



SUPPLEMENTAL DECLARATION – PRIVATE STREETS

WESTLAKE

THIS SUPPLEMENTAL DECLARATION – PRIVATE STREETS (this “Supplemental Declaration”) is made as of the date hereinafter stated by MERITAGE HOMES OF TEXAS, LLC, an Arizona limited liability company (“Meritage” or “Declarant”).

WITNESSETH:

A. PROPERTY. This Supplemental Declaration – Private Streets pertains to Westlake, a community located in Fort Bend County, Texas, which is subject to the Declaration of Covenants, Conditions and Restrictions for Westlake, recorded on November 12, 2013, as Document No. 2013142137, as supplemented and amended by the Supplemental Declaration of Annexation recorded on May 1, 2014, as Document No. 2014043988, and the Amendment- Neighborhoods recorded of even date herewith, in the Official Public Records, Fort Bend County, Texas (collectively, the “Declaration”).

B. DECLARANT. Meritage Homes of Texas, LLC, an Arizona limited liability company, is the “Declarant” under the Declaration, and is the sole owner of the property described on Exhibit A-1 attached hereto (the “Gated Neighborhood Property”).

C. AUTHORITY. As set forth in Section 10.6 of the Declaration, Declarant has the right to subject the Gated Neighborhood Property to the additional covenants, conditions and restrictions set forth in this Supplemental Declaration.

NOW, THEREFORE, for and in consideration of the premises and in furtherance of the general plan of development for the Westlake property subject to the Declaration, Meritage hereby declares that the Gated Neighborhood Property shall be held, transferred, sold, conveyed, used and occupied subject to the provisions of the Declaration and this Supplemental Declaration, which shall also run with the land and be binding on all parties having any right, title, or interest in the Gated Neighborhood Property or any part thereof, their heirs, successors and assigns and which shall inure to the benefit of each owner thereof, to wit:

ARTICLE I DEFINITIONS

Any capitalized terms which are used in this Supplemental Declaration and not defined herein shall have the meaning ascribed to them in the Declaration.

- 1.1. Private Streets- means a street in the Gated Neighborhood Property that (1) is not dedicated to the public by plat, (2) is expressly dedicated on the plat for private use, or (3) is intended for private use by installation of an entry gate. Where the context requires, the term Private Street encompasses all appurtenances to a Private Street, such as the entry gates, street lights, street islands, street signs, and street curbs, and further encompasses - if any - cul-de- sacs and alleys.
- 1.2. Private Street Reserves- accumulated reserves for the scheduled or other replacement or major repair of Private Streets, and Private Street-related improvements, such as street lights. Private Street Reserves are dedicated for the stated purpose and may not be used for other purposes. Private Street Reserves are funded by the Neighborhood Assessments.

ARTICLE II DESIGNATION OF NEIGHBORHOOD; ASSESSMENTS

- 2.1. Designation of Neighborhood. Section 10.6 of the Declaration gives the Declarant the right to designate a portion of the Property as a Neighborhood. The Gated Neighborhood Property is hereby designated as

a Neighborhood under the Declaration. The purposes of the Neighborhood and this Supplemental Declaration is to establish a gated area of the Westlake community which will have Private Streets and other areas that will be Neighborhood Common Areas.

- 2.2. Neighborhood Assessments. The Owners of Lots within the Neighborhood will be assessed and are liable to pay annual Neighborhood Assessments in addition to the annual assessments and all other assessments and charges set forth in the Declaration. The Board will hereafter levy an initial annual Neighborhood Assessment on the Lots in the Neighborhood in an amount to be determined by the Board from time-to-time. The amount of the Neighborhood Assessment is equal as to each Lot in the Neighborhood. The Board may levy Neighborhood Assessments on any periodic basis annually, semi-annually, quarterly, or monthly. Neighborhood Assessments are due on the first day of the period for which levied. Neighborhood Assessments are delinquent if not received by the Association on or before the due date. In the case of a new home closing in the Neighborhood, the obligation for the Neighborhood Assessment begins at the closing of a sale of a new home in the Neighborhood, and is prorated for the remaining portion of the fiscal year.
- 2.3. Costs and Expenses; Reserves. Neighborhood Assessments may be used, for among other purposes, to pay the costs and expenses as determined by the Board to be necessary or desirable for maintaining and repairing common improvements and features within the Neighborhood that are intended for the benefit or enjoyment of Owners of Lots within the Neighborhood including, without limitation, the Private Streets, landscaping and decorative fencing in Neighborhood Common Areas, and costs of operating and repairing the gate and/or entry monitoring facility at the entrance to the Neighborhood. Without limitation, the costs and expenses may include costs of maintenance, repair and/or replacement of the Private Streets or any Neighborhood Common Areas, utilities, private street-related services such as street sweeping, property taxes (if any) on the Private Streets, or any other expense which in the opinion of the Board is necessary or proper for operation and maintenance of the Private Streets. In addition to such costs and expenses, the Board will also determine an amount of Private Street Reserves that it deems to be necessary or prudent to be assessed and that will be included in the Neighborhood Assessments. It is understood that such amount in some years may be zero, based upon that the Private Streets are new, and may rise in later years as replacement may be needed or projected.
- 2.4. Annual Budget. The Board will prepare and approve an estimated annual budget for the Neighborhood for each fiscal year, taking into account (1) estimated income from Neighborhood Assessments, (2) estimated expenses for operating, maintaining, and insuring the Private Streets and other Neighborhood Common Areas, and their appurtenances, (3) contributions (if any) to Private Street Reserves, and (4) a projection for uncollected receivables. If the Board does not approve an annual budget or fails to determine new Neighborhood Assessments for any year, or delays in doing so, owners of lots in the Neighborhood will continue to pay the Neighborhood Assessment as last determined. If during the course of a year the Board determines that the Neighborhood Assessment is insufficient to cover the estimated Private Street costs or expenses for the remainder of the year, the Board may increase the Neighborhood Assessment for the remainder of the fiscal year in an amount that covers the estimated deficiency.

ARTICLE III EASEMENTS; RULES AND REGULATIONS

- 3.1. Private Streets. The Private Streets in the Neighborhood have not been and are not intended to be dedicated to the public, but will be operated as private streets maintained by the Association.
- 3.2. Owner's Easement for Access. Meritage hereby declares, grants and reserves for itself, its successors and assigns, and for the benefit of each of the Owners of the Lots within the Neighborhood, their successors and assigns, invitees, lessees, guests and agents, a non-exclusive and perpetual easement for the purpose of vehicular and pedestrian ingress and egress over the Private Streets within the Neighborhood. This easement is for the benefit of and appurtenant to each Lot in the Neighborhood and

shall run with the land. Each owner of a Lot in the Gated Neighborhood Property shall have the right to use such Private Streets in a manner that does not unreasonably interfere with or prevent the use thereof by any other Owner or any other party which may have the right to use same pursuant to the terms hereof. The Private Street Easement will terminate when the purpose of the easement ceases to exist, or becomes impossible to perform.

- 3.3. Entry Gates. The access easement over and across the Private Streets is subject to the right of the Association to operate and maintain an entry gate as a system which requires as a condition of entry such identification cards, passes, keys, or similar devices as may be established from time to time by the Board. The entry gate will initially be installed by Meritage and thereafter maintained and repaired by the Association, and will be solely for providing restricted access to and from the Neighborhood. The entry gate shall be maintained as a Neighborhood Common Area that is intended for the benefit or enjoyment of Owners of Lots within the Neighborhood Gated Property. Without the Association's express instruction or prior approval, except as provided in this Supplemental Declaration, the gates or entry feature must be kept closed, except during a person's actual entry or departure, and no person (other than public safety personnel) may disarm a gate or otherwise leave it ajar or unlocked. From time to time the Association may authorize that the gates be left open.
- 3.4. Association Maintenance Easement. On recording this Supplemental Declaration, Declarant burdens the side of a Lot along a Private Street and every Lot that contains, adjoins, or abuts an entry gate or related improvement, as needed for the operation, maintenance, and replacement of the Private Streets or any entry gate or feature. The purpose of this easement is to provide for the existence, repair, improvement, and replacement of the Private Street or any entry gate or feature, to be owned and maintained by the Association as a Neighborhood Common Area. In exercising this easement, the Association may construct, maintain, improve, and replace improvements reasonably related to the streets, fencing, or entrance of the Neighborhood, such as: street monuments, traffic control signs and devices, electrical and telephone meters and equipment, street lights, and signage.
- 3.5. Rules and Regulations. The access easement over and across the Private Streets is further subject to the right of the Board to promulgate rules and regulations ("Traffic Regulations") regarding access to and use of the Private Streets. The Association is hereby authorized to enforce these Traffic Regulations, but is not required to do so. Although the Association may lack the resources for identifying and pursuing violations of these Traffic Regulations on a routine basis, from time to time the Association may contract for enforcement services. The Association, acting through the Board, is specifically authorized to adopt, amend, repeal, and enforce Traffic Regulations for use of the Private Streets, but is not required to do so. The Association may adopt any type of rule that is customary for the use and maintenance of private streets, entry gates, and gated subdivisions, such as rules pertaining to: (1) speed limits, (2) location, use, and appearance of traffic control devices, such as signs and speed humps, (3) designation of parking or no-parking areas, (4) limitations or prohibitions on curbside parking, (5) removal or prohibition of vehicles that violate applicable rules and regulations, (6) fines for violations of applicable rules and regulations, and (7) programs for controlling access through entry gates and emergency access gates. The Traffic Regulations may be amended and/or restated from time to time by the Board, without a vote of owners, but an amendment or restatement of Traffic Regulations is not effective until publicly recorded.
- 3.6. Street Signs. The Association is additionally granted a perpetual easement over each Neighborhood Lot that contains a street sign or name monument for the purpose of repairing, removing, and replacing the sign or monument, as deemed necessary by the Association. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much as the surface of a Lot as may be reasonably necessary for the Association to perform its contemplated work. The Owner of a Lot with a street sign or name monument may not remove, deface, cover, or screen the sign or monument, or otherwise interfere with the intended use and purpose of the sign or monument.

- 3.7. Declarant's Reserved Rights. For so long as Meritage owns any Lot within the Neighborhood, it hereby reserves for itself, its successors and assigns, the right to grant additional ingress and egress easements over the Private Streets within the Gated Neighborhood Property without the joinder of the Association or any Owners or any other parties. During the Development Period, Meritage reserves for itself the following rights in connection with any model homes, vacant lots, homes for sale or lease, a sales or marketing center, stored materials, or offices for construction, management, or any other aspect of the residential development: (1) the right to keep the entry gate open for prospective homebuyers and Realtors, or (2) to distribute a gate code or other means of access for use by the homebuying public or by the Realtor community.

ARTICLE IV GENERAL PROVISIONS

- 4.1. Enforcement by Association and/or Owner. The Association will have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed now or in the future by the provisions of this Supplemental Declaration. Failure of the Association to enforce any covenant or restriction of this Declaration will in no event be deemed a waiver of the right to do so in the future.
- 4.2. Remedies; Cumulative. In the event any Owner fails to comply with the terms herein, the Association will have each and all of the rights and remedies which may be provided for in the Declaration, this Supplemental Declaration, the Bylaws and any rules and regulations, and those which may be available at law or in equity, including, without limitation, enforcement of any lien, damages, injunction, specific performance, judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity will be deemed mutually exclusive of any other such remedy, but instead shall be cumulative.
- 4.3. Construction and Interpretation. This Supplemental Declaration shall be liberally construed and interpreted to give effect to its purposes and intent, except as otherwise required by law.
- 4.4. Severability. Invalidity of any one of these covenants, conditions, easements or restrictions by judgment or court order will in no manner affect any other provisions which will remain, in full force and effect.
- 4.5. Rights and Obligations Run With Land. The provisions of this Supplemental Declaration are covenants running with the Gated Neighborhood Property and will inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. No Lot is exempt from the terms set forth herein. By the recording or the acceptance of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed will be deemed to accept and agree to be bound by and subject to all of the provisions of this Supplemental Declaration, whether or not mention thereof is made in said deed.
- 4.6. Disclaimer Regarding Security. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Gated Neighborhood Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants, invitees, and licensees that the Association, its Board and committees and the Declarant are not insurers and that each person using any portion of the Gated Neighborhood Property assumes all risks for loss or damage to persons, to Lots and to the contents of Lots resulting from acts of third parties.

- 4.7. Conflicts. In the event of conflict between the Declaration, this Supplemental Declaration and any Bylaws, rules, regulations or the Certificate, this Supplemental Declaration will control.

IN WITNESS WHEREOF, this Supplemental Declaration is executed effective as of this _____ day of May, 2014.

DECLARANT:

MERITAGE HOMES OF TEXAS, LLC,
an Arizona limited liability company

By: [Signature]

Printed Name: David W. Jordan
Sr. Vice President

Title: _____

Date: 5/14/14

STATE OF TEXAS §

COUNTY OF HARRIS §

The foregoing instrument was acknowledged before me on this the 15 day of May, 2014, by Daniel D. Jordan, the Sr. Vice President of Meritage Homes of Texas, LLC, an Arizona limited liability company, on behalf of said company.


Notary Public, State of Texas

AFTER RECORDING RETURN TO:

Kim Tackitt-Clark
2901 W. Sam Houston Pkwy. N.
Ste. C-250
Houston, TX 77043

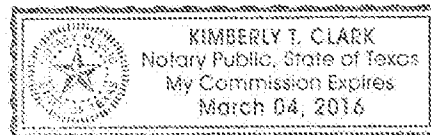


EXHIBIT "A-1"

The following lots as shown on the Plat of Monterrey at Willowbend Sec 1, recorded on March 26, 2013 in Plat Number 20130056 of the Plat Records of Fort Bend County, Texas:

Block 3, Lots 12-20, inclusive.

Block 5, Lots 1-15, inclusive.

The following lots as shown on the Plat of Monterrey at Willowbend Sec 4, recorded on March 25, 2014 in Plat Number 20140059 of the Plat Records of Fort Bend County, Texas:

Block 1, Lots 1-43, inclusive.

The Private Streets are Meandering Spring Dr., Scarlet Crest Ln., Millbrook Bend Lane, and Concord Run Court as shown on the above plats.