signs"** means any monument sign displaying the name of multiple Occupants included within the Westlake Entrada Signage, the structure of which may be designated by Declarant in writing to be maintained by the Association and included within the Association Maintenance Areas. Any Monument Signs within an Owner's Parcel shall be owned and maintained by Declarant unless (i) otherwise specifically designated by Declarant as part of the Association Maintained Areas by Supplemental Declaration, Plat Map or other recorded instrument, or (ii) assigned and conveyed (together with appurtenant easement rights, if applicable) by the Declarant to an Owner by Supplemental Declaration, Plat Map or other recorded instrument (which may not necessarily be the Owner of the Parcel on which the Monument Sign is located). All Monument Signs must comply with the Design Guidelines found on p. 84 of the Design Manual attached to Ordinance #760 approved by Town Council on 12/14/15.
- 1.115 **"Westlake Entrada - Plaza Mavor"** or **"Plaza Mavor"** means the open space and plaza area depicted on the Site Plan as the Plaza Mavor.
- 1.116 **"Westlake Entrada - Retail Harbor"** or **"Retail Harbor"** means the harbor area and related infrastructure and improvements depicted on the Site Plan as the Retail Harbor.
- 1.117 **"Westlake Entrada - Ricardo Bridge"** or **"Ricardo Bridge"** means the bridge and related infrastructure and improvements depicted on the Site Plan as the Ricardo Bridge.
- 1.118 **"Westlake Entrada Signage"** means the Westlake Entrada Monument Signs and other signs which may be generally depicted on the Site Plan or any Supplemental Declaration as the Westlake Entrada Signage to be maintained by the Association and any other way finding signs maintained by the Association.
- 1.119 **"Westlake Entrada Signage Program"** means any signage program which may be adopted by the Association or included within the Design Guidelines.
- 1.120 **"Westlake Entrada - Teatro Merida"** or **"Teatro Merida"** means the open space, amphitheater, and related improvements and facilities depicted on the Site Plan as the Teatro Merida.
- 1.121 **"Westlake Entrada - Wedding Chapel"** or **"Wedding Chapel"** means the chapel and related improvements depicted on the Site Plan as the Chapel.
- 1.122 **"Work"** or **"Construction Work"** means the initial construction of any improvements, and any subsequent construction, alteration, repair, restoration, rebuilding, demolition, removal and razing within the Covered Property. Unless otherwise provided for herein, "Work" and "Construction" shall not include any construction that takes place entirely within a Building (such as tenant improvements).

1.123 "Zoning Ordinance" means the zoning and entitlement related Ordinances including Ordinance No. 703 adopted by the Town on April 22, 2013, as modified and/or amended from time to time, including Ordinance #720, #759, #760 and Resolution 13-34.

## ARTICLE 2

### OWNERSHIP AND CREATION OF EASEMENTS

*Westlake Entrada is a mixed use center which may have a variety of uses including residential, retail, office, age-restricted independent living unit, hospitality, hotel, civic and other uses. This Article describes the easements necessary for the Association to exercise its rights and obligations under the Governing Documents, the easements necessary for Declarant to implement the development plan and marketing for Westlake Entrada and the easements necessary for the Owners and Individual Interest Owners to exercise their rights and participate and enjoy the overall features and amenities of Westlake Entrada intended for their use. The rights of use within the Covered Property are limited by some of the property rights which are described in this Article.*

**2.1 Ownership and Easements.** Ownership of a Parcel shall include certain easements appurtenant to such Parcel as described in this Declaration. Each of the easements reserved or granted in this Declaration shall be deemed established upon recordation of this Declaration, and shall thereafter be deemed to be covenants running with the land for the use and benefit of the Owners, the Association and the Covered Property.

**2.2 Limitations.** All of the easements and licenses described in this Article 2 are subject to the limitations set forth in Section 2.10 and to all other provisions of this Declaration and the other Governing Documents.

**2.3 Defined Terms Relating to Easements.** As used in this Article 2, references to "Grantor" shall mean the Owner granting the easement hereunder and references to "Grantee" shall mean the recipient of the easement. Reference to "Burdened Parcel" shall mean the Parcel on or over which the easement has been granted and references to "Benefitted Parcel" shall mean the Parcel to which the easement is appurtenant. The easement rights of an Individual Interest Owner are received through such Individual Interest Owner's membership in the applicable Subassociation.

#### **2.4 Access, Use and Circulation Easements.**

**2.4.1 Easements Over Association Access Roads.** Declarant hereby reserves for its benefit and grants to the Owners a non-exclusive easement for vehicular and pedestrian ingress and egress on, over, through and across Association Access Roads, except during any periods of time which access may be restricted by the Association.

**2.4.2 Non-Exclusive Easement for Association Property and Association Maintenance Areas.** Declarant hereby reserves for its benefit and grants to the Owners a non-exclusive easement for ingress and egress to the Association Property and Association Maintenance Areas, subject to the rights of the Association to restrict access to areas for health and safety reasons or in connection with any maintenance, repair and replacement performed by the Association or as part of any promotions or events sponsored by or approved by the Association.

**2.4.3 Pedestrian Easement Access.** Declarant hereby reserves for its benefit and grants to the Association and the Owners a non-exclusive easement for ingress and egress on, over, through and across the Pedestrian Access Areas, which easements include the right of access for bicycles and other non-motorized forms of transportation.

**2.4.4 Signs.** Declarant hereby reserves for its benefit and grants to any Owner who is a Sign Panel Beneficiary and its Occupants, an easement on, over, through and across the portions of



the Association Property and/or Association Maintenance Areas reasonably necessary to maintain, repair and replace the name of an Occupant who has been granted the right to place its name on any Westlake Entrada Monument Signs. As used herein, a "Sign Panel Beneficiary" means any Person who has been assigned the right to place a sign panel on the Westlake Entrada Monument Signs by Declarant or after the Declarant's Rights Termination Date, the Association. The Declarant or the Association may charge a fee for the rights granted to a Sign Panel Beneficiary pursuant to a separate agreement between such Sign Panel Beneficiary and Declarant or the Association.

**2.4.5 Other Easements.** Nothing in this Declaration shall be deemed to limit the right of the Association or the Declarant to grant or reserve any additional easements over any portion of the Association Maintenance Areas for such purposes as the Association or Declarant may deem appropriate in connection with the development of Westlake Entrada, or as may be required by any Governmental Agencies. No easement may conflict with the recorded easements of the Town.

**2.5 Utility Facilities Easements.**

**2.5.1 Utility Facilities.** Declarant reserves and grants to the Association and each Owner a nonexclusive easement in, to, over, under and across the Association Access Roads as reasonably necessary or appropriate for the operation, use, maintenance, repair, relocation and removal of Separate Utility Facilities installed in connection with the original construction of a Parcel or the applicable Association Access Roads and to the extent the Association, and Owners have the responsibility for maintenance, the Shared Utility Facilities serving each Grantee's respective Parcels subject to the provisions set forth below.

**2.5.2 Location of Utility Easements.** Except as installed by Declarant or otherwise approved by the Declarant, until the Declarant's Rights Termination Date and thereafter approved by the Reviewing Party, pursuant to Article 8, all Utility Facilities shall (to the extent practical or otherwise approved by Declarant or the Reviewing Party) be installed either underground or enclosed within a Building. The construction of any Utility Facilities shall be subject to the conditions set forth below. The Grantor of any such utility easements shall have the right to use the surface of the easement for any purpose not inconsistent with the Grantee's authorized use hereunder.

**2.5.3 Use and Connections.** The Grantees and the Association shall reasonably cooperate with one another to permit the maintenance, repair and replacement of Utility Facilities permitted under this Declaration, which shall be subject to the terms of the Governing Documents. Any such Utilities shall (a) be constructed, installed, maintained, replaced and repaired so as not to interfere unduly with the use (including business operations) of any Parcel, (b) coordinated with the Association including conditions reasonably imposed by the Association (which conditions may restrict any such work during certain holiday periods) and (c) shall otherwise conform to the applicable requirements of this Declaration and Governing Documents. If required by the Town or a utility service provider in connection with providing utility service to a Benefitted Parcel, each Grantor agrees, at the request of the Grantee, to grant a utility easement (in a form reasonably satisfactory to the Grantor) over the Burdened Parcel to the Grantees or to the Governmental Agencies or such utility service provider, as the case may be, for the purposes contained in this Section 2.5.

**2.5.4 Maintenance, Replacement, Repair or Removal of Utility Facilities.** Any maintenance, replacement, repair, or removal of Utility Facilities which is performed on a Grantor's Parcel shall be performed only after fifteen (15) days prior written notice to the Grantor of the Grantee's intention to do such Work, except in the case of an Emergency (in which event notice shall be given as soon as practicable), and shall conform to the requirements set forth in Section 2.6.4 above. Upon completion of such Work, the Grantee shall restore the Parcel affected by such Work to the same condition as before the commencement of the Work.

**2.5.6 Approval for Installation or Relocation of Utility Facilities.** In the event the Association or any Owner desires to install or relocate Utility Facilities in addition to those initially installed as part of the original construction of a Building or Residence that require the exercise of easement rights

on the Parcel of another Owner or otherwise requires approvals under this Section 2.5 ("Utility Work") the following terms and provisions shall apply. As a condition to the Utility Work, the party requesting to perform such Utility Work ("Installing Party") shall obtain approval of the party upon whose Parcel the Installing Party desires to perform such Utility Work ("Granting Party") and shall obtain the approvals required under Article 8, except that any Utility Work relating to the Shared Private Sewer Lines or Shared Private Drainage Facilities shall require the consent of the Association and not the Owners and if the Association is performing the Utility Work in connection with performing its Maintenance Obligations or exercising any rights under this Declaration, then only notice but not approval from the Granting Party shall be required. The Installing Party shall give not less than fifteen (15) days' notice to the Granting Party of the date the Installing Party desires to commence the Utility Work describing (a) the scope of the Utility Work, (b) the need for such Utility Work, (c) the proposed location for the Utility Work (d) the anticipated commencement and completion dates for the Utility Work and (e) the contractor performing the Utility Work. The notice shall also set forth the schedule for the performance of such Utility Work. Any such Utility Work shall be subject to obtaining the reasonable approval of the Granting Party and the approvals required under Article 8. Prior to commencing any such Utility Work, the Installing Party shall provide to the Granting Party a certificate of insurance evidencing that its contractor has obtained the minimum insurance coverages required under this Declaration. Any Utility Work shall also comply with the requirements set forth above. Each Installing Party in connection with the Utility Work agrees to indemnify, protect, defend and hold harmless the Granting Party from and against all Claims brought thereon, arising from or resulting from performance of the Utility Work, provided however, the foregoing obligation shall not apply to Claims based on the negligence or the willful act or omission of the Granting Party.

**2.6 Shared Private Stormwater Systems Easement.** Declarant reserves over each portion of the Covered Property and grants to the Association and each Owner a nonexclusive easement, in, to and across the portion of every other Parcel for the flow and passage of storm water and drainage through the Shared Private Stormwater Systems. The Owners shall reasonably cooperate with one another and with the Association to permit maintenance, inspection, repair and replacement of the Shared Private Stormwater Systems as may be reasonably necessary to ensure non-exclusive passage of storm water and drainage through the Shared Private Stormwater Systems. Each party, in exercising the easement rights herein shall comply with the restrictions set forth in Section 7.1.13 and any other applicable restrictions in the Governing Documents.

**2.7 Shared Private Sewer System Easements.** Declarant reserves over each portion of the Covered Property and grants to the Association and each Owner a nonexclusive easement in, to and across the portion of every other Parcel for the purposes of connecting into and use of the Shared Private Sewer System. The Owners shall reasonably cooperate with one another and with the Association to permit maintenance, inspection, repair and replacement of the Shared Private Sewer System as may be reasonably necessary. Each party, in exercising the easement rights herein shall comply with the restrictions set forth in Section 7.1.13 and any other applicable restrictions in the Governing Documents.

**2.8 Easements in Favor of Declarant and/or the Association.**

**2.8.1 General Grant of Easement.** Declarant reserves and grants to the Association a non-exclusive easement for ingress and egress over the Parcels by the Association and its agents, employees and contractors to the extent reasonably required for performing any maintenance, repair, replacement and operation of the Association Maintenance Areas and other obligations imposed on the Association under this Declaration and the other Governing Documents and for exercising its rights under this Declaration, including without limitation any rights granted to the Association to cure violations of this Declaration or the other Governing Documents. Nothing contained in this Declaration shall grant to the Association the right to enter into any Building located on a Parcel.

**2.9 Easements in Favor of Declarant.**

**2.9.1 Easements to Declarant for Annexable Property.** Declarant hereby reserves to itself for its benefit and the benefit of any Guest Builders and Owners within the Annexable Property

and their Permitted Users and the benefit of any Governmental Agencies a non-exclusive easement over, upon, through and across the Covered Property for the purpose of reasonable ingress to and egress from, over and across Association Maintained Areas within the Covered Property, to the Annexable Property until all of such Annexable Property is annexed to the Covered Property.

**2.9.2 Events, Services and Concessions.** Declarant hereby reserves to itself a non-exclusive easement over the Association Maintenance Areas and Association Property as may be necessary to conduct activities, events, programs and provide other services and programs and to grant concessions. Any revenue generated by Declarant or any assignee to whom such rights have been granted shall remain solely the revenue of Declarant or its assignee. To the extent the Association conducts or sponsors such events, then the costs shall be included as a Common Expense (which may be allocated based upon a General Allocation or a Special Allocation), but the revenue generated therefrom shall be used to offset such Common Expenses. Declarant shall be entitled to withhold approval to the granting of any concession or licensing rights if such granting of a concession or licensing rights would conflict with or impair any license or concession rights reserved or granted by Declarant or any assignee of Declarant or which may impair or conflict with any rights intended to be granted by Declarant. Notwithstanding anything to the contrary contained herein, the Declarant's and Association's rights granted herein to conduct activities, events, programs and provide other services and programs and to grant concessions within the Association Maintenance Areas and/or Association Property is in all events subject to Governmental Requirements of the Town and any other applicable Governmental Agency.

**2.9.3 Easements For Telecommunication Facilities.** Declarant hereby reserves to itself, for its benefit and the benefit of any Guest Builders a non-exclusive easements through the areas beneath the surface of the Association Property, Association Maintenance Areas, and Association Access Roads for installation, maintenance, repair and replacement of Telecommunication Facilities and Declarant further reserves to itself any revenue obtained from such Telecommunications Facilities. Notwithstanding the foregoing or anything to the contrary contained herein, the easement and rights granted to Declarant and any Guest Builder under this Section 2.9.3 shall not apply to the telecommunications duct bank owned and to be maintained by the Town, and neither Declarant nor any Guest Builder shall have any rights, duties or obligations hereby with respect to such telecommunications duct bank.

**2.9.4 Public Use.** Declarant hereby reserves to itself, and grants to the Association (a) the right and authority (with the prior consent of the Declarant until the Declarant's Rights Termination Date) to grant to the Town or other Governmental Agency one or more easements, licenses or other rights over, upon and across the Association Property and Association Maintenance Areas, or any portion thereof, and (b) (with the prior consent of the Declarant until the Declarant's Rights Termination Date) to the public or to other Persons who are not Owners one or more easements, licenses or other rights over, upon and across one or more Association Property and/or Association Maintenance Areas for such purposes as Declarant or the Association may deem appropriate.

**2.9.5 Westlake Entrada Signage.** Declarant hereby reserves to itself, together with the right to grant and transfer the same, an easement on, over and under the Covered Property for the (I) maintenance, repair and replacement of Westlake Entrada Monument Signs, and (II) placement and maintenance of the Sign Panels ("Sign Panels") on the Westlake Entrada Monument Signs. All Sign Panel Beneficiaries a license to install Sign Panels on such Westlake Entrada Monument Signs. All Sign Panels on all Westlake Entrada Monument Signs are reserved in favor of Declarant and Declarant shall have the exclusive right to assign Sign Panels on the Westlake Entrada Monument Signs to Occupants within Westlake Entrada. Upon the Declarant's Rights Termination Date, such rights to assign Sign Panels may be assigned by Declarant to the Association.

**2.9.6 Other Easements.** Declarant anticipates that the Covered Property shall be subject to additional easements as set forth in the Supplemental Declarations, as well as in any Plat Map, the Community Entitlements and any other agreements recorded against the Covered Property. Nothing in this Declaration shall be deemed to limit the right of Declarant or, with the prior consent of the

Declarant, the Association, to grant or reserve any additional easements over any portion of the Covered Property to such grantees and for such purposes as Declarant or the Association (as applicable) may deem appropriate, provided that any such easement shall not be inconsistent with the easement rights granted in this Declaration and no easement so granted shall interfere with the then present use and development of any Parcel, or interfere with the intended development of a Parcel for which permits have been issued by the Town or for which Plans have been approved by the Association or Design Review Committee, as applicable.

**2.9.7 Development Easements in Favor of Declarant.** Declarant hereby reserves to itself, together with the right and power to grant and transfer the same, for its benefit and the benefit of the Guest Builders and each of their agents, employees, contractors and prospective purchasers, non-exclusive easements over the Covered Property for access to, and ingress and egress over and across, any portions of the Covered Property as is reasonable and necessary to undertake and complete the work of development, construction, marketing, conveyance and/or repair and replacement of the Improvements and the right to exercise any warranty or rights to repair granted to Declarant or a Guest Builder under this Declaration, any sales or other conveyance or lease documents entered into by a Guest Builder with an Owner or Lessee and any other agreements between Declarant, a Guest Builder and/or an Owner. Declarant further reserves to itself, together with the right and power to grant and transfer the same, the right to install and operate within the Association Maintenance Areas, such landscaping, sidewalks, walkways, water features, art, drainage areas, lighting, street improvements, signage, monumentation, Utility Facilities, and other facilities and improvements, as may be deemed appropriate by Declarant and/or required by Governmental Requirements. Notwithstanding the foregoing, in no event shall any rights granted under this Section 2.9.7 exercised by Declarant or any Guest Builder interfere with the then present use and development of any Parcel, or interfere with the intended development of a Parcel for which permits have been issued by the Town or for which Plans have been approved by the Association or Design Review Committee, as applicable.

**2.9.8 Lighting Easement.** Declarant hereby reserves to itself and grants to the Association, non-exclusive easements over and across the Association Property and the Association Maintenance Areas and other areas within the Covered Property, including on the exterior facades of any Buildings or Improvements adjacent to and facing public rights-of-ways, Private Streets or any Association Property or Association Maintenance Areas, to install, operate, maintain, repair and replace lighting for the benefit of the Association Property and other Association Maintenance Areas.

**2.10 Duration of Easements; Exclusive Use; Permitted Users; Benefited Parties.**

**2.10.1 Ancillary Easements.** To the extent reasonably necessary to accommodate use of the easements set forth in this Article 2 or to fulfill their obligations under this Declaration, Declarant grants to the Association and the Owners, non-exclusive easements for ingress and egress over the accessways within the Parcels, but only to the extent necessary and appropriate to provide access to and otherwise reach those areas and places within the Covered Property which are the subject of the previously described easements or to fulfill their respective obligations. Notwithstanding the foregoing, to the extent the easement relates to the maintenance, repair or replacement of any areas required by this Declaration to be maintained, repaired or replaced by the Association or any Owner(s), then the access rights shall be for the benefit of the Association or such Owner, as applicable, and their agents, employees and contractors.

**2.10.2 Duration of Easements.** Each easement established herein shall exist upon recordation of this Declaration, without the necessity of confirmation by any other document. Likewise, upon the termination of any easement (in whole or in part) or its release in respect of all or any part of any Parcel or Individual Interest as provided in this Declaration, the same shall be deemed to have been terminated or released without the necessity of confirmation by any other document. Upon the request of any other Grantee or the Association, each Grantee will sign and acknowledge a document, in form and substance reasonably approved by such Grantee, memorializing the existence (including the location and any conditions), or confirming prior termination (in whole or in part) or release (in whole or in part), as the case may be, of any easement. The Declarant may charge a fee to any Sign Panel Beneficiary for the

rights so granted to such Sign Panel Beneficiary pursuant to a separate agreement between Declarant and such Sign Panel Beneficiary.

**2.10.3 Rights to Permit Occupants and Permitted Users to Exercise Easement and License Rights.** Unless otherwise provided in this Declaration, each easement established herein shall be used by the Owners as an appurtenance to and for the benefit of the benefited Parcel or Individual interest, and solely for, the purpose of using, operating and enjoying the benefited Parcel(s) or Individual interest as provided in this Declaration. The foregoing notwithstanding, each Owner may permit and designate, from time to time, its Occupants and other Permitted Users to use such easements as reasonably necessary in connection with such Owner's or Occupant's use or occupancy of a Parcel or individual interest, and provided that no such permission shall (a) authorize a use of the easements in excess of the use intended under this Declaration or in conflict with any provision of this Declaration or the Governing Documents or Community Entitlements or (b) result in the grant of any easement rights to any Permitted Users. Any such designation shall not relieve the Owner of its duties and obligations with respect thereto. None of the easements established in this Declaration or any of the other provisions of this Declaration are intended to grant any rights to any members of the public or to be a gift or dedication for public use.

**2.10.4 Reservation of Easements in Favor of Declarant.** Declarant shall have the right to assign to any Guest Builder or any other Owner of a Parcel and the right to allow any Permitted Users of Declarant or any Declarant Party to exercise Declarant's rights in connection with any easements reserved to Declarant hereunder.

**2.11 Limitations on Easement Rights.** The easement rights herein granted or reserved, including without limitation, each and all of the easement rights enumerated above in the separate sections of this Article 2, are granted and reserved expressly subject to the limitations set forth below.

**2.11.1 Matters of Record.** Each of the easements and licenses granted and reserved hereunder is subject to all covenants, conditions, restrictions, encumbrances, easements, dedications, and rights of way, if any, set forth in any matters of record.

**2.11.2 Parking.** The Association shall have the right to limit, enforce and/or control parking rules and regulations within the Association Access Roads and to exercise its other rights provided under the Governing Documents.

**2.11.3 Community Entitlements and Governing Documents.** Each of the easements and licenses granted and reserved herein are subject to the Community Entitlements and the Governing Documents and nothing contained herein prohibits the granting of any easements to the public by an Owner over its Parcel if required as a condition to obtaining Community Entitlements for its Parcel.

**2.11.4 Pedestrian Access Areas.** Nothing contained herein shall limit the right of an Owner upon whose Parcel a Pedestrian Access Area is located to relocate the Pedestrian Access Areas on its Parcel, including for the purposes of accommodating outdoor events, eating areas (including Outdoor Dining Areas) and construction of improvements on its Parcel so long as (a) such relocation is permitted by the applicable Governmental Agencies, (b) reasonable access for pedestrians is otherwise made available and (c) if required under Article 8, the approval of the Reviewing Party has been obtained.

**2.11.5 Exercise of Rights by the Association, Declarant and Owners.** All of the easements are subject to the rights of the Association, the Declarant and any other Owner to exercise any rights granted and obligations imposed under this Declaration or the other Governing Documents.

**2.11.6 Limitation on Access Rights in Connection with Maintenance and Repair.** Declarant or the Association shall have the right to temporarily close or restrict access to the Association Maintenance Areas, as may be reasonably necessary in connection with the exercise of any

maintenance, repair or replacement obligations under this Declaration, in connection with the installation or alteration of improvements on a Parcel in connection with the performance of the Association's obligations hereunder or in the event of an Emergency. The foregoing rights described in the preceding sentence shall be conditioned upon using reasonable efforts to make arrangements for taking commercially reasonable measures to minimize any interference which such closure or restriction may have on the operation and use of and/or access to the Parcels.

**2.11.7 Business Operations.** Neither the Association nor any Owner shall exercise any of the easement rights granted or reserved in this Article 2 in a manner which will unreasonably and adversely impact or disrupt the operation of any businesses operating within Westlake Entrada. The Association and the Owners shall further take commercially reasonable measures to minimize the interference that any such exercise of any easement rights granted or reserved in this Article 2 may have on the operation and use of any Parcel.

**2.11.8 Easements and Dedications.** The Declarant or the Association shall have the right to dedicate or transfer all or any part of the Association Property or any interest therein to the Town or other Governmental Agencies (with the prior consent of Declarant until the Declarant's Rights Termination Date), which dedication or transfer shall be subject to the provisions of this Declaration, and such other conditions as the Association or Town or applicable Governmental Agency may impose.

**2.11.9 Levy Charges.** The Declarant or Association shall have the right to levy charges for promotional and other events which either the Declarant or Association sponsors within the Covered Property.

**2.11.10 Duration of Easement Rights.** Except for the rights of Declarant and any Declarant Party, the easement rights granted under this Declaration shall be for a term and duration coextensive with the Owner's title or interest in and to its portion of the Covered Property. Upon conveyance of any Parcel within the Covered Property, such rights shall pass to the successor Owner(s) of the portion of the Covered Property being conveyed. All of the special easement rights reserved to Declarant shall continue until Declarant or a Declarant Party or a Guest Builder no longer owns any portion of the Covered Property or Annexable Property.

**2.12 No Right to Revenue.** The grant of any easements contained in this Article or in the grant of any other rights set forth in this Declaration shall not be deemed to grant to the Association, any Owners or Individual Interest Owners any rights to any revenues, profits or other monies derived directly or indirectly by any Declarant or Declarant Party or any other Person to which such rights have been granted for any commercial or other operations within Westlake Entrada.

**2.13 No Separate Transfer.** None of the appurtenant easements described above shall be conveyed, transferred, assigned or encumbered separately from the fee or leasehold interests in the individual Parcels or Individual Interests. Easements that benefit or burden any Parcel or Individual Interest shall be appurtenant to that Parcel or Individual Interest and shall automatically accompany the transfer or conveyance of such Parcel or Individual Interest, even though the description in the instrument of transfer may refer only to the interests in the Parcel as transferred or conveyed. Except as otherwise provided for herein, no Owner, or any Person not an Owner shall grant an easement or easements of the type set forth in this Article 2 for the benefit of any other Person or property not within the Covered Property at the time of such grant without the prior written consent of both the Declarant, until the Declarant's Rights Termination Date, and the Association; provided, however, that the foregoing shall not prohibit the use of any easements existing on the date of recordation of this Declaration, or the granting or dedicating of easements required as a condition to development to be granted to Governmental Agencies.

**2.14 Location of Easements on Condominiums.** To the extent a Condominium is encumbered by any of the easements in this Article 2, references to a Parcel shall mean such Condominium.

ARTICLE 3

WESTLAKE ENTRADA ASSOCIATION

*The Association has been or will be formed to govern, maintain and manage Westlake Entrada and to perform the other powers and duties of the Association which are described in this Article. The Association acts by and through a Board of Directors. The Association has the powers necessary to assure the efficient operation, maintenance and governance of Westlake Entrada and to respond to changes in Westlake Entrada as may be required in the future.*

**3.1 Powers of the Association.** Subject to the limitations expressly set forth in the Governing Documents, the Association shall have the power of a non-profit corporation formed under the laws of the State of Texas and may do any lawful thing that may be authorized, required, or permitted to be done by the Association under the Governing Documents and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the powers set forth below.

**3.1.1 Performance of Duties; Commencement of Association's Duties and Powers.** The Association shall have the power to undertake all of the express duties required under Section 3.2 and the other Governing Documents to be performed by the Association.

**3.1.2 Assessments.** The Association shall have the power to establish, levy and collect Assessments in accordance with Article 6 and to enforce payment of such Assessments in accordance with the provisions of the Governing Documents.

**3.1.3 Enforcement.** The Association shall have the power to enforce the restrictions and obligations set forth in the Governing Documents.

**3.1.4 Enforcement of Individual Interest Governing Documents.** The Association shall have the right, but not the obligation, to review periodically the operation of any Subassociation and the performance by a Subassociation of its maintenance and other obligations to assure compliance with the Community Standards and Governing Documents. The Association shall have the power, but not the obligation, to enforce the Individual Interest Governing Documents (a) if the Association determines that the applicable Subassociation is unable or unwilling to do so or (b) if the Association determines, in its reasonable judgment, that it is in the best interests of Westlake Entrada to do so. The Association also shall have the power to require that specific action be taken by a Subassociation in connection with its obligations and responsibilities. The costs associated with such maintenance and repairs shall be the obligation of the Subassociation.

**3.1.5 Provide Management and Other Services.** The Association shall have the power to engage Persons necessary for the effective operation and maintenance of the Association Maintenance Areas and the operation of the Association, including legal, management and accounting services. Any management company selected by the Association may be an Affiliate of Declarant.

**3.1.6 Right of Entry.** The Association and its authorized representatives shall have the power to enter any portion of the Covered Property, to the extent reasonably necessary to perform the construction, inspection and the Maintenance Obligations of the Association as required under Governing Documents and to exercise its enforcement rights under this Declaration; provided that in no event shall the rights granted to the Association and its authorized representatives in this Section 3.1.6 permit entry into the interior space of a completed Building located within a Parcel. Any right of entry shall be exercised in accordance with the requirements of the Governing Documents. Such Persons shall not be deemed guilty of trespass by reason of such entry.

**3.1.7 Contract for Goods.** The Association shall have the power to contract for goods and/or services for the benefit of the Covered Property that are necessary for the Association to perform

its duties and obligations under the Governing Documents. To the extent any such goods and services are provided solely to Special Benefit Areas, the Association may assess such costs solely to the Owners within the Special Benefit Areas.

3.1.8 Design Review. The Association shall have the power to exercise architectural control to the extent provided under Article 8 and to appoint a Design Review Committee.

3.1.9 Easements and Rights of Way. The Association shall have the power to exercise any of the easement and other rights granted to the Association under Article 2, including, without limitation, the right to grant temporary licenses and rights to use the Association Maintenance Areas.

3.1.10 Association Rules. The Association shall have the power to adopt, amend and repeal the Association Rules as it considers appropriate.

3.1.11 Delegation of Powers. The Association shall have the power to delegate its rights, authority and powers, in whole or in part, under the Governing Documents to professional managers, committees, employees, officers, or consultants, as may be deemed necessary by Board.

3.1.12 Delegation of Rights of Use. Subject to the Governing Documents, the Association shall have the power to exclusively use or to allow one or more Owners or Occupants the exclusive use of portions of the Association Property or Association Maintenance Areas for events and functions, on terms and conditions that the Board deems appropriate, including charging such Owner(s) or Occupant for such exclusive use provided that until the Declarant's Rights Termination Date, the prior consent of the Declarant shall be obtained. Such rights shall be subordinate to the rights reserved to Declarant under this Declaration.

3.1.13 Special Events, Promotional Events and Marketing. The Association shall have the power to provide special events, promotional events and marketing events and to create and provide activities, services and programs intended to build and maintain a sense of community and identity and the power to levy charges or fees for such events or may coordinate with any Owner to sponsor such events. Such events and activities may be conducted within the Association Property, the Association Maintenance Areas or with the permission of an Owner within the portion of the Covered Property owned by such Owner. Any such events shall be coordinated with Declarant until the Declarant's Rights Termination Date. If the Association determines that such costs benefits fewer than all the Owners, the Association may levy such costs for such events and promotions as a Special Benefit Area Assessment or based upon a Special Allocation. Notwithstanding anything to the contrary contained herein, the Association's rights granted herein to conduct activities, events, programs and provide other services and programs and to grant concessions within the Association Maintenance Areas and Association Property and other portions of the Covered Property is in all events subject to Governmental Requirements and special event permitting review and approval of the Town and any other applicable Governmental Agency.

3.1.14 Restrict Access. The Association shall have the right and authority to restrict access on or to any portion of the Association Property and the Association Maintenance Areas for (a) health and safety reasons and (b) for purposes of facilitating construction, inspection, maintenance and repair of the Improvements within the Association Maintenance Areas or for Emergency purposes. Any such restrictions on access shall reasonably minimize any impact on access to and from any neighboring areas.

3.1.15 Borrow Money. The Association shall have the right to borrow money for the purpose of improving, replacing, restoring or expanding the Association Property, the Association Maintenance Areas or for other purposes deemed reasonably necessary by Board.



3.1.16 Public Rights of Use. The Association (with the consent of the Declarant until the Declarant's Rights Termination Date), shall have the power to grant to the public rights of use to the Association Property, as may be required by the Town or any Governmental Agency or any other Governmental Requirements or as otherwise may be determined by the Board.

3.1.17 Special Benefit Areas. Subject to any limitations set forth in this Declaration, the Association shall have the power to form, and administer Special Benefit Areas in accordance with the Governing Documents. In connection with the administration of Special Benefit Areas, the Association shall have the power to establish Special Benefit Area rules and advisory committees for any Special Benefit Areas. Such advisory committees may propose special rules and regulations with respect to Special Benefit Areas which may be adopted by the Association. The Association may also adopt special election procedures for the election of members of such advisory committees.

3.1.18 Lighting. The Association shall have the power to provide for and operate lighting throughout the Association Property and the Association Maintenance Areas, including without limitation, holiday lighting.

3.1.19 Permits for Special Events. To further the sense of community within, from time to time groups or Persons, including, without limitation, the Owners, may desire to sponsor special events within the Covered Property. The Association shall have the authority to issue permits granting to such Persons and their Permitted Users, a nonexclusive license of access and use over some or all of the Association Property and/or Association Maintenance Areas reasonably necessary to the operation of the special event. The Association may also issue permits which authorize the sponsor and its guests and invitees to park vehicles within the Association Property and/or Association Maintenance Areas at reasonable times before, during, and after the special event.

3.2 Duties of the Association. The Association shall have the duty and obligation to perform the actions and duties set forth in this Declaration and the other Governing Documents.

3.2.1 Applicable Laws and Community Entitlements. The Association shall comply with all Applicable Laws and the Community Entitlements. The Association shall not restrict access by the public to those portions of the Association Property or Association Maintenance Areas required to be made available for access by the public by Governmental Requirements.

3.2.2 Operation and Maintenance. The Association shall perform all of the Maintenance Obligations required to be provided or performed by the Association under Article 4 and any other Maintenance Obligations required to be provided or performed by the Association under the Governing Documents/ the Community Entitlements and Applicable Laws and shall provide all of the services necessary to operate the Association Maintenance Areas to the extent required hereunder.

3.2.3 Governing Documents. The Association shall comply with and use reasonable efforts to ensure the Owners comply with the Governing Documents.

3.2.4 Acceptance of Association Property and Association Maintenance Areas. The Association shall accept title (or easements) to and maintenance responsibility for each portion of the Association Property and the Association Maintenance Areas when title and/or maintenance and responsibility are tendered by Declarant, whether in fee simple, by easement or otherwise, and the Association shall execute each deed and any accompanying escrow instructions if requested to do so by Declarant, and execute any bond exonerations when presented if the bonded obligations are satisfied.

3.2.5 Community Entitlements. The Association shall comply with all of the requirements of the Community Entitlements imposing obligations on the Association, including obligations relating to the Association Property and Association Maintenance Areas.

**3.2.6 Assessments.** The Association shall establish, levy and collect Assessments in accordance with Article 6 and enforce payment of such Assessments in accordance with the provisions of the Governing Documents.

**3.2.7 Management.** Subject to the provisions of this Section and the other requirements of this Declaration, the Association shall have the duty to retain or employ a manager which manager may be Declarant or an Affiliate of Declarant or shall otherwise be a professional manager or other Persons who have professional experience in the management of mixed use communities to perform any services required for the maintenance, protection, operation and preservation of Westlake Entrada.

**3.2.8 Parking and Traffic.** The Association shall manage all parking and vehicular traffic within the Association Access Roads, except that, if Declarant has installed parking meters, Declarant shall have the right to retain the revenue therefrom and enforce compliance with the parking regulations or require the Association to do so. The Association may establish a parking permit program for the parking within the Association Property and Association Maintenance Areas.

**3.2.9 Financial Matters.** The Association shall prepare the Annual Budget, reports, balance sheets and operating statements for the Association as required under the Governing Documents and Applicable Laws.

**3.2.10 Liens and Charges.** The Association shall pay any amount necessary to discharge any lien or encumbrance upon the Association Property or Association Maintenance Areas or any other property or interest of the Association.

**3.2.11 Access to Public Utilities.** The Association shall establish reasonable procedures for access to public utilities located in the Association Maintenance Areas for maintenance by the applicable utility providers subject to the applicable Governmental Agency's approval and the terms of any applicable easements benefiting any utility provider or Owner (hereunder or otherwise); provided, however, that each Owner's access to such utilities shall ultimately be subject to the terms, conditions and charges imposed by the applicable utility provider, and the Association shall have no right to charge any Owner for the use of such utilities (except to the extent such utilities service the Association Maintenance Areas) or to require that any Owner use any particular utility provider.

**3.2.12 Maintenance of Plans for Shared Private Sewer Lines and Shared Stormwater Drainage Systems.** If provided by Declarant or a Guest Builder, the Association shall maintain in its records plans, which depict the as-built location of the Shared Utility Facilities (including the Shared Private Sewer Lines and Shared Stormwater Drainage Facilities), and shall require any Owner who ties into such Shared Private Sewer Lines and/or Shared Stormwater Drainage Facilities to update such plans.

**3.2.13 Insurance.** The Association shall have the duty to obtain insurance from reputable insurance companies and maintain the insurance described in Article 10.

**3.2.14 Architectural Control.** The Association shall maintain architectural control and design review over Westlake Entrada to the extent provided in the Governing Documents and may appoint the Design Review Committee and establish architectural and design review procedures in accordance with the provisions of Article 8. No architectural controls or designs may conflict with or supersede the standards established in the Zoning Ordinance #760 Design Guidelines.

**3.2.15 Association Rules.** The Association shall adopt and be entitled to modify and enforce Association Rules as it considers to be appropriate relating to the use and operation of the Association Maintenance Areas and other portions of the Covered Property.

**3.2.16 Reserves.** The Association shall establish and maintain a working capital and contingency and reserve fund to the extent set forth in the Annual Budget, including, without limitation, a special reserve fund for the maintenance, repair and replacement of public streets and rights-of way which are included in the Association Maintained Areas, and/or Private Streets within the Covered Property.

**3.2.17 Taxes and Assessments.** The Association shall have the duty to pay all real and personal property taxes levied against the Association, Association Property, or personal property owned by the Association. Such taxes and assessments may be contested by the Association provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

**3.2.18 Personal Liability.** No volunteer officer or volunteer director of the Board, or of any committee, Declarant, Declarant Party, Reviewing Party, contractor, agent, or management company of the Association, or any officer, director, employee, contractor or agent of any of the foregoing (such a "Management Party"), shall be personally liable to any Owner or Individual Interest Owner or other Person, including the Association, for any act or omission of any Management Party if such Person has, on the basis of such information as was actually possessed by him or her, acted in good faith without willful, wanton or gross misconduct when performing an act within the scope of the Person's Association duties (collectively, an "Official Act"). The Association has the power and duty to indemnify, defend, protect and hold harmless each Management Party for all Claims, and satisfy any judgment or fine levied as a result of any action or threatened action brought because of an act or omission which such Person reasonably believed was an Official Act. The Association has the power and the duty, to indemnify any other Person acting as an agent of the Association for damages incurred, pay expenses incurred, and satisfy any judgment or fine levied as a result of any action or threatened action because of an Official Act. Management Parties and any other Person are deemed to be agents of the Association when they are performing Official Acts for purposes of obtaining indemnification from the Association pursuant to this Section. The entitlement to indemnification under this Declaration inures to the benefit of the successors-in-interest of any Person entitled to such indemnification. The Association also has the power, but not the duty, to contract with any Person to provide indemnification in addition to any indemnification authorized by Applicable Laws on such terms and subject to such conditions as the Association may impose.

#### ARTICLE 4

#### MAINTENANCE RESPONSIBILITIES

*This Article sets forth the maintenance responsibilities of the Association and the standards for that maintenance to ensure the overall quality and aesthetic appearance of Westlake Entrada. This Article also sets forth the Maintenance Obligations of the Owners and Individual Interest Owners. Maintaining Westlake Entrada will help to preserve and protect the value and aesthetic appearance of Westlake Entrada. The "Maintenance Standard" may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the discretion of the Board and various elements which may or may not be set out in writing. The Declarant initially shall establish such Maintenance Standards; however, the Maintenance Standard will evolve as Westlake Entrada develops and matures.*

**4.1 Maintenance and Maintaining Party.** Unless the context otherwise requires, as used in this Article 4, "maintenance", "maintain" or "maintaining" means the operation, inspection, maintenance, repair, restoration and replacement of the areas and facilities designated for maintenance by the Association, and the Owners. To the extent repair, restoration and replacement is required as a result of damage or destruction under Article 11, then the repair and replacement shall be governed by the provisions of Article 11. As used herein, "Maintaining Party" means the Association or any Owner or Individual Interest Owner is obligated to perform the Maintenance Obligations established hereunder. It shall be the obligation of each Subassociation to enforce compliance with the Maintenance Obligations by the Individual Interest Owners subject to its jurisdiction.

4.2 Maintenance Standards. The Association Maintenance Areas and all other Areas required to be maintained by a Maintaining Party shall be maintained in conformance with the Community Standards and the Maintenance Manual described in Section 1.22 and in accordance with all of the obligations set forth in the Governing Documents. All Improvements shall be repaired or replaced with materials at least equal to the quality of the materials being repaired or replaced so as to maintain the architectural harmony of Westlake Entrada as a whole.

4.3 Responsibilities of the Association.

4.3.1 Areas to be Maintained. From and after the filing of a Plat Map for a portion of the Covered Property, the Association shall maintain and provide for the maintenance of the Association Maintenance Areas within the portion of the Covered Property shown on such Plat Map and any other areas specified for maintenance by the Association in a Supplemental Declaration in conformance with Community Standards and the Governing Documents and Community Entitlements. Without limiting the foregoing, the Maintenance Obligations of the Association shall include the Maintenance Obligations described below.

(a) Association Maintenance Areas. The Association shall maintain any Improvements within or comprising the Association Maintenance Areas including any lighting fixtures, electric boxes, pumps, irrigation systems, traffic signs, guard rails, transit shelter, outdoor furniture, plazas, public spaces, lakes, parks, artwork, outdoor games, fencing, utility boxes, way finding signs and other similar Improvements except any fixtures and equipment maintained by a Governmental Agency (e.g., utility boxes, fire hydrants, etc.).

(b) Association Access Roads. The Association shall maintain, repair, resal and replace all paved surfaces of Association Access Roads, Pedestrian Access Areas and any public streets and rights-of way included in the Association Property or Association Maintenance Areas in a smooth and evenly covered condition (including any lighting illumination thereof) which work shall include, without limitation, sweeping, resealing and; the Association shall clear and remove snow and ice and apply de-icing products (if necessary) as deemed appropriate by the Association from all Association Access Roads, Pedestrian Access Areas and any public streets and rights-of way included in the Association Property or Association Maintenance Areas. The Private Streets have been engineered for a useful life of at least thirty (30) years. Upon written notice delivered by the Town to the Association at anytime during the last five (5) years of the useful life of any Private Street that any or all of the Private Streets need to be replaced, the Association shall prepare a replacement plan for such Private Streets consistent with any requirements under the Association Maintenance Manual and commence implementation of same, and fund same using reserve funds established for Private Street maintenance as set forth in the Annual Budget.

(c) Litter Removal. The Association shall pick up litter within the Association Maintenance Areas and arrange for such litter removal from the Association Maintenance Areas and keep such litter in proper containers or compactors in places designated therefore until removed.

(d) Signage and Directional Signs/Markers. The Association shall install, clean, repair, replace and repaint any way finding signs and other Westlake Entrada Signage that are part of the Association Maintained Areas. The Association shall maintain the structure of any Westlake Entrada Monument Sign that are part of the Association Maintained Areas, but the Sign Panels shall be maintained in a clean and attractive condition by the Sign Parcel Beneficiary.

(e) Westlake Entrada - Plaza Mayor, Farmer's Market, Ricardo Bridge, and Retail Harbor. The Association shall maintain the Plaza Mayor, Farmer's Market, Ricardo Bridge, and Retail Harbor, and all other parks, open space and common area within the Association Maintenance Areas in a clean and litter-free condition. Following any event or promotions within the Association Maintenance Areas, the Association shall assess and levy a Special Benefit Area Assessment against the Commercial Owners for any and all costs and expenses incurred by the Association in connection with

cleaning and restoring the Association Maintenance Areas or such other portions of the Association Property used for such event or promotion, and the Association may, as a condition to such usage, require the Commercial Owners to pay to the Association a Special Benefit Assessment prior to such event or promotion as a condition to such usage based on an estimate of costs and expenses to clean and restore the Association Maintenance Areas after the conclusion of such event or promotion, as determined by the Board in its sole discretion.

(f) Landscaping Areas. The Association shall maintain all plants, trees, grasses, and irrigation systems in the landscaped areas within the Association Maintenance Areas (including fertilizing and irrigating as necessary) in a healthy and thriving condition, free from weeds, trash and debris and replace injured and diseased trees and other vegetation within the Association Maintenance Areas and ensuring the proper functioning of the irrigation systems for such landscaped area, which obligation to maintain shall specifically include, without limitation, the maintenance of all landscaped areas within the Front Yard Area (hereinafter defined) of any Parcel or Lot in the Covered Property. The "Front Yard Area" of any Parcel shall include all areas not behind a fence or wall or otherwise accessible from the right-of-way or open space areas adjacent to such Parcel.

(g) Shared Stormwater Drainage Facilities. The Association shall maintain the Shared Stormwater Drainage Facilities in good working order, free of debris and obstructions, and in accordance with all Applicable Laws and Governmental Requirements. The Association shall periodically inspect the Shared Stormwater Drainage Facilities to ensure the Shared Stormwater Drainage Facilities are properly functioning and are accepting and draining water in conformance with all Governmental Requirements.

(h) Shared Private Sewer Lines. The Association shall maintain the Shared Private Sewer Lines in good working order, free of debris and obstructions, and in accordance with all Applicable Laws and Governmental Requirements. The Association shall perform periodic inspection of the Shared Private Sewer Lines to ensure the Shared Private Sewer Lines are properly functioning.

(i) Surface of Improvements. The Association shall paint and to the extent necessary power wash and otherwise maintain all surfaces, fences, walls and equipment within the Association Maintenance Areas required to be maintained by the Association.

(j) Lighting. The Association shall maintain all lighting fixtures within the Association Property and Association Maintenance Areas (including, without limitation, replacement of bulbs) so that there is a uniform quality of maintenance and illumination within Westlake Entrada; provided, however, the Town shall be liable and responsible for the initial installation of lighting improvements that are included in PID Improvements, and the provision of electric service for such lighting in accordance with the terms of that certain PID Maintenance Agreement.

(k) Pedestrian Access Areas. The Association shall maintain all Pedestrian Access Areas in the Association Maintenance Areas in a smooth, level condition free of obstructions.

(l) Directional and Other Signage. The Association shall place and maintain upon or within the Association Maintenance Areas, such signs as the Board or Declarant may deem appropriate or as may be required by the Town or other Governmental Agencies for the proper identification, use and regulation of the Association Maintenance Areas and other areas within Westlake Entrada.

(m) Other Acts. The Association shall perform all such other and further acts which Board deems necessary to preserve and protect Westlake Entrada and the Association Maintenance Areas and the appearance thereof, in accordance with the general purposes specified in this Declaration and the other Governing Documents.

**4.3.2 Levels of Maintenance.** The Board shall be the sole judge as to the appropriate level of maintenance of all Association Maintenance Areas. The Declarant, and after the Declarant's Rights Termination Date, the Association Board, shall have the sole right to allocate maintenance responsibilities over portions of the Association Maintenance Areas to (a) a Subassociation, with the consent of the board of directors of such Subassociation or other Owners if the Association Board makes a determination based on the Association Board's business judgment as to what is in the best interests of Westlake Entrada, considering cost, uniformity or harmony of appearance, location and other factors deemed relevant by the Association Board, and/or (b) establish Special Benefit Areas for providing maintenance services to such Owners as provided in this Declaration. Such allocation of maintenance responsibilities may, but shall not be required to be designated in a Supplemental Declaration.

**4.3.3 Best Management Practices.** The Association shall comply with all best management practices established by any Governmental Agencies, the National Pollutant Discharge Elimination System, requirements adopted pursuant to the Federal Clean Water Act, and any other requirements of Governmental Agencies as they apply to the Association Maintenance Areas. The costs of such maintenance, if any, shall be treated as Common Expenses.

**4.3.4 Commencement of Maintenance Responsibilities.** Unless otherwise stated in an agreement with the Association and Declarant, or as otherwise specified in a Supplemental Declaration, the Association will be obligated to commence to maintain the Association Maintenance Areas upon the transfer or tender of responsibility of fee title to or an easement over the applicable Association Maintenance Area to the Association.

**4.4 Maintenance by Owners and Individual Interests.** Each Owner and Individual Interest Owners shall maintain or cause to be maintained ("Maintaining Owner"), those areas designated for maintenance below or in a Supplemental Declaration and Individual Interest Governing Documents, if any. In conformance with the Community Standards, except to the extent such areas are included within Association Maintenance Areas. To the extent an Owner is a Subassociation, the Subassociation shall perform or cause its Individual Interest Owners to perform all of the Maintenance Obligations described below.

**4.4.1 Buildings and Residences.** The Maintaining Owner shall maintain all Buildings and Residences in conformance with the Community Standards and maintenance of any other Improvements owned or subject to its jurisdiction including any lighting fixtures, electric boxes, pumps, irrigation systems, traffic signs, guard rails, transit shelter, outdoor furniture, plazas, public spaces, artwork, outdoor games, fencing, utility boxes, way finding signs and other similar Improvements except any fixtures and equipment maintained by a Governmental Agency (e.g., utility boxes, fire hydrants, etc.) or the Association.

**4.4.2 Paved Surface.** The Maintaining Owner shall repair, reseal and replace all paved surfaces of any access roads and any Pedestrian Access Areas which are not included in the Association Maintenance Areas in a clean, attractive and smooth (except where cobblestones or pavers are used, in which event cobblestones and pavers shall be maintained or replaced as necessary to remove any materially chipped or cracked cobblestones/pavers) and evenly covered condition (including any lighting illumination thereof) which work shall include, without limitation, sweeping, resealing and resurfacing, removal of snow and ice and the obligation to ensure that the access roads are maintained in a manner consistent with the maintenance of the Association Access Roads and the sidewalks and pathways within Westlake Entrada;

(a) **Removal of Trash.** The Maintaining Owner shall pick up litter and arrange for contracting for removal of all garbage, recycling, trash, pet waste, rubbish and other refuse within any exterior within the applicable Area not included in the Association Maintenance Areas, and keeping such litter in proper containers or compactors in places designated therefore until removed.

(b) **Landscaping.** The Maintaining Owner shall maintain of all plants, trees, grasses, and irrigation systems in the landscaped areas not included in the Association Maintenance

Areas (including fertilizing and irrigating as necessary) in a healthy and thriving condition, free from weeds, litter and debris and replacing injured and diseased trees and other vegetation within and ensuring the proper functioning of the irrigation systems for such landscaped areas. No Owner may construct, install, place or plant any hardscape or landscape improvements within such Owner's Front Yard Area without the prior express written consent and approval of the Association. Any hardscape or landscape improvements within an Owner's Front Yard that has not been approved by the Association pursuant to the terms hereof may be removed by the Association, at the Association's sole and absolute discretion, and the Association shall have no liability or responsibility to an Owner with respect to such removal or entry onto such Owner's Parcel in connection therewith.

(c) Lighting. The Maintaining Owner shall maintain all lighting fixtures not included in the Association Maintenance Areas so that there is a uniform quality of maintenance and illumination within Westlake Entrada.

(d) Walkways and Pathways. The Maintaining Owner shall maintain any walkways and pathways not included in the Association Maintenance Areas in a clean, attractive and smooth (except where cobblestones or pavers are used, in which event cobblestones and pavers shall be maintained or replaced as necessary to remove any materially chipped or cracked cobblestones/pavers), level condition and free of obstructions.

(e) Signs. The Maintaining Owner shall maintain all signs, including any Westlake Entrada Signage located on such Owner's Parcel and not otherwise maintained by Declarant, the Association or another Owner pursuant to the terms hereof, which may be located on the Owner's Parcel.

(f) No Obstructions to Stormwater and Sewer Systems. The Maintaining Owner shall maintain all improvements within its Parcel in such a manner as to prevent any obstructions to the Shared Private Stormwater Systems or Shared Private Sewer System or which would interrupt or adversely affect the Shared Private Stormwater Systems or Shared Private Sewer System.

(g) Other Areas. The Maintaining Owner shall maintain all other areas required to be maintained by the Governing Documents in conformance with the Community Standards under the Governing Documents or as may otherwise be necessary to preserve and protect the Areas and to ensure such areas are maintained in conformance with the Community Standards.

#### 4.4.3 Maintenance Deficiencies.

(a) Failure of an Owner to Maintain. If an Owner (including a Subassociation as to its Maintenance Obligations or the Maintenance Obligations of an individual Interest Owner), fails to perform its Maintenance Obligations hereunder or after commencing any Work fails to diligently prosecute such Work to completion within a reasonable time ("Non-Maintaining Owner"), the Association may provide to the Non-Maintaining Owner a written notice (the "Notice of Deficiency"), which shall briefly specify the conditions which the Association finds to be deficient, and request that such deficiency be cured within a period of time specified in such Notice of Deficiency. If the Association determines that such deficiency continues to exist at the end of the period of time specified in the Notice of Deficiency, the Association, at its option, may either: (a) enter on and accomplish the maintenance of such portion of the Parcel or individual interest that continues to be deficient; (b) contract with another party to accomplish such maintenance; or (c) seek any other remedy available at law or in equity including, without limitation, specific performance or an injunction to enforce the Non-Maintaining Owner's Maintenance Obligations provided herein. Any of the foregoing remedies may be employed at the option of the Association, and the failure to employ any of such remedies upon any occurrence giving rise to such remedies shall not be a waiver of the right to employ such remedies in connection with any other occurrence. To the extent the Association fails to enforce a Non-Maintaining Owner's Maintenance Obligations and an Owner ("Affected Owner") is directly and adversely affected by the failure of such Non-Maintaining Owner to perform its Maintenance Obligations, the Affected Owner may request that the Association take such actions to pursue its remedies hereunder. The Affected Owner shall notify the

Association and provide the Association with the opportunity to provide the Notice of Deficiency and/or exercise such cure rights. If the Association elects not to exercise such remedies and/or fails to take any actions within thirty (30) days after receipt of notice from such Affected Owner, then such Affected Owner may pursue the same remedies as provided above.

(b) Emergency Maintenance. Notwithstanding the foregoing, if the Association or the Affected Owner determines that any maintenance deficiency by an Owner or the Association constitutes an Emergency which requires action prior to the expiration of any cure period, the Association or the Affected Owner may take the actions provided for in this Section without a Notice of Deficiency being given in advance of taking such action, provided that as soon as reasonably practicable after taking the Emergency action the Association or the Affected Owner gives a Notice of Deficiency (without providing a cure period) to the Non-Maintaining Owner or the Association, as applicable. Any Affected Owner shall not, however, take any actions if the Association is taking actions to remedy the deficiency under this Subsection (c).

(c) Reimbursement. If the Association or pursuant to the provisions set forth above an Affected Owner elects to perform a Non-Maintaining Owner's Maintenance Obligations under the provisions set forth above, the reasonable costs of accomplishing such maintenance shall be the obligation of the Non-Maintaining Party or the Association, as applicable, and shall be reimbursed by the Non-Maintaining Party to the Association or the Affected Owner, or the Association to the Affected Owner (as applicable), within fifteen (15) days after receipt of a statement therefor with interest at the Applicable Rate accruing from the date such statement is delivered. If such amounts are not reimbursed when due, the Association may (on its own behalf or on behalf of an Affected Owner) levy a Compliance Assessment on behalf of itself or the Affected Owner. If the Association elects not to collect such amounts on behalf of the Affected Owner, then the Affected Owner may pursue any remedies available at law for collection of the amounts payable to such Affected Owner.

4.4.4 Damage Caused by Acts or Omissions of an Owner. Notwithstanding the obligation of the Association to maintain the Association Maintenance Areas, if the need for maintenance of such areas or facilities is caused by the acts or omissions of an Owner (or an individual interest Owner or any Permitted Users causes obstruction or damage to the Shared Stormwater Drainage Facilities or Shared Private Sewer Lines, the cost thereof shall be assessed as a Compliance Assessment to the responsible Owner or the Association may exercise any of its other remedies set forth herein. It shall be the responsibility of the Subassociation to seek such reimbursement from its individual interest Owners.

4.4.5 Duty to Protect Against Mechanics' Liens. In performing their respective Maintenance Obligations and Work as provided in this Declaration, the Association and each Owner, taking action on behalf of Individual Owners (for the purposes of this Section 4.4.4, the "Contracting Party", as applicable) shall promptly pay all costs, expenses, liabilities and liens arising out of or in any way connected with contracts for any service, labor or materials provided or supplied to the Project or the construction of any Project Improvements authorized or undertaken by the Contracting Party. The Contracting Party shall not cause or permit any mechanic's lien to be filed against any portion of the Project not owned by such Contracting Party for labor or materials alleged to have been furnished or delivered to the Project or any Parcel by the Contracting Party. If any Contracting Party causes or permits such a lien to be filed, such Contracting Party shall: (a) within ten (10) days after notice to such Contracting Party by the Association or other Owner(s) either cause the lien to be discharged or post a bond which protects the title of the affected Owners to their Parcel; (b) indemnify, protect, defend and hold harmless the other Owners, Declarant, Declarant Parties and/or the Association, as applicable, from any Claims by Contracting Party which may be filed against the Project or the other Owners or another Owner's Parcel for such work or services performed or materials supplied by any architect, engineer or contractor with whom the Contracting Party has contracted or any other Person acting directly or indirectly by, through or under such architect, engineer or contractor supplying services, labor, materials or equipment; and (c) pay all expenses actually incurred by the other Owners or the Association in connection therewith, including, without limitation, reasonable attorneys' fees and costs of defending against the foregoing Claims and any costs of enforcing this indemnity.



#### 4.5 Construction Deposit.

4.5.1 An Owner (other than Declarant), prior to commencement of initial construction of a Improvements or commencing construction work in, on, or within a Parcel shall pay to the Association a construction deposit in the amount of One Thousand and No/100 Dollars (\$1,000.00) (the "Construction Deposit"). The Construction Deposit shall be held by the Association until the construction work to be performed with regard to the applicable Improvements is completed, as evidenced by issuance of a final certificate of occupancy for such Improvements by the Town. The Association shall release the Construction Deposit to the applicable Owner, less any funds expended or reserved by the Association pursuant to this Section 4.5, within thirty (30) days of receipt of written notice from such Owner of completion of the construction work for the applicable Improvements and copy of a final certificate of occupancy issued by the Town therefor. Any Construction Deposits which are unclaimed within six (6) months of the completion of the construction work to be performed with regard to the applicable Improvements shall become the property of the Association; provided that an Owner performing construction work with regard to Improvements on more than one Parcel may elect to transfer such Construction Deposit being held by the Association from the account of the Improvements on one Parcel which have been completed to Improvements to be constructed on another Parcel.

4.5.2 Upon thirty (30) days' prior written notice to the constructing Owner with opportunity to cure, the Association may, without waiving any other remedy provided by this Declaration or by law, draw upon the Construction Deposit or withhold the release of the Construction Deposit as necessary to cover, among other things (i) the cost or anticipated cost to repair damage to the Association Maintained Areas caused by the Owner, its contractors, subcontractors, agents or employees performing the construction work with regard to the applicable Improvements, and (ii) the cost or anticipated cost to clean and restore the streets and storm sewer system improvements as may be required under the Storm Water Pollution Prevention Plan ("SWPPP") applicable to the Covered Property or applicable portion thereof. If any part of the Construction Deposit is applied by the Association, the responsible Owner shall, immediately upon demand, deposit with the Association a sum equal to the amount so applied in order to restore the Construction Deposit to its original amount.

### ARTICLE 5

#### VOTING RIGHTS AND MEMBERSHIP IN THE ASSOCIATION

*The Association will function as a corporate entity with Members who will participate in the governance of the various Areas. This Article describes the membership of the Association. Unless otherwise specified in a Supplemental Declaration, the Subassociation for any Area shall be the Members for such Area. This Article also establishes certain classes of voting membership. Voting rights are based upon the Allocable Share Allocations. Additional provisions regarding the procedures for elections to and meetings of the Board are set forth in the Bylaws.*

5.1 Membership. Each Owner shall be a Member of the Association except that Subassociation shall be the Member for any Area governed by such Subassociation.

5.2 Voting Membership. The Association shall have three (3) classes of voting membership.

5.2.1 Class A Member. The Class A Members shall be all Owners except Declarant and Guest Builders while the Class B voting is in effect. Each Class A Member shall have the votes described in Section 4. Each Class A Member will be entitled to a number of votes for the Areas represented by such Member equal to the Allocable Assessment Share for any Parcels or Condominiums against which Regular Assessments have commenced. The Declarant and the Guest Builders shall not be Class A Members, for so long as there exists a Class B membership.

5.2.2 Class B Member. The Class B Member shall be the Declarant who shall be entitled to one hundred (100) votes for each Allocable Share Allocation for any Areas or portions of an

Area owned by Declarant and Guest Builders in the Covered Property for which Regular Assessments have commenced. The Class B membership shall cease and be converted to Class A membership on the Declarant's Rights Termination Date.

**5.2.3 Class C Member.** The Class C Member shall be Declarant (whether or not Declarant is an Owner). The Class C membership shall not be considered a part of the voting power of the Association and Declarant shall not be entitled to exercise any Class C votes except for the purpose of electing a majority of the members of the Board in accordance with the provisions set forth below. The Class C Member shall be entitled to solely appoint a majority of the members of the Board. The Class C Membership shall terminate upon the Declarant's Rights Termination Date.

**5.3 Actions by the Association Board.** All actions by the Board shall be taken by majority consent except for those actions which require the consent of more than a majority of the Board under the Governing Documents.

**5.4 Voting Power.** Votes shall be allocated to the Members based upon the Allocable Assessment Shares allocated to an Assessed Area. Each Commercial Owner shall have a vote equal to its Allocable Assessment Share. Each Owner for a Residential Area shall have the votes specified on Exhibit "D". Member's votes shall be exercised by each Area's elected or appointed Area Representative serving on the Association Board who was elected or appointed by the Member's of such Area. For purposes of the Allocable Assessment Shares which are based upon Square Footage, any such determination of Square Footage shall be made by Declarant and shall be specified in the records of the Association and such determination shall be binding upon the Owners of Buildings within the applicable Commercial Areas provided that if Declarant determines, upon completion of a Building or thereafter, that there has been an increase or decrease in such Square Footage by more than five percent (5%), Declarant shall have the right, but not the obligation, to modify the Square Footage and adjust the Allocable Share Allocation by providing notice to the Association and the affected Owner of the Building. In determining Square Footage, Declarant shall be entitled to rely upon a projected or actual square footage which may or may not be consistent with measurements used for other purposes such as BCMA measurements and any determination by Declarant shall be conclusive as to the determination of the Square Footage and binding on the applicable Owner. No votes shall be attributed to an Area or portion thereof until such time as such Area is an Assessed Area and Regular Assessments have commenced against such Assessed Area.

**5.4.1 Members of Board.** The Board shall initially consist of three (3) individuals to serve as directors, and may be modified by a majority vote of the then current directors to consist of up to five (5) individuals to serve as directors, provided that in any event the majority of the directors shall be appointed by Declarant as a Class C Member for as long as Class C Membership exists. All other directors of the Association Board shall be appointed or elected by the Subassociation or Owners of each Area for which no Subassociation exists, as otherwise provided herein or in the Bylaws. The Association shall be entitled to rely upon any actions taken by an Area Representative for any Area. Upon termination of Class C Membership, the vacant positions on the Association Board held by appointees of Declarant shall be reduced so that only one (1) director is appointed by Declarant and directors to serve in any resulting vacant positions shall be appointed by a majority vote of the remaining directors on the Association Board; provided at least one (1) director shall be appointed by Declarant as long as Declarant or a Guest Builder owns any of the Covered Property or Annexable Property. The members of the Association Board shall otherwise be appointed or elected in accordance with the Bylaws.

**5.6 Declarant's Rights to Select Director.** In any election of Directors, so long as Declarant or a Declarant Party or a Guest Builder owns any of the Covered Property or the Annexable Property, the Board shall adopt special procedures to ensure that at least one (1) Director is selected by Declarant. A representative to the Board selected by Declarant pursuant to the provisions of this Section may be removed prior to the expiration of his or her term of office only with the prior consent of Declarant.

**5.6 Special Benefit Area Approvals.** Notwithstanding any other provisions of the Governing Documents, any action expressly for the benefit of or imposing an obligation only upon a

Special benefit Area, which requires a vote of the Members, shall require only the approval of the prescribed percentage of Voting Power within the Special Benefit Area.

5.7 Dissolution of the Association. If the Association as a corporate entity is dissolved, a non-profit unincorporated association shall, without further action or notice, be formed to succeed to all of the rights and duties of the Association. The affairs of such unincorporated association shall be governed by the Bylaws and this Declaration as if they were created for the purpose of governing the affairs of an unincorporated association.

5.8 Joint Owner Votes. The voting rights allocated pursuant to Section 5.2 may not be cast on a fractional basis. If the Joint Owners of a Parcel, or Individual Interest are unable to agree on an Area Representative pursuant to Section 5.4, they shall forfeit the vote on the matter in question. If any Area Representative exercises the voting rights of a particular Area or Individual Interest, it will be conclusively presumed for all purposes that such Area Representative was acting with the authority and consent of all other Owners of the same Area.

5.9 Board. The Board shall consist of the Directors described herein and in the Bylaws.

5.10 Authority of Subassociations. A Subassociation shall have the full power and authority, in accordance with its respective Individual Interest Declaration, to take any and all actions on behalf of, and to bind, the Individual Interest Owners subject to its jurisdiction. The Association shall not be liable to any Individual Interest Owner if the Association, acting in good faith, accepts any consent or approval by the Subassociation.

## ARTICLE 6

### POA ASSESSMENTS

*The Association will levy and collect various types of POA Assessments from the Owners to provide it with the funds it needs to perform its duties and obligations under this Declaration and Governing Documents and for such other purposes as provided in this Article. For any Areas with a Subassociation, it shall be the responsibility of the Subassociation to collect the Assessments from the Individual Interest Owners subject to the jurisdiction of a Subassociation. This Article describes the Assessments which can be levied by the Association, the procedures for collection of such Assessments and the rights and remedies if such Assessments are not paid when due. POA Assessments levied by the Association are not to be confused with PID Assessments levied by the Town and described in the Service and Assessment Plan and which are separate from POA Assessments and not governed by the Association.*

6.1 Creation of Obligation for Assessments. The Association shall establish, allocate, levy and collect the Assessments. Declarant hereby covenants, and each Owner of a Parcel or Individual Interest, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association all Assessments levied pursuant to the provisions of this Declaration against any Parcel or Individual Interest owned by the Declarant or such Owner, as applicable. All Assessments levied hereunder, together with any Additional Charges, shall be a charge on the land and shall be a continuing lien upon the Parcel or Condominium against which each such Assessment is made, the lien to be effective upon recordation of a notice of delinquent Assessments. Each such Assessment, together with any Additional Charges, shall also be the personal obligation of the Person who was the Owner of the Assessed Area at the time when the Assessment fell due and shall bind that Person's heirs, devisees, personal representatives, successors and assigns. Unlike the lien for non-delinquent Assessments, the personal obligation for delinquent Assessments shall not pass as a personal obligation to successive Owners unless expressly assumed by such successive Owner. No such assumption of personal liability by a successive Owner shall relieve any Owner against whose Parcel the Assessment was levied from personal liability for delinquent Assessments that were due during the prior Owner's period of ownership. If more than one Person was the Owner of a Parcel, the personal obligation to pay such Assessment shall be both joint and several. No Owner shall be

exempt from liability for Assessments by waiver of the use of any of the Association Property or Association Maintenance Areas by the destruction or abandonment of such Owner's Parcel. With respect to any individual interests for which a Subassociation has been formed, the Subassociation shall be responsible for the collection of the Assessments herein which obligation shall be an absolute obligation of the Subassociation, notwithstanding that an individual interest Owner may be delinquent in the payment of Assessments.

**6.2 Purpose of Assessments.** The Assessments levied by the Association shall be used to perform the obligations and duties of the Association and to undertake the powers of the Association under Governing Documents.

**6.3 Regular Assessments.** Regular Assessments ("Regular Assessments") shall be established when the Association approves the Annual Budget for that Fiscal Year, which Annual Budget shall be prepared in accordance with the provisions of this Declaration and the Governing Documents and Applicable Laws. Regular Assessments shall be calculated as provided in Section 6.8 below and shall be payable in monthly installments. Increases to Regular Assessments shall be subject to the limitations set forth in Section 6.9. A Guest Builder's obligation for such Regular Assessments may be reduced in accordance with the terms of any maintenance or subsidy agreement executed by a Guest Builder and the Association (with the prior consent of the Declarant). Declarant shall not be liable for any Regular Assessments for any portions of the Covered Property owned by it.

**6.4 Special Assessments.** If after the Assessment Commencement Date the Association determines at any time that the estimated total amount of funds necessary to fund the Common Expenses of the Association for a given Fiscal Year is or will become inadequate to meet Common Expenses for any reason or if funds are required for the construction or replacement of capital improvements or to fund any operating or reserve deficiencies, or if the Association elects to fund any deficit under the PID Maintenance Agreement with respect to the maintenance of PID Improvements, the Association may levy a special assessment ("Special Assessments") in order to raise funds, for such purposes or such other purposes as the Association in its discretion considers appropriate. Special Assessments shall be subject to the limitations set forth in Section 6.9. Declarant shall not be liable for any Special Assessments for any portions of the Covered Property owned by it.

**6.5 Special Benefit Area Assessments.** The Association may establish Special Benefit Area Assessments ("Special Benefit Area Assessments") for any expenses incurred in performing the Special Benefit Area Services. Special Benefit Area Assessments shall be levied to the Owners within a Special Benefit Area. Unless otherwise specified in a Supplemental Declaration, any Special Benefit Area Assessment charged for a particular item or service shall be levied uniformly to the Owners receiving the benefit of the particular maintenance or service provided by the Association. Declarant shall not be liable for any Special Benefit Area Assessments for any portions of the Covered Property owned by it.

**6.6 Compliance Assessments.** The Association may levy an assessment ("Compliance Assessment") against any Owner and any Subassociation (on behalf of any individual interest Owner) for (a) damage to the Association Maintenance Areas or other portions of Westlake Entrada which the Association or another Owner is obligated to maintain caused by such party or its Permitted Users, or (b) bringing such Owner or individual interest Owner and its Parcel or individual interest, as applicable, into compliance with the provisions of the Governing Documents. The Association may levy a Compliance Assessment if an Owner fails to pay such amount when due. Such Compliance Assessment may include all costs incurred by the Association in curing the default and all costs, including Additional Charges, expenses and fines related to the cure of the default by the Association. Declarant shall not be liable for any Compliance Assessments for any portions of the Covered Property owned by it.

**6.7 Assessment Types.**

**6.7.1 Assessment Allocations.** Regular Assessments shall be levied based upon the Allocable Assessment Shares. If a Parcel has multiple Allocation Formulas, the Allocable Share for the

Owners within such Parcel shall be calculated based upon all the Allocable Shares for the different uses within the applicable Parcel. The Association may levy some Regular Assessments to all Owners which shall be a "General Allocation" and certain Regular Assessments may be allocated to fewer than all of the Owners as determined by the Association which shall be a "Special Allocation" as provided in the Annual Budget.

**6.7.2 Special Benefit Area Assessments.** If any Special Benefit Areas are formed, the portion of the Regular Assessments budgeted exclusively to any particular Special Benefit Area in a Special Benefit Area Budget ("Special Benefit Area Assessment Component") shall be assessed solely to the Owners within the applicable Special Benefit Areas, based upon the Allocable Shares among all the Owners within the Special Benefit Area subject to such Assessments unless different Allocable Shares is otherwise specified by Declarant in a Supplemental Declaration.

**6.7.3 Other Assessments.** Special Assessments shall be allocated in the same manner as Regular Assessments. Compliance Assessments shall be levied directly to the Owners in a manner consistent with the provisions of this Declaration and the other Governing Documents.

**6.8 Commencement of Assessments.** Unless another date is determined by Declarant, Assessments shall commence against the Covered Property upon the conveyance of the first Parcel to an Owner by Declarant or the opening of the first business in the Covered Property, whichever is earlier ("Assessment Commencement Date"). In no event shall Declarant be liable for any Assessments on any portion of the Covered Property owned by it.

**6.9 Limitations on Increases to Assessments for Residential Areas.** Notwithstanding anything to the contrary set forth herein, the following limitations are imposed upon increases to the Regular Assessments and Special Assessments levied against the Residential Areas.

**6.9.1 Residential Area.** The total amount of the Regular Assessments and Special Assessments which may be levied against the Residential Areas shall be the Allocable Assessment Shares set forth on Exhibit "D". If any additional Residential Areas are annexed, the Allocable Assessment Share shall be set forth in a Supplemental Declaration for the Regular Assessments and Special Assessments shall be subject to increase on the Adjustment Date of the lesser of the increase in the CPI Index from the last Adjustment Date to the current Adjustment Date or two percent (2%) of the Allocable Assessment Share for the previous five (5) year period. As used herein, "Adjustment Date" for each Residential Area means the date which is five (5) years after the first conveyance of an individual interest to an Owner by a Guest Builder. The limitation set forth herein shall apply to all Regular Assessments and Special Assessments, regardless of whether the Regular Assessment or Special Assessment is attributable to a controllable cost or an extraordinary expense or an emergency expenditure.

**6.9.2 Compliance Assessments.** Notwithstanding the limitations set forth above, in no event shall there be any limitation on the right of the Association to levy a Compliance Assessment against the Owners within a Residential Area.

**6.10 Budgeting.** The Association shall prepare, approve and make available to each Member an Annual Budget, which shall be sufficient to cover all of the Common Expenses of the Association as provided under the Governing Documents. It shall be the responsibility of any Subassociation that receives the Annual Budget to provide a copy to the Individual Interest Owners within its jurisdiction and to collect the Assessments from its Individual Interest Owners payable to the Association as provided in this Declaration. The aggregate of the Common Expenses reflected on a Budget for a calendar year shall in no event exceed ten percent (10%) over the aggregate of the Common Expenses in the Annual Budget for the prior calendar year without the vote or written consent of the Members representing at least a Majority of the Voting Power of the Association.

**6.11 Notice and Assessment Installment Due Dates.** The due dates for the payment of Regular Assessments normally shall be the first day of each month unless some other due date is

established by the Association. The Association shall provide notice to the Owners of any increase to the Regular Assessments not less than thirty (30) days prior to the increase becoming due. The Association may require Special Assessments to be payable in one payment or in installments. The Association shall provide at least thirty (30) days' prior notice of any Special Assessment, which notice shall specify the date for the payment of such Special Assessments. In connection with the levy of any Compliance Assessment, the Board shall specify, in a notice provided by the Association to the Owner, the date for the payment of the Compliance Assessments (which shall be no later than fifteen (15) days after such notice is received by the affected Owner or Subassociation). Each installment of Assessments shall become delinquent if not paid within fifteen (15) days after its due date. Additional Charges shall accrue with each delinquent installment of Assessments until paid in full.

#### **6.12 Collection of Assessments by Subassociations.**

**6.12.1 Obligation of Individual Interests to Collect Assessments.** Each Subassociation shall have the obligation on behalf of the Association to collect Assessments levied against the Individual Interests under its jurisdiction from the Individual Interest Owners and to pay such Assessments to the Association. The Subassociation shall have the absolute obligation to pay such Assessments regardless of whether an Individual Interest Owner has paid the amounts allocable to such Individual Interest Owner by the Subassociation. Without limiting such absolute obligation to pay such amounts, the Subassociation shall have the obligation to pursue any defaulting Individual Interest Owner in accordance with the terms of the Individual Interest Declaration: If the Subassociation fails to pay the amounts levied hereunder, then the Association may exercise the rights set forth in Section 6.12 and its other rights set forth in Article 17. Each Subassociation formed to govern Individual Interests shall have the duty to cooperate with the Association and to undertake any actions reasonably agreed upon by the Association to ensure the timely and prompt payment of Assessments. The Subassociation shall have the obligation, upon request by the Association, to identify the names and addresses of the individual Interest Owners within the Subassociation's jurisdiction. The Association shall have the right to inspect the records of the Subassociation, including, without limitation, any records evidencing the collection efforts undertaken by the Subassociation.

**6.12.2 Election by Association to Collect Assessments.** At any time the Association may elect, in its sole discretion, including without limitation, a determination by the Association that the Subassociation is not performing its obligations under Section 6.13.2 to collect the Community Assessments from an Owner in lieu of having the Subassociation collect such Community Assessments, in which case the Owner shall pay such Community Assessments directly to the Association when due. The Association shall also have the right to collect the Assessments from some, but not all of the Owners. If the Association elects to collect the Assessments, the Association shall either provide notice to the Subassociation, which shall then provide notice to the Owners or provide notice directly to the Owners. Any such notice shall specify the date when the Association's election to collect the Assessments shall be effective, which date shall be no less than thirty (30) days after delivery of such notice.

#### **6.13 Collection of Assessments and Liens.**

**6.13.1 Right to Enforce.** The right to collect and enforce Assessments is vested in the Board acting for and on behalf of the Association. The Board may enforce the obligations of an Owner to pay Assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Association may foreclose by judicial proceedings or through non-judicial foreclosure proceedings pursuant to Section 6.13.5 enforce the lien rights created, except that in no event may the Association foreclose any lien imposed to collect any fines imposed by the Association. Suit to recover a money judgment for unpaid Assessments together with all other Additional Charges shall be maintainable without foreclosing or waiving the lien rights.

**6.13.2 Cooperation by Subassociations.** Each Subassociation shall have the duty to cooperate with the Association and to undertake any actions reasonably agreed upon by the Association to ensure the timely and prompt payment of Assessments. The Subassociation shall have the obligation, upon request by the Association, to identify the names and addresses of the Owners within the

Subassociation's jurisdiction and to inspect the records of the Subassociation, including, without limitation, any records evidencing the collection efforts undertaken by the Subassociation.

6.13.3 Delinquent Assessments. In collecting delinquent Assessments, the Association shall comply with the requirements of Texas law.

6.13.4 Creation of Lien. If there is a delinquency in the payment of any Assessment or installments of Assessments, any amounts that are delinquent, together with any Additional Charges, shall be a lien against the relevant Assessed Area upon the recordation in the Official Records of a notice of delinquent Assessment ("Notice of Delinquent Assessment") as provided in, and subject to the requirements of Applicable Laws.

6.13.5 Continuing Right of Association. If the Association has exercised its rights under Section 6.13.2 of this Declaration to collect Assessments, then in addition to any other rights provided for hereunder by the Association, the Association shall have the right to file a lien on an Owner's Parcel or Individual Interest as provided for herein.

6.13.6 Notice of Default; Foreclosure. If the Association is entitled to file a lien as provided above, the Association may record a Notice of Delinquent Assessment against the delinquent Parcel (and with respect to any particular Individual Interests, such Parcel certified by the applicable Subassociation as delinquent, provided that the Subassociation shall not be relieved of its obligation to pay Assessments to the Association pursuant hereto) and can enforce the lien and may cause the Parcel or Condominium with respect to which a Notice of Delinquent Assessment has been recorded to be sold either in the same manner as a sale is conducted under judicial or nonjudicial foreclosure in Texas. The Association, acting on behalf of the Owners, shall have the power to bid upon the Parcel or Subassociation at foreclosure sale and to acquire, hold, lease, mortgage and convey the Parcel or Individual Interest and vote as an Owner of the Individual Interest. With respect to any Individual Interest, the Association shall file any notices and pursue any liens against the delinquent Individual Interest Owner and exercise its lien and other powers provided under the Individual Interest Declaration. If the Subassociation fails to take such action, the Association, may file such notices and pursue such liens or may exercise any other remedies provided for herein as a result of a breach of the obligations hereunder. The foregoing shall in any event be subject to any notice, hearing or alternative resolution procedures as may be required by applicable law now or hereafter.

6.13.7 Application of Payments. Any payments of sums due under this Article shall first be applied to Assessments owed by the Owner making such payment, and only after Assessments owed by such Owner have been paid in full shall the payments be applied to Additional Charges owed by such Owner. If any Owner requests a receipt after payment of a delinquent Assessment, the Association shall provide a receipt which sets forth the date of payment and the Owner who made such payment.

6.14 Additional Charges. In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any Assessments, each Individual Interest and each Owner agrees to pay Additional Charges incurred or levied by the Association.

6.15 No Offsets. All Assessments shall be payable in the amounts of the particular Assessment and no offsets against such amounts shall be permitted for any reasons, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance, operation or enforcement.

6.16 Personal Liability of Owners. No Owner (other than Declarant) may exempt itself, himself or herself from personal liability for Assessments, nor any part thereof, levied by the Association, by waiver of the use of the Association Property, the Association Maintenance Areas and/or facilities thereof, or by abandonment of such Owner's Parcel or Individual Interest.

6.17 Subordination of Lien to First Mortgage. The lien of Assessments herein shall be subordinate to the lien of any First Mortgages as provided in Article 12 below.

6.18 Transfer of Property by an Owner. After transfer or sale of a Parcel, the selling Owner shall not be liable for any Assessment levied on such Owner after the date of such transfer of ownership and written notice of such transfer is delivered to the Association. The selling Owner shall still be responsible for all Assessments and charges levied prior to any such transfer.

6.19 Failure to Fix Assessments. The omission by the Board to fix the Assessments hereunder before the expiration of any Fiscal Year, for that or the next Fiscal Year, shall not be deemed either a waiver or modification in any respect of the provisions of this Declaration or a release of a Subassociation, or any Owner from the obligation to pay the Assessments or any Installment thereof for that or any subsequent Fiscal Year, but the Assessment fixed for the preceding Fiscal Year shall continue until a new Assessment is fixed.

6.20 Exemption of Declarant. Notwithstanding anything to the contrary contained herein, the Assessments set forth in this Article shall not apply to Declarant or any Declarant Party with respect to any portion of the Covered Property owned by Declarant or any Declarant Party; provided, however, the Declarant shall subsidize any liabilities incurred by the Association (up to an amount not exceeding the total Assessments that otherwise may be allocated to the portions of the Covered Property owned by Declarant and/or such Declarant Party) as long as Declarant has the right and authority hereunder to appoint a majority of the members of the Board, and the Declarant may, but is not obligated to, lend funds to the Association to enable it to defray Common Expenses, provided the terms of such loans are on reasonable market conditions at the time. After the Declarant no longer has the right and authority hereunder to appoint a majority of the members of the Board, the Declarant shall pay all Assessments levied pursuant to the provisions of this Declaration against any Parcel owned by the Declarant.

## ARTICLE 7

### USE RESTRICTIONS

*Since Westlake Entrada may consist of many divergent Areas including residential, commercial, civic, hospitality, hotel and retail and transportation, it is important to establish use restrictions. While the use restrictions may limit the rights to perform certain activities within Westlake Entrada, the use restrictions covenants are also intended to protect Westlake Entrada and therefore provide a benefit to all of Westlake Entrada. Other use restrictions may be established under Individual Interest Governing Documents. The Association shall have the right and power to also enforce these restrictions for the benefit of all Parcels within the Covered Property. No uses may be approved by the Association which conflict with the PID Service and Assessment Plan, and Ordinances #703, #720, #758, #760 and Resolution 13-34*

#### 7.1 Restrictions Applicable to All the Covered Property.

7.1.1 Restrictions Applicable to all of the Property. The following restrictions shall be applicable to all of the Covered Property. It shall be the obligation of each Subassociation to enforce compliance by its Individual Interest Owners of the Governing Documents, including without limitation, the restrictions set forth in this Article 7, and each Individual Interest Owner, in acquiring title to a Parcel or Condominium is taking subject to the covenants and restrictions set forth in the Governing Documents and this Article 7. For purposes of this Article 7, each Individual Interest Owner is obligated to comply with all of the obligations and restrictions set forth herein and the Subassociation having jurisdiction over the Individual Interest Owner shall enforce compliance with such restrictions.



7.1.2 Compliance With Applicable Laws and Entitlement. All Owners shall comply with all Applicable Laws and Governmental Requirements.

7.1.3 Insurance Requirements. No Subassociation shall do anything that would materially increase the premiums of any policy of insurance maintained by the Association or any Owner or would render any portion of Westlake Entrada required to be insured by the Association uninsurable, or create any valid defense to the Association's right to collect insurance proceeds, or cause any insurance policy to be cancelled, or cause a refusal to renew the same.

7.1.4 Hazardous Materials. No Owner shall release, generate, use, store, dump, transport, handle or dispose of any Hazardous Materials within the Property in violation of Environmental Laws or otherwise permit the presence of any Hazardous Material on, under, or about the Parcels in violation of Environmental Laws. If Hazardous Materials are released within the Property in violation of any Environmental Laws and such release occurred as a direct or indirect result of an Owner's or such Owner's Permitted Users' use, handling, storage or transportation of such Hazardous Materials, such Owner shall be solely responsible and liable for the prompt cleanup and remediation of any resulting contamination and will indemnify, protect, defend and hold the Declarant, the Declarant Parties and Association and other Owners harmless from any and all Claims suffered by or incurred by such parties, except to the extent caused by the Declarant, the Association or any other Owner.

7.1.5 Emissions. No use shall be permitted on or within any Area which: (a) emits unreasonable amounts of dust, debris, dirt, cinders, fumes, odors, radiation, gases, or vapors; (b) discharges contaminated liquid or solid wastes or other toxic, noxious or harmful matter into the atmosphere or any Utility Facilities which may adversely affect (i) the health or safety of persons or (ii) the use or enjoyment of the Covered Property or any part thereof; or (c) discharges waste or any substance or materials of any kind into any public sewer serving the Covered Property or any part thereof in violation of any Applicable Laws.

7.1.6 Garbage and Refuse Disposal. All rubbish, trash, garbage and recycling shall be regularly removed or cause to be removed from the Covered Property, and shall not be allowed to accumulate. All trash shall be fully contained within appropriate trash receptacles and/or recycling containers. Before deposit in the garbage, trash refuse and recycling collection facilities, all trash, garbage, recycling and other waste shall only be kept in clean and sanitary containers. Each individual interest and each Owner shall comply with all recycling requirements imposed by the Association or the Town and other Governmental Requirements.

7.1.7 Antenna Restrictions. No Owner shall install any antenna, satellite dish, or other over-the-air receiving device ("Antenna") (a) on any real property which such Owner is not entitled to exclusively use or control, as provided in Title 47 U.S.C. §§ 1, et seq., 47 CFR § 1.4000 and any other Applicable Laws promulgated with respect thereto (collectively "Antenna Laws"), (b) in a particular location if, in the opinion of the Association, the installation, location or maintenance of such Antenna unreasonably affects the safety of the Owners or any other Person, or for any other safety-related reason established by the Association, or (c) that is of a size larger than is permitted under the Antenna Laws. If an Owner is entitled to install an Antenna under the foregoing requirements, such Owner shall provide the Association Board with written notice that such Owner intends to install the Antenna and provide evidence of compliance with the foregoing requirements. If an Owner desires to install an Antenna, other than as described in (a) through (c) above, such Owner may do so only upon the prior approvals pursuant to Article 8. The Association shall not impose or enforce any restrictions upon Antennae that are inconsistent with the Antenna Laws.

7.1.8 Signs. Except for signage approved by Declarant or a Declarant Party, all signage, and advertising devices or other displays shall be displayed in conformance with the Westlake Entrada Signage Program, if any, and in conformance with any applicable Governmental Requirements. Notwithstanding the foregoing, Declarant (and to the extent approved by Declarant, each Guest Builder) shall have the right to display signs and other marketing displays as set forth in Article 9 and no approvals shall be required for the placement of such signs and other displays.

**7.1.9 General Parking, Loading and Vehicular Restrictions.**

(a) **Restricted Vehicles.** No vehicle shall be parked on any portion of the Association Access Roads or Individual Interest Access Roads other than within designated parking spaces or within other areas designated for parking. No Person shall park, store or keep any operable or inoperable commercial vehicle bearing commercial signs, lettering or equipment, unless in compliance with any permit program established by the Association, or dump truck, cement mixer truck, oil or gas truck, camping trailer, boat, aircraft, mobile home, recreational vehicle, motor home or any other similar vehicle, except within an enclosed Building or garage or for temporary loading or unloading of such vehicles in conformance with the Association Rules or, except in connection with the construction of Improvements. The Association Rules may further define the permitted and prohibited vehicles. No Person shall conduct repairs, restoration, or painting of any motor vehicle, boat, trailer, all-terrain vehicles (ATV), unmanned aerial vehicles (UAVS), aircraft or other vehicle upon any exterior portion of Westlake Entrada unless otherwise authorized by the Association. No parking shall be permitted which may obstruct free traffic flow, constitute a nuisance or otherwise create a safety hazard. Declarant, in its sole and absolute discretion, or the Association (with the consent of the Declarant until the Declarant's Rights Termination Date) may waive in writing all or any portion of the provisions of this Section. No vehicles used for advertising may be parked within the Association Access Roads or any portion of the Covered Property if such vehicles are parked for the purpose of advertising without the consent of the Declarant until the Declarant's Rights Termination Date and thereafter the consent of the Association.

(b) **Loading Facilities.** Unless approved pursuant to Article 8, all loading and unloading shall be performed on the Parcel of such Owner, unless a Parcel does not include a loading and unloading area, in which case an Owner may load and unload or allow its Occupants to load and unload within areas delegated for such loading and unloading by the Association and any affected Individual Interest. All Owners shall comply with any Association Rules relating to the loading and unloading of vehicles.

(c) **Parking Spaces.** Owners shall only park vehicles within designated parking spaces within the Association Property and Association Maintenance Areas.

(d) **Recreational Vehicles.** No recreational vehicles or ATVs or boats may be parked or stored within the Covered Property (except for temporary loading or unloading) except if used in conjunction with the Association activities or events as approved by the Declarant (until the Declarant's Rights Termination Date) and thereafter approved by the Association.

**7.1.10 Oil and Mineral Rights.** Except with respect to the Gas Well Pad Site and any existing rights of the holders of any interest in the oil, gas and/or minerals related to the Covered Property as of the date hereof, no oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any portion of the Covered Property nor, subsequent to the recording of this Declaration, shall oil wells, tanks, tunnels, or mineral excavations or shafts be installed upon the surface of any portion of the Covered Property or within five hundred feet (500') below the surface of such portion of the Covered Property. Except with respect to the Gas Well Pad Site and any existing rights of the holders of any interest in the oil, gas and/or minerals related to the Covered Property as of the date hereof, no derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon any portion of the Covered Property.

**7.1.11 Responsibility for Damage to Association Property or Association Maintenance Areas.** No Owner shall cause any damage to the Association Maintenance Areas. Should any Owner or the Individual Interest Owner or their respective Permitted Users cause any damage to sidewalks, curbs or other rights-of-way, or to any Association Maintenance Areas, the Association or the Declarant shall have the right to (a) either repair such damage on behalf of the Owner or Individual Interest Owner and charge the cost thereof to the Owner as a Compliance Assessment or (b) require the Owner or Individual Interest Owner to promptly and fully repair such damage at the Owner's or Individual Interest Owner's expense. In the event such damage is repaired by the Association or Declarant, the Owner shall immediately reimburse the Association for the full costs of repair. Each Owner and

Subassociation shall be liable to the Association and the other Owners and Subassociators, including Declarant, for any damage to any of the Association Property and Association Maintenance Areas that may be sustained by reason of the negligence of that Owner or Individual Interest Owner or its Permitted Users or Individual Interest Owners. It shall be the responsibility of each Subassociation to collect any amounts owed hereunder from its Individual Interest Owners.

**7.1.12 Temporary Structures.** No trailer, mobile home, tent, shack or other outbuildings shall be kept within the Covered Property, except (a) in connection with construction (b) any tents or temporary structures associated with any events sponsored by or authorized by the Association, the Declarant, or the applicable Subassociation or Owner and (c) storage sheds which conform to the Governing Documents.

**7.1.13 Established Drainage and Use of Shared Private Stormwater Systems and Shared Private Sewer System.**

(a) **Established Drainage.** There shall be no interference with the established drainage within the Covered Property unless adequate provisions have been established for proper drainage which is approved by pursuant to Article 8. "Established Drainage" is defined as the drainage which existed at the time the final grading and the drainage improvements were originally completed by Declarant or an Owner in conformance with plans approved by the Town. "Established Drainage" refers to both surface drainage and subsurface drainage, if any. No Owner shall modify or alter the established drainage in a manner which will impair or prevent any surface drainage which drains into the Shared Private Stormwater Systems from draining into such Shared Private Stormwater Systems or any other drainage systems within the Covered Property. Any Subassociation or Owner or Individual Interest Owner that changes the established drainage shall be responsible for any damages which might result.

(b) **Obstruction and Interference with Sewer and Storm Drain Systems.** No Owner or Individual Interest shall cause any obstructions or blockage of the Shared Private Stormwater Systems and the Shared Private Sewer Systems.

(c) **Stormwater.**

(i) **Compliance With Requirements Regarding Storm Water Pollution.** The National Pollutant Discharge Elimination System ("NPDES"), the Federal Clean Water Act, and the policies and ordinances of the Town prohibit, with minor exceptions, discharging anything other than natural storm water into storm drain systems, which include gutters and streets which drain into storm drains, and naturally occurring water flows, channels, stream beds, and canyons. The Association, Owners and the Individual Interest Owners shall not dispose of any substance into the Shared Private Stormwater Systems or any other stormwater facilities within the Covered Property that will cause a violation of Applicable Laws and Governmental Requirements. Solid waste, garbage, rocks, sand, lawn clippings, yard waste, detergents, pet waste, toxic chemicals, fertilizers, or hydrocarbon compounds (including, without limitation, gasoline, motor oil, antifreeze, solvents, paints, paint thinners, and wood preservatives) and any other such materials or pollutants shall not be discharged into any street, public or private, gutters, or into storm drains or storm water conveyance systems. Disposal of such pollutants and materials into a storm drain system may result in significant penalties and fines and that the Association, and each Owner and Individual Interest Owner may be responsible for any activities by their respective contractors (e.g., painters, landscapers) who dispose of such pollutants into a storm drain system. Use and disposal of all toxic chemicals, hydrocarbon compounds, pesticides, fungicides, herbicides, insecticides, fertilizers, and other such chemicals shall meet all federal, state, and Town requirements and requirements of any other Governmental Agencies having jurisdiction over the Covered Property. All such materials shall be stored in a way that prevents their contact with storm water. All Owners and Individual Interest Owners and the Association are required to comply with the foregoing restrictions and should consult with the Town and other Governmental Agencies concerning the proper storage, use, and disposal of any Hazardous Materials. Dumping any such materials into sewers, gutters or storm drains is a violation of Applicable Laws.

(ii) Storm Water Pollution Prevention and Best Management Practices. All landscaping shall be maintained in a manner that will prevent soil erosion and minimize sediment transport. There shall be no blowing, sweeping, hosing or otherwise causing any debris or erosion to enter the streets, storm drains or other drainage conveyances. To the extent that the Declarant has installed any erosion protection devices (e.g., sandbags), such devices shall not be removed unless and until all landscaping has been installed, and has been sufficiently grown so as to prevent soil erosion and transport of any sediment. Except when disposing of trash, all trash receptacles shall be covered and closed at all times. The Association and the Owners shall comply with all applicable best management practices and perform all maintenance that may be imposed by the water quality management plan(s) that may affect the Covered Property. The costs of the Association's portion of such maintenance and compliance with such requirements shall be treated as Common Expenses.

**7.2 Use Restrictions Applicable to the Residences.** The following restrictions shall apply to the Residential Areas and the Residences located therein.

**7.2.1 Occupancy.** Each Residence shall only be used as a Residence and for no other purpose. An Owner may rent or lease a Residence provided that the Residence is rented pursuant to a lease or rental agreement that is (a) in writing and (b) expressly made subject to all of the provisions of this Declaration and the other Governing Documents. Every lease or rental agreement for a Residence in the Covered Property shall state that a Lessee's failure to comply with the Governing Documents shall be a default under such Lease. No Owner may lease such Owner's Residence for hotel, motel or transient purposes. Any lease which is either for a period of fewer than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel, shall be deemed to be for transient or hotel purposes. Any Owner who shall lease his or her Residence shall be responsible for assuring compliance by such Owner's Lessee.

**7.2.2 Business or Commercial Activity.** No Residence may be used for any business, commercial, manufacturing, mercantile, storage, vending or other nonresidential purposes, including without limitation any activity for which the provider is compensated or receives any consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license. This Section does not preclude any of the above-described activities without external evidence thereof, provided that: (a) such activities are conducted in conformance with all Applicable Laws and; (b) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside the boundaries of the Building. The foregoing restrictions shall not apply to any leasing and sales offices operated by the manager of a Subassociation, or (c) an investor/owner engaged in the sale of Residences.

**7.2.3 Signage within Residential Areas.** No sign, advertising device or other display of any kind shall be displayed within the Residential Areas, except for the following:

(a) entry monuments, community identification signs, and traffic or parking control signs maintained by the Owner or Individual Interest;

(b) for each Individual Interest, one (1) nameplate or similar Owner name or address identification which complies with the Design Guidelines;

(c) for each Individual Interest, one (1) sign advertising the Individual Interest for sale or lease that complies with the following requirements:

(i) The sign is a reasonable size; and

(ii) The sign is in compliance with the Design Guidelines, the Westlake Entrada Signage Program, if any, or is otherwise authorized by the Design Review Committee;

- (d) noncommercial signs to the extent permitted under the Design Guidelines; and
- (e) such other signs or displays authorized by the Board of Directors.

In addition to the foregoing, all signs must comply with all Applicable Laws. Notwithstanding the foregoing, Declarant shall have the right to display signs as set forth in Article 10 of this Declaration.

**7.2.4 Installations.** Projections of any type are not permitted above the roof of any Residences, Buildings or other Improvements, except chimneys, vent stacks and air conditioning units originally installed by Declarant or otherwise approved in writing pursuant to Article 8. No patio cover, awning, bay window, wiring, or air conditioning fixture, water softeners, or other devices may be installed on the exterior of a Residence or be allowed to protrude through the walls or roof of the Residence, other than those items installed during the original construction of the Residence, Building or other improvement or otherwise approved in writing pursuant to Article 8.

**7.2.5 Balconies and Decks.** No spas, jacuzzis or other water features shall be permitted in any balcony or deck area originally installed by Declarant or Guest Builder, or otherwise approved in writing pursuant to Article 8. All furniture within a balcony or deck area shall be maintained in a clean and attractive condition. Nothing shall be hung from or attached to any balconies or deck or railings enclosing such balconies or decks. Furniture, furnishings, umbrellas, planters, equipment and other materials kept or stored on any balcony or deck area shall be of a neutral color harmonious with and not in conflict with the color scheme of the exterior walls of the Building. No Owner shall use any balcony or deck areas for storage purposes, including, without limitation, the storage of bicycles.

**7.2.6 Animals.** No livestock, constrictor or poisonous reptiles, or poultry shall be kept, maintained, or bred in any Residence. Dogs and cats may be kept in reasonable numbers, provided such animals are not kept, bred or raised for commercial purposes. The dog prohibition shall be extended to any dog which demonstrates a propensity for aggressive behavior. It shall be the obligation of each Subassociation to enforce these dog breed restrictions. Notwithstanding the foregoing, the Association Rules may further limit or restrict the keeping of such pets. The Association shall specifically have the power to prohibit the keeping or maintenance of any animal, which, in the opinion of the Board, is deemed by the Board to constitute a nuisance (which includes without limitation any nuisances associated with barking, smells or as a result of the dangerous nature of the animal) to any other Owner in the sole and exclusive opinion of the Board. Each person bringing or keeping a pet within the Covered Property shall be absolutely liable to other Owners and their Permitted Users for any damage to persons or property caused by any pet brought upon or kept upon the Residential Property by such person or by his or her Permitted Users. Each Owner shall clean up after such animals that have deposited droppings. The Association shall have the right to enforce the requirement for pet waste cleanup by imposing fines with pet owners found to violate this provision. Animals belonging to Owners or Permitted Users of any Owner must be kept within an enclosure or on a leash held by a person capable of controlling the animal when outside the Residence. Animals shall not be left unattended on any balconies, patios or yards.

**7.2.7 Unsightly Articles: Outside Drying and Laundering.** No unsightly articles shall be permitted to remain within any Residence so as to be visible from any other portion of Westlake Entrada. No clotheslines shall be installed on the exterior areas of a Residence in such a manner as to be visible from any portions of the Covered Property. No clothing or household fabrics shall be hung, dried or aired outside any Residence and no lumber, grass, shrub or tree clipping or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate within the exterior areas of any Parcel or Condominiums, except within an enclosed structure or container or otherwise appropriately screened from public view. Composting and capturing rainwater will be allowed so long as contained and enclosed in containers in conformance with the Design Guidelines, the other Governing Documents and any Individual Interest Governing Documents. Bicycles must be stored inside buildings or in approved bike racks within Westlake Entrada. Bicycles may not be locked to trees or street signs. The Association retains the right to remove bicycles from public spaces within the Covered Property.

7.3 Use Restrictions Applicable to Commercial Areas. The following restrictions shall apply to any Commercial Areas within the Covered Property.

7.3.1 Prohibited Uses. No portion of any Commercial Areas within the Covered Property shall be used for any of the following purposes:

- (a) Except for materials stored within the Gas Well Pad Site in compliance with all Applicable Laws and as necessary for the permitted drilling, production, storage and/or development of the oil, gas and other minerals from such Gas Well Pad Site, the storage or sale of explosives or fireworks;
- (b) Any distillation or refinery facility (except that a microbrewery or distillery for wines or spirits in connection with a wine bar or other spirits bar shall be permitted);
- (c) Any betting facility;
- (d) Any indecent or pornographic uses, adult bookstore, peepshow store, or any other similar store or club; and any business devoted to sale of articles and merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine or other controlled drugs or substances; provided, however, that the restriction does not apply to the sale of any book or magazine that would otherwise be restricted hereby by a place of business selling a general range of books or the sale or rental of any movies or other media by a place of business selling or renting a general line of movies or other media; provided further that the restriction does not apply to the sale of controlled substances and related supplies by prescription or for health and medical purposes by a nationally recognized retail pharmacy (i.e. CVS Pharmacy or Walgreens);
- (e) Any massage parlor except that this restriction is not intended to cover any day spas, any spas which are ancillary to a use otherwise permitted hereunder (e.g., spas in hotels, residential buildings, etc.) or to stores offering massages operating in a manner similar to a Massage Envy;
- (f) Any tattoo parlors or body piercing business;
- (g) Any business which primarily operates as a check cashing facility;
- (h) Any pawn shop;
- (i) Any commercial laundromat or dry cleaning facility or store, except that laundry facilities in connection with a gym or residential use and "drop off" for dry cleaning (so long as the actual dry cleaning is conducted at a site outside the Project) shall be permitted;
- (j) Any automobile body shop or repair operation, including automobile servicing or repair work (e.g., oil change, tire change, body or paint shop, tune up, brake or muffler service);
- (k) Any gasoline station, automobile service station or truck stop;
- (l) Any mortuary, crematorium or funeral home;
- (m) Any storage, display, sale or leasing of new or used trucks, recreation vehicles, mobile homes or large recreational boats (but not including display, sale or leasing of small water crafts such as canoes and kayaks), used car lots, or any sales or leasing of new or used trucks, recreation vehicles or mobile homes within any exterior portion of the Property, or any rental car facility or

storage, display or sale of new cars with more than twenty (20) spaces for vehicles in a surface parking lot provided this restriction shall not apply to zip cars, flex cars or similar car programs;

(n) Any second hand store, surplus store or fire sale, bankruptcy sale (unless pursuant to a court order), auction house (other than upscale auction houses) or similar merchandise liquidation operation, provided that outlet stores, antique stores, high quality secondary merchandise stores, and the second-hand sale of books, records, videos, compact discs, computer hardware and software, clothing, and sporting goods, such as, by way of example only, "Kid-to-Kid," "Play It Again Sports" or "Tuesday Morning," shall be allowed;

(o) Any veterinarian or veterinary hospital (except that this prohibition shall not prohibit pet shops/stores even if such pet shop/store provides boarding services, a pet "day care," and/or veterinary services);

(p) Any manufacturing, industrial, warehouse, processing, rendering, distilling (except to the extent permitted under Section 7.3.1(b), refining or smelting facility, except for any manufacturing activities associated with a retail use, such as, by way of example only, "Build-a-Bear" or a paint your own pottery use; and

(q) Any excessive quantity of dust, dirt, or fly ash; provided, however, this restriction (u) does not apply to any construction within the Property performed in accordance with the requirements of this Declaration.

**7.3.2 Venting for Restaurant Use.** Any fuel, gas or other substances used in the operation of a restaurant or the preparation of food and beverages within the Property must be vented through a venting system approved pursuant to Article 3 which is in compliance with all Applicable Laws. Any fire or other hazardous gas used in the operation of a restaurant or the preparation of food and beverages must be used in compliance with all Applicable Laws.

**7.3.3 Unoccupied or Refurbished Areas.** During any period that a space within a Building is unoccupied, the Owner shall take such reasonable steps as required by Declarant or by the Board to keep those portions of the Project visible from public areas or any other portions of the Property from appearing abandoned. Such reasonable steps shall include, without limitation, the installation of neutral screens or shades, in conformance with any requirements of the Town and the Design Guidelines and maintaining such portion of the Project free of stored materials, clean and otherwise in a condition such that it is not readily apparent that business is not being conducted therein.

**7.3.4 Signs.** Except for signage approved by Declarant or otherwise approved pursuant to Article 8, all exterior signage and exterior advertising devices or other displays within the Commercial Areas shall be approved in accordance with the provisions of Article 8.

**7.3.5 Gas Well Pad Site.** The use and operation of the Gas Well Pad Site must be in conformance and in compliance with all Applicable Laws.

**7.3.6 Teatro Merida.** The Teatro Merida shall be operated and used as a amphitheater for live performances, special events and ancillary uses, as may be permitted under any and all Applicable Laws and subject to any permitting requirements of the Town.

#### **7.4 Construction Work.**

**7.4.1 Performance of Work.** All Work, including the initial construction of any Buildings and any Work after the initial Construction Work, shall be performed (a) during the time frames permitted in the Design Guidelines and in a manner that does not unreasonably impair or unreasonably interfere with the use, operation, occupancy or enjoyment or ingress to and egress from any portion of Westlake Entrada or any Improvements located thereon by any other Owner or its Permitted Users; (b) in

a good and workmanlike manner; (c) in conformity with this Declaration and all Governmental Requirements; (d) in a manner so that all safety measures reasonably required to protect the Association, the Owners and their respective Permitted Users from injury or damage that may be caused by or result from such Construction Work are taken; (e) so as not to cause any unreasonable construction on any portion of the Project through the placement or operation of any equipment, construction materials, debris or loose dirt related to such Work; and (f) in accordance with plans and specifications approved pursuant to the terms of Article 8. Upon commencement of any Work, the Owner shall diligently pursue the Work to completion. Any damage occurring to any portion of the Project as a result of Construction Work shall be the responsibility of the Owner performing such Construction Work or causing such Construction Work to be performed and shall be repaired by such Owner promptly upon the completion of such Construction Work, at such Owner's sole cost and expense, to the same condition as existed immediately prior to such Work.

**7.4.2 Fencing Off Construction.** Unless otherwise waived by the Association, any Person undertaking any Work shall, at its sole cost and expense, fence off or cause to be fenced off any Work performed by such Person on any Parcel, provided, however, that no fencing off shall prevent the ingress, egress and access by other Owners or their Permitted Users from their Parcels to the adjacent streets serving the Project. Fencing shall be of such a material and of such a height as is reasonably necessary to protect existing Improvements in the Property from unreasonable dust, debris, and other inconveniences occasioned by such Construction Work and to protect the Owners and their respective Permitted Users from safety hazards resulting from such Construction Work.

**7.4.3 Dust.** Dust from all Construction Work shall be controlled at all times by watering down the construction site or by any other method permitted under Governmental Requirements and approved by any Governmental Agencies in connection with the issuance of a construction permit (to the extent such approval is required). Any sandblasting activities shall be restricted to the water-type method or any other method permitted under Governmental Requirements. Each Owner shall prevent construction debris from entering into any of the Shared Stormwater Drainage Facilities and Shared Private Sewer Lines. The Owner on whose behalf such Construction Work is being performed shall be responsible at its sole cost and expense for keeping all portions of the Association Maintenance Areas on its Parcel (or causing the same to be kept) reasonably clean and free of dust, debris and mud caused by such Construction Work on a daily basis.

**7.4.4 Orderly Site.** Any Person performing any Construction Work shall keep the portions of the Project affected by such Construction Work in a neat and orderly condition during construction periods; provided, however, that normal construction activities and parking in connection with Construction Work on a Parcel conducted in accordance with this Declaration, the Design and Construction Guidelines and all applicable Governmental Requirements shall not be considered a nuisance or otherwise prohibited by this Declaration. Trash and debris related to the Construction Work shall not be permitted to accumulate on any Parcel.

**7.4.5 Emergency Work.** Notwithstanding any other requirement contained in this Declaration, in the event of an Emergency, the Association or an Owner may undertake any Construction Work reasonably necessary to remedy the Emergency, provided that, the Association or such Owner acts in good faith and in accordance with all Applicable Laws gives notice thereof to the Association and to any affected Owners upon the occurrence of the Emergency or as soon thereafter as reasonably possible and otherwise conforms, to the extent practicable, to the applicable provisions of this Article 7.

**7.5 Exemption of Declarant.** The restrictions set forth in this Article shall not apply to Declarant so long as Declarant or a Declarant Party owns any portion of the Covered Property or the Annexable Property. To the extent not in conflict with the Governing Documents, Declarant shall also have the right to waive compliance with the provisions of this Article 7 prior to the issuance of a certificate of occupancy for a Parcel.



## ARTICLE B

### DESIGN REVIEW AND ARCHITECTURAL STANDARDS

To maintain the architectural integrity and to protect and preserve the value of Westlake Entrada, the Association is charged with the responsibility of architectural review over Westlake Entrada. The Association shall have the right to delegate any of its review and approval rights to a Subassociation, and in such case, the role of the Association for design review shall primarily be an oversight role to ensure the Maintenance Standards and the Design Guidelines are being implemented. If the Association does not delegate any of its approval rights to a Subassociation, then to minimize the administrative burden on the Association, the applicable Subassociation will submit their applications directly to the Association on behalf of the Individual Interest Owners. No architectural controls or designs may conflict with or supersede the standards established in the Zoning Ordinance #760 Design Guidelines.

**8.1 Non-Applicability to Declarant or Guest Builders.** The provisions of this Article shall not apply to any improvements installed by the Declarant or approved in writing by Declarant, and the Association shall not have any rights of review or approval with respect thereto.

**8.2 Reviewing Party.** As used herein, references to the Reviewing Party means the Association or any Design Review Committee appointed by the Association or any Subassociation to whom the Association has delegated its review rights hereunder.

**8.3 Scope of Required Review of Plans.** No construction, installation or alteration of any Building Exteriors or other Improvements within any exterior areas or visible from the exterior of the Covered Property may be commenced until the Plans therefor have been submitted to and approved in writing by the Reviewing Party. If approval of the Association is required, complete plans and specifications, showing the nature, kind, shape, scope, materials and any other information required by the Design Guidelines ("Plans") shall be submitted to the Reviewing Party as provided below. For any Subassociation, the Association may require the Plans to be submitted by a Subassociation on behalf of the individual interest Owners subject to its jurisdiction.

**8.3.1 Delegation to an Individual Interest.** The Association shall have the right, but not the obligation to delegate its rights to review the Plans as provided in this Article B to a Subassociation which delegation may be conditioned upon requirements imposed by the Association regarding the scope of review, reporting requirements to the Association and other requirements deemed necessary by the Association. If the Association has delegated its review powers, then the role of the Reviewing Party shall be limited to ensure conformity of Plans to the Community Standards and any other requirements of the Governing Documents. If the Association has delegated such powers as provided above, and the Association, in its sole discretion determines that the Subassociation is not performing its obligations and is not enforcing the Community Standards as it relates to architectural review, then the Association may revoke such delegation of architectural and design review and resume performance of the review under this Article B. To the extent the review rights have been delegated under this Section or Section 8.3, reference to the Reviewing Party shall, as the context requires, refer to the applicable Subassociation reviewing the Plans.

**8.4 Design Review Committee.** The Association shall review all Plans unless the Association appoints a Design Review Committee, in which case approval of Plans shall be completed by the Design Review Committee. If a Design Review Committee is established, the Design Review Committee shall consist of not less than three (3) members, each of whom shall serve a term of three (3) years, and all of whom shall be appointed by Declarant until the Declarant's Rights Termination Date. Notwithstanding the provisions set forth above, Declarant may elect, in lieu of having the Design Review Committee review Plans by an Applicant within a Commercial Area to review the Plans itself and in such case, Declarant shall have the right to review such Plans until the Declarant's Rights Termination Date or such earlier date as Declarant may relinquish its review rights hereunder upon notice to the Association.

**8.4.1 Duties of the Design Review Committee.** Unless the Association has delegated its review rights as specified in this Article 8, the Design Review Committee shall consider and act upon any request submitted to it under the Governing Documents. It shall also be the duty of the Design Review Committee to ensure compliance with the architectural standards for Westlake Entrada, to administer and implement the Design Guidelines and to perform other duties delegated to it by the Association to ensure that any Improvements constructed within the Covered Property conform to the Plans approved by the Design Review Committee and to carry out all other duties imposed upon it by the Governing Documents. The Design Review Committee, in its own name and on behalf of the Association, may exercise all available legal and equitable remedies to prevent or remove any unauthorized or unapproved construction of Improvements within the Covered Property. Unless any such procedures regarding submission of Plans are complied with, such Plans shall be deemed not submitted. Each Applicant shall be required to obtain the approval of the Design Review Committee of its Plans prior to its submittal to the Town.

**8.4.2 Relationship to Subassociations Review.** The Reviewing Party may require that all Plans be approved by any Subassociation having jurisdiction over the applicable Parcel or Individual Interest before submitting the Plans to the Reviewing Party for review. Requirements imposed by the Reviewing Party supersede all conflicting requirements which may be imposed by a Subassociation. The Design Review Committee's determination of the existence of a conflict or discrepancy between the requirements imposed by the Design Review Committee and those imposed by a Subassociation are binding and conclusive upon the Subassociation and any affected Applicant.

**8.5 Design Guidelines.** The Declarant shall initially promulgate Design Guidelines which shall thereafter be adopted by the Association.

**8.5.1 Application Requirements.** The Design Guidelines shall set forth the necessary documents to be submitted by the applicant to the Reviewing Party.

**8.5.2 Construction within Westlake Entrada.** The Design Guidelines and/or plan approval for Improvements issued by the Reviewing Party shall include the procedures and requirements dealing with and pertaining to such issues as:

- (a) hours of construction;
- (b) scheduling of construction activities;
- (c) parking of vehicles used in construction activities;
- (d) cleanup of construction work;
- (e) limitations and prevention of dust and debris from construction work;
- (f) the qualification of contractors that undertake any such construction work; and

(g) the amounts and types of insurance and/or bonds that must be maintained by any party who undertakes any such construction work, and such other matters as the Declarant or the Association deems necessary and appropriate regarding construction work.

**8.5.3 Completion of Work.** The Design Guidelines shall set forth time periods for commencement and completion of the work and the appropriate certification that will be required to be issued upon completion of any construction work.

**8.5.4 Inspections.** The Design Guidelines shall set forth procedures for inspections by the Reviewing Party.

**8.5.5 Time Periods for Review.** The Design Guidelines shall set forth time periods for review and approval of applications.

**8.5.6 Application Fee.** The application for Design Review Committee approval shall be accompanied by an application fee of One Thousand Five Hundred and No/100 Dollars (\$1,500.00) for each application for a Residence to be constructed within a Residential Area, and Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) for a Mixed Use Building or any Buildings to be constructed within a Commercial Area, as a fee and to apply toward payment of any out-of-pocket costs incurred by the Association in reviewing any Plans. This fee may be increased to include the cost of retaining outside consultants for purposes of assisting the Design Review Committee in reviewing the Plans. If, during the review process, the Design Review Committee determines that additional fees will be necessary to cover additional out-of-pocket costs, the Design Review Committee may require the Applicant to advance any additional fees before the review can be completed.

**8.5.7 Guidelines and Variances.** The Design Guidelines may include guidelines for any proposed work that are not inconsistent with any use restriction contained in this Declaration or Applicable Laws. The Board may, from time to time and upon request from the Applicant, grant variances from any guidelines established by the Association.

**8.6 Interpretation.** All questions of interpretation or construction of any of the terms or conditions herein shall be resolved by the Reviewing Party, and its decision shall be final, binding and conclusive on all of the parties affected.

**8.7 Performance of Construction Requirements of Construction.** The applicant requesting approval under this Article 8 ("Constructing Party") shall, for any work for which such approvals must be obtained, perform its construction (a) in accordance with plans and specifications approved by the Reviewing Party, (b) with due diligence and in a good and workmanlike manner in accordance with good construction practices, (c) in accordance with practices observed in a first class mixed use project, and (d) in compliance with all Applicable Laws, the Governing Documents, and any express conditions to the approval of such construction work imposed by the Reviewing Party or the Reviewing Party. The Constructing Party shall require any contractors and subcontractors performing such construction activities within the Project to carry appropriate liability insurance, which names the Reviewing Party and any party required by the Reviewing Party as an additional insured and shall provide a certificate of such coverage to the Association prior to the commencement of such construction. In so performing such construction, the Constructing Party shall refrain from allowing any accumulation of refuse on the balance of Westlake Entrada and shall not unreasonably interfere with any other construction being performed by other Constructing Parties with respect to their construction. Any construction performed shall not unreasonably or materially impair ingress to any Parcel and shall not unreasonably disrupt operations of the business and uses within Westlake Entrada.

**8.7.1 Interference by Construction.** Each Constructing Party agrees that any construction work to be undertaken by it or its Occupants shall be performed (a) so as not to unreasonably interfere with any construction work being performed on the remainder of Westlake Entrada, and (b) so as not to unreasonably interfere with and minimize disruptions of the access to, use, occupancy or enjoyment of the remainder of Westlake Entrada. Any damage occurring to any portion of Westlake Entrada as a result of such construction work shall be the responsibility of the Constructing Party performing such construction work or causing such construction work to be performed and shall be repaired by such Owner, at such Owner's sole cost and expense, to the same condition as existed immediately prior to such work promptly upon the completion of such construction work.

**8.8 Submittal of As-Built Plans and Record Drawings.** If any Constructing Party installs or makes any alterations to any Shared Utility Facilities, approval of the Constructing Party shall, if so requested by the Association, provide to the Association a set of as-built plans depicting the location of the easements for such Shared Utility Facilities, all of which shall be maintained in the management office of the Association.

8.9 Conflict With Applicable Laws. In the event there is any conflict between the requirements or actions of the Design Review Committee and any Applicable Laws, the Applicable Laws, to the extent that it is more restrictive, shall control and the Design Review Committee shall modify its requirements or actions to conform to the Applicable Laws; provided, however, that if the Applicable Law is less restrictive, the provisions of this Declaration or the requirements of the Design Review Committee shall nonetheless apply. The application by the Constructing Party for review and approval by the Reviewing Party of any Plans or other submittals by such Constructing Party shall in no way be deemed to be satisfaction of compliance with any Applicable Laws.

8.10 Liability. The Declarant and the Association, and any member of either shall not be liable to any Constructing Party for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans and specifications or other submittals, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans and specifications; (c) the inspection of any work; (d) damage to Westlake Entrada or any property within Westlake Entrada; or (e) the execution and delivery of an esoppel certificate pursuant to Section 17.2, whether or not the facts therein are correct; provided, however, that the Reviewing Party has acted in good faith on the basis of such information as may be possessed by him or her.

8.11 Notice of Non-Compliance or Non-Completion. Notwithstanding any other provision of this Declaration, after the expiration of one (1) year from the date of completion of the improvements for which approval was required to be obtained under this Article 9 as evidenced by a recorded notice of completion or a certificate issued by an architect or design professional or other Person preparing the approved Plans, such improvements, shall be deemed to be in compliance with all provisions of this Declaration and the other Governing Documents, unless actual notice of such noncompliance or non-completion, executed by the Board or the Design Review Committee, shall have been delivered to the Owner, or Subassociation, or unless legal proceedings shall have been instituted to enforce compliance or completion, within such one (1) year period. Any purchaser or holder of a Mortgage on any portion of the Covered Property shall be entitled to rely upon such deemed compliance. Notwithstanding the foregoing, the provisions of this Section 8.11 shall not apply to any Owner who has not obtained the approvals required under this Article 8.

8.12 Inspection and Correction of Work. For any Improvements as to which the consent of the Reviewing Party was required, the Reviewing Party and or its duly authorized representatives may enter upon any Parcel, from time to time during the course of installation of the Improvements thereon for the purpose of inspecting such installation. If the Reviewing Party determines that such installation is not being done in substantial compliance with the approved plans and specifications, it shall notify the Constructing Party of the Parcel of such non-compliance and such Constructing Party shall promptly remedy such non-compliance. Nothing contained in this Section shall be construed to require the Reviewing Party to conduct inspections and any determination by the Reviewing Party, as the case may be, not to conduct such an inspection shall not be construed as a waiver of any of the requirements set forth in this Article with respect to the installation of improvements.

## ARTICLE 9

### DEVELOPMENT AND OTHER RIGHTS

*Given the size and diversity of Westlake Entrada, development will extend over a long period of time. Declarant requires certain rights to enable Declarant, the Declarant Parties and the Guest Builders to complete development, marketing and construction for the benefit of all of Westlake Entrada. This Article describes some of those rights which are in addition to other rights reserved to Declarant under this Declaration and the other, Governing Documents.*

9.1 Declarant and Guest Builder Rights. Declarant and the Guest Builders are undertaking the work of developing, constructing and marketing Westlake Entrada. The completion of the development work and the marketing, sale, rental and other disposition of the Parcels and individual interest is essential to the establishment and operation of the Covered Property and the Annexable

Property as a mixed-use community. In order that the work may be completed and Westlake Entrada be established and operated as an integrated mixed-use community in accordance with Declarant's time frames, nothing in this Declaration shall be interpreted to deny Declarant and the Declarant Parties the rights set forth in this Article or any other rights set forth in this Declaration or the other Governing Documents.

**9.2 Access.** Declarant, its agents, employees and contractors shall have the right to obtain reasonable access over and across the Covered Property as is reasonably necessary or advisable in connection with the completion of the construction, marketing, operation, sale and leasing of Westlake Entrada.

**9.3 Construction.** Declarant and its agents, employees and contractors shall have the right to erect, construct and maintain on the Association Maintenance Areas or within any Building or Residence owned by it such structures, improvements, equipment and materials as may be necessary to accommodate the construction of the Buildings and Improvements within Westlake Entrada and to maintain construction equipment and personnel in and on the Covered Property. Such rights may include the right to close off areas to pedestrian and vehicular traffic and the right to store equipment, place construction trailers and create staging areas.

**9.4 Marketing Rights.** Subject to the limitations of this Declaration, the Governing Documents and Applicable Laws, Declarant and any Declarant Party shall have the right to:

**9.4.1** maintain or allow structures (including model homes), signs, billboards, banners, sales offices, storage areas and related facilities on any portion of the Association Property or, with written consent of the Owner of a Parcel, the Association Maintained Areas as are necessary or reasonable, in the opinion of Declarant, or with the prior approval of Declarant for the sale, leasing or disposition of any Parcel, Building or Condominium;

**9.4.2** use such portions of the Association Property or, with written consent of the Owner of a Parcel, the Association Maintained Areas as may be necessary or advisable to complete the sale or leasing of the Residences and Buildings;

**9.4.3** maintain construction, leasing and/or sales offices within the Association Property or, with written consent of the Owner of a Parcel, within the Association Maintained Areas and parking areas therein for employees, agents and prospective buyers and Lessees;

**9.4.4** place sign, flags, banners, balloons and other promotional advertising materials on Association Property or, with written consent of the Owner of a Parcel, on Association Maintained Areas during the marketing and leasing of Residences and other Buildings or any grand openings;

**9.4.5** provide ongoing maintenance, operation, service, construction and repairs to the Association Property or, with written consent of the Owner of a Parcel, the Association Maintained Areas;

**9.4.6** increase or decrease the density or change the development plan for any portion of the Covered Property owned by Declarant or a Declarant Party if Declarant complies with Applicable Laws and the Governmental Requirements;

**9.4.7** enter within or upon the Covered Property in exercising the inspection and cure rights granted to Declarant under any warranty rights;

**9.4.8** make reasonable use of the Association Maintenance Areas and facilities for the sale of any Parcel, Building or Condominium;

**9.4.9** conduct their business of developing and disposing of any Parcel, Building or Condominium by sale, lease or otherwise;

9.4.10 To grant, add to or alter the location, size or purpose of easements and lands for utilities, roads, access, ingress or egress, drainage or financing purposes; or to convey or assign such easements to the appropriate Governmental Agency, title insurance company or as otherwise set forth in this Declaration; provided that no easement so granted or modified shall interfere with the then present use and development of any Parcel, or interfere with the intended development of a Parcel for which permits have been issued by the Town or for which Plans have been approved by the Association or Design Review Committee, as applicable;

9.4.11 To permit the Declarant and Declarant Parties and their agents, employees and contractors to utilize easements, roads, drainage facilities, utility lines and the like within or servicing any portion of Westlake Entrada;

9.5 Declarant Representative. Until the Declarant, a Declarant Party or a Guest Builder no longer owns any portion of the Covered Property or the Annexable Property, the Association shall provide Declarant with written notice of all meetings of the Board and Declarant shall be entitled, without obligation, to have a representative present at all such Board meetings ("Declarant's Representative"). The Declarant's Representative shall be in addition to any member which the Declarant may have on the Board and, if Declarant elects to have an additional representative, the Declarant's Representative may be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board.

9.6 Declarant and Guest Builder Exemption. The development, construction, marketing and sales activities of Declarant and each Guest Builder are exempt from the covenants, restrictions and limitations set forth in this Article. None of the covenants, restrictions and limitations set forth in this Article or elsewhere in this Declaration shall be applied to the development, construction, maintenance, marketing or sales or leasing activities of Declarant and with the consent of Declarant, a Guest Builder or construed in such a manner as to prevent or limit development, construction, marketing, leasing or sales activities by any Declarant or Guest Builder. This Section shall not be amended or removed without Declarant's prior written consent until Declarant, the Declarant Party and any Guest Builder no longer owns any portion of the Covered Property or the Annexable Property.

9.7 Architectural Rights. Declarant, or any Guest Builders or other Person to whom Declarant may assign by written instrument all or a portion of its exemptions under this Declaration, need not seek or obtain Design Review Committee approval of any improvements constructed anywhere on the Community by Declarant or such Guest Builders or such other Persons. Declarant may exclude portions of the Community from jurisdiction of the Design Review Committee in a Supplemental Declaration. Declarant may, at its option, establish an independent design review committee for any Area or party exempted from the jurisdiction of the Design Review Committee, however, in no case shall the Declarant or Guest Builder construct any structure that is not compliance with the Zoning Ordinance.

9.8 Exclusive Rights to Use Name of Community. Declarant (and/or other Declarant Parties and assignees of Declarant) has the exclusive rights to use the name "Westlake Entrada" and all similar or derivative names, along with all associated trademarks entity names, domain names, and logos. Except as provided below, no Owner, Permitted User or other Person shall use such trade names, entity names, or service marks regardless of their interest in the name "Westlake Entrada", for advertising or any other purpose in any promotional material, whether printed, audio, video, incorporated into a domain name or otherwise, in any signage, or in any logo or depiction without the prior consent of the Person who owns such mark, except that a Person operating a business within the Community may use the name "Westlake Entrada" as necessary to designate the location of the Person's business. In addition, any name or logo to be used in connection with or displayed on any Signage, or in any sales, rental, or other materials or documentation related to the use of a Property, shall be subject to Declarant's prior written consent and shall not contain copyrighted information from Declarant's website or its logos in such sales materials. Such approval may be given or withheld in Declarant's discretion and may be subject to such terms and conditions as Declarant deems appropriate.

**9.9 Publicity Release.** Each Owner (and any other Person bound by this Declaration) shall be deemed to have agreed that photographs or film footage taken of participants at any sponsored event for Westlake Entrada may be subsequently used by Declarant and any other Declarant Party (and their respective Affiliates, legal representatives, agents, and assigns) for commercial purposes in advertising, marketing and public relations materials, including, without limitation, newsletters, community calendars, welcome centers, and websites published or sponsored by Declarant or any Declarant Party. In addition, by attending sponsored events for each Owner (and any other Person bound by this Declaration) acknowledges and agrees to allow such use and waives any right to pre-approval, royalties or other compensation arising from or related to the use of such photographs or film footage, which shall remain the sole copyrighted property of Declarant and/or the Association.

**9.10 Photography of Buildings.** Each Owner hereby consents to having the exterior of any Building constructed within photographed by professional photographers contracted by Declarant or any Declarant Party or with the prior consent of Declarant, a Guest Builder or their designees, and agrees that such photographs may be used by Declarant, a Declarant Party or a Guest Builder in advertising and marketing materials and also may be used to demonstrate design guideline principles applicable to structures constructed at . All such photographs and all such uses shall be at no cost to such Owner and such Owner shall allow such uses free of charge and without compensation. The photography crew shall have the right to enter onto the exterior of the relevant Parcel on the day of the photography session to conduct its work.

**9.11 Declarant's Reversionary Rights.** All portions of the Covered Property owned by Declarant and conveyed to the Association as Association Property shall be subject to a reversionary right and option in favor of Declarant to reacquire such Covered Property conveyed to the Association as set forth in this Section 9.11 (the "Reversionary Option"). In the event that any portion of the Covered Property conveyed by the Declarant or any Declarant Party to the Association as Association Property becomes the subject of an act of condemnation or is to be deeded or conveyed (whether by plat or separate instrument) to any Governmental Agency, including, without limitation, the Texas Department of Transportation (the "Property Subject to Taking"), then the Association shall immediately notify the Declarant in writing, which notification shall include a description of the Property subject to Taking and the economic and transaction terms proposed with respect thereto (the "Taking Notice"). Within ninety (90) days of receipt of such Taking Notice from the Association, Declarant may elect its Reversionary Option by delivery of written notice to the Association, in which event the Association shall immediately re-convey the Property Subject to Taking to the Declarant or to any Declarant Party at Declarant's direction. During such ninety (90) day period, or until Declarant has elected its Reversionary Option, the Association shall provide copies to Declarant of any notices, documentation or correspondence sent to or received from the applicable Governmental Agency with respect to such Property Subject to Taking, and the Association shall in no event enter into any agreements with the Governmental Agency without the prior written consent of Declarant. If Declarant does not elect its Reversionary Option within such ninety (90) day period, then Declarant's Reversionary Option shall expire with respect to such Property Subject to Taking for the particular transaction identified in the Taking Notice only.

**9.12 Amendment.** The provisions of this Article may not be amended without the consent of Declarant or, if approved in writing by Declarant, the prior consent of any Guest Builder, for so long as Declarant or such Guest Builder owns any portion of the Covered Property or the Annexable Property.

## ARTICLE 10

### INSURANCE

*This Article describes the obligations of the Association and the Owners regarding insurance.*

**10.1 Insurance to be Maintained by the Association.** The Association shall obtain and maintain the insurance coverages described below.

**10.2 Insured Property.** For purposes of this Article 10, the term "Association Insured Property" means the Association Property and the Association Maintenance Areas and all personal property and fixtures owned by the Association. To the extent the Association Access Roads and the Shared Private Drainage System and Shared Private Sewer System cannot be insured at commercially reasonable rates, the Board may elect not to insure such areas and in such case the Association Insured Property shall not include such areas.

**10.2.1 Property Insurance.** The Association shall maintain property insurance for the Association Insured Property providing coverage at least as broad as an "all-risk" known as Special Form including terrorism or its equivalent, insuring (a) all improvements upon, within or comprising the Association Insured Property and (b) all personal property owned or maintained by the Association or its designee ("Property Insurance"). Such insurance shall at all times during the term of this Declaration be maintained for an amount not less than one hundred percent (100%) of the full insurable replacement cost of the property to be insured thereunder, as determined annually ("Replacement Value"). Such coverage may exclude land, excavations, or other items typically excluded from property insurance coverage on properties similar in construction and location; provided, however, that the Association shall use commercially reasonable efforts to limit such exclusions to the extent possible. The property insurance required by this Section shall name the Association as a named insured and such policy shall contain standard mortgage clauses to protect the Mortgagees.

(a) **Payment of Insurance Proceeds.** The proceeds from such property insurance shall be payable to the Association or an insurance trustee ("Insurance Trustee") selected by the Association to be held and expended pursuant to this Declaration for the benefit of the Association and the Owners, as their respective interests shall appear. To the extent the costs of such Trustee are not covered by the policy of Property Insurance or not clearly allocable to one or more Owners based upon responsibility or liability of such Owner(s) as provided in this Declaration, the costs shall be a Common Expense. Any Insurance Trustee shall cooperate with the Owners of the Parcels to ensure the coordinated rebuilding of any Association Maintenance Areas.

(b) **Endorsements.** The property insurance policy shall contain, to the extent available on commercially reasonable terms as may be determined by the Board, the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent appropriate) inflation guard, ordinance or law, replacement cost, and such other endorsements as may customarily be obtained with respect to properties similar in construction, location and use, as may be determined by the Board.

**10.2.2 Liability Insurance.** The Association shall obtain and maintain liability insurance providing coverage at least as broad as a current Insurance Services Office, Inc. ("ISO") commercial general liability insurance form or its equivalent, insuring the Association against liability arising from the operation, maintenance and use of the Maintenance Areas or exercise of any of the rights and obligations under this Declaration or incident to the use of the Maintenance Areas or exercise of any of the rights and obligations under this Declaration or any other Association owned or maintained personal property and the performance by the Association of its duties under this Declaration. Coverage for such matters shall be primary to any coverage provided by any other liability insurance policy maintained by such insureds. The limits of such insurance shall be not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and Two Million Dollars (\$2,000,000) aggregate and excess coverage in an amount not less than Two Million Dollars (\$2,000,000). Such policy shall include, if reasonably available as determined by Board, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

**10.2.3 Workers' Compensation Insurance.** The Association shall obtain and maintain workers' compensation and employer's liability insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence for employees, if any, of the Association to the extent required by Applicable Laws. The Association shall require any independent contractor who performs any service for the Association to carry statutory workers compensation and employer's liability insurance in the amount of at least One Million Dollars (\$1,000,000) for each accident. The Association shall be named as loss payee.



**10.2.4 Crime Insurance.** The Association shall maintain a fidelity bond or commercial crime policy including coverage for employee dishonesty in an amount equal to at least the estimated maximum of funds, including reserves, in the custody of the Association or a manager at any given time during the term of the fidelity bond. The fidelity bonds shall name the Association as obligee and any commercial crime policy shall name the Association as the named insured and shall insure against loss by reason of the acts of the Board, officers and employees of the Association, and any manager and its employees, whether or not such persons are compensated for their services. The Association shall be named as loss payee.

**10.2.5 Directors and Officers Insurance.** The Association shall maintain directors and officers insurance in amounts agreed upon by the Board.

**10.2.6 Non-Owner Vehicle Insurance.** The Association shall maintain non-owner vehicle insurance in amounts agreed upon by the Board.

**10.2.7 Directors and Officers Liability Insurance.** The Association shall obtain liability coverage for its officers and directors in an amount of not less than One Million Dollars (\$1,000,000) each claim.

**10.2.8 Other Association Insurance.** The Association shall obtain and maintain such other insurance as the Board, in its discretion, considers necessary or advisable, or as is required by Applicable Laws.

**10.2.9 Provisions Applicable to Association Insurance Requirements.**

(a) **Board's Authority.** The Board is authorized to negotiate and agree on the value and extent of any loss to Insured Property (but not property excluded from the Insured Property) under the property insurance policy only carried by the Association, including, without limitation, the rights for settlement approval. Each Owner irrevocably appoints the Association or the Trustee described in Section 10.2.1, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing and taking other related actions in connection with the Association Insured Property under the property insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

(b) **Insurance Policy Requirements.** All insurance policies carried pursuant to this Article shall be issued, placed and maintained with companies rated at least A VI by AM Best's Insurance Service provided that if, in the exercise of the reasonable business judgment of the Board, consistent with sound insurance practices, the Association determines that insurance provided by insurers with ratings consistent with the foregoing is not available at commercially reasonable rates, the insurance policies may be issued by insurance companies with ratings below the minimum ratings. In the event any insurer's rating falls below this minimum rating mid-policy year, reasonable provisions shall be taken to replace said insurer as soon as practicable.

(c) **Cancellation.** The policies shall provide that they may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association or in the event of a cancellation for non-payment of a premium without at least ten (10) days' prior written notice to all insureds. If the insurance required by this Declaration is effected by blanket or master policies as permitted under this Section 10.2, any certificates of insurance provided under this Section 10.2 shall include schedules attached thereto (with respect to property or building insurance) showing the amount of insurance afforded by such policies applicable to the Insured Property.

(d) **Association to Act on Behalf of Owners.** Subject to the provisions of this Declaration, each Owner will be deemed to have appointed the Association or any Trustee

designated by the Association to act on behalf of the Owners in connection with all insurance matters arising from any insurance policy maintained by the Association.

(e) **Waiver of Claims and Subrogation.** Each Owner and individual Interest Owner for itself and its insurer waives and releases all claims against the Association for any damage to the real and personal property that the Association is obligated under this Declaration to insure (including, without limitation, any business interruption, loss of use of such property, loss of rents or a similar loss or damage).

(f) **Deductibles.** The Board shall adopt a policy regarding payment of deductibles on any insurance coverage. Unless the Board determines otherwise, and except as provided in Section 10.2.7(e) above, the Association shall pay deductibles required under any insurance claim from Association funds, unless insufficient funds are available to the Association from the Association's accounts or from funds borrowed by the Association in accordance with this Declaration, in which event the Association shall levy a Special Assessment, in accordance with the provisions of this Declaration, with respect to the amount of any such deductible which exceeds funds available to the Association from Association funds or from borrowing.

(g) **Reimbursement.** The Association shall pay the portion of any prepaid premiums paid by Declarant on behalf of the Association and hereby authorize the Declarant to obtain reimbursement from the funds of the Association.

(h) **Unavailability of Insurance.** The Association, its directors and officers shall have no liability to any Owner or Mortgagee if, after a good faith effort, it is unable to obtain any portion of the insurance required hereunder because the insurance is no longer commercially reasonably available. In such event, the Board shall immediately notify each Owner and any Mortgagee entitled to notice that the insurance will not be obtained or renewed.

(i) **Periodic Insurance Review.** The Board periodically (and not less than once every three years) shall review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Board considers to be in the best interests of the Owners using its prudent business judgment. If applicable, the review shall include an appraisal by a qualified appraiser of the current replacement costs of all property under the Association's property insurance policy unless the Board is satisfied that the current dollar limit of the property insurance policy, coupled with the amount of actual reserves on hand, is equal to or greater than the current replacement costs.

(j) **Summary to the Members.** The Association shall periodically distribute a summary of the Association's insurance policies to the Members.

**10.2.10 Copies of Policies.** Copies of the property insurance policies and certificates of insurance shall be retained by the Association and be available for inspection by Members at reasonable times. All such insurance policies shall provide that they shall not be cancelable or substantially modified by the insurer without first giving at least thirty (30) days' prior notice in writing to the Owners and Eligible Holders. In addition to the foregoing, the Association shall provide to the Owners such information regarding the insurance of the Association as may be required by Applicable Laws.

### **10.3 Individual Interest and Owner's Insurance Obligations.**

**10.3.1 Property Insurance:** Except for any portions of the Covered Property included within the Association Insured Property, each Owner shall obtain and maintain at its sole expense properly replacement value insurance coverage sufficient in amount and perils covered to replace and restore any real property required to be maintained by such Owner and each Owner shall insure the Buildings and any Improvements required for the operation of its Building together with any exterior areas and Utility Facilities including any Shared Utility Facilities located on the Owner's Parcel and all personal property of the Owner and any and all fixtures, furnishings and equipment within the Parcel (collectively

referred to as the "Owner's Insured Property"). For any individual interests, the Subassociation may maintain such insurance.

(a) **No Separate Insurance.** No Owner shall separately insure any property covered by the Association's property insurance policy as described in Section 10.2.1. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association and the other Owners to the extent of the diminution. To collect the amount of the diminution, the Association shall levy a Compliance Assessment against the violating Owner.

**10.3.2 Liability Insurance of Owners.** Each Owner shall, at such Owner's sole cost and expense, maintain liability insurance providing coverage at least as broad as the current ISO commercial general liability insurance form or its equivalent (including coverage for medical payments), insuring the Owner against liability arising from the ownership, operation, maintenance and use of the Areas owned by or subject to the jurisdiction of such Owner. Such policies of insurance shall be written in companies reasonably satisfactory to the Association. Liability insurance maintained hereunder shall have limits of liability of not less than Five Million Dollars (\$5,000,000.00) per occurrence and Five Million Dollars (\$5,000,000.00) general aggregate and shall name the Association as an additional insured.

**10.3.3 Provisions Applicable to Owners' Insurance Requirements.**

(a) **Waiver of Claims and Subrogation.** Each Owner waives all claims against the Association for any damage to the real and personal property that such Owner is obligated to insure under this Section (including, without limitation, any loss of use of such property), except claims against the Association for property damage to the extent that the damage is caused by the gross negligence or willful misconduct of the Association. Any property insurance policy obtained by an Owner must contain a waiver of subrogation rights by the insurer consistent with this Section; provided, however, that a failure or inability of an Owner to obtain such a waiver from an insurer shall not defeat or impair the waivers set forth herein between the Owners, on the one hand, and the Association on the other hand. The waivers of claims and subrogation set forth in this Subsection apply only in favor of the Association and do not limit or waive, release or discharge any claims that an Owner may have against any third party, including, without limitation, any contractor, service provider, agent, other Owner, or Permitted User; provided, however, that such waivers shall also apply in favor of the Association's managing agent if and to the extent that the Association has similarly agreed in a written management agreement to a waiver of claims and subrogation against such managing agent.

(b) **Copies of Policies.** A copy of the property insurance policies that an Owner is required to maintain pursuant to this Declaration, or a certificate of such insurance, shall be delivered to the Association upon request. All policies shall indicate they may not be canceled or modified without thirty (30) days' prior written notice to the Association. The acceptance of a copy of an insurance policy by the Association from an Owner shall not constitute a waiver of any of the insurance requirements set forth herein.

**10.3.4 Self-Insurance.** The Owners (other than a Subassociation) shall have the right to satisfy any or all of its liability insurance obligations hereunder by means of self-insurance, but only so long as: (a) the self-insuring Owner has a tangible net worth of at least \$500,000,000; (b) the self-insuring Owner shall have given the Association at least ten (10) days' advance notice of its status as a self-insuring Owner, which notice shall include a written statement certified by the self-insuring Owner's outside auditor or certified public accountant that the self-insuring Owner has a minimum tangible net worth required by this Section 10.3.4; (c) the self-insuring Owner shall, upon request by the Association (not more often than once per year), provide an updated written statement certified by the self-insuring Owner's outside auditor or certified public accountant that the self-insuring Owner has a minimum tangible net worth required by this Section 10.3.4; and (d) such self-insurance provides for loss reserves which are actuarially derived in accordance with accepted standards of the insurance industry and accrued or otherwise funded. The Association shall have the right and authority to adjust such minimum tangible net worth amount from time to time to a level that is then commercially reasonable and then

consistent with self-insurance standards maintained with respect to similar mixed use developments in the Westlake, Texas area. A self-insuring Owner shall indemnify, defend and hold harmless the Association, Declarant and any Declarant Parties for, from and against any and all Claims that would have been covered by the insurance policies otherwise required to be maintained pursuant to this Section 10.3.4.

**10.4 Course of Construction Insurance for Association and Owners.** Whenever any improvements or alterations to any portions of Westlake Entrada (other than improvements solely within the interior of a Building) are in the course of construction, builder's risk insurance is required under this Article to be obtained by the Association or the Owners or to the extent appropriate, as determined by the Association, shall be carried by the Owner undertaking construction as applicable in builder's risk form written on a completed value basis, insuring against loss to the extent of at least the Replacement Value of the Insured Property (excluding foundations and footings, except for earthquake coverage) of that which is being covered. In the case of construction undertaken by an Owner, the premiums and other costs associated with such insurance shall be borne exclusively by such Owner, and not the Association, irrespective of whether such Owner and/or the Association shall be the insured. As a condition to the approval of alterations or construction within a Parcel, the Owner undertaking such construction shall provide the Association proof of such insurance in builder's risk form for the alteration or construction work. The contractor and its subcontractors for any such alterations must provide (a) evidence of General Liability, Commercial Auto and Worker's Compensation insurance with a minimum of One Million Dollars (\$1,000,000) limit of liability for each line of coverage, (b) evidence that the Association and the applicable Owner, if any, are named as an additional insured on the general liability insurance policy, and (c) evidence of a waiver of subrogation by their insurers in favor of the Association.

**10.5 Association Board Authority to Revise Insurance Requirements.** Subject to any statutory insurance requirements, the Board shall have the power and right to adjust and modify the liability insurance requirements and other insurance rights for Owners and the Association set forth herein to require coverage and protection that is customarily carried by and reasonably available to prudent Owners and associations of projects similar in construction, quality, location and use. If the Association Board elects to materially reduce the coverage required to be maintained by the Association from the coverage required in this Article 10, the Board shall make all reasonable efforts to notify the Owner and Mortgagees of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the reduction. An Owner shall not be in breach of its obligations hereunder solely as a result of the inability to obtain insurance if, after a good faith effort, the Owner is unable to obtain one or more of the insurance coverages required hereunder to the extent the insurance is no longer available, or if available, the insurance can be obtained only at a cost that Association Board, in its sole discretion, agrees is unreasonable under the circumstances.

**10.6 Compliance with Federal Agencies' Requirements.** Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such insurance and a fidelity bond meeting the minimum insurance and fidelity bond requirements for condominium projects established by the Federal Agencies for so long as the respective Federal Agency is a Mortgagee, guarantor of a Mortgage or an Owner of a Condominium, except to the extent such coverage is not available or has been waived in writing by the applicable Federal Agency. If the FNMA or FHLMC requirements conflict, the more stringent requirements shall be met.

## ARTICLE 11

### DESTRUCTION OF IMPROVEMENTS

*This Article addresses what happens in the event of any damage or destruction to a portion of the Covered Property. It is the intent of this Article that if there are sufficient insurance proceeds or if the Members elect to impose a Special Assessment to pay the costs of any shortfalls in the insurance proceeds or elect to adopt an alternative plan of reconstruction so that the rebuilding can occur, that the Association have the responsibility and obligation to repair and restore the damaged improvements.*

**11.1 Repair and Reconstruction of Association Insured Property.** Except as otherwise stated in this Article 11, if any of the Association Insured Property is damaged or destroyed by fire or other casualty, the Association shall effect or cause the Repair (as defined below) of such Association Insured Property in accordance with the requirements set forth in Section 11.2 and the Owner shall be responsible for repairing its Building and any other improvements on the Owner's Parcel not included within the Association Insured Property.

**11.1.1 Restoration of Insured Property When Insurance Proceeds Are Sufficient.** Where insurance proceeds received for the Association Insured Property ("Insurance Proceeds") are sufficient (excluding deductibles, which shall be paid by the Owners as a Special Assessment, the Association shall Repair the applicable Association Insured Property, except as otherwise set forth in Section 11.1.4. If the Association Insured Property is to be Repaired by the Association and the Insurance Proceeds are sufficient to cover the loss, then the Association shall make such Repairs to the applicable components of the applicable Association Insured Property in accordance with the requirements set forth in Section 11.2.

**11.1.2 Request for a Depository for Insurance Proceeds.** If the cost of repair exceeds the greater of ten percent (10%) of the Replacement Value of the applicable Insured Association Property (or Association Maintenance Areas, if applicable) and \$500,000, all Insurance Proceeds and any other monies allocated for the repair, and any borrowings by the Association, shall be deposited with a commercial lending institution experienced in the disbursement of construction loan funds (the "Depository") as selected by the Association. Funds shall be disbursed in accordance with the normal construction loan practices of the Depository which shall require, as a minimum, that the construction consultant, general contractor and, if applicable, the architect certify prior to any disbursement substantially the following:

(a) That all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

(b) That such disbursement request represents monies which either have been paid by or on behalf of the construction consultant, the general contractor or the architect and/or are justly due to contractors, subcontractors, materialmen, engineers, or other persons (whose name and address shall be stated) who have rendered or furnished certain services or materials for the work of repair. Such certificate shall give a brief description of such services and materials and the principal subdivisions or categories thereof and the respective amounts paid or due to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

(c) That the sum then requested to be disbursed plus all sums previously disbursed does not exceed the cost of the work insofar as actually accomplished up to the date of such certificate;

(d) That no part of the cost of the services and materials described in this Section 11.1 has been or is being made the basis for the disbursement of any funds in any previous or then pending application; and

(e) That the amount held by the Depository, after payment of the amount requested in the pending disbursement request, will be sufficient to pay in full the costs necessary to complete the repair.

**11.1.3 Repair Where Funds Are Not Sufficient.** If Insurance Proceeds and other funds available for effecting the required Repairs of the applicable Association Insured Property are not adequate to complete such Repair, the Board shall levy a Special Assessment to and against each Owner if the damage is to the Association Insured Property for the costs of such Repairs that are not so covered by Insurance Proceeds.

(a) **Damage to Parcels.** If there is damage or destruction to any Buildings, Residences or Improvements the Owners may elect not to Repair the Buildings, Residences or Improvements on its Parcel, in which case the Owner shall remove the damaged Improvements and debris and landscape its Parcel and maintain the Parcel in a clean, weed-free, and debris-free condition. Any Association Maintenance Areas on a Parcel shall, if included within the Association Insured Property be restored by the Association and the Association and the Owner shall cooperate to ensure the coordinated repair of such areas. With respect to any Utility Facilities or any other Improvements on such Owner's Parcel which benefit another Owner, the restoring Owner shall cooperate with the benefited Owner or the Association as necessary to repair such Utility Facilities.

11.2 **Repair Work.** Any Repair which is required hereunder shall comply with the requirements of Article 8 and be undertaken with all due diligence and commercially reasonable efforts, modified as may be required by applicable building codes and regulations in force at the time of such Repair. Any changes which require approval under Article 8 shall be obtained pursuant to Article 8 prior to commencing the Repair.

11.3 **Cooperation.** In the event of damage to more than one Parcel, or if there is damage to areas or Improvements which the Association is required by this Declaration to Repair, the Owners and Occupants of each of the Parcels and the Board shall each cooperate in the Repair of their Improvements and areas of responsibility by coordinating Repair work and providing access where necessary over and across Westlake Entrada. The Owners acknowledge that since the Association has the primary obligation for repair of the Association Maintenance Areas, the Association shall have primary control over any construction and that, subject to the provisions of this Section 12.2.1, the Owners and Subassociations shall comply with any scheduling or other requirements imposed by the Association to assure the timely reconstruction of the components of the Association Insured Property which require repair. The Owners and the Association shall take all appropriate steps before all Repairs are completed to erect necessary barriers and take such precautions as are reasonable to preclude unauthorized access to the areas which are being Repaired, and otherwise mitigate dangerous or hazardous conditions within Westlake Entrada.

11.4 **Completion of Repairs.** Repairs that are to be undertaken by the Association or the Owners shall be undertaken and completed as promptly as reasonably possible under the circumstances, subject to delays that are beyond the reasonable control of the Association, and shall be diligently pursued to completion. If repairs to any portion of Westlake Entrada require that repairs first be made to the Association Maintenance Areas or other portions of Westlake Entrada that the Association is required to Repair hereunder, then the requirements of the Owner to complete any Repairs shall be subject to and contingent upon completion of those Repairs to the Maintenance Areas and all other portions of Westlake Entrada required to be repaired by the Association.

## ARTICLE 12

### EMINENT DOMAIN

*The Town or other Governmental Agencies can exercise rights of eminent domain that allow the Town or other Governmental Agencies to "take" all or a portion of Westlake Entrada. This Section describes what happens if a taking of all or a portion of the Association Property or rights to use of the Association Maintenance Areas occurs.*

12.1 **Condemnation.** The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Association Property (or rights to use of Association Maintenance Areas) or if any action is brought to condemn all or any portion of the Association Property (or rights to use of Association Maintenance Areas) or a sale of all or a part thereof is in lieu of condemnation. The Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act, in its sole discretion, with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu

of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association, and used, held or distributed as reasonably deemed appropriate by the Board subject to the provisions hereof.

12.2 **Total Taking.** If the taking is of the entire Association Property or all rights to use of the Association Maintenance Areas, the amount payable shall be paid to the Board as trustee for distribution to the Owners, subject to the rights of Mortgagees holding Mortgages covering the properties and all unpaid Assessments of each Owner, together with any interest charges attributable thereto. Said proceeds shall be distributed to the Owner and, if the Owner is a Subassociation, each Subassociation shall distribute such proceeds to its Individual Interest Owners and their respective Mortgagees according to the relative values of the respective properties in the Covered Property determined by an independent appraisal made by a qualified MAI real estate appraiser selected by the Board. The rights of an Owner and the Mortgagee as to such pro-rata distribution shall be governed by the provisions of the Mortgage encumbering such portions of the Covered Property.

12.3 **Minor Taking.** If the award is for the acquisition of only part of the Association Property or portion of the rights to use of the Association Maintenance Areas, and is less than ten percent (10%) of the value of all Association Property or the Association Maintenance Area so taken, the entire amount thereof shall be payable to the Board and such amount, together with any interest earned thereon, shall be held by the Association for the construction of capital improvements on other portions of the Association Property or Association Maintenance Areas.

12.4 **Major Taking.** If the award is for the acquisition of only part of the Association Property or portion of the rights to use of the Association Maintenance Areas, but is in excess of ten percent (10%) of the value of all Association Property or the Association Maintenance Area so taken, the Board, in its sole discretion, may retain all or any part thereof in the general funds of the Association for the purpose of constructing alternative facilities for those so taken, or may distribute all or any part thereof to the Owners, as their interests appear, subject however, to any unpaid Assessments and the rights of Mortgagees, in the manner set forth above.

#### ARTICLE 13

##### ANNEXATION OF REAL PROPERTY

*It is possible that other land may be added to and included within Westlake Entrada. This Article describes the procedure for Annexation.*

13.1 **Annexation.** Declarant may annex any of the Annexable Property by any of the methods set forth in this Article. To the extent there are minor boundary changes or lot line adjustments to the Annexable Property, any additional portions of land added as a result of such boundary or lot line adjustments shall be included within the Annexable Property. Declarant may elect not to develop all or any part of the Annexable Property, to annex the Annexable Property to this Declaration in increments of any size whatsoever, or to develop more than one such increment at any given time and in any given order. Although Declarant shall have the ability to annex the Annexable Property as provided in this Article, Declarant shall not be obligated to annex all or any portion of the Annexable Property, and the Annexable Property shall not become subject to this Declaration unless and until a Supplemental Declaration covering it has been recorded. Until the Declarant's Rights Termination Date, no Person other than Declarant may annex any of the Annexable Property without the prior consent of Declarant.

13.2 Procedures for Annexation. All or any part of the Annexable Property may be annexed by Declarant and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Board or any Owner or Individual Interest Owner. The annexation shall be effective upon the recordation of a Supplemental Declaration. The Declarant need not be the owner of the Annexable Property that is being annexed by such Supplemental Declaration provided that the owner(s) of such Annexable Property consent in writing to such annexation.

13.3 Covenants Running With the Land. Declarant may transfer all or any portion of the Annexable Property to an Owner under a grant deed wherein Declarant reserves the right to annex such property and subject it to this Declaration. The restriction on the Annexable Property wherein it may be made subject to this Declaration upon the recordation of a Supplemental Declaration is hereby declared to be an equitable servitude upon the Annexable Property in favor of the Covered Property subject to this Declaration and any other real property owned by Declarant in the vicinity of the Covered Property and shall run with the land and be binding on and inure to the benefit of all Persons having or acquiring any right, title or interest in such real property.

13.4 Annexations Under Supplemental Declarations. Supplemental Declarations executed by Declarant (and the owner(s) of the Annexable Property being annexed, if applicable) shall be recorded for each Annexation as provided under this Declaration.

#### ARTICLE 14

##### RIGHTS OF LENDERS

*Certain Mortgagees need to protect their interests in Westlake Entrada. This Article gives certain Mortgagees rights to protect their security interests.*

14.1 Conflict. Notwithstanding any contrary provision contained elsewhere in the Governing Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees as specified herein.

14.2 Subordination of Lien to First Mortgages; Liability for Unpaid Assessments. If any Parcel or Condominium is encumbered by a First Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this Declaration by power of sale or judicial foreclosure for Assessments, or installments of Assessments, shall not affect or impair the lien of the First Mortgage. The lien of Assessments shall be subordinate to the lien of any First Mortgage now or hereafter placed upon any Parcel or Individual Interest subject to Assessments. Any First Mortgagee or other purchaser who obtains title to a Parcel or an Individual Interest pursuant to the remedies provided in the First Mortgage (including foreclosure of the First Mortgage or acceptance of deed in lieu thereof) shall take the property free of any claims for unpaid Assessments or charges against the Parcel or Individual interest which became due and payable prior to the date such First Mortgagee or other purchaser acquired title unless the Owner of the Parcel or Individual Interest causes the exercise of such remedies (including foreclosure or deed in lieu thereof) to avoid payment of existing and unpaid Assessments. No such sale or transfer shall relieve the Parcel or Individual interest from any Assessments thereafter becoming due or from the lien of any subsequent Assessment, nor relieve any Owner from the personal obligation for any Assessments becoming due during such Owner's ownership of the relevant Parcel. A First Mortgagee or other purchaser who obtains title to a Parcel or an Individual Interest pursuant to the remedies provided in the First Mortgage shall be obligated to pay any Assessments that become due and payable on or after the date it acquires title to the Parcel or Individual Interest and as long as it remains in title, including any Special Assessments levied by the Association to raise operating, reserve or other funds needed because of uncollected delinquent Assessments.



**14.3 Notice to Eligible Holders.** An Eligible Holder is entitled to timely written notice of the following events:

**14.3.1** Any condemnation loss or casualty loss that affects a material portion of the Association Property or rights to use of the Association Maintenance Areas;

**14.3.2** Any delinquency in the payment of Community Assessments owed by an Owner that is subject to a First Mortgage held by the Eligible Holder if the delinquency is not cured within sixty (60) days after its due date;

**14.3.3** Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

**14.3.4** Any proposal to take any action specified in this Article or in Articles 14 and 15;

**14.3.5** Any default by an Owner that is subject to a First Mortgage held by the Eligible Holder in the performance of his or her obligations under this Declaration or the Community Bylaws which is not cured within sixty (60) days; or

**14.3.6** Any proposed action that requires the consent of a specified percentage of the Eligible Holders.

**14.4 Inspection of Books and Records.** Upon request, any First Mortgagee shall be entitled to inspect the books, records and financial statements of the Association and the Governing Documents during normal business hours or under other reasonable circumstances.

**14.5 Financial Statements.** The Association, at its expense, shall prepare an audited financial statement for the immediately preceding Fiscal Year and furnish the most recent audited financial statements to the First Mortgagee within a reasonable time after receipt of written request from any First Mortgagee.

**14.6 Mortgage Protection.** A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any First Mortgage in good faith and for value as to any Parcel or Condominium; provided, however, that the conditions contained in this Declaration shall be binding upon and effective against an Owner from and after such Owner's acquisition of a Parcel or Condominium by foreclosure, trustee's sale or otherwise.

**14.7 Right to Furnish Information.** Any First Mortgagee can furnish information to the Board concerning the status of any First Mortgage.

**14.8 Written Notification to Mortgagees or Guarantors of First Mortgages.** If a Mortgagee or guarantor of a First Mortgage has not given the Association written notice of its name, address and Parcel or Individual Interest encumbered by its Mortgage, any written notice or proposal required or permitted by this Declaration to be given to such Mortgagee or guarantor shall be deemed properly given if deposited in the United States mail, postage prepaid, and addressed to the Mortgagee or guarantor at its address appearing of record in the First Mortgage (or assignment thereof, if applicable).

## ARTICLE 15

### AMENDMENT AND TERM OF DECLARATION

*This Declaration and the easements, covenants, conditions and restrictions established under the Declaration will continue in effect for 99 years and thereafter will continue unless a certain percentage of the Owners elect to terminate the Declaration, with approval of the Town as required under Article 19. This will help to ensure the continued operation, use and viability of Westlake Entrada. This Article also*

*describes the procedures and requirements for amendments to this Declaration. The Town has consent rights over certain amendments to this Declaration, as specifically set forth in Article 19. Each Owner acknowledges that corrections and supplements to this Declaration may be necessary and that it is important to give Declarant the right to record such Supplemental Declarations without the consent of any Owner except as otherwise provided in this Declaration (and as may be subject to certain consent rights of the Town, as specifically set forth in Article 19).*

**15.1 Term.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Covered Property and shall inure to the benefit of and be enforceable by the Association or their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by the Owners representing ninety percent (90%) of all of the Allocable Shares and their Mortgagees has been recorded, at least one (1) year prior to the end of any such period in the manner required for a conveyance of real property, in which it is agreed that this Declaration shall terminate at the end of the then-applicable term. The rights to terminate this Declaration are in any event subject to the consent of the Town required under Section 19.4 hereof.

**15.2 Amendments.**

**15.2.1 Amendments Prior to Declarant's Rights Termination Date.** Prior to the Declarant's Rights Termination Date, Declarant, without the consent of any Owner, may amend this Declaration; provided that such amendment does not materially and adversely affect the use or development (existing or intended) of a Parcel for which Improvements have been permitted by the Town or for which Plans have been approved by the Association or Design Review Committee, as applicable without the written consent of the Owner of such affected Parcel. To the extent requested by Declarant, any Guest Builder who owns any portion of the Covered Property then subject to this Declaration shall execute any such amendment or restatement of this Declaration, provided that the execution of an amendment or restatement by a Guest Builder shall not be required to be enforceable against the Covered Property or applicable parties thereof.

**15.2.2 Amendments Subsequent to Declarant's Rights Termination Date.** After the Declarant's Rights Termination Date, this Declaration may be amended by the vote or written consent of the Members representing at least a Majority of the Voting Power of the Association and, any amendment to the limitations on Assessments to the Residential Areas shall require the approval of the Owners within the Residential Areas representing ninety percent (90%) of the Voting Power within each such Residential Area.

**15.2.3 Lender Consent.** Amendments which are adopted pursuant to Section 15.2.2 of a material and adverse nature to Mortgagees must be approved by Eligible Holders that represent at least at least fifty-one percent (51%) of the votes of Parcels and Condominiums that are subject to Mortgages held by Eligible Holders. Any Eligible Holder who receives written request to consent to additions or amendments requiring consent under this provision who does not deliver to the requesting party a negative response within sixty (60) days after receipt of a notice delivered by certified or registered mail, return receipt requested, shall be deemed to have consented to such request. For so long as is required by FNMA's legal requirements for project acceptance, all references to "Eligible Holder" in this Section 15.2.3 shall be deemed to include all First Mortgagees.

**15.2.4 Consent of Declarant.** Until the Declarant's Rights Termination Date, this Declaration shall not be amended to amend, diminish or eliminate any rights specifically granted or reserved to Declarant, a Declarant Party or a Guest Builder without the consent of the Declarant.

**15.2.5 Amendment to Eliminate Easements.** This Declaration shall not be amended to modify or eliminate the easements or any other rights reserved to Declarant, the Declarant Parties or Guest Builders herein without prior written approval of Declarant, until the Declarant's Rights Termination Date and any attempt to do so shall have no effect.

**16.2.6 Town Consent Rights.** The right to amend this Declaration are subject to the requirements to obtain Town consent with regard to certain amendments, as more specifically set forth in Section 19.5 hereof.

## ARTICLE 16

### ENFORCEMENT

*This Article describes the enforcement rights for violations of this Declaration and the Governing Document and certain procedures which must be followed in the event of a claim or the enforcement of this Declaration or the other Governing Documents.*

**16.1 Enforcement and Nonwaiver.** The Declarant and the Association, acting through the Board, shall have the right to enforce, by proceedings at law or in equity, all covenants, conditions and restrictions now or hereafter imposed by the provisions of the Governing Documents, including the right to prevent the violation of such documents and the right to recover damages for such violation. Failure of the Declarant or the Association to enforce any covenants or restrictions contained in the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.

**16.2 Legal Action Generally.** If an Owner or Individual Interest Owner breaches any provision of the Governing Documents ("Defaulting Party"), then the Association or any Owner ("Non-Defaulting Party") may institute legal action against the Defaulting Party for specific performance, injunction, declaratory relief, damages, or any other remedy provided by law including without limitation, attaching the assets of a Defaulting Party.

**16.3 Injunctive and Declaratory Relief.** In the event of any violation or threatened violation by an Owner or Individual Interest Owner of any of the terms, covenants, conditions, and restrictions herein contained, in addition to any other remedies provided for in this Declaration, the Non-Defaulting Party shall have the right to enjoin such violation or threatened violation and to bring an action for declaratory relief in a court of competent jurisdiction.

**16.4 Non-Defaulting Party's Right to Cure or Abate.** In addition to any other remedy provided for in this Declaration, a Non-Defaulting Party may demand by written notice (the "Default Notice") that the violation be cured. Except for utility service interruptions or similar emergencies which shall not require advance notice or cure periods hereunder, if the Defaulting Party does not cure the violation within thirty (30) days after receipt of the Default Notice, or if such default is of a kind which cannot reasonably be cured within thirty (30) days and the Defaulting Party does not within such thirty (30) day period commence to cure such default and diligently thereafter prosecute such cure to completion, then the Non-Defaulting Party shall have the right to (a) pay any sum owed by the Defaulting Party to the Person entitled thereto, and (b) enter upon the property of the Defaulting Party and summarily abate, remove or otherwise remedy any improvement, thing or condition which violates the terms of this Declaration. The Defaulting Party shall, within ten (10) days of written demand by the Non-Defaulting Party, accompanied by appropriate supporting documentation, reimburse the Non-Defaulting Party for all costs and expenses incurred by the Non-Defaulting Party in undertaking any of the actions permitted by clauses (a) through (c) in the preceding sentence, including without limitation, wages, benefits and overhead allocable to the time expended by any employee of the Non-Defaulting Party in taking such actions, together with interest thereon at the rate equal to the Default Interest Rate, from the date such costs and expenses were advanced or incurred by the Non-Defaulting Party. In the event of a default in the performance of any Maintenance Obligations, the provisions of Section 4.4.1 shall apply.

**16.6 Individual Interest Remedies and Lien Rights.** All Individual Interest Governing Documents shall (a) require (and shall at all times thereafter continue to require) its Individual Interest Owners to abide by the terms of the Governing Documents, (b) its respective Individual Interest Declaration shall authorize (and shall at all times continue to authorize) the Subassociation to institute legal action against any defaulting Owner or Individual Interest Owner for specific performance, injunction, declaratory relief, damages and any other remedies provide by Applicable Laws, each of which

remedies shall be cumulative and not inclusive, and after reasonable notice, the right to cure or abate any violation of a defaulting Individual Interest Owner at such defaulting Individual Interest Owner's cost and expense, and that upon obtaining a judgment, the Subassociation shall be entitled to a lien against the Parcel of any defaulting Individual Interest Owner, which lien shall be foreclosed judicially (in the same manner as provided for foreclosure of a mortgage or deed of trust of real property in the State of Texas) if the default is not cured, and (c) such Subassociation shall pursue and exercise any and all such remedies to collect amounts owed such Subassociation to enable the Subassociation to pay and perform its obligations hereunder.

**16.6 Remedies Cumulative.** The remedies provided in this Article 16 are in addition to any remedies available elsewhere in this Declaration or under applicable law. Exercise of one remedy shall not be deemed to preclude exercise of other remedies for the same default, and all remedies available to a Non-Defaulting Party may be exercised cumulatively.

## ARTICLE 17

### COVENANTS OF COOPERATION

*Given the mixed-use nature of Westlake Entrada, each of the Owners, Subassociations and Individual Interest Owners and the Association must cooperate to accomplish the objectives of this Declaration and to ensure the continued operation of Westlake Entrada. Good Faith and Cooperation. Because of the lengthy term of this Declaration, it is likely that conditions and circumstances will change significantly during the term of this Declaration. Consequently, the Owners, the Association shall cooperate in good faith to amend this Declaration with the consent of any Mortgagees as may be required hereunder so as to carry out the intentions of the Owners and the Association as manifested in this Declaration in the event of such changed conditions and circumstances.*

**17.1 No Discriminatory Restrictions on Transfer.** No Owner shall restrict the sale or transfer of any portion of the Covered Property on the basis of the race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry of any person.

**17.2 Estoppel Certificates.** The Association, at any time and from time to time, upon not less than thirty (30) days' prior written notice from an Owner shall execute, acknowledge and deliver to an the Owner (on its own behalf or on behalf of any Individual Interest Owner) or an Owner for its benefit and the benefit of any prospective purchaser, tenant or Mortgagee of such Owner, an estoppel certificate of the Association stating: (a) that this Declaration is unmodified and in full force and effect (or, if there have been modifications, that this Declaration is in full force and effect as modified and stating the modifications), (b) to the best of the Association's knowledge, whether or not there are then existing any defenses against the enforcement of any of the obligations of such party under this Declaration and the other Governing Documents (and, if so, specifying same), (c) to the best of the Association's knowledge, whether or not there are then existing any defaults by the applicable Owner under this Declaration and the other Governing Documents (and, if so, specifying same), (d) the dates, if any, to which Assessments and other charges under this Declaration have been paid by such party and the amounts of the most recently charged Assessments, and (e) any other information that may reasonably be required by any of such persons. It is intended that any such certificate delivered pursuant to this Section 17.2 may be relied upon by the requesting party or any prospective purchaser, tenant or Mortgagee of any portion of Westlake Entrada. The Association may charge a reasonable fee to prepare the estoppel certificate. A Subassociation (and not the Individual Interest Owners) request estoppels from the Association on behalf of the Owners subject to the jurisdiction of the Subassociation and in such case only the Subassociation and not the individual Interest Owner may request the estoppel.

**17.3 Exchange of Information.** Where reasonable and appropriate, an Owner shall from time to time after the date hereof furnish, execute and acknowledge without charge (except where elsewhere provided herein) such other instruments, documents, materials and information as another Owner may reasonably request, including grants of rights of way or easements, in order to confirm to

such requesting Owner the benefits contemplated by this Declaration, so long as any such request does not expand, restrict or abridge the benefits granted to an Owner hereunder.

**17.4 Cooperation with Parcel Reconfiguration.** In accordance with any reconfigurations or adjustments to the legal configuration of the Parcels within Westlake Entrada permitted to be made by the Association, each affected Owner shall cooperate and execute and cause any Mortgagee of record to cooperate and execute any approvals, authorizations, Final Maps or other documents reasonably requested by the Town and/or the Association for such reconfiguration.

**17.5 Reasonable Consents.** Except as otherwise set forth in this Declaration or a Supplemental Declaration, all consents and approvals of any of the Members or Owners of the Parcels and any First Mortgagees shall not be unreasonably withheld, conditioned or delayed; provided, however, that nothing stated in this Section 17.5 shall be interpreted to require an Owner to consent or give such Owner's approval to matters resulting in such Owner relinquishing rights or benefits set forth in this Declaration. Any disapproval of or failure of consent to any matter hereunder shall be in writing and shall state in reasonable detail the reason or reasons therefor.

**17.6 Requirements for Consent by Owners.** Except as expressly provided otherwise in this Declaration, to the extent that the consent of the Declarant, the Association or any of the Owners is expressly required under this Declaration, such Person shall have thirty (30) days to provide notice of approval or disapproval of the item for which consent is required. The failure of such Person to deliver notice of disapproval within such thirty (30) day period shall be deemed approval thereof. If a Person delivers a notice of disapproval, such notice shall state with reasonable specificity, the basis for disapproval.

**17.7 Association Limitation on Liability.** Except to the extent of any available insurance proceeds hereunder, the Association and its agents, employees and consultants (including, without limitation, the manager of the Association) shall not be liable to any Individual Interest or any Owner, or any Occupant, for any failure of any Utility Facilities or other services which are to be obtained or provided by the Association, or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Owner, or any other Person, or resulting from electricity, water, ice or other elements which may leak or flow from or over any portion of the Covered Property or from any pipe, drain, conduit, appliance or equipment within the Covered Property. The Association and its agents shall not be liable to any Owner or Individual Interest Owner for loss or damage, by theft or otherwise of articles which may be stored within any of the Association Property or the Association Maintenance Areas. No diminution or abatement of any Assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Association Maintenance Areas, or from any action taken by the Association to comply with any Applicable Laws.

**17.8 Reasonable Consents.** Except as otherwise set forth in this Declaration, all consents and approvals of any of the Owners and any First Mortgagees shall not be unreasonably withheld or delayed. Unless waived by the approving party, any disapproval of or failure of consent to any matter hereunder shall be in writing and shall state in reasonable detail the reason or reasons therefor. With respect to any consents to be provided by Declarant or a Declarant Party, reasonable approval shall mean the determination by Declarant or such Declarant Party, of whether an action is in the interests of Westlake Entrada, as determined by Declarant or such Declarant Party in its sole discretion.

**17.9 Transfers.** The Association or its management company may levy a transfer fee against new Owners in the amount of the actual costs incurred by the Association to change its records in order to reimburse the Association for the costs of changing its records to reflect the new ownership.

ARTICLE 18

GENERAL PROVISIONS

*This Article sets forth the general provisions which govern this Declaration.*

18.1 **Headings.** The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

18.2 **Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions of it shall not invalidate any other provisions. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Declaration shall become illegal, null, void, against public policy, or otherwise unenforceable, for any reason, the remaining portions of this Declaration shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by Applicable Laws.

18.3 **Cumulative Remedies.** Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver.

18.4 **Access to Books.** Declarant may, at any reasonable time and upon reasonable notice to the Association Board or manager, at his or her own expense, cause an audit or inspection to be made of the books and financial records of the Association.

18.5 **Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

18.6 **Notice.** Except as specifically provided otherwise, any notice permitted or required by this Declaration or the other Governing Documents may be delivered personally, or by prepaid overnight courier, or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Association or addressed to the Parcel of such person if no address has been given to the Association. If delivery is by a national overnight courier, delivery shall be deemed received upon the next business day after deposit with the national overnight courier and, if personally delivered, shall be deemed delivered upon receipt.

18.7 **Notification of Sale of Covered Property.** Concurrently with the consummation of the conveyance of any of the Covered Property under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Association Board or the manager of the Association in writing of such sale. Such notification shall set forth the name of the transferee and his or her mortgagee and transferor, the common address of the Parcel or Association portion purchased by the transferee, the transferee's and the mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the Association Board or the manager of the Association shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor.

18.8 **Notices.** Mailing addresses may be changed at any time upon written notification to the Board. Unless otherwise permitted hereunder, notices shall be in writing and shall be given by certified mail, return receipt requested, overnight courier or personal delivery. Notices shall be deemed received three (3) days after mailing if mailed by certified mail, return receipt requested, one (1) business day after deposit with an overnight courier or upon receipt if delivered in person. All notices to the

Association shall be delivered to the current address of the Association. All notices to an individual interest shall be delivered to the management company or current address of such association. All notices to an Owner shall be delivered to the Parcel or Condominium of such Owner unless an Owner notifies the Association in writing of a change of address.

18.9 **Number, Gender.** The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

18.10 **Exhibits.** All exhibits attached to this Declaration are incorporated by reference.

18.11 **Binding Effect.** This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the Owners.

18.12 **Statutory References.** All references in this Declaration to various statutes, codes, regulations, ordinances and other laws shall be deemed to include those laws in effect as of the date of this Declaration and any successor laws as may be amended from time to time.

18.13 **Joint and Several Liability.** When the Owner of a Parcel, or Condominium is comprised of more than one (1) Person, each such Person shall be jointly and severally liable for payment of Assessments, and performance of all obligations (including, without limitation, indemnification obligations) arising under any provision of the Governing Documents with respect to such Parcel or Condominium or the ownership thereof.

18.14 **Applicable Laws.** In the event of any conflict between this Declaration and the requirements imposed under any Applicable Laws, the more restrictive provisions of the Applicable Laws or Declaration, as applicable shall control.

18.15 **Conflicts in Documents.** In the event of any conflict between this Declaration and the requirements of a Governing Documents, the more restrictive provisions shall apply, except to the extent such provision abrogates or limits any rights reserved or granted to Declarant or Declarant Party under this Declaration and the Governing Documents.

18.16 **Governing Law.** This Declaration shall be governed by and construed under the laws of the State of Texas.

#### ARTICLE 19

##### AUTHORITY OF THE TOWN OF WESTLAKE PROVISIONS

*This Article sets forth certain authority and rights of the Town of Westlake.*

19.1 **Town Authority.** The Town's Zoning Ordinance and other Community Entitlements requires the approval of this Declaration and the creation of the Association to provide for the continuous and perpetual operation, maintenance and supervision of Association Property which, the Owners acknowledge, are not under the Town's ownership and the maintenance and operation of which are not the Town's responsibility, and PID improvements, which the Owners acknowledge are owned by the Town, but are to be maintained by the Association pursuant to the PID Maintenance Agreement.

19.2 **Abandonment of Maintenance Obligations.** Neither the Association nor the Owners shall seek, by either act or omission, to abandon their respective obligations as established by this Declaration to maintain the Association Property and PID Improvements.

**19.3 Termination of the Association.** The Association may not be dissolved or terminated without the prior written consent of the Town.

**19.4 Termination of the Declaration.** The Declaration may not be terminated without the prior written consent of the Town.

**19.5 Amendment of Certain Provisions of the Declaration.** Notwithstanding anything in this Declaration to the contrary: (a) the provisions of this Article 19 shall not be amended or deleted from this Declaration without the prior written consent of the Town; (b) any amendment of Section 1.24 regarding the definition of "Association Maintenance Areas," Section 1.26 regarding the definition of "Association Property," Section 1.85 regarding the definition of "PID Improvements," Exhibit "A-1" describing and/or depicting the Monument Signs which are part of the Association Property or Association Maintained Areas, and Exhibit "A-2" describing and/or depicting the PID Improvements, as well as any amendment to Section 4.3 of this Declaration pertaining to the obligations of the Association to maintain Association Property and PID Improvements require the prior written approval of the Town; and (c) any condition at or use of Association Property or PID Improvements in a manner which conflicts with or is in violation of the Zoning Ordinance or any other Community Entitlements shall require the prior written consent of the Town. Except as provided in the preceding sentence, this Declaration can be amended without the consent of the Town.

**19.6 Failure of the Association to Maintain Association Property or PID Improvement.** If an Owner or the Association defaults or fails to perform one or more duties and obligations under this Declaration regarding the maintenance of certain Association Property or PID Improvements (the "Deficient Association Maintenance Property"), the Town, after (a) giving the Association written notice of said failure except in the case of an emergency or an immediate threat to the public health, safety and welfare, describing in the notice with reasonable specificity the nature and location of the alleged maintenance failure and providing a reasonable amount of time for the cure of the alleged maintenance failure (the "Notice for Maintenance") and (b) the lapse of the cure period without the remedy of the maintenance failure, shall have the right but not the obligation to maintain, repair and make safe the Deficient Association Maintenance Property (that is, only the Deficient Association Maintenance Property and not all Association Property and PID Improvements). If the Deficient Association Maintenance Property are not Association Maintained Areas and have not otherwise been accepted for maintenance by the Association, and in the event the Town performs such maintenance obligations, the Town shall have the right to recover the Town's costs of maintaining, repairing and making safe the Deficient Association Maintenance Property from the Owner, on whose Parcel the Deficient Association Maintenance Property are located, pursuant to the terms of the Zoning Ordinance and the Community Entitlements. If the Deficient Association Maintenance Property are Association Maintained Areas or have otherwise been accepted for maintenance by the Association, and in the event the Town performs such maintenance obligations, the Town shall have the right to payment from the Association and, if necessary to recover the amounts due to the Town, to collect and enforce the payment of delinquent Assessments for the maintenance, repair, replacement or care of the Deficient Association Maintenance Property. In addition or in the alternative, the Town may levy an assessment upon each Parcel within the Property based on allocations determined in accordance with Article 6 of this Declaration, for the reasonable cost of such maintenance, notwithstanding any other provisions contained in this Declaration, which assessment shall constitute a lien upon the Parcel against which each assessment is made. The payment of any such assessments and liens shall be deemed an obligation of each Owner just like the obligations identified in this Declaration. Nothing contained herein is intended to, nor shall it be interpreted as or deemed to, waive, limit or restrict the Town's authority and ability to enforce its ordinances regarding the maintenance and/or repair of Association Property and/or PID Improvements and pursue any remedies available to the Town under any Applicable Laws. During any period that the Town assumes the obligation to maintain any Deficient Association Maintenance Property, neither the Owner of the Parcel on which such Deficient Association Maintenance Property is located nor the Association shall have any authority with respect to the performance of such maintenance on the Deficient Association Maintenance Property. The right and authority of the Town to maintain such Deficient Association Maintenance Property shall cease and terminate when the Owner or the Association, as applicable, shall present to the Town reasonable



evidence of the willingness and ability of the Owner or the Association, as applicable, to resume maintenance of the Deficient Association Maintenance Property. The Town acknowledges that the Association is obligated to maintain only the Association Maintained Areas and such other areas for which the Association has otherwise agreed to assume such responsibility. In the event the Town assumes the duty of performing the maintenance obligations of an Owner or the Association as provided in this Section 19.6, then the Town, its agents, representatives and employees, shall have the right of access, ingress and egress to and over Association Property and PID Improvements for the purpose of maintaining and preserving the Deficient Association Maintenance Property, and in no event and under no circumstances, shall the Town be liable to the Association or any Owner or their respective heirs, devisees, personal representatives, successors and assigns for negligent acts or omissions (excluding, however, malfeasance and gross negligence) relating in any manner to maintaining and preserving such Deficient Association Maintenance Property. Neither shall the Town be deemed or assumed to be an owner or insurer of such Deficient Association Maintenance Property, it specifically being and remaining the responsibility of the Association and/or any Owner to adequately maintain, to warn of dangerous conditions, if any, when necessary, and to make Association Property and PID Improvements safe when necessary in accordance with the provisions of Applicable Laws.

#### 19.7 Conflicts.

19.7.1 To the extent that this Declaration conflicts with any provision of the Zoning Ordinance or the Town's Code of Ordinances (as may be amended from time to time), the most restrictive terms shall apply provided that enforcement of such terms do not result in a violation of the Zoning Ordinance or the Town's Code of Ordinances (as may be amended from time to time).

19.7.2 To the extent that any provision in this Article 19 conflicts with any other provision in this Declaration, the provisions of this Article 19 shall control.

### ARTICLE 20

#### DISCLOSURES AND INDEMNITIES

*This last Article sets forth certain disclosures of conditions present in regard to the Covered Property and indemnities regarding use of the Covered Property.*

20.1 Amphitheater Disclosure. Each Owner, by acceptance of a Deed to a Parcel or any portion thereof, for itself and its tenants, visitors, guests, occupants, employees, agents, representatives, permittees and/or invitees ("Owner Related Parties") acknowledges and agrees that that the Covered Property and all Lots and Residences located therein are in the vicinity of an outdoor performance center and amphitheater (the "Amphitheater Facilities"), which is not part of the Association Property and is not Association Maintained Areas. Such Amphitheater Facilities are owned, operated and maintained by the Owner thereof and not the Association. Each Owner acknowledges and agrees that the use and operation of the Amphitheater Facilities may result in irregular vehicle and pedestrian traffic patterns, increased vehicular and pedestrian traffic, increases in parking of vehicles on Streets within or in the vicinity of the Property, and increased levels of noise and lights. IN NO EVENT SHALL THE PROXIMITY OF THE PARCELS TO THE AMPHITHEATER FACILITIES AND ANY RESULTING TRAFFIC, PARKING, NOISE, LIGHTS OR OTHER CONDITIONS RELATED TO THE OPERATION AND USE THEREOF BE CONSIDERED A NUISANCE OR A VIOLATION OF ANY OF THE COVENANTS, CONDITIONS AND/OR RESTRICTIONS HEREUNDER. Amphitheatre Facilities and uses are subject to event permitting by the Town.

20.2 Gas Well Pad Site and Oil, Gas and Mineral Rights Disclosure. Each Owner, by acceptance of a Deed to a Parcel or any portion thereof, for itself and any Owner Related Party

acknowledges and agrees that the Gas Well Pad Site is located on or adjacent to the Covered Property, and that the interests in the oil, gas and/or minerals interests related or appurtenant to the Covered Property (the "Mineral Estate") have been severed from the surface estate and the use of the surface estate by the Owners, Declarant and the Association is subject to the rights, title and interest of the owners or holders of Mineral Estate. The holders of interests in the Gas Well Pad Site and owners and holders of the Mineral Estate have certain rights within the Gas Well Pad Site, and other portions of the Covered Property to (i) perform drilling and production activities and related energy operations in connection with the extraction of natural gas and other minerals, (ii) locate, construct, install and use certain access and transmission pipeline easements and related improvements. Such operations and use may cause elevated levels of noise, vehicular traffic, exhaust, pollution, artificial light, seismic activity, as well as related hazards and undesirable effects that affect the Covered Property, Owners, and Owner Related Parties. IN NO EVENT SHALL THE PROXIMITY OF THE PARCELS TO THE GAS WELL PAD SITE AND ANY RESULTING NOISE, LIGHTS, VEHICULAR TRAFFIC, EXHAUST, POLLUTION, ARTIFICIAL LIGHT, SEISMIC ACTIVITY, OR OTHER HAZARDS OR CONDITIONS RELATED TO THE OPERATION AND USE THEREOF, PROVIDED SAME ARE IN COMPLIANCE WITH ANY AND ALL APPLICABLE LAWS, BE CONSIDERED A NUISANCE OR A VIOLATION OF ANY OF THE COVENANTS, CONDITIONS AND/OR RESTRICTIONS HEREUNDER. IN NO EVENT SHALL THE SEVERANCE OF THE MINERAL ESTATE FROM THE SURFACE RIGHTS OF THE COVERED PROPERTY AND/OR THE EXERCISE OF ANY RIGHTS, TITLE AND INTERESTS OF ANY OWNER OR HOLDER OF THE MINERAL ESTATE BE CONSIDERED A NUISANCE OR A VIOLATION OF ANY OF THE COVENANTS, CONDITIONS AND/OR RESTRICTIONS HEREUNDER. EACH OWNER HEREBY INDEMNIFIES AND DEFENDS, AND HOLDS HARMLESS, THE ASSOCIATION, DECLARANT, AND ANY MANAGEMENT PARTY FOR FROM AND AGAINST ANY CLAIMS MADE BY SUCH OWNER RELATED PARTIES WITH RESPECT TO (I) THE GAS WELL PAD SITE OR USE THEREOF AND/OR (II) THE SEVERANCE OF THE MINERAL ESTATE FROM THE SURFACE RIGHTS OF THE COVERED PROPERTY AND/OR THE EXERCISE OF ANY RIGHTS, TITLE AND INTERESTS OF ANY OWNER OR HOLDER OF THE MINERAL ESTATE. The foregoing shall not prohibit, hinder or prevent any Owner or Owner Related Party from pursuing a cause of action against the holders of interests in the Gas Well Pad Site and/or owners and holders of the Mineral Estate with respect to any acts or omissions related to such Mineral Estate of Gas Well Pad Site in violation of Applicable Laws.

**20.3 Indemnification of Declarant and Association: Parcels and Association Maintained Areas.** EACH OWNER OF A PARCEL, FOR ITSELF AND ALL OWNER RELATED PARTIES ACKNOWLEDGES AND AGREES TO ASSUME ALL RISKS IN ITS USE AND OCCUPANCY OF ANY PARCEL AND ANY PORTION OF THE ASSOCIATION MAINTAINED AREAS. EACH OWNER HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS THE ASSOCIATION, THE DECLARANT AND ANY MANAGEMENT PARTY FOR, FROM AND AGAINST ALL CLAIMS ARISING FROM OR RESULTING FROM THE USE AND/OR OCCUPANCY OF SUCH OWNER'S PARCEL OR ANY ASSOCIATION MAINTAINED AREAS THEREIN BY ANY OWNER RELATED PARTY, OTHER THAN AS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE ASSOCIATION, THE DECLARANT OR ANY MANAGEMENT PARTY.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Declarant has executed this instrument as of the day and year first herein above written.

DECLARANT:

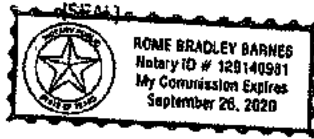
MRW Investors, LLC,  
a Texas limited liability company

By: [Signature]  
Name: Mehrdad Moayed  
Title: Manager

STATE OF Texas      §  
   §  
COUNTY OF Tarrant      §  
   §      SS:

Before me, Rome Barnes, a Notary Public, on this day personally appeared Mehrdad Moayed, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act of MRW Investors, LLC, a Texas limited liability company, as its Manager, for the purposes and consideration therein expressed.

Given under my hand and seal of office this 21 day of April, 2017.




R B

Notary Public, State of Texas  
Printed Name of Notary: Rome Barnes  
My Commission Expires: 9-26-20

Owner's Signatures

The undersigned as all of the fee title owners of the Covered Property agree to subject the Covered Property to this Declaration.

CVS PHARMACY, INC.,  
a Rhode Island corporation

By:   
Name: Toni A. Motta  
Title: Assistant Secretary

CVS Legal Approval:  
D. Stevens, Holland & Knight

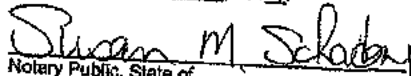
STATE OF Rhode Island  
COUNTY OF Providence

SS:

Before me, Susan M. Schudone, a Notary Public, on this day personally appeared Toni A. Motta, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act of CVS Pharmacy, Inc., a Rhode Island corporation, as its Assistant Secretary for the purposes and consideration therein expressed.

Given under my hand and seal of office this 2<sup>nd</sup> day of June, 2017.

[SEAL]

  
Notary Public, State of \_\_\_\_\_  
Printed Name of Notary: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

*(additional signature page follows)*

Susan M. Schudone  
Notary Public - 46180  
State of Rhode Island  
My Comm Expires 3/9/2020

Hokey Land Holdings, LP,  
a Texas limited partnership

By: Hokey Land Holdings GP, Inc.,  
a Texas corporation  
its General Partner

By: [Signature]  
Name: Mehrdad Moayedi  
Its: President

STATE OF TEXAS  
COUNTY OF DALLAS

Before me, Mehrdad Moayedi, a Notary Public, on this day personally appeared Mehrdad Moayedi known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act of Hokey Land Holdings GP, Inc., a Texas corporation, as the General Partner of Hokey Land Holdings, LP, a Texas limited partnership, as its President, for the purposes and consideration therein expressed.

Given under my hand and seal of office this 21 day of April 2017



Notary Public, State of TEXAS  
Printed Name of Notary: Rome Barnes  
My Commission Expires: 9-26-20

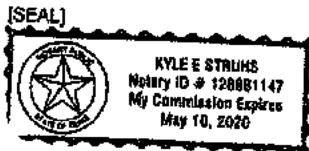
MP5 REAL ESTATE, LLC,  
a Texas limited liability company

By: [Signature]  
Name: Kevin Nichols  
Title: Owner

STATE OF Texas      §  
   §  
   §  
COUNTY OF Tarrant      SS:

Before me, Kyle Struhs a Notary Public, on this day personally appeared Kevin Nichols, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act of MP5 Real Estate, LLC, a Texas limited liability company, as its Owner for the purposes and consideration therein expressed.

Given under my hand and seal of office this 24<sup>th</sup> day of April, 2017.



[Signature]  
Notary Public, State of Texas  
Printed Name of Notary: Kyle Struhs  
My Commission Expires: May 10<sup>th</sup> 2020

CONSENT AND SUBORDINATION OF LIENHOLDER

The undersigned, being the beneficiary under that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated June 29, 2016, executed by MRW Investors, LLC (the "Borrower") and recorded on July 5, 2016, as Borrower, in the Official Public Records of Tarrant County, Texas, together with any modifications, supplements, restatements or amendments thereto, hereby consents to the foregoing Declaration of Covenants, Conditions and Restrictions, and Establishment of Easements for Westlake Entrada (the "Declaration") to be applicable to the Land, in accordance with the terms thereof, and furthermore subordinates its lien rights and interests in and to the Land to the terms, provisions, covenants, conditions and restrictions under the Declaration so that foreclosure of its lien will not extinguish the terms, provisions, covenants, conditions and restrictions under the Declaration.

FioMc Westlake Investments, LLC,  
a Texas Limited Liability Company

By: [Signature]  
Title: Authorized Signatory  
Name: Alex Verba

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Los Angeles

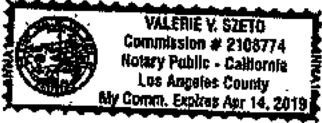
On May 8th 2017 before me, Valerie V. Szeto  
(insert name and title of the officer)

personally appeared MR. ALEXANDER VERBA  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



-Consent and  
Subordination of  
Lienholder-

Westlake Entrada Declaration





**LIST OF EXHIBITS**

EXHIBIT "A" ..... Covered Property  
EXHIBIT "A-1" ..... Monument Signs  
EXHIBIT "A-2" ..... PID Improvements  
EXHIBIT "A-3" ..... Private Streets  
EXHIBIT "A-4" ..... Retaining Walls within Association Landscape Areas  
EXHIBIT "B" ..... Annexable Property  
EXHIBIT "C" ..... Site Plan  
EXHIBIT "D" ..... Residential Area Allocable Assessment Share and Voting Power  
EXHIBIT "E" ..... Description of Offsite Maintenance Area  
EXHIBIT "F" ..... PID Maintenance Agreement  
EXHIBIT "G" ..... Gas Well Pad Site  
EXHIBIT "H" ..... 30-Year Street Replacement Schedule

EXHIBIT "A"

Verify that this survey covers all of the development, all phases and is identical to Ordinance 703, Exhibit 1

Covered Property

BEING A TRACT OF LAND SITUATED IN THE C.M. THROOP SURVEY, ABSTRACT NO. 1510, THE W. MEDLIN SURVEY, ABSTRACT NO. 1958, THE WILLIAM PEA SURVEY, ABSTRACT NO. 1246 AND THE JOSEPH HENRY SURVEY, ABSTRACT NO. 742, TARRANT COUNTY, TEXAS AND BEING A PORTION OF TRACT 2 AS DESCRIBED IN THE SPECIAL WARRANTY DEED TO MAGUIRE PARTNERS - SOLANA LAND, L.P. AS RECORDED IN VOLUME 16858, PAGE 176 OF THE DEED RECORDS OF TARRANT COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD FOUND WITH "HUITT-ZOLLARS" CAP AT THE SOUTHWEST CORNER OF LOT 2R1, BLOCK 1, WESTLAKE/SOUTHLAKE PARK ADDITION NO. 1, AN ADDITION TO THE TOWN OF WESTLAKE, TEXAS AS RECORDED IN INSTRUMENT NO. D209000990, OF THE OFFICIAL PUBLIC RECORDS OF TARRANT COUNTY, TEXAS, BEING ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOLANA BOULEVARD (FORMERLY KNOWN AS KIRKWOOD BOULEVARD), A VARIABLE WIDTH RIGHT-OF-WAY AS DEDICATED BY SAID WESTLAKE/SOUTHLAKE PARK ADDITION NO. 1 AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 09 DEGREES 13 MINUTES 12 SECONDS, A RADIUS OF 1428.00 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 47 DEGREES 49 MINUTES 50 SECONDS WEST A DISTANCE OF 229.54 FEET;

THENCE ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOLANA BOULEVARD, A VARIABLE WIDTH RIGHT-OF-WAY, AS DESCRIBED IN DEDICATION DEED TO THE TOWN OF WESTLAKE AS RECORDED UNDER INSTRUMENT NO. D208427746, DEED RECORDS OF TARRANT COUNTY, TEXAS THE FOLLOWING:

ALONG SAID CURVE TO THE LEFT AN ARC DISTANCE OF 229.79 FEET TO A 1/2 INCH ROD FOUND WITH GRAHAM CAP AT THE END OF SAID CURVE;

NORTH 52 DEGREES 30 MINUTES 14 SECONDS WEST A DISTANCE OF 32.80 FEET TO 1 2 INCH IRON ROD FOUND WITH GRAHAM CAP BEGINNING OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 18 DEGREES 54 MINUTES 50 SECONDS, A RADIUS OF 612.00 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 43 DEGREES 02 MINUTES 50 SECONDS WEST A DISTANCE OF 201.11 FEET;

ALONG SAID CURVE TO THE RIGHT ARC DISTANCE OF 202.03 FEET TO A 1/2 INCH IRON ROD FOUND WITH GRAHAM CAP AT THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 24 DEGREES 06 MINUTES 48 SECONDS, A RADIUS OF 812.00 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 21 DEGREES 32 MINUTES 03 SECONDS WEST A DISTANCE OF 339.22 FEET;

ALONG SAID CURVE TO THE RIGHT AN ARC DISTANCE OF 341.74 FEET TO A 1/2 INCH IRON ROD FOUND WITH GRAHAM CAP AT THE END OF A SAID CURVE;

NORTH 09 DEGREES 28 MINUTES 39 SECONDS WEST A DISTANCE OF 132.24 FEET TO A 1/2 INCH IRON ROD FOUND WITH GRAHAM CAP AT THE BEGINNING OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 45 DEGREES 43 MINUTES 19 SECONDS, A RADIUS OF 708.00 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 32 DEGREES 20 MINUTES 19 SECONDS WEST A DISTANCE OF 550.11 FEET;

EXHIBIT "A"

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Westlake Entrance Declaration

ALONG SAID CURVE TO THE LEFT AN ARC DISTANCE OF 564.98 FEET TO A 1/2 INCH IRON ROD FOUND WITH GRAHAM CAP AT THE END OF SAID CURVE;

NORTH 55 DEGREES 11 MINUTES 58 SECONDS WEST A DISTANCE OF 190.50 FEET TO A POINT;

NORTH 08 DEGREES 56 MINUTES 27 SECONDS WEST A DISTANCE OF 21.41 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF PRECINCT LINE ROAD, A VARIABLE WIDTH RIGHT-OF-WAY, AS DESCRIBED IN DEDICATION DEED TO TOWN OF WESTLAKE AS RECORDED UNDER INSTRUMENT NO. D208427748, DEED RECORDS OF TARRANT COUNTY, TEXAS AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 16 DEGREES 09 MINUTES 21 SECONDS, A RADIUS OF 1,432.50 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS NORTH 27 DEGREES 07 MINUTES 42 SECONDS EAST A DISTANCE OF 402.59 FEET;

THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PRECINCT LINE ROAD, THE FOLLOWING;

ALONG SAID CURVE TO THE LEFT AN ARC DISTANCE OF 403.93 FEET TO A 1/2 INCH IRON ROD FOUND WITH GRAHAM CAP AT THE END OF SAID CURVE;

NORTH 18 DEGREES 47 MINUTES 24 SECONDS EAST A DISTANCE OF 185.36 FEET TO A 1/2 INCH IRON ROD FOUND WITH GRAHAM CAP;

NORTH 17 DEGREES 03 MINUTES 03 SECONDS EAST A DISTANCE OF 322.64 FEET TO A 1/2 INCH IRON ROD FOUND ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 114 (A VARIABLE WIDTH ROW);

THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 114, THE FOLLOWING;

NORTH 60 DEGREES 06 MINUTES 26 SECONDS EAST A DISTANCE OF 44.64 FEET TO A TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND;

SOUTH 71 DEGREES 03 MINUTES 32 SECONDS EAST A DISTANCE OF 254.65 FEET TO A POINT FOR CORNER FROM WHICH A TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND BEARS NORTH 05 DEGREES 35 MINUTES 27 SECONDS WEST A DISTANCE OF 0.49 FEET;

SOUTH 77 DEGREES 26 MINUTES 08 SECONDS EAST A DISTANCE OF 746.74 FEET TO A TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND;

SOUTH 71 DEGREES 03 MINUTES 31 SECONDS EAST A DISTANCE OF 1443.85 FEET TO A TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND;

SOUTH 62 DEGREES 34 MINUTES 19 SECONDS EAST A DISTANCE OF 404.34 FEET TO A TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 08 DEGREES 19 MINUTES 09 SECONDS, A RADIUS OF 2,709.79 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 58 DEGREES 24 MINUTES 45 SECONDS EAST A DISTANCE OF 383.11 FEET;

ALONG SAID CURVE TO THE RIGHT AN ARC DISTANCE OF 383.46 FEET TO A BROKEN TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND;

SOUTH 54 DEGREES 15 MINUTES 11 SECONDS EAST A DISTANCE OF 399.24 FEET TO A BROKEN TEXAS DEPARTMENT OF TRANSPORTATION BRASS DISK IN CONCRETE FOUND;

SOUTH 64 DEGREES 19 MINUTES 50 SECONDS EAST A DISTANCE OF 56.55 FEET TO A 5/8 INCH IRON ROD FOUND WITH "HUITT-ZOLLARS" CAP AT THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 02 DEGREES 13 MINUTES 56 SECONDS, A RADIUS OF 2,754.79 FEET AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 43 DEGREES 17 MINUTES 37 SECONDS EAST A DISTANCE OF 107.32 FEET;

ALONG SAID CURVE TO THE RIGHT AN ARC DISTANCE OF 107.33 FEET TO A 1/2 INCH ROD FOUND WITH "HUITT-ZOLLARS" CAP FOR THE NORTHEAST CORNER OF LOT 1, BLOCK 1, OF WESTLAKE/SOUTHLAKE PARK ADDITION NO. 1, AN ADDITION TO THE TOWN OF WESTLAKE, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 388-214, PAGES 78 AND 79, PLAT RECORDS, TARRANT COUNTY, TEXAS;

THENCE DEPARTING THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 114, NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE NORTH LINE OF SAID LOT 1, BLOCK 1, A DISTANCE OF 2,132.54 FEET TO A 5/8 INCH IRON ROD WITH "CARTER-BURGESS" CAP FOUND FOR THE NORTHWEST CORNER OF AFORESAID LOT 2R1, BLOCK 1, WESTLAKE/SOUTHLAKE PARK ADDITION NO. 1;

THENCE SOUTH 52 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE NORTHWESTERLY LINE SAID LOT 2R1, BLOCK 1, A DISTANCE OF 1000.00 FEET TO A 5/8 INCH IRON ROD WITH "CARTER & BURGESS" CAP FOUND AT AN ANGLE POINT IN THE WEST LINE OF SAID LOT 2R1, BLOCK 1;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 2R1, BLOCK 1, A DISTANCE OF 158.56 FEET TO THE POINT OF BEGINNING AND CONTAINING 85.90 ACRES OF LAND.

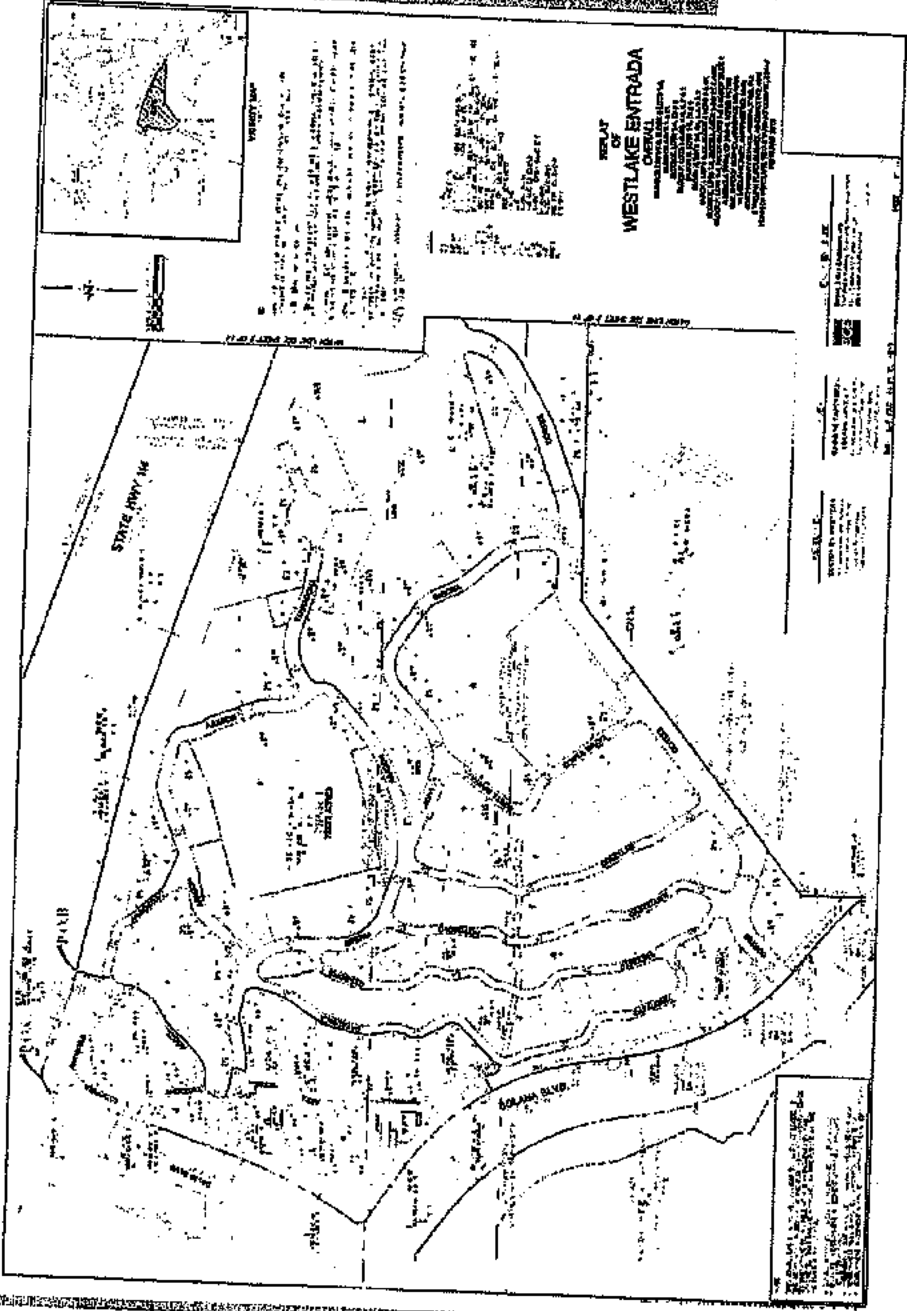
**EXHIBIT "A-1"**  
**Monument Signs**  
**[see attached]**

0057820000311397562.12

**EXHIBIT "A-1"**

**Weslake Entrada Declaration**

EXHIBIT A - MONUMENT SIGNS



MONUMENT SIGNS  
 1. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND STATE HWY. 160.  
 2. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND SOLARIA BLVD.  
 3. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND SOLARIA BLVD.  
 4. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.  
 5. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND WESTLAKE ENTRADA DRIVE.  
 6. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.  
 7. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND WESTLAKE ENTRADA DRIVE.  
 8. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.  
 9. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND WESTLAKE ENTRADA DRIVE.  
 10. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.

MONUMENT SIGNS  
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 3. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND SOLARIA BLVD.  
 4. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.  
 5. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND WESTLAKE ENTRADA DRIVE.  
 6. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.  
 7. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND WESTLAKE ENTRADA DRIVE.  
 8. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.  
 9. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 160 AND WESTLAKE ENTRADA DRIVE.  
 10. MONUMENT SIGN AT INTERSECTION OF STATE HWY. 16 AND WESTLAKE ENTRADA DRIVE.

REPORT OF  
**WESTLAKE ENTRADA**  
 OVERALL  
 DEVELOPMENT  
 PREPARED BY  
 MOORELAND  
 1000 WESTLAKE ENTRADA DRIVE  
 WESTLAKE, TEXAS 75086  
 PHONE (214) 435-1234  
 FAX (214) 435-1235  
 MOORELAND  
 1000 WESTLAKE ENTRADA DRIVE  
 WESTLAKE, TEXAS 75086  
 PHONE (214) 435-1234  
 FAX (214) 435-1235

DATE	10/15/88
SCALE	AS SHOWN
PROJECT	WESTLAKE ENTRADA
CLIENT	MOORELAND
DESIGNER	MOORELAND
CHECKED	MOORELAND
APPROVED	MOORELAND
DATE	10/15/88

MOORELAND  
 1000 WESTLAKE ENTRADA DRIVE  
 WESTLAKE, TEXAS 75086  
 PHONE (214) 435-1234  
 FAX (214) 435-1235

EXHIBIT "A-2"

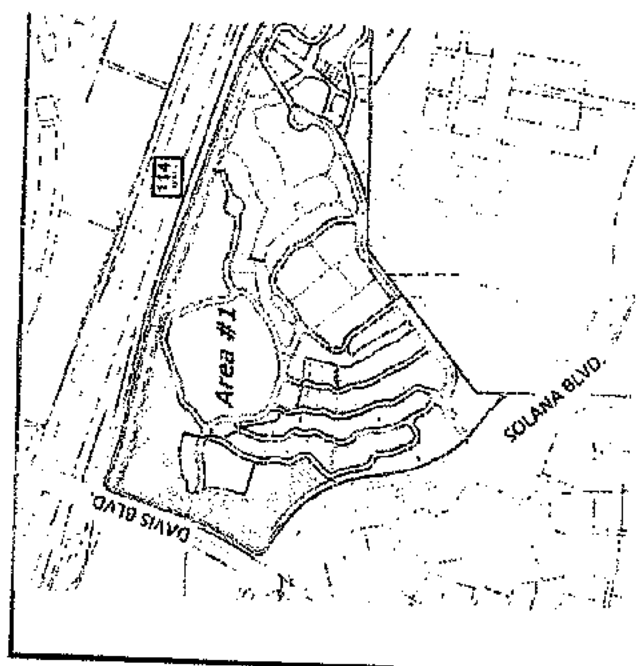
PID Improvements

1. **Road Improvements** - approximately 49,116 SY of 6-inch reinforced concrete pavement, 34,506 SY of 8-inch reinforced concrete pavements, 89,500 SY of 8-inch treated sub-grade compacted to 95% SPD, striping, street signage and signals, turn lanes and bridges, as described on the Appendix following.
2. **Water Distribution System Improvements** - approximately 15,840 linear feet of 12-inch water lines, approximately 6,149 linear feet of 8-inch water lines, fire hydrants and trench safety procedure, as described on the Appendix following.
3. **Sanitary Sewer Collection System Improvements** - approximately 14,554 linear feet of 8-inch PVC, including sewer laterals, manholes and trench safety procedures as described on the Appendix following.
4. **Landscaping: Public Park Improvements** - a 12-acre central lake, vineyards, trees, rubble stone walls and pathways on approximately nine acres, installation of over 2½ miles of 8-12' wide concrete paths with seating areas, public art and public lighting details, including bollards, gathering area lighting and street lighting, as described on the Appendix following.
5. **Duct Bank Extension Improvements** - 4,955 linear feet of double conduit with pull boxes and 13,891 linear feet of single conduit with pull boxes that runs parallel to the street network and to be used by franchise utilities such as cable and fiber.
6. **Parking Structure** - a parking structure with approximately 440 parking spaces.


Notwithstanding anything to the contrary contained herein, in no event shall the Association Maintained Areas include any Water Distribution System Improvements, Sanitary Sewer Collection System Improvements, storm drainage improvements or Duct Bank Extension Improvements described in the Service and Assessment Plan adopted by the Town with respect to the PID Improvements (collectively, the "Town Maintained Improvements and Services"), which Town Maintained Improvements and Services the Town has agreed to maintain in the same manner as similar infrastructure improvements located within the Town.

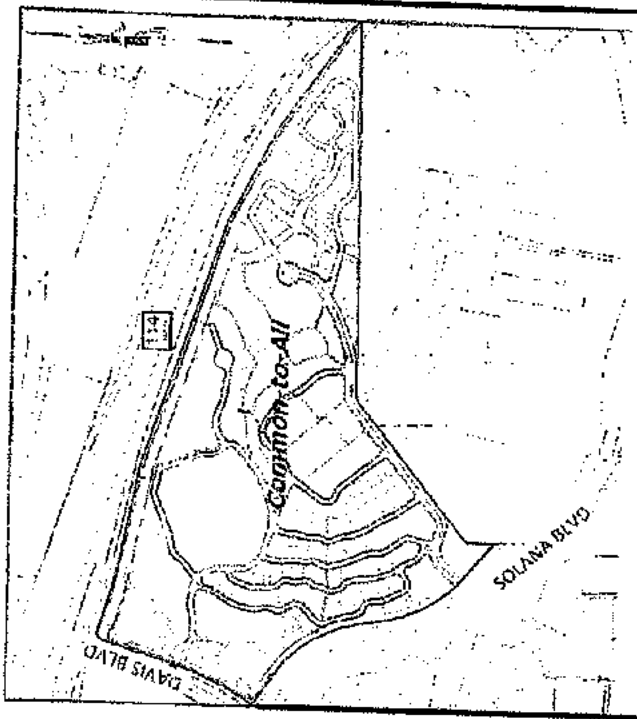
*[appendix depicting PID Improvements to follow]*

**EXHIBIT A-2 - PID IMPROVEMENTS**  
**SHEET 1**



**IMPROVEMENT AREA #1**  
**MIXED USE VILLAGE CORE**  
**ENTRADA**  
**TOWN OF WESTLAKE**  
**TARRANT COUNTY, TEXAS**

  
 CONSULTANTS, LLC  
 ARCHITECTURE INTERIORS INTERIORS  
 12139  
 12139



**IMPROVEMENT AREA**  
**COMMON-TO-ALL**  
**ENTRADA**  
**TOWN OF WESTLAKE**  
**TARRANT COUNTY, TEXAS**


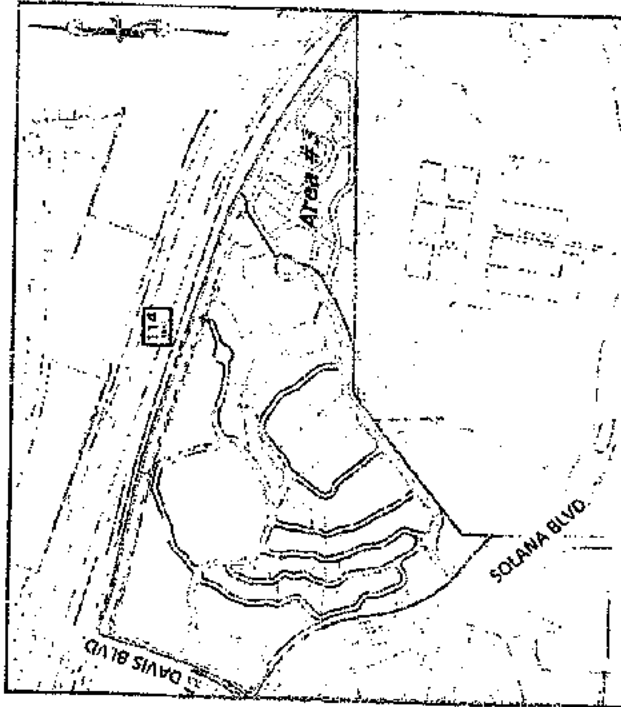
  
 CONSULTANTS, LLC  
 ARCHITECTURE INTERIORS INTERIORS  
 12139  
 12139

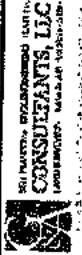


EXHIBIT A-2 - PID IMPROVEMENTS  
SHEET 2

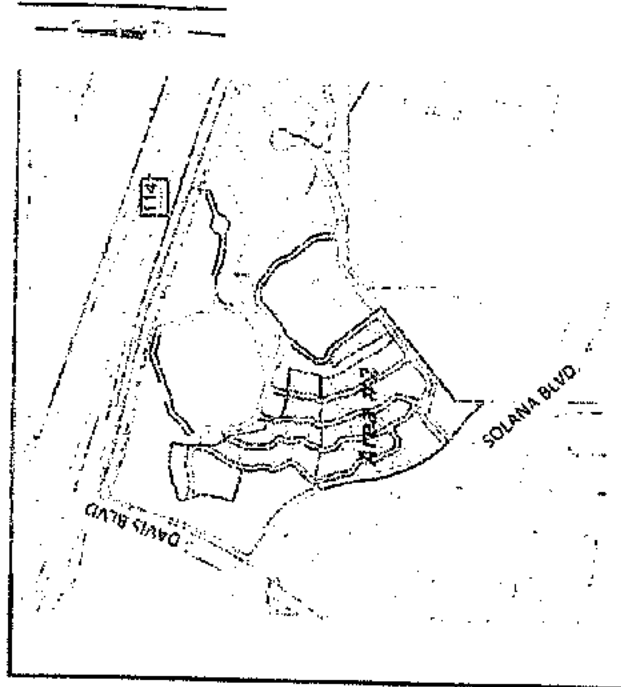
MOORELAND



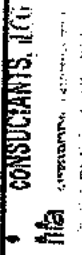
IMPROVEMENT AREA #3  
EAST RESIDENTIAL  
ENTRADA  
TOWN OF WESTLAKE  
TARRANT COUNTY, TEXAS



REGISTERED PROFESSIONAL ENGINEER  
CONSULTANTS, LLC  
1000 WESTLAKE DRIVE, SUITE 100  
FORT WORTH, TEXAS 76102  
PHONE: 817.335.1234  
FAX: 817.335.1235  
WWW.MFACONSULTANTS.COM



IMPROVEMENT AREA #2  
WEST RESIDENTIAL  
ENTRADA  
TOWN OF WESTLAKE  
TARRANT COUNTY, TEXAS



REGISTERED PROFESSIONAL ENGINEER  
CONSULTANTS, LLC  
1000 WESTLAKE DRIVE, SUITE 100  
FORT WORTH, TEXAS 76102  
PHONE: 817.335.1234  
FAX: 817.335.1235  
WWW.MFACONSULTANTS.COM

**EXHIBIT "A-3"**

**Private Streets**

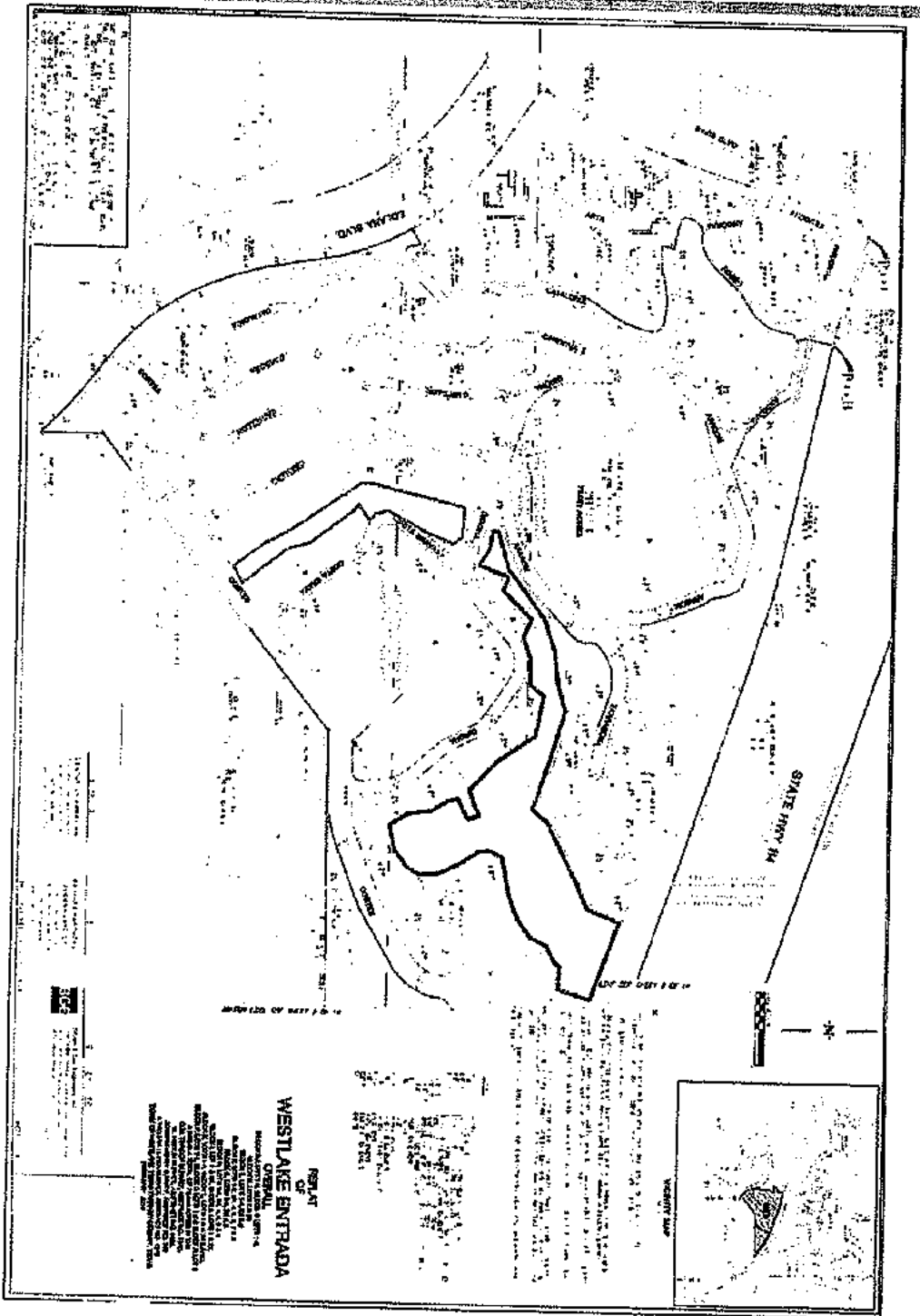
*(description and/or depiction to follow)*



**EXHIBIT "A-4"**

**Retaining Walls within Association Landscape Areas**

*(description and/or depiction to follow)*



**PLAN OF**  
**WESTLAKE ENTRADA**  
 A COMMUNITY DEVELOPMENT PROJECT  
 IN THE CITY OF WESTLAKE, CALIFORNIA  
 PREPARED BY  
 MOORELAND ASSOCIATES, INC.  
 1000 WESTLAKE AVENUE, SUITE 200  
 WESTLAKE, CALIFORNIA 91391  
 DATE: 10/15/00

MOORELAND  
 ASSOCIATES, INC.

ENGINEERING & PLANNING SERVICES



**EXHIBIT "B"**  
**Annexable Property**

**NONE**

0057820000311397562.12

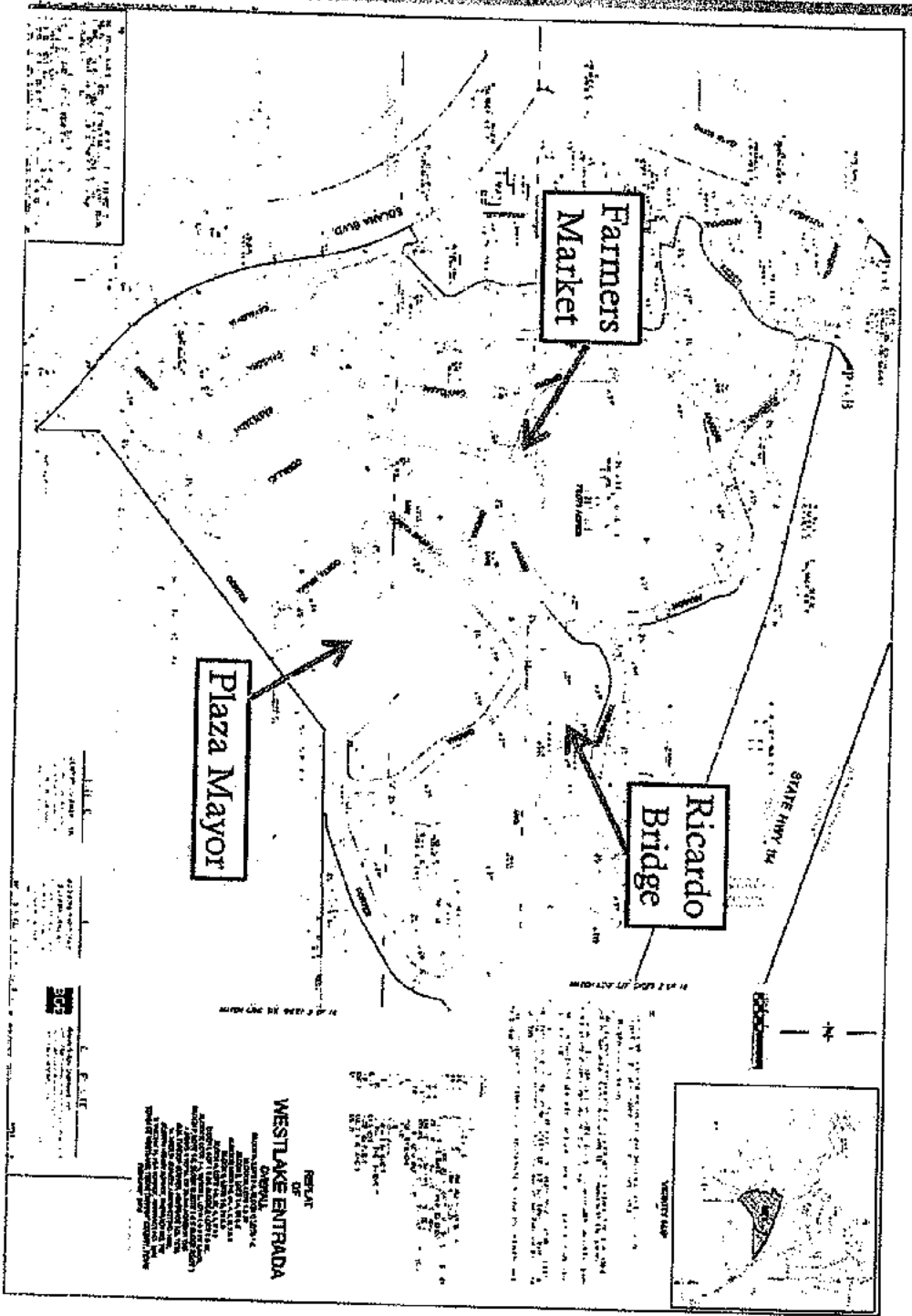
**EXHIBIT "B"**

Westlake Entrada Declaration

**EXHIBIT "C"**

**Site Plan**

**[see attached]**



PERMIT OF  
WESTLAKE ENTRADA  
CITY OF  
CANTON, OHIO

MOORELAND

www.moorland.com





**EXHIBIT "D"**

**Residential Area Allocable Assessment Share and Voting Power**

**[see attached]**



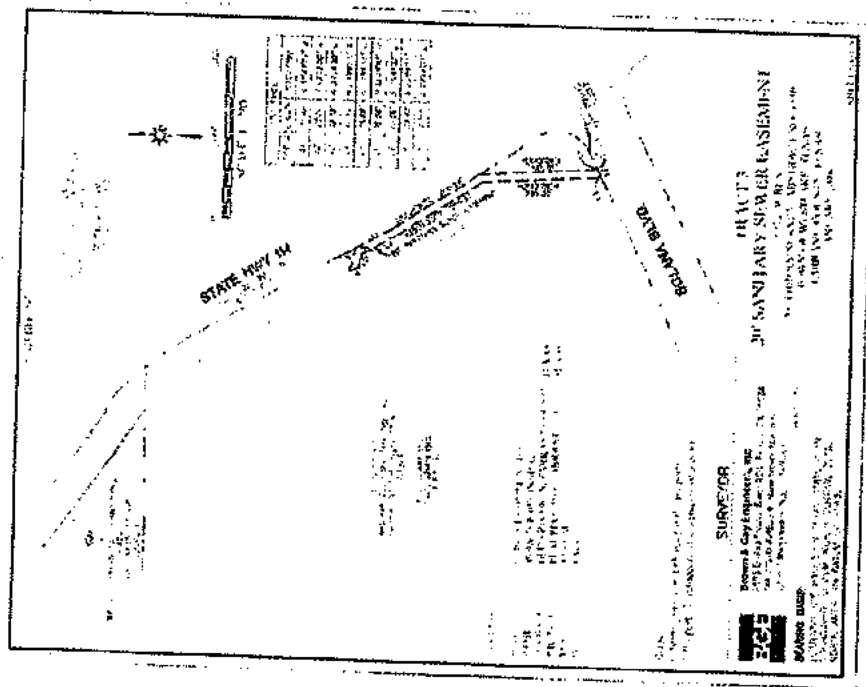
**EXHIBIT "E"**

**Description of Offsite Maintenance Area**

**[see attached]**







**TRACT 1 SANITARY SEWER EASEMENT**

**SURVEYOR**  
James E. Gay Engineers, Inc.  
1000 N. 1st Street, Suite 200  
P.O. Box 1000  
Mooreland, Oklahoma 73550  
TELEPHONE: (918) 831-1000  
DATE: 1-18-82

**ENGINEER**  
James E. Gay Engineers, Inc.  
1000 N. 1st Street, Suite 200  
P.O. Box 1000  
Mooreland, Oklahoma 73550  
TELEPHONE: (918) 831-1000  
DATE: 1-18-82

**LEGAL DESCRIPTION:**  
This easement is shown on the plat of the Survey of the Mooreland Sanitary Sewer Easement, Book 10, Page 10, of the Public Records of the State of Oklahoma, and is subject to the provisions of the said plat.

**BEARING AND DISTANCE:**  
The bearing and distance of the easement is as follows:  
1. From the NW corner of the Section 10, T.1N., R.1E., S.10E., to the NE corner of the Section 10, T.1N., R.1E., S.10E., a distance of 100.00 feet, S 89° 45' 00" W.  
2. From the NE corner of the Section 10, T.1N., R.1E., S.10E., to the SE corner of the Section 10, T.1N., R.1E., S.10E., a distance of 100.00 feet, S 89° 45' 00" W.  
3. From the SE corner of the Section 10, T.1N., R.1E., S.10E., to the SW corner of the Section 10, T.1N., R.1E., S.10E., a distance of 100.00 feet, S 89° 45' 00" W.  
4. From the SW corner of the Section 10, T.1N., R.1E., S.10E., to the NW corner of the Section 10, T.1N., R.1E., S.10E., a distance of 100.00 feet, S 89° 45' 00" W.

**FIELD NOTES**

Notes of field work done on the morning of 12th April 1952 at the site of the proposed Sewerage Treatment Works at the junction of the River and the road leading to the site of the proposed Sewerage Treatment Works. The site is situated in the town of Mooreland, Co. Wick. The notes are written by the author, J. J. O'Connell, and are intended to provide a record of the work done on the day.

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**DESIGN & CONSTRUCTION**  
 JAMES W. WHELAN  
 SANITARY SEWER ENGINEER  
 10, BARRINGTON STREET, DUBLIN 4

**DATE:** 12th April 1952

No.	Description	Quantity	Unit
1	Excavation	100	cubic yds.
2	Backfill	100	cubic yds.
3	Concrete	100	cubic yds.
4	Brickwork	100	cubic yds.
5	Plaster	100	cubic yds.
6	Paint	100	cubic yds.
7	Labour	100	days
8	Materials	100	days
9	Transport	100	days
10	Other	100	days



The site is situated in the town of Mooreland, Co. Wick. The notes are written by the author, J. J. O'Connell, and are intended to provide a record of the work done on the day. The site is situated in the town of Mooreland, Co. Wick. The notes are written by the author, J. J. O'Connell, and are intended to provide a record of the work done on the day.

**DESIGN & CONSTRUCTION**  
 JAMES W. WHELAN  
 SANITARY SEWER ENGINEER  
 10, BARRINGTON STREET, DUBLIN 4

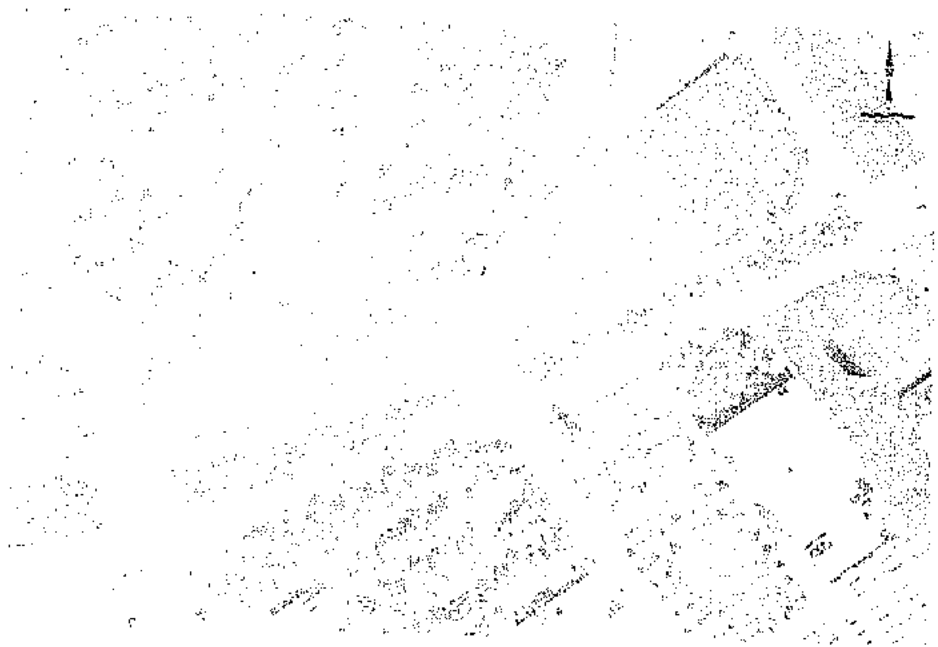
**DATE:** 12th April 1952



MOORELAND



EXHIBIT E-5 OFFSITE LOGGING TRAIL



MOORELAND LOGGING COMPANY



**EXHIBIT "F"**  
**Form of PID Maintenance Agreement**

**[see attached]**

Management and Improvement Services Agreement

Solana Public Improvement District No. 1

This MANAGEMENT AND IMPROVEMENT SERVICES AGREEMENT ("Agreement") is made and entered into by and between the Town of Westlake, Texas (the "Town"), by and through \_\_\_\_\_, its duly authorized Town Manager, and Westlake Entrada Property Owners Association, a Texas non-profit corporation ("Contractor") by and through \_\_\_\_\_, its duly authorized President.

RECITALS

The following statements are true and correct and constitute the basis upon which the Town and Contractor have entered into this Agreement:

WHEREAS, pursuant to Chapter 372 of the Texas Local Government Code on February 24, 2014 the Westlake Town Council adopted Resolution No. 14-07 creating the Solana Public Improvement District No. 1 (the "District"); and

WHEREAS, the Town of Westlake is authorized to utilize the District to undertake improvements and/or services that confer special benefits on the part of the Westlake within the District; and

WHEREAS, the Town has contracted with Maguire Partners-Solana Land, L.P., a Texas limited partnership ("Developer") pursuant to the 380 Agreement (as defined in Section 31 hereof) and the Development Agreement (as defined in Section 31 hereof) for the initial construction of certain improvements included in the Improvements and Services (as defined in Section 2.1 hereof) to be performed by Contractor; and

WHEREAS, the Contractor's rights, duties and obligations hereunder with respect to any Improvements or Services shall apply only to those improvements that have been completed and finally accepted by the Town in accordance with the terms of the 380 Agreement and the Development Agreement; and

WHEREAS, the Westlake Town Council is authorized to levy and collect special assessments on property in the District, based on the special services conferred by the improvements and/or services, to pay the cost of such improvements and services; and

WHEREAS, the Town of Westlake desires to enter into a written agreement with Contractor for the provision of certain Improvements and Services in the District, as more specifically set forth in this Agreement; and

WHEREAS, such improvements and services constitute a supplement to standard Westlake services and an added increment of service to provide other special benefits and services which will enhance the vitality and quality of the District; and

WHEREAS, Contractor wishes to assist the Town of Westlake by providing, furnishing, or performing such improvements and services in compliance with the requirements outlined in the Developer Agreement and Service and Assessment Plan;

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and agreements contained herein, the Town of Westlake and Contractor do hereby covenant and agree as follows:

## AGREEMENT

### 1. ENGAGEMENT OF CONTRACTOR

The Town of Westlake hereby engages the Contractor, and the Contractor hereby agrees to provide, furnish, oversee or perform in accordance with this Agreement the improvements and/or services set forth in Section 2.

### 2. IMPROVEMENTS AND SERVICES FOR THE DISTRICT

#### 2.1. Scope of Contractor's Duties

Contractor shall provide or cause to be provided those improvements and services (the "Improvements and Services") set forth in and subject to the Service and Assessment Plan for the District approved by the Westlake Town Council for the fiscal year covered by this Agreement (the "Service and Assessment Plan") (which is attached hereto as Exhibit "B" and hereby made a part of this Agreement for all purposes), as may subsequently be amended, and the ordinance adopted by the Westlake Town Council levying assessments on properties in the District for such Improvements and Services (which ordinance is a public document on file in the Town of Westlake Town Secretary's Office and is hereby incorporated for all purposes). Notwithstanding anything to the contrary contained herein, the Improvements and Services within the scope of this Agreement shall in no event include any Water Distribution System Improvements, Sanitary Sewer Improvements, Storm Drainage Improvements or Telecommunications Duct Bank Extension described in the Service and Assessment Plan (collectively, the "Town Maintained Improvements and Services"), which Town Maintained Improvements and Services the Town herein acknowledges and agrees shall be maintained by the Town in the same manner as similar infrastructure improvements located within the Town; provided, however, the Storm Drainage Improvements and Town Maintained Improvements do not include the lake, the bank around the lake and the surrounding land area around the lake which are hereby expressly included in the Improvements and Services. Contractor shall also comply with the following related duties and responsibilities:

- (a) Oversee the bidding and awarding of any third party contracts for the maintenance of the above-referenced Improvements and Services in accordance with the Maintenance Standard described on Exhibit "C" attached hereto and hereby made part of this Agreement for all purposes, and hereby adopted by the Westlake Council;
- (b) Prepare maintenance schedules and standards for the Improvements and Services to be incorporated in the Service and Assessment Plan to be adopted by the Town and implemented by the Contractor in accordance with the terms of this Agreement. Specifically, the Contractor shall provide the Town with an annual street, retaining wall and landscape plan to be incorporated into the Service and Assessment Plan that will include (without limitation) the plan for (i) revisit and replacement plan for streets, and (ii) median and retaining wall maintenance, mowing and landscape manicuring frequency, as well as specific seasonal planting plans for the District. The Town will review the annual street, retaining wall and landscape plan proposed by Contractor in conjunction with its annual review of the Service and Assessment Plan;
- (c) Monitor work performed by any subcontractors for the maintenance of any of the above referenced Improvements and Services to ascertain that all such work is performed completely, professionally, and with the appropriate level of quality and to make whatever changes are necessary to achieve these objectives;
- (d) Obtain, maintain and pay for insurance necessitated by the above referenced Improvements and Services, as may be directed or reviewed by the Town of Westlake's Manager or other designee;
- (e) In accordance with Section 372.013 of the Texas Local Government Code, prepare a Service and Assessment Plan for the five (5) years following the fiscal year covered by this Agreement, to be adopted by the advisory body for the District or other entity designated by the Westlake and approved by the Westlake Town Council;
- (f) Maintain a full and accurate accounting of disbursements for reimbursement from District revenues; and
- (g) Maintain copies of all contracts and invoices for work performed by subcontractors for the maintenance of any of the above referenced Improvements and Services for a period of seven (7) years;

The Contractor may provide additional services set forth in Exhibit "A" attached hereto upon the written request of the Town Manager.

The Contractor may engage the services of a third party professional managers, subcontractors or consultants, as may be deemed necessary by the Contractor to perform the duties and obligations of the Contractor hereunder with respect to the Improvements and Services.

Notwithstanding the foregoing or anything to the contrary contained herein, the Improvements and Services to be provided by the Contract shall not include any and all services provided by the "PID Administrator" (herein so called) which is to be separately engaged by the Town for the purposes of levying and collecting assessments for the District.

2.2. Contractor Compensation

The Contractor shall charge no management fee for the Improvements and Services provided pursuant to this Agreement, as the parties acknowledge and agree that Contractor has derived good and sufficient benefit and consideration for the location and existence of improvements within the District, because Contract is the property owners association comprised of owners of real property within the District.

2.3. Standard of Care; Nature of Relationship

Contractor shall commence, carry on, and provide the Improvements and Services with all practicable dispatch, in a sound, economical, and efficient manner, in accordance with this contract and its attachments and all applicable laws. Contractor shall ensure that any work on the Improvements and Services is properly coordinated with related work being performed by the Town of Westlake. Unless otherwise specifically provided herein, all of the Improvements and Services will be performed by the Contractor or under the Contractor's supervision. All personnel or third party managers, subcontractors or consultants engaged by the Contractor shall be fully qualified to perform those Improvements and Services delegated to them.

2.4. Security Services

Nothing in this Agreement shall preclude the Contractor from providing, as part of its Improvements and Services, additional security services to the District. Unless otherwise specifically provided herein, all of the Improvements and Services related to Security Services will be performed by the Contractor or under the Contractor's supervision.

3. THE TOWN OF WESTLAKE'S DUTIES AND RESPONSIBILITIES

The Town of Westlake, either directly or through the PID Administrator, shall provide the following services in connection with operation of the District and the Contractor's performance under this Agreement:

- (a) Levying and collecting, through the Westlake's agreement with the County Tax Assessor/Collector, assessments and recording the same in a separate revenue account;
- (b) Making payments to Contractor from special assessment revenues and other District revenues;
- (c) Maintaining the same level of services in the District as that which the Town of Westlake provides in comparable areas of the Westlake;
- (d) Maintaining complete and detailed records concerning any expenditure of special assessment revenues and other District revenues, which are made through the Town of Westlake departments, boards, or agencies;
- (e) Retaining and expending revenues from special assessments, penalties, interest, and investment income thereon solely in the District: provided that Contractor acknowledges that amounts collected as penalties, fines or interest for violations within the District or failure of any owner to pay assessments or other amounts due under the Service and Assessment Plans shall be deposited into the Town's general revenue fund for use within or outside of the District;
- (f) Preparing an annual report of delinquent property assessments and liens thereon to be assigned to the Town of Westlake's delinquent tax collection attorney;
- (g) Causing the PID Administrator to perform its obligations in accordance with the Service and Assessment Plan, including, without limitation
  - (i) Making regular reports to Contractor concerning delinquent assessments and making billings thereon as necessary; and,
  - (ii) Producing an annual assessment roll of property owners and property within the District.

The Town of Westlake shall have no financial obligation to the District other than levying and collecting, through its agreement with the County Tax Assessor/Collector, the assessments levied by the District (as administered by the PID Administrator), except as provided in subsection (c) above, and, pursuant to and in accordance with this Agreement, paying for Improvements and Services that Contractor performs in the District.

4. AMENDMENTS

This Agreement may not be amended unless executed in writing by both parties. The Town may modify or amend the Service and Assessment Plan (and by such amendment, the scope of the Improvements and Services to be provided by Contractor pursuant to this Agreement) with notice

to, but without the consent of the Contractor. Promptly following any amendment to the Service and Assessment Plan by the Town, the Town shall deliver to Contractor a copy of such amended Service and Assessment Plan adopted by the Town and then in effect.

5. TERM

This Agreement shall commence \_\_\_\_\_, 2016 (the "Effective Date") and, unless terminated earlier in accordance with this Agreement, expire December 31, 201\_\_ (the "Term"), and which Term shall be automatically renewed for successive one (1) year periods unless terminated by the Town by thirty (30) days' prior written notice delivered to Contractor, or otherwise earlier terminated by either party pursuant to a termination right set forth herein. The most current Service and Assessment Plan for the District adopted by the Town shall automatically replace the Service and Assessment Plan attached as Exhibit "C" to this Agreement upon each annual renewal of this Agreement without further action required by the Town or Contractor, and upon adoption thereof by the Town, the Town shall promptly (but in any event prior to same becoming effective) deliver a copy of such adopted Service and Assessment Plan to the Contractor.

6. RELEASE OF FUNDS TO CONTRACTOR

6.1. Procedure

Periodically, but not more frequently than once per month, Contractor shall present to the PID Administrator and Town Manager a report of the Improvements and Services provided by Contractor since (i) for the first report under this Agreement, the Effective Date and (ii) for all subsequent reports, the date of the previous report. All such reports must include documentation sufficiently demonstrating to the PID Administrator and Town Manager that any sums paid or incurred by Contractor have been paid or are due. Provided that all such necessary reports and supporting documentation have been provided to the PID Administrator and Town Manager, the Town of Westlake shall authorize the PID Administrator to pay the Contractor for all lawful expenses made or incurred by Contractor within thirty (30) days of receipt of all such reports and supporting documentation. Notwithstanding anything to the contrary herein, the Town of Westlake shall not be required to pay Contractor any amount that exceeds the then-current balance of District revenues or that is not in accordance with the Service and Assessment Plan for the then-current fiscal year.

6.2. Work Reports

Contractor shall also submit a periodic work report as requested by the Town Manager. This work report shall detail all of the Contractor's significant work activities in the District. The format of the report shall be mutually agreed upon by the Contractor and the Town Manager. Notwithstanding anything to the contrary herein, payments to Contractor may be withheld if any such report is not received. The Town Manager shall have the right to verify that the report is

complete and accurate, and may withhold payment until corrected to the Town Manager's reasonable satisfaction.

6.3. Insufficient District Funds

In the event that District revenues are not available or are insufficient for the Town of Westlake to make any payment to Contractor hereunder, the Town Manager shall promptly notify Contractor. The Contractor shall have the right (but not the obligation) to pay the deficit (on a non-reimbursable basis), in which case this Agreement shall continue in effect. The Contractor shall prepare a new budget for the Town Council's consideration that will rectify the deficit spending and which will result in the reduction of expenses or the increase of assessment as determined by the Town Council.

7. CONTRACTOR LIABILITY

Contractor hereby assumes full liability for any damages to any public or private property which is due to the gross negligence or willful misconduct of Contractor, its subcontractors, agents, permittees or assigns.

8. LIABILITY OF THE TOWN OF WESTLAKE; PERSONAL LIABILITY OF PUBLIC OFFICIALS

No employee of the Westlake, nor any other agent of the Westlake, shall be personally liable for any damages caused by Contractor, its officers, agents, servants, employees, contractors and subcontractors or any other liabilities of Contractor under this Agreement or otherwise related to this Agreement. It is further expressly agreed that the Westlake shall not be liable or responsible for any damages caused by Contractor, its officers, agents, servants, employees, contractors and subcontractors or any other liabilities of Contractor under this Agreement or otherwise related to this Agreement, nor shall the Town of Westlake be liable or responsible to Contractor or any other person for or on account of any stoppage or delay in the work herein provided for by injunction or other legal or equitable proceedings, or from or by or on account of any delay for any cause over which the Town of Westlake has no control.

9. INDEMNIFICATION

*CONTRACTOR COVENANTS AND AGREES TO, AND DOES HEREBY, INDEMNIFY AND HOLD HARMLESS AND DEFEND THE WESTLAKE, ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL SUITS OR CLAIMS FOR DAMAGES OR INJURIES, INCLUDING DEATH, TO ANY AND ALL PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH ANY GROSSLY NEGLIGENT ACT OR GROSSLY NEGLIGENT OMISSION ON THE PART OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES OR SUBCONTRACTORS, AND THE CONTRACTOR DOES HEREBY ASSUME ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR THE DAMAGES TO PERSONS OR PROPERTY, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING*



DURING OR ARISING OUT OF THE PERFORMANCE OF THIS CONTRACT AS A RESULT OF ANY GROSSLY NEGLIGENT ACT OR GROSSLY NEGLIGENT OMISSION ON THE PART OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES OR SUBCONTRACTORS, SUCH INDEMNIFICATION SHALL INCLUDE WORKERS' COMPENSATION CLAIMS OF OR BY ANYONE WHATSOEVER IN ANY WAY RESULTING FROM OR ARISING OUT OF CONTRACTOR'S WORK, SERVICES AND OPERATIONS IN CONNECTION HEREWITH INCLUDING OPERATIONS OF SUBCONTRACTORS.

CONTRACTOR SHALL LIKEWISE INDEMNIFY AND HOLD HARMLESS THE TOWN OF WESTLAKE FOR ANY AND ALL INJURY OR DAMAGE TO TOWN OF WESTLAKE PROPERTY ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL GROSSLY NEGLIGENT ACTS OR GROSSLY NEGLIGENT OMISSIONS OF CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTOR, SUBCONTRACTORS, LICENSEES OR INVITEES.

Insurance coverage specified herein constitutes the minimum requirements and said requirements shall in no way lessen or limit the liability of Contractor under the terms of this contract. Contractor shall procure and maintain, at its own cost and expense, any additional kinds and amounts of insurance that, in its own judgment, may be necessary for proper protection in the prosecution of its work.

#### 10. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Town of Westlake; that Contractor shall have exclusive control of the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the negligent acts and negligent omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Westlake and Contractor, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between the Town of Westlake and Contractor. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of the Westlake.

#### 11. INSURANCE

Contractor shall not commence work under this Agreement until it has obtained and received approval from the Town of Westlake of all insurance coverage required hereunder. Contractor shall be responsible for delivering to the PID Administrator a certificate or certificates of insurance demonstrating that Contractor has obtained the coverage required under this Agreement. The minimum insurance required of Contractor is as follows:

COMPREHENSIVE GENERAL LIABILITY INSURANCE: Contractor shall maintain throughout the Term of this Agreement a commercial general liability

insurance policy in an amount of not less than \$1,000,000 covering each occurrence with an aggregate limit of not less than \$2,000,000.

**AUTOMOBILE INSURANCE - BODILY INJURY AND PROPERTY DAMAGE:**  
Contractor shall maintain throughout the Term of this Agreement comprehensive automobile liability coverage in an amount not less than \$1,000,000 for each accident. This policy shall cover any automobile used in the provision of Improvements and Services under this Agreement.

The insurance company with whom Contractor's insurance is written shall be represented by an agent or agents having an office located within the Dallas-Fort Worth metropolitan area. Each such agent shall be duly qualified, upon whom service or process may be had, and must have authority and power to act on behalf of the insurance company to negotiate and settle with the Town of Westlake, or any other claimant, any claims that the Town of Westlake, or any other claimant, or any property owner who has been damaged may have against the Contractor or insurance company. The name of the agent or agents shall be set forth on all certificates of insurance. The Town shall be named as additional insured on all insurance policies obtained by Contractor pursuant to this Agreement and Contractor shall provide the Town with certificates of insurance thereof. All policies must provide that they will endeavor to provide at least five (5) days' notice of any change in or cancellation of the policy by the insurer. Such insurance amounts may be revised upward at the Town of Westlake's request, and Contractor shall revise such amounts within thirty (30) days after receipt of such request.

**12. TAXES**

Contractor shall pay all federal, state and local taxes that may be chargeable on any Improvements and Services provided hereunder or otherwise in relation to Contractor's duties and obligations hereunder, subject to reimbursement of such amounts by the Town of Westlake paid through revenues collected through assessments collected through the District.

**13. PERMITS**

Contractor and all of the contractor's subcontractors are required to comply with all permitting requirements established in the Town of Westlake Code of Ordinances, Tarrant County, the State of Texas or Federal law before undertaking any work or pursuing any activity which require such permits.

**14. CHARACTER OF WORK AND OPERATIONS**

Contractor and Contractor's employees, contractors and subcontractors shall be competent and careful workmen skilled in their respective trades. Contractor shall not employ any person who repeatedly engages in misconduct or is incompetent or negligent in the due and proper performance of his duties or has been convicted of any crime of moral turpitude. The Town of Westlake shall retain the right to require the Contractor to remove any employee who is guilty of endangering the public, misconduct toward the public or is in any way discourteous to the public. This work is being performed for the public benefit and it is necessary that it be performed in an

acceptable manner and at a satisfactory rate of progress. Contractor shall at all times maintain its equipment in a clean, serviceable condition. All equipment shall be properly licensed and inspected and clearly marked with the Contractor's name and telephone number.

15. ASSIGNMENT AND SUBCONTRACTING

Contractor shall have the right to subcontract for the provision of any Improvements and Services authorized hereunder so long as the subcontract has been approved by the Town Manager or his designee, and copies of the subcontract have been provided to the Town of Westlake to maintain in the Town's records for the District. The existence of a subcontract shall not relieve Contractor of any responsibility or liability to the Town of Westlake under this Agreement. Otherwise, Contractor may not assign, transfer or convey any of its duties and responsibilities under this Agreement to another party without the advance written approval of the Town and execution by such party of a written agreement with the Town under which such party agrees to be bound by the duties and obligations of Contractor under this Agreement.

18. DEFAULT

All terms, conditions and provisions of this Agreement shall be considered material, and Contractor's failure to perform any part of this Agreement shall constitute an event of default hereunder. Should the Contractor fail to fully cure any default hereunder within thirty (30) calendar days after receipt from the Town of Westlake of written notice of the default (or, provided that Contractor has diligently commenced and continuously attempted cure within such time, such additional time as may be reasonably necessary to fully cure the default), the Town of Westlake may, at its option and in addition to any other remedies available to it under law or in equity, terminate this Agreement by providing written notice to Contractor. Notwithstanding the foregoing, the Town of Westlake may terminate this Agreement for any reason upon thirty (30) calendar days' prior written notice to Contractor. In the event of any termination, any work in progress will continue to completion unless specified otherwise in the Town of Westlake's termination notice. The Town of Westlake shall use PID Assessment maintenance funds to pay for any such work in progress that is completed by Contractor and accepted by the Town of Westlake.

19. COOPERATION WITH THE TOWN OF WESTLAKE

Contractor shall, at such time and in such form as the Town of Westlake may require, furnish periodic information concerning the status of the project and such other statements, certificates and approvals relative to the project as may be requested by the Town of Westlake. Contractor shall meet with the Town Manager or his designee as may be requested to discuss any aspect of this Agreement.

20. BOOKS AND RECORDS; AUDITING RIGHTS

Contractor shall maintain complete and accurate records with respect to all expenditures and costs incurred for all Improvements and Services provided hereunder. All such records shall be maintained on a generally accepted accounting basis and shall be clearly identified and readily accessible to the Town of Westlake. Contractor shall provide representatives of the Town of Westlake or its appointees free access to such books and records, at all times during

regular business hours and shall provide an emergency contact name and phone number to the Town Manager for access during non-business hours, in order that they may examine and audit the same and make copies thereof. The initial emergency contact for Contractor shall be Ron Corcoran, Essex Management, 1512 Crescent Drive, Suite 112, Carrollton, Texas 75006; Telephone: 972-534-2686; Email: [ron@essexhoa.com](mailto:ron@essexhoa.com). Contractor shall further allow the Town of Westlake and its representatives to make inspections of all work data, documents, proceedings and activities related to this contract. Such right of access and audit shall continue until the lesser of (i) seven (7) years after the date such expenditure was made with respect to the records and documentation pertaining to such expenditure, or (ii) seven (7) years after the termination of this Agreement. The Town may retain copies of any records as it may require to comply with record retention requirements under applicable State Law.

The Town of Westlake shall also have the right to conduct a performance audit and evaluation of Contractor at such times as the Town of Westlake deems necessary. Contractor shall fully cooperate with any such performance audit. The Town may employ consultants at the Town's expense to assist the Town in such performance audit. Contractor agrees to give the Town of Westlake and its consultants access to all reports, data, schedules and other relevant information which may be required to conduct such performance audit.

**21. NOTICES**

Any notices, bills, invoices or reports required by this Agreement shall be conclusively determined to have been delivered three (3) business days after it is deposited in the United States mail, in a sealed envelope with sufficient postage attached, to the addresses listed below or such other addresses as may from time to time be provided to the other party:

Town of Westlake: Town of Westlake Attention: _____ _____ Phone: _____ Fax: _____ Email: _____	Contractor: Westlake Entrada Property Owners Association Attention: Ron Corcoran 1512 Crescent Drive, Suite 112 Carrollton, Texas 75006 Phone: 972-534-2686 Fax: _____ Email: <a href="mailto:ron@essexhoa.com">ron@essexhoa.com</a>
	Contractor Emergency Contact:  Ron Corcoran Essex Management 1512 Crescent Drive, Suite 112, Carrollton, Texas 75006 Telephone: 972-534-2686 Email: <a href="mailto:ron@essexhoa.com">ron@essexhoa.com</a>

22. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS

This Agreement will be subject to all applicable federal, state and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the Town of Westlake's Code of Ordinances, the District, and zoning ordinances of the Town, as amended.

23. GOVERNMENTAL POWERS

It is understood that by execution of this Agreement, the Town of Westlake does not waive or surrender any of its governmental powers or immunities.

24. NO WAIVER

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

25. VENUE AND JURISDICTION

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas - Dallas Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

26. NO THIRD PARTY RIGHTS

The provisions and conditions of this Agreement are solely for the benefit of the Town of Westlake and Contractor and are not intended to create any rights, contractual or otherwise, to any other person or entity.

27. INTERPRETATION

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement.

28. CAPTIONS

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

29. ENTIRETY OF AGREEMENT

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Town of Westlake

and Contractor as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

30. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

31. EXISTING DEVELOPMENT AGREEMENTS

The real property located within the District is to be developed pursuant to the terms of that certain Economic Development Program Agreement dated April 22, 2013, passed and approved by the Town on April 22, 2013 under Resolution No. 13-17, as recorded on May 24, 2013 as Instrument No. D213132119, of the Real Property Records of Tarrant County, Texas (the "380 Agreement"), and that certain Centurion American, Inc. Development and Subdivision Improvement Agreement dated October 29, 2013, passed and approved by the Town on October 28, 2013 under Resolution No. 13-34, as recorded on November 22, 2013 as Instrument No. D213300742, of the Real Property Records of Tarrant County, Texas (the "Development Agreement"). Nothing contained in this Agreement shall be interpreted to modify or amend the obligations of the "Partnership" (as defined in the 380 Agreement) or the "Developer" (as defined in the Development Agreement). Specifically, and without limiting the foregoing, unless and until the improvements are completed and accepted by the Town in accordance with the 380 Agreement and Development Agreement, the Partnership or the Developer shall be liable and responsible for the maintenance of the improvements in accordance with the terms of such 380 Agreement and/or Development Agreement, as applicable.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

EXECUTED as of the last date indicated below:

**TOWN OF WESTLAKE:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Town of Westlake Town Manager

*Acknowledged by:*

\_\_\_\_\_ Date: \_\_\_\_\_  
Town of Westlake PID Administrator

*Approved as to form by*

\_\_\_\_\_ Date: \_\_\_\_\_  
Town of Westlake Attorney

**CONTRACTOR:**

**WESTLAKE ENTRADA PROPERTY OWNERS ASSOCIATION,**  
a Texas non-profit corporation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
President

**Exhibit "A"**

**Additional Services to be Provided by Contractor**

- (a) Participate in meetings of individual departments within the Town of Westlake, as required, to coordinate PID activities;
- (b) Participate in all meetings required by the Town of Westlake for assistance in the preparation of the Service and Assessment Plan for the District, and update the Town of Westlake as to authorized PID projects and other pertinent matters.
- (c) Establish means of communication for citizen input to report problems and make suggestions to the PID. Coordinate responses to citizens, with input from the Town of Westlake, when appropriate.
- (d) Maintain a full and accurate accounting of disbursements for reimbursement from PID revenues, providing the Town of Westlake with a monthly accounting statement;
- (e) Monitor recurring expenses and perform comparative analyses to identify emerging trends and real or potential problems. Notify the Town of Westlake of trends and unusual or excessive expenses;
- (f) Maintain a complete set of historical records of all PID activity to include PID charter, minutes of meetings, and agreements/contracts with other entities, grant applications, etc. from the beginning of PID to present; and

The Contractor shall commence, carry on, and provide such improvements and/or services with all practicable dispatch, in a sound, economical, and efficient manner, in accordance with this Agreement and its attachments and all applicable laws.



**Exhibit "B"**  
**Service and Assessment Plan**

**(to be attached)**

0097821000031491883.7

**Exhibit B**

**Exhibit "C"**  
**Maintenance Standard**

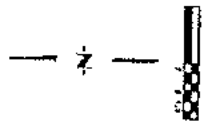
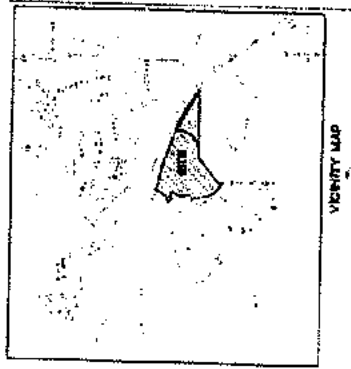
1. All Town owned roads, public rights-of-way and pedestrian improvements within the District shall be maintained in a manner consistent with the Town's standards for maintenance of similar public improvements throughout the Town and further described in the Development Agreement between the Town and Maguire Partners - Solana Land, L.P. dated January 15, 2015, as may be modified or amended from time to time (the "Developer's Agreement"), and in any event in accordance with the applicable code requirements, standards and plans adopted by of the Town of Westlake, including, without limitation, (i) applicable sections of the Uniform Fire Code and reasonable conditions required by the Town Engineer to ensure safe passage of motorists and pedestrians, and (ii) Ordinance No. 703 adopted by the Town on April 22, 2013, and (iii) Ordinance No. 759 adopted by the Town on \_\_\_\_\_, 201\_\_\_\_, each as modified and/or amended from time to time (the "Applicable Zoning"), and additionally maintained in accordance with standards set forth in the Service and Assessment Plan adopted by the Town for the District.
2. All landscaping within Town owned land and rights-of-ways within the District shall be maintained in a manner consistent with the Town's standards for maintenance of similar public improvements throughout the Town and further described in the Developer's Agreement, and in any event in accordance with the Town's Landscaping, Tree Preservation and Open Space Ordinances in effect as of the date of the Town's approval of plans therefor, the Applicable Zoning (including, without limitation, any landscape plans adopted by the Town under applicable Zoning) and any standards set forth in the Service and Assessment Plan adopted by the Town for the District.
3. Other Town owned improvements within the District shall be maintained in a manner consistent with the Town's standards for maintenance of similar public improvements throughout the Town and further described in the Developer's Agreement, and in any event in accordance with applicable Town ordinances, including the Applicable Zoning, and in accordance with standards set forth in the Service and Assessment Plan adopted by the Town for the District.

**EXHIBIT "G"**  
**Description and/or Depiction of Gas Well Pad Site**  
**[see attached]**

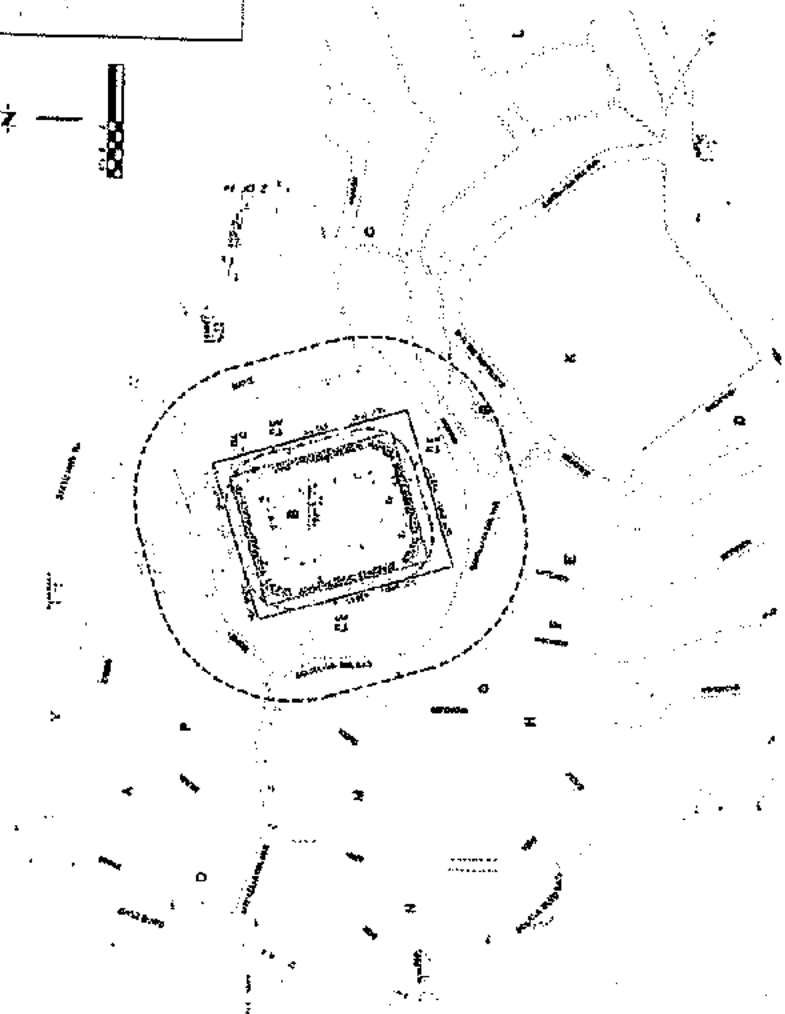
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**EXHIBIT "G"**  
1

Westlake Entrance Declaration



Gas Pad Location per Approved SUP



**EXHIBIT "H"**

**30-Year Street Replacement Schedule**

**[see attached]**

Exhibit H:

Year	Paid to POA			Total Year-One Paying Costs \$ 6,100,000		Special Assessment (if needed)	Year-End Fund Income	Forecasted Repairs (as a % of Total Costs)	Year-End Fund Balance
	Builder Lot Assessments (\$1200, one-time, then \$100 at every resale)	Commercial Paid Assessments (\$,50 per leaseable psf of building space, one-time at paid sale closing)	Paid to POA	Paid to POA	Annual Commercial POA Road Maintenance Assessment (as a portion of their total dues)				
2014	\$ 96,000	\$ 120,000	\$ 12,000	\$ 168,001	\$ 168,001	1	\$	\$	\$ 168,001
2015	\$ 72,000	\$ 260,000	\$ 15,000	\$ 347,001	\$ 347,001	1	\$	\$	\$ 520,042
2016	\$ 96,000	\$ 100,000	\$ 18,750	\$ 214,751	\$ 214,751	1	\$	\$	\$ 750,394
2017	\$ 182,400	\$ 100,000	\$ 23,438	\$ 305,839	\$ 305,839	1	\$	\$ 15,250	\$ 1,063,495
2018	\$ 3,500	\$ 100,000	\$ 79,397	\$ 133,798	\$ 133,798	1	\$	\$ 15,403	\$ 1,212,795
2019	\$ 3,500	\$ 100,000	\$ 96,621	\$ 140,122	\$ 140,122	1	\$	\$ 15,557	\$ 1,373,744
2020	\$ 3,500	\$ -	\$ 45,776	\$ 49,277	\$ 49,277	1	\$	\$ 15,712	\$ 1,448,522
2021	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 15,869	\$ 1,536,830
2022	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 16,028	\$ 1,627,628
2023	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 16,188	\$ 1,720,990
2024	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 16,350	\$ 1,816,991
2025	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 16,514	\$ 1,915,709
2026	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 16,679	\$ 2,017,223
2027	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 16,845	\$ 2,121,616
2028	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 17,013	\$ 2,215,486
2029	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 17,183	\$ 2,311,857
2030	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 17,356	\$ 2,410,882
2031	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 17,532	\$ 2,512,453
2032	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 17,711	\$ 2,616,810
2033	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 17,892	\$ 2,723,980
2034	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 18,076	\$ 2,834,044
2035	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 18,263	\$ 2,888,287
2036	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 18,453	\$ 2,943,242
2037	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 18,646	\$ 2,998,922
2038	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 18,842	\$ 3,055,358
2039	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 19,041	\$ 3,024,720
2040	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 19,242	\$ 2,991,353
2041	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 19,445	\$ 2,955,137
2042	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 19,650	\$ 2,915,967
2043	\$ 3,500	\$ -	\$ 57,220	\$ 60,721	\$ 60,721	1	\$	\$ 19,857	\$ 2,873,757
									\$ 1,701,418

28% % of Total System Replacement

# E-recording Report of Recorded Documents

Itemized Fee View

Prepared for: ALDS, LP - Camp Bowie

Included Organization: ALDS, LP - Camp Bowie

For the period: 08/02/2017

Account number: TXYDF

Cost center: Camp Bowie

Report generated: 08/02/2017 07:43 AM MDT

## Documents Recorded

NAME	TYPE	PG	ENTRY	RECORD DATE		SF	AMT	TOTAL PROCESSED	
<b>Tarrant County, TX</b>									
<b>Aug 2, 2017</b>									
<b>Westlake Entrada CCR</b>									
Declaration of Covenants, Conditions & Restrictions	<i>Declaration of Restrictive Covenants</i>	134	D217176214	08/02/2017 08:38 AM CDT	Submission Fee	3.00	548.00	551.00	08/02/2017
					SalesTax on Submission Fee	0.20	0.00	0.20	08/02/2017
						<b>3.20</b>	<b>548.00</b>	<b>551.20</b>	
						<b>3.20</b>	<b>548.00</b>	<b>551.20</b>	
<b>Totals for Tarrant County, TX</b>						<b>3.20</b>	<b>548.00</b>	<b>551.20</b>	

## Recording Fee Totals

COUNTY	RECORD DATE	SF	AMT
Tarrant County, TX	08/02/2017	3.20	548.00 551.20
<b>Totals for Tarrant County, TX</b>		<b>3.20</b>	<b>548.00 551.20</b>
<b>Total of All Recording Fees</b>		<b>3.20</b>	<b>548.00 551.20</b>

Document Count: 1

### Questions Contact:

Simplifile Support 1-800-460-5657, option 3

4844 North 300 West, Suite 202

Provo, UT 84604