

2003-143288

17

**DECLARATION OF COVENANTS,
CONDITIONS and RESTRICTIONS of
GRAND HARBOR SECTION VII**

THE STATE OF TEXAS

COUNTY OF MONTGOMERY

This Declaration of Covenants, Conditions and Restrictions, made on the date hereinafter set forth by SJ Development, Inc., a Texas corporation d/b/a Grand Harbor hereinafter referred to as "Declarant".

WITNESSETH

Whereas, Declarant is the owner of that certain property known as **Grand Harbor, Section Seven** a subdivision in Montgomery County, Texas, being 8.664 acres of land situated in the Owen Shannon Survey, A-36, Montgomery County, TX and being out of a residual of a certain 662.264 acres of land as described in deed recorded and according to the map or plat thereof recorded in Cabinet **U**, Sheets **199/200**, inclusive, County Clerk's File No. **2003 117770** of the Map Records of Montgomery County, Texas; and

Whereas, it is the desire of Declarant to place certain restrictions, covenants, conditions, stipulations and reservations upon and against such property in order to establish a uniform plan for the development, improvement and sale of such property, and to ensure the preservation of such uniform plan for the benefit of both the present and future owners of Lots in said subdivision:

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon Grand Harbor, Section Seven, hereinafter referred to as the "Property", which is further identified in the subdivision plat referenced above, and declares the following reservations, easements, restrictions, covenants and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the land, which reservations, easements, covenants, restrictions and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I
Definitions

Section 1. "Association" shall mean and refer to Grand Harbor Property Owner's Association.

Section 2. "Property and/or Properties" shall mean and refer to Grand Harbor, Section Seven, which is further identified in the aforementioned subdivision plat.

Section 3. "Lot and/or Lots" shall mean and refer to the Lots shown upon the subdivision plat which are restricted hereby to use for single family residential dwellings only.

Section 4. "Grand Harbor waterfronts" shall mean and refer to none.

Section 5. "Interior Lot" shall mean and refer to Block 1, Lots 1 through 8, Block 2, Lots 1 through 3.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Properties, but in the event of the execution of a contract for sale covering any Lot, the "Owner" shall be the purchaser named in the contract, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 7. "Subdivision Plat" shall mean and refer to the map or plat of Grand Harbor, recorded in Cabinet U, Sheets **199/200**, inclusive, County Clerk's File No. **2003 117770** of the Map Records of Montgomery County, Texas.

Section 8. "Architectural Control Committee" or "Committee" shall mean and refer to Grand Harbor Architectural Control Committee, provided in Article IV hereof.

Section 9. "Builder-Owner" shall mean and refer to the owner of a Lot who owns such Lot for the sole purpose of development and sale to third parties, and is designated in writing as a Builder-Owner by Declarant.

Section 10. "Lake" shall mean and refer to Lake Conroe.

Section 11. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 12. "River Authority" shall mean and refer to the San Jacinto River Authority ("SJRA").

Section 13. "Board of Directors" or "Board" shall mean the elected body of Grand Harbor Property Owners Association.

Section 14. "Utility Company" shall mean and refer to Entergy/Gulf States Utilities.

Section 15. "Residential Dwelling" shall mean and refer to a single residential dwelling with garage.

Section 16. "Improvement" shall mean and refer to any dwelling, garage, carport, swimming pool, boat slip, wall, fence and any other object placed on, in or under the Properties.

Section 17. "Declarant" shall mean and refer to SJ Development, Inc., d/b/a Grand Harbor, its successors and assigns.

Section 18. "Resident" shall mean and refer to every person or entity occupying a Residential Dwelling within the Properties.

Section 19. "Administrator" shall mean the entity administering the maintenance fund.

Section 20. "Unrestricted Reserve" shall mean and refer to any area designated on the Subdivision Plat as a "Reserve" or "Unrestricted Reserve."

ARTICLE II

Restriction, Exception and Dedications

Section 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the private streets and easements shown thereon and such Subdivision Plat further establishes certain restrictions applicable to the Properties including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions, and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Section 2. Declarant reserves the easements and roadways as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas, water lines, sewers, storm sewers, drainage ways, cable television or any other utility Declarant sees fit to install in, across and/or under the Properties.

Section 3. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements. Should any utility company or cable television company furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant, without the joinder of any other Owner, shall have the right to grant such easement on said property without conflicting with the terms hereof.

Section 4. Declarant reserves the right, during installations of paving of the streets as shown on the Subdivision Plat, to enter onto any Lot or Lots for the purpose of disposing of excavation from dredged material from the shoreline of the Properties and street excavation,

including the removal of any trees, as necessary, whether or not the Lot or Lots have been conveyed to and/or contracted for any other Owner or Owners.

Section 5. Neither Declarant nor any utility company or cable television company using the easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants to fences, shrubbery, trees, flowers or any other property of the Owner situated on the land covered by said easements.

Section 6. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer drainage ways, electric light, electric power, cable service, telegraph or telephone purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances, thereto constructed by or under Declarant or any easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties, and where not affected, the right to maintain, repair, sell or lease such appurtenances to any municipality, other governmental agency or any public service corporation or any other party, and such right is hereby expressly reserved.

Section 7. Utility Easements.

(a) All Lots are subject to the utility easements reflected on the plat or designated in these Restrictions.

(b) No building shall be located over, under, upon or across any portion of any utility easement; however, the Owner of each Lot shall have the right to construct, keep and maintain drives and similar improvements across the utility easement along the front of the Lot and/or along the side of corner lots adjacent to street right-of-ways and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots.

(c) With the prior approval of the Committee, the Owner of each Lot also shall have the right to construct, keep and maintain driveways, walkways, steps, air conditioning units and equipment over, across or upon any utility easement along the side of such Lots (the "Side Lot Utility Easement"), other than along any Side Lot Utility Easement which is adjacent to a street right-of-way and shall be entitled, at all times, to cross, have access to and use the improvements located thereon; however, any such improvements placed upon such Side Lot Utility Easement by the Owner shall be constructed, maintained and used at Owner's risk and the location of such improvements shall not impede the natural flow of water across the Lot. The Owner of each Lot subject to said Side Lot Utility Easements shall be responsible for (i) any and all repairs to the driveways, walkways, steps, air conditioning units and equipment which cross or are located upon such Side Lot Utility Easements and (ii) repairing any damage to said improvements caused by the Utility District, any public utility or cable television company in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Side Lot Utility Easements.

(d) The Owner of each Lot shall indemnify and hold harmless Declarant, the Utility District, public utility companies and cable television company having facilities located over, across or under utility easements from any loss, expense, suit or demand resulting from injuries to persons or damage to property in any way occurring, incident to, arising out of, or in connection with said Owner's installation, maintenance, repair or removal of any permitted improvements located within utility easements, including where such injury or damage is caused or alleged to be caused by the sole negligence of such public utility or its employees, officers, contractors or agents.

(e) In no event shall any Owner construct, maintain or use any of the above described improvements or any other improvements within any utility easements located along the rear of such Owner's Lot.

(f) In addition to the utility easements shown on the recorded Plat, there is hereby dedicated a five foot (5') wide Entergy easement, extending from the surface of the ground downward, and said easement being two and one-half (2 1/2) feet on each side of underground electric service lines as now or hereafter constructed and will extend along the route selected by Entergy from Entergy's distribution facilities to the electric meter when and as located upon Lots and Reserves in the Subdivision. Entergy shall have the right to excavate said Lot easement strip, and to remove objects, structures, growth or protrusions thereon.

Section 8. Road and Street Easements. The roads and streets in the Properties are not dedicated to the public, but shall be operated as private streets with each

Owner having an easement for the use and benefit of such Owner of a Lot fronting thereon or adjacent thereto, with easements shall include rights of ingress, egress and passage over and along said streets in favor of the Declarant, the Association, the Owners and their respective legal representatives, successors and assigns, guests, invitees, licensees, designees and the successor(s)-in-title to each Lot Owner, and in favor of the invitee and designees of each successor(s)-in-title to each Lot Owner, but not in favor of the public.

Subject to the terms and conditions of this Section, the private roads and streets in the Properties as shown on the Plat are hereby dedicated as utility easements strictly for the purpose of constructing, operating, maintaining or repairing a system(s) of electric lighting, electrical power, telegraph and telephone lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utilities that the Declarant sees fit to install (or permit to be installed) in, across and/or under the Property. The dedication of the private roads and streets as utility easements shall not affect operation of the roads and streets in this Property as private roads and streets.

Notwithstanding the operation of the roads and streets in the Property as private streets, Declarant hereby grants to Law Enforcement Agencies and Officers of Montgomery County and the State of Texas, other governmental law enforcement bodies, fire department officials and fire protection personnel, vehicles and equipment, ambulances, school buses, Montgomery County officials and personnel and other governmental officials and personnel, and to the authorized agents of the Association for performance of the Association's duties and obligations and exercise of the Association's rights in respect to the Properties, rights of ingress and egress and passage over and along said private roads and streets of the Properties in connection with the performance of their official functions.

After the Declarant turns the P.O.A. over to the property owners, the P.O.A. may offer the streets for Public Dedication upon the affirmative vote of the owners of a majority of the lots. The city or public entity is not required to accept the streets.

Section 9. Unrestricted Reserve. These restrictions do not apply in any manner to any areas designated on the Subdivision Plat as "Reserve" or "Unrestricted Reserve."

ARTICLE III **Use Restrictions**

Section 1. Land Use and Building Type. All Lots shall be known and described as Lots for single family detached residential dwellings only (hereinafter sometimes referred to as "Residential Lots"), and no structure shall be erected, altered, placed or permitted to remain on any Residential Lot other than one (1) single family dwelling with an attached fully enclosed garage for not less than two (2) nor more than four (4) cars. The garage will be available for parking automobiles at all times without any modifications being made to the interior of said garage. Such garage shall be constructed at the same time as the dwelling and act as an integral part of the residential structure, constructed with the same design, color and materials as the residence. Occupancy of the dwelling shall not be authorized until the garage is complete. The residential dwelling shall not exceed a height of thirty-five (35) feet. The height shall be measured from where the highest point on natural grade of the Lot abuts the structure, except where the slab must be elevated above the natural grade to achieve minimum slab elevation as required by the Committee. In this situation, the height shall be measured from the minimum slab elevation established by the Committee.

No garage may open to the rear of a Waterfront Lot unless otherwise approved by the Architectural Control Committee. Garages placed on corner lots may face the side street and shall be located no closer to the side lot line than the minimum side lot building setback line as shown on the Subdivision Plat.

As used herein, the term "Residential Purposes" shall be construed to prohibit the use of said Lots for garage apartments or apartment houses; and no Lot shall be used for business or professional purposes of any kind, nor for any commercial or manufacturing purpose. Each Lot improvement thereon shall be used only as a single family residence. The rental of a dwelling for occupancy as a residence shall not be construed as a business. No building of any kind or character shall be moved onto any Lot within said properties without written permission of the Committee; however, no Residential Dwelling shall be moved onto any Lot within said Properties.

