



**Restated Declaration of Covenants, Conditions, and Restrictions of
All Sections of Montebello Subdivision**

This RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ALL SECTIONS OF MONTEBELLO SUBDIVISION IN LIBERTY COUNTY, TEXAS (this "Amendment") is made effective as of March 22, 2017 (the "Effective Date"), by COLONY RIDGE DEVELOPMENT, LLC, a Texas limited liability company ("Developer").

THIS INSTRUMENT SHALL AMEND, SUPERSEDE AND RESTATE THE FOLLOWING DOCUMENTS: 1) DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ALL SECTIONS OF MONTEBELLO SUBDIVISION DATED OCTOBER 13, 2011, AND RECORDED IN THE REAL PROPERTY RECORDS OF LIBERTY COUNTY, TEXAS, COUNTY CLERK'S FILE NUMBER 2011013271; 2) AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ALL SECTIONS OF MONTEBELLO SUBDIVISION FILED FOR RECORD UNDER CLERK'S FILE NO. 2012003358; 3) COMMERCIAL USE POLICY FILED FOR RECORD UNDER CLERK'S FILE NO. 2015020632; AND 4) ANY PRIOR VERSIONS AND ALL AMENDMENTS THERETO (altogether the "Prior CCRs").

Pursuant to Section I(4) of the Prior CCRs, Declarant may unilaterally amend the Declaration at any time prior to the Control Transfer Date. The Control Transfer Date, as defined in the Prior CCRs, has not yet occurred. The Declarant desires to amend and restate the Declaration as more particularly set forth below.

Basic Information

Date: March 22, 2017

Declarant: Colony Ridge Development, LLC, a Texas limited liability company
P.O. Box 279
Fresno, Texas 77545

Association: Houston El Norte Property Owners Association, Inc.,
a Texas nonprofit corporation

P.O. Box 1920
Conroe, Texas 77305

Property: All Sections of Montebello, recorded as follows: Section 1: Clerk File No. 2011013088; Section 2: Clerk File No. 2012007578; Section 3: Clerk File No. 2012007580; and Section 4: Clerk File No. 2012007582, all of the Official Public Records of Liberty County, Texas.

Definitions

“Assessment” means any amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration.

“Board” means the Board of Directors of the Association.

“Bylaws” means the Bylaws of the Association adopted by the Board, and any amendments thereto.

“Common Area” means all property within the Subdivision not designated as a Lot on the Plat and that has not been accepted for maintenance by the applicable governmental body. Common Area includes only those parts of the subdivision that are set aside by the Declarant and conveyed to the Association. Common Area does not include a reserve designed for commercial use. Declarant reserves the right to designate commercial reserves.

“Covenants” means the covenants, conditions, and restrictions contained in this Declaration, and any amendments thereto.

“Declarant” means Colony Ridge Development, LLC, a Texas limited liability company, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development or is named as successor/assignee by Colony Ridge Development, LLC in a recorded document.

“Easements” means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

“Governing Documents” means this Declaration and the Bylaws and the certificate of formation, and rules of the Association, as amended.

“Lot” means each tract of land designated as a lot on the Plat, excluding lots that are part of the Common Area.

“Member” means any member of the Association, as described in the Bylaws.

“Montebello” means the land that is platted as Sections 1, 2, 3, and 4 of Montebello in Liberty County, Texas, according to the Plat.

“Owner” means every record Owner of a fee interest in a Lot.

“Plat” means the Plat of Sections 1, 2, 3, and 4 of Montebello as recorded in the real property records of Liberty County, Texas, Section 1: Clerk File No. 2011013088; Section 2: Clerk File No. 2012007578; Section 3: Clerk File No. 2012007580; and Section 4: Clerk File No.

2012007582, and any replat of or amendment to the Plat made in accordance with this Declaration.

“Residence” means a detached building designed for and used as a dwelling by a Single Family and constructed on one or more Lots.

“Structure” means any improvement on a Lot (other than a Residence), including a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

“Subdivision” means the part of the Property covered by the Plat and any additional property made subject to this Declaration.

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants

1. Declarant imposes the Covenants on the Subdivision, and such Covenants shall apply to and become effective for the Subdivision when the Plat for such Section has been completed and approved by the appropriate governmental authorities. It is the Declarant’s intent that these Covenants will be imposed on this Subdivision when a plat is approved by the appropriate governmental authorities. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants.

2. Annexation of Additional Property. On written approval of the Board and not less than a majority of the Members that are present at a meeting called for this purpose, the Declarant or Association who desires to subject additional property to this Declaration may record an annexation agreement that will impose this Declaration and the Covenants on that additional property.

3. Merge with City or another Property Owners Association (POA) or a legislative special district. On written approval of the Board and not less than a majority of the Members that are present at a meeting called for this purpose, the Declarant or Association may merge with another POA or a municipal entity or city or legislative special district. The intent is to allow broad and consistent enforcement of rules/restrictions and to allow better costs for services and development of this subdivision and other subdivisions in the area that are similar to this subdivision. The new POA or City or district would collect the assessments, enforce the rules/restrictions, maintain common areas, and perform part or all POA functions. The new POA or City may become the governing authority and the current Association for this Subdivision could be properly dissolved. The POA and the new entity may agree to transfer all or a portion of the duties to the new entity and both the POA and the new controlling entity would be sharing the

management of the Subdivision.

4. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

5. Each Owner and occupant of a Lot agrees to comply with the Governing Documents and agrees that failure to comply may subject him to a fine, an action for amounts due to the Association, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record affecting the Property are part of this Declaration and are incorporated by reference.

2. Declarant reserves the right to grant easements for the benefit of the Subdivision to continue the development of the Subdivision as is necessary.

3. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

4. Neither Declarant nor any Easement holder is liable for damage to landscaping or a Structure in an Easement.

5. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

6. **Buffer Zone.** There is a 150 foot circular Buffer Zone around any water well or sewer site as shown on any Plat for the Subdivision. Certain restrictions and limitations will apply within the 150 foot Buffer Zone identified on any Plat or amendment to said Plat.

C. Use and Activities

1. *Permitted Use.* A Lot may be used only for an approved Residence and approved Structures for use by a Single Family.

2. *Permitted Use.* A Lot may be used for reasonable commercial use that does not create an unreasonable and negative external impact on neighbors and surrounding property.

3. *Prohibited Activities.* Prohibited activities are -

a. any activity that is otherwise prohibited by the Governing Documents;

- b. any illegal activity;
- c. any nuisance, noxious, or offensive activity;
- d. any dumping of rubbish;
- e. any exploration for or extraction of minerals;
- f. any loud noise that affects the use or enjoyment of neighbors;
- g. any usage of part of property to gain access (easement use) to an adjoining property outside of the Subdivision without Declarant approval;
- h. interfering with an existing drainage pattern; and
- i. any hunting and shooting.

4. *Fires.* Fires must be attended until the fire is completely extinguished. All lot owners are subject to a \$1,000.00 fine if a fire is left unattended. Check with local authorities for burn bans or other burn restrictions. Owner agrees to follow all local and state laws concerning fires. No fire may go beyond the boundary lines of your lot. No outdoor burning of household trash shall be permitted on any Lot.

D. Construction and Maintenance Standards

1. *Lots*

a. *Consolidation of Lots.* An Owner of adjoining Lots, with Declarant approval or by consent of the Board, may consolidate those Lots into one site for the construction of a Residence. The adjoining lots once approved shall then be considered one Lot for assessments and for voting and for any other issues addressed by this document.

b. *Subdivision Prohibited.* No Lot may be further subdivided without Declarant approval.

c. *Easements.* No easement in a Lot may be granted without Declarant approval.

2. *Culverts.* An Owner of a Lot must follow proper procedures for installation of culverts, which includes installation by a contractor selected by Declarant or installation by Liberty County.

3. *Permits.* An Owner of a Lot must secure septic, building, and other required permits before construction on any lot. Declarant has the right to request and verify that all

necessary permits have been secured.

E. Association

1. *Establishment and Governance.* The Association is established by filing its certificate of formation and is governed by the certificate, the Declaration, and the Bylaws. The Association has the powers of a nonprofit corporation and the property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.

2. *Rules.* The Board may adopt rules that do not conflict with law or the other Governing Documents. On request, Owners will be provided a copy of any rules.

3. *Membership and Voting Rights.* Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Association has two classes of voting Members:

a. *Class A.* Class A Members are all Owners, other than Declarant. Class A Members have one vote per Lot. When more than one person is an Owner, each is a Class A Member, but only one vote may be cast for a Lot.

b. *Class B.* The Class B Member is Declarant and has three votes for each Lot owned. The Class B Membership ceases and converts to Class A Membership when Declarant transfers control of the subdivision to the Association.

4. *Neighborhood Committee.* A committee of 1 to 5 Owners shall be elected annually by the Owners in the Subdivision (the "Neighborhood Committee", sometimes referred to as an Advisory Committee), which Neighborhood Committee shall act as a liaison for the Subdivision to the Association Board. The 1 to 5 Owners receiving the most votes at the meeting where such election is held shall be the Neighborhood Committee members for the following year, or until replaced by subsequent vote.

F. Assessments

1. *Authority.* The Association may levy Assessments to promote the recreation, health, safety, and welfare of the residents in the Subdivision, to fund operating expenses of the Association, and to improve and maintain the Common Areas.

2. *Personal Obligation.* An Assessment is a personal obligation of each Owner when the Assessment accrues.

3. *Creation of Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant and assigned to the Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Association to

secure Assessments.

4. *Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by Declarant.

5. *Regular Assessments*

a. *Rate.* Regular Assessments are levied by the Board, annually, to fund the anticipated operating and maintenance expenses of the Association. Until changed by the Board, the Regular Assessment is \$120.00.

b. *Changes to Regular Assessments.* Regular Assessments may be changed annually by the Board.

c. *Collections.* Regular Assessments will be collected yearly in advance, payable on the first day of January of each year. All assessments are due by January 31st of each year. The Board intends to send a notice of the dues owed each year; however, lack of notice of an invoice does not excuse payment of dues and the accrual of interest, late charges, and legal fees. During the first year when a lot is purchased from Declarant, the Association will prorate the amount of the Regular Assessment based on the purchase date.

6. *Special Assessments.* In addition to the Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Area or for any other purpose benefitting the Subdivision but requiring funds exceeding those available from the Regular Assessments. Any Special Assessment must be approved in accordance with the Bylaws. Written notice of the terms of the Special Assessment will be sent to every Owner.

7. *Fines.* The Board may levy a fine against an Owner for a violation of the Governing Documents as permitted by law. The Board may adopt a Deed Restriction Enforcement Policy and charge fines pursuant to that policy.

8. *Subordination of Lien to Mortgages.* The lien granted and reserved to the Association is subordinate to any lien granted by an Owner against a Lot not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Association's lien as to Assessments due before the foreclosure.

9. *Delinquent Assessments.* Any Assessment not paid by the due date is delinquent.

10. *Lots Owned By Declarant.* **Lots Owned By Declarant and/or the Association. Notwithstanding any provision to the contrary in this Declaration, no annual or special assessments or charges shall accrue, be charged, or assessed against Lots owned by the Declarant or Association (this includes any dues, interest, late charges, expenses, or legal fees**

accrued on an account while a Lot is owned by someone other than the Declarant or Association), whether such Lots are unsold Lots remaining in Declarant's or Association's inventory or have been previously sold or conveyed and subsequently foreclosed or repossessed in any manner by Declarant or Association (including Deed in Lieu of Foreclosure). This exemption remains intact even after the Declarant transfers control of the subdivision to the Association. This right may be assigned by Declarant.

G. Remedial Rights

1. *Late Charges and Interest.* A late charge of \$20.00 is assessed for each year that dues are not received by the Association by January 31st. Delinquent Assessments accrue interest at the rate of 10 percent per year. The Board may change the late charge and the interest rate.

2. *Costs, Attorney's Fees, and Expenses.* The Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent Assessments, foreclosing the Association's lien, and enforcing the Governing Documents.

3. *Judicial Enforcement.* The Association may bring an action against an Owner to collect delinquent Assessments, foreclose the Association's lien, or enforce or enjoin a violation of the Governing Documents. An Owner may bring an action against another Owner to enforce or enjoin a violation of the Governing Documents.

4. *Remedy of Violations.* The Association may access an Owner's Lot to remedy a violation of the Governing Documents.

5. *Suspension of Other Rights.* If an Owner violates the Governing Documents, the Association may suspend the Owner's rights under the Governing Documents in accordance with law until the violation is cured, provided, however, that the right of an Owner to run for a position on the Board shall not be limited except as provided by law.

6. *Damage to Property.* An Owner is liable to the Association for damage to Common Areas caused by the Owner or the Owner's family, guests, agents, independent contractors, and invitees in accordance with law.

H. Common Area

1. *Common Area Easements.* Each Member has an easement in and to the Common Area, subject to the right of the Association to -

a. charge reasonable admission and other fees for the use of recreational facilities situated on the Common Area, and if an Owner does not pay these fees, the Owner may not use the recreational facilities;

b. suspend a Member's rights under the Governing Documents;

c. grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes; and

d. dedicate or convey any of the Common Area for public purposes, on approval by a vote of a majority of the Members that are actually present (or by Proxy) at a meeting.

2. *Permitted Users.* A Member's right to use and enjoy the Common Area extends to the Member's family, guests, agents, and invitees, subject to the Governing Documents.

3. *Unauthorized Improvements in Common Area.* A Member may not erect or alter any Structure on, or clear, landscape, or disturb, any Common Area except as approved by the Board.

I. General Provisions

1. *Term.* This Declaration runs with the land and is binding in perpetuity.

2. *No Waiver.* Failure by the Association or an Owner to enforce the Governing Documents is not a waiver.

3. *Corrections.* The Board may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.

4. *Amendment.* This Declaration may be amended at any time by a majority vote of the members present at a member's meeting called for that purpose. An instrument containing the approved amendment will be signed by the Association and recorded. This Declaration may be amended unilaterally and solely in the discretion of the Declarant by a signed written statement at any time before the Control Transfer Date. The Control Transfer Date shall be defined as the date at which Declarant has transferred/sold more than 99% of the total acreage of land included within all real property subject to the control of the Association.

5. *Conflict.* This Declaration controls over the other Governing Documents.

6. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.

7. *Notices.* Any notice required or permitted by the Governing Documents must be in writing. To the extent required by law, notices regarding remedial rights must be given by certified mail, return receipt requested. All other notices may be given by regular mail. Notice is

