

# SYNERGY PARK AT ELDER LAKE

# DEVELOPMENT COVENANTS



# KILGORE

★ T E X A S ★

ECONOMIC DEVELOPMENT CORPORATION

KILGORE ECONOMIC DEVELOPMENT  
CORPORATION

**Kilgore, Texas**

**Amended and Restated  
March 19, 2013**

**AMENDED AND RESTATED DEVELOPMENT COVENANTS  
OF  
SYNERGY PARK**

THIS AMENDED AND RESTATED DECLARATION, is made on the date hereinafter set forth by Kilgore Economic Development Corporation, a Texas Non-Profit Corporation (KEDC), hereinafter referred to as "Declarant", and 75% of the Owners of the Lots as of this Day and shall be in lieu and instead of the Development Covenants of Synergy Park adopted on March 5, 2004 and recorded in the Official Public Records of Gregg County, Texas, under Clerk's File Number GCC 200405055

WITNESSETH

WHEREAS, Declarant and the undersigned Owners of the Lots are the sole owners of certain property in The City of Kilgore, County of Gregg, State of Texas, known as Synergy Park which is more particularly described in Recording Supplement-Synergy Park at Elder Lake dated December 21, 2012, and recorded in the Official Records of Gregg County, Texas under Clerk's File Number GCC 20122321 to which reference for a full description of the property covered by this Amended and Restated Development Covenants of Synergy Park

WITNESSETH

WHEREAS, Declarant and the undersigned Owners of the Lots desire to create thereon a predominantly industrial community with permanent greenbelts and open spaces, and other common facilities for the benefit of the said community; and

WHEREAS, Declarant and the undersigned Owners of the Lots desire to provide for the preservation of the values and amenities in said community and for the maintenance of said greenbelts, open spaces and other common facilities; and to that end, desires to subject the property herein described to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant and the undersigned Owners of the Lots have deemed it desirable, for the efficient preservation of the values and amenities in said community, to create a Property Owner's Association to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created;

NOW THEREFORE, Declarant and the undersigned Owners of the Lots hereby declare that all of the property described in GCC 20122321 shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## **ARTICLE I DEFINITIONS**

Section 1. "Association" shall mean and refer to Synergy Park Property Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the owners of record, whether one or more persons or entities, of title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property described in Recording Supplement-Synergy Park at Elder Lake dated December 21, 2012, and recorded in the Official Records of Gregg County, Texas under Clerk's File Number GCC 20122321, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all property owned by Declarant and used for the common use and enjoyment of the owners and the public. The Common Area is described as follows:

All common areas including but not restricted to green belts, walks, park trails, park pavilion and toilet rooms, common parking areas, park entrance elements, common roadways and drives, Elder Lake, excluding building Lots, as shown on the most current plat recorded or to be recorded in the Gregg County, Texas, Plat Records. In addition, "Common Area" shall include the area between the curb line of the streets and roads in Synergy Park and the property line of each individual property.

Section 5. "Lot" shall mean and refer to any plot of land including community building lots shown upon any recorded plat of the Properties with the exception of the common area.

Section 6. "Declarant" shall mean and refer to KEDC, its successors and assigns.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Development Covenants" shall mean this document, the Development Standards for Synergy Park at Elder Lake and the By-Laws and Rules and Regulations adopted by the Association.

Section 9. "Development Standards" shall mean the Development Standards of Synergy Park at Elder Lake, which are incorporated herein by reference for all purposes.

Section 10. "Elder Lake" shall mean Elder Lake, the green-belt surrounding it containing jogging paths and the green-belt to the north of it, all of which will be reserved to Declarant as "Lot 0", but will be accessible to the public during daylight hours. Elder Lake will be a common area but will be maintained at least 50% by the Property Owner's Association and 50% by Declarant. Any changes in use of Elder Lake must be approved by the Declarant.

## **ARTICLE II POWERS IN DECLARANT**

Section I. Changes in Boundaries. The Declarant reserves the right to make such changes in the boundaries of Synergy Park, lots not sold to others and on the Common Areas as it deems advisable, provided that such changes shall not be unreasonable or substantially adversely affect the boundaries or the beneficial use and enjoyment of any lot then owned by Owners other than the Declarant, and provided that Declarant complies with all provisions of any applicable law or ordinance. The reasonableness of any such boundary change, if disputed by a lot owner other than Declarant, shall be mediated by a registered professional engineer of a choice acceptable in advance by both parties. If no engineer is acceptable to both or if either party is aggrieved by the decision of the engineer, then a mediator shall be appointed by the American Arbitration Association. If mediation does not resolve the issue, the

parties agree to binding arbitration. Each party shall choose a registered professional engineer who shall in turn choose a third registered professional engineer to chair the Arbitration Panel and the reasonable of such boundary change shall be submitted to the Panel for binding arbitration.

Section 2. Adding and Removing Property Owned by Declarant. Declarant reserves, and shall at all times have the right, without the consent or approval of any other person to subdivide existing Lots, plat or replat the boundaries or dimensions of any lot or other property owned by Declarant and may increase or decrease or change the size, shape, or dimensions of any lot or other property owned by Declarant and may designate the lots or other property owned by Declarant which shall and shall not be entitled to the use and enjoyment of any of the common areas and other privileges, subject to the obligations of this declaration of covenants, conditions, and restrictions. Declarant may also add additional property to Synergy Park.

### **ARTICLE III PROPERTY RIGHTS IN THE COMMON AREAS**

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Declarant to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) The right of the Declarant to suspend the right to use of the recreational facilities by an Owner for any period not to exceed 60 days for each infraction of its published rules and regulations or during the entire period each infraction remains uncured;
- (c) The right of the Declarant to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members, except for the Lot containing Elder Lake. No such dedication or transfer of the Lot containing Elder Lake shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(d) The right of the Declarant, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof or to mortgage said Common Property and the rights of such mortgage in such Common Property shall be subordinate to the rights of the Owners hereunder.

Section 2. Owner's Use. Owners' use of their Lot and the Common Areas are subject to the provisions of the Articles herein regarding common scheme restrictions, architectural control, party walls, exterior maintenance, and all other articles herein and of any rules or regulations of the Association.

#### **ARTICLE IV MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership in Association. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes of Association. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine.

Class B. The Class B member (s) shall be the Declarant which shall have as many votes as the Class A members put together, plus 1. The Class B membership shall cease when all of the lots in Synergy Park are sold by Declarant.

#### **ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot, by acceptance of a deed, is deemed to covenant and agree to pay to the Association: (1) A Regular Assessment payable annually, and (2) a Special assessment, such

assessments to be established and collected as hereinafter provided. The Annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall, to the full extent permitted by law, be charged on each Lot or Lots and shall be a continuing lien upon the Lot or Lots against which each such assessment is made. Each such assessment, together with interest, costs, including fees for release of liens, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners in the Lots and for the improvement and maintenance of the Common Area.

Section 3. Regular Assessment. The Association shall determine the amount of the Regular Assessment at its annual meeting.

Section 4. Special Assessments. In addition to the Regular assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose. In addition, the Association may levy a special assessment not to exceed the cost of remediation against any Lot and Owner to remedy any violation of the Development Covenants and Development Standards.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than 7 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum

at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Date of Commencement of Regular Assessments: Due Dates. The Regular assessments provided for herein shall commence as to all lots the first day of the month following the date on which the Association shall fix the amount of the Regular assessment against each Lot. Written notice of the Regular assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid on the date when due, shall be immediately delinquent and shall, together with such interest and cost of collection as is hereinafter provided, immediately become a continuing lien on the property which shall, to the full extent permitted by law, bind such property in the hands of the then Owner, his heirs, devisees, personal representative, successors and assigns. If the assessment is not paid within thirty (30) days after the due (delinquent) date, the assessment shall bear interest from the due (delinquent) date at the rate of 18% per annum, and the Association may accelerate and declare immediately due and payable the full amount of the Regular Assessment plus accrued interest and may either (1) bring an action at law against the Owner personally obligated to pay the same or (2) foreclose the lien against the property, or (3) both, and, in either event, there shall be added to the amount of such assessment interest as provided and all costs of collection, including reasonable attorney's fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No extinguishment of the lien shall



relieve the delinquent Lot Owner from its personal obligation and liability therefore.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All property dedicated and accepted by any local governmental authority and devoted to public use;
- (b) All Common Area as defined in Article 1, Section 4 hereof;
- (c) All additional Common Area which may be acquired through annexation or designation by Declarant or the Association.

Section 10. Enforcement. All Owners agree to the creation and placement of a lien on each individual Lot for all unpaid assessments levied by the Association including maintenance fees, annual assessments, Regular Assessments, Special Assessments, etc. The lien against each Owner's Lot may be foreclosed by non-judicial foreclosure and the President of the Association or of Declarant is hereby appointed a Trustee to proceed with any non-judicial foreclosure. If requested by Declarant or the Association the Trustee shall

- (a) either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended and file a notice of lien against the Lot;
- (b) sell and convey all or part of each Lot to the highest bidder for cash with a general warranty binding each Owner, subject to any prior liens and to any other exceptions to conveyance and warranty; and subject to the terms and provisions of this declaration;
- (c) from the proceeds of the sale, pay, in this order:
  - (i) expenses of foreclosure, including a commission to Trustee of 5% of the bid price;
  - (ii) to the Association, the full amount of fees, liens, assessments, attorney's fees, and other charges due and unpaid by each Owner;
  - (iii) any amounts required by law to be paid before payment to the Association; and
  - (iv) to Owner, any balance received from the sale.

Section 11. No Abatement. No diminution or abatement of assessments shall be allowed or claimed for inconveniences or discomfort arising from the making of repairs or improvements to the

Common Areas or Lots or from any action taken to comply with any law, ordinance or order of a governmental authority .

**ARTICLE VI**  
**MAINTENANCE BY AND SERVICES OF THE ASSOCIATION**

Section 1. Common Area. The Association shall maintain the Common Area as provided in this Declaration.

Section 2. Easement. The Association is hereby granted an easement and right of way on all Lots in order to comply with the terms of these covenants and entry on a Lot for such purpose shall not be deemed trespass.

Section 3. Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, his employees, guests or invitees, the Association shall add cost of such maintenance or repairs, as a special assessment, to the normal Assessment of such owner.

Section 4. Merger with other Associations. The Association may merge with any other association which has objectives and purposes similar to the Association upon a vote of two-thirds (2/3) of the memberships at a meeting duly called for that purpose, written notice of which has been given to all Members not less than ten (10) nor more than fifty (50) days in advance of the meeting.

Section 5. Elder Lake. The Association shall also pay up to one-half (1/2) of the maintenance for Elder Lake, but Declarant shall manage Elder Lake and shall schedule the use of Elder Lake Pavilion and parking lot.

Section 6. Roadway Greenbelt. The Association will maintain, including fertilizing, watering and mowing, a greenbelt from the curb-line of the main streets and roads in Synergy Park 30 feet onto Property, including Lots that may be sold hereunder. No trees or shrubs may be planted in the first 25 feet of the greenbelt closest to the curb-line. However, if an individual lot owner wished to maintain a flower bed it may do so, but will be responsible for its own maintenance.

**ARTICLE VII**  
**PERMITTED USES AND RESTRICTIONS**

Section 1. General Restrictions. All Lots shall be used solely for commercial, manufacturing, or industrial purposes. No lot may be used as a residence, dwelling, apartment house, duplex, flat, lodging house, hotel or for any purpose not permitted by the City of Kilgore zoning ordinance.

Section 2. Noxious Uses. The land and improvements located on each Lot shall not be used so as to disturb the neighborhood or occupants of adjoining Lots, or to constitute a nuisance or to violate any public law, ordinance or regulation from time to time applicable thereto. Nor shall such land and improvements be used for any purpose which will create or emit any objectionable, offensive or noxious odors, dust, gas, fumes or other such material.

Section 3. Use of Common Area. The Common Area shall be used for park, greenbelt, recreational, social, access, established utility easements, approved driveways installed and maintained at owner's expense, and other purposes directly related to the property uses that are or may be authorized hereunder, subject to Declarant's rules and regulations .

Section 4. Animals. No animals or birds shall be maintained on any Lot.

Section 5. Antennas and Signals. Except for security cameras and wireless internet antennae, no antenna or other device for the transmission or reception of television signals, radio signals, citizens band radio, or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a building or structure or otherwise, without prior written approval of the Board of Directors of the Association. No radio signals, television signals, or any other form of electromagnetic radiation shall originate from any Lot which may interfere with the reception of television or radio signals on any other Lot.

Section 6. Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or

structures used during the construction, repair or remodeling of a permanent building on any such Lot or Common Area shall be moved immediately after the completion of construction and in no event shall such a structure be located upon a Lot for a period in excess of 1 year.

Section 7. Trailers, Boats and Motor Vehicles. No mobile or motor home truck camper, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be kept, placed, maintained, constructed, reconstructed or repaired upon any Lot or street or private driveway in such a manner as will be visible from neighboring Lots or a public street; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Development Review Board (as defined below. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed, or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property.

Section 8. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or Common Area, and no odors shall be permitted to arise therefrom, so as to render any such property or portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such property in the vicinity thereof or to its occupants.

Section 9. Repair of Buildings. No building or structure upon any property within any Lot or Common Area shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 10. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Common Area except in covered containers of a type, size, and style which are approved by the Development Review Board. In no event shall such containers be maintained so as to be visible from neighboring lots, except to make

the same available for collection and, then, only the shortest time reasonably necessary to effect such collection or as approved by the Development Review Board.

Section 11. Sidewalk Encroachments. No tree, shrub or planting of any kind on any Lot or Common Area shall be allowed to overhang or otherwise encroach upon any sidewalk or other pedestrian way from ground level to a height of seven (7) feet without the prior approval of the Development Review Board.

Section 12. Right of Way. During reasonable hours Declarant, any member of the Development Review Board, or member of the Board of Directors or any other representative of any of them, shall have the right to enter upon and inspect any Lot or Common Area for the purpose of ascertaining whether or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 13. Mineral Exploration. No Lot or Common Area shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind, except for designated Drill Lots.

Section 14. Machinery and Equipment. Without the approval of the Development Review Board or Declarant, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Area except such machinery or equipment as is usual and customary in Gregg County, Texas, in connection with the use, maintenance, or construction of a permanent building or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be so placed, operated or maintained by any governmental, or quasi-governmental agency or public utility.

Section 15. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot or Common Area which shall induce, breed, or harbor plant diseases or noxious insects.

Section 16. Restriction on Further Subdivision. No Lot shall be further subdivided and no portion less than all of any such Lot nor any easement or other interest therein, shall be conveyed by any Owner, except pursuant to the provisions of Article II herein and except

easements which may be granted to any governmental or quasi-governmental agency or a public utility.

Section 17. Signs. No signs whatsoever (moveable or affixed), including but not limited to, commercial, political and similar signs, which are visible from neighboring property shall be erected or maintained on any Lot except:

- (a) Such signs as may be required by law.
- (b) Permanent signs required for building and tenant identification, accessibility and traffic control.
- (c) During the time of construction of any building or other improvement, one job identification sign not larger than allowed by Kilgore City Ordinance.
- (d) A "For Sale," "For Rent," "For Lease" sign, of a reasonable type, size and appearance, which is approved by the Development Review Board and similar to other signs customarily used in Gregg County, Texas, to advertise individual parcels of residential real property.
- (e) Development identification and sales signs required by the Development Review Board. The content and location of all signs shall be subject to the Development Standards. The provisions of this paragraph shall not prevent Declarant from commencing, erecting, or maintaining structures or signs of any content or size on lots owned by it or upon the Common Area when Declarant, in its sole discretion, deems it necessary or convenient to the development, sale, operation or other disposition of the Lots. Any signs shall also conform to the the City of Kilgore Sign Ordinances.

Section 18. Tanks, Solar Devices and Windmills. No elevated tanks, solar devices or windmills shall be erected without prior written approval of the Development Review Board.

Section 19. Lighting. No lighting or illumination shall be placed upon any Lot in such a manner as to cause nuisance glare on any other Lot.

Section 20. Building Encroachment Easements. No construction may exceed the limits of dedicated easements on adjacent Lots or Common Areas. As a maximum no encroachment may exceed the limits shown on the recorded plat of this property.

Section 21. Setbacks. No building shall be located on any Lot nearer to the front Lot line or nearer to the side Lot line than the minimum building setback lines shown on the Development Standards. For the purpose of this provision, eaves, steps, and open porches shall not be considered as a part of the building provided, however, that this shall not be construed to permit any portion of the building on any Lot to encroach upon another Lot in violation of the provisions of this Declaration.

Section 22. Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No utility company water district, political subdivision, or other authorized entity using the easements herein referred to shall be liable for any damage done by them or their assigns, agents, employees, or servants, to shrubbery, trees, or flowers, or to other property of the Owner situated within any such easement.

Section 23. Construction. With reasonable diligence, and in all events within eighteen (18) months from the commencement of construction (unless completion is prevented by war, strikes, or act of God), any building commenced shall be completed as to its exterior, and all temporary structures shall be removed.

## **ARTICLE VIII GENERAL OBLIGATIONS OF OWNER**

Section 1. General Maintenance. Each Owner shall maintain and care for all trees, plants, or foliage on its Lot and otherwise keep its Lot and all improvements thereon in conformity to its condition when new. However, no Owner shall injure, remove or destroy any tree planted on any Lot by the Declarant or the Association without the prior written approval of the Development Review Board of the Association. Further, no Owner shall injure, remove or destroy any existing tree which has a trunk diameter of 12 inches or more, measured at four feet from ground level, unless the tree is located on Owner's Lot within an area that is planned for buildings, pavement, detention facilities or utility trenches, or is located in an area that is to receive grading (excavation or fill) in excess of 12 inches, except as approved by the Development Review Board.

Section 2. Complaints by Owner. If any Owner believes any other Owner is in violation of this Declaration, he may so notify such Owner in writing, explaining his reasons for such complaint. If the Owner fails to remedy the alleged violation in ten (10) days after delivery of such notice, a complaint may be transmitted in writing to the Association, who shall thereupon decide the complaint.

Section 3. Complaints by the Association. If the Association believes any Owner is in violation of these Restrictive Covenants, it shall so notify such Owner in writing, explaining its reason for such complaint. If the Owner fails to remedy the alleged violation within thirty (30) days following delivery of such notice, then the Association shall have the right to (1) impose a special assessment or (2) institute appropriate legal action.

Section 4. Remedy of Violations. If the Owner fails to remedy such violation within forty-five (45) days after the date of such notice or in the time specified in any such proceeding, as appropriate, the Association may (but shall not be obligated to) make the appropriate repairs and add the cost of such repairs, as Special Assessment to the normal assessment of such Owner. The Association, and its designees, shall have the right to entry upon the Lot owned by such Owner for such purpose.

## **ARTICLE IX ENVIRONMENTAL AND ARCHITECTURAL MANAGEMENT**

Section 1. Construction of Improvements. All construction shall be accomplished according to the Development Standards of Synergy Park at Elder Lake, which are incorporated herein by reference. Since the maintenance of environmental and architectural harmony and unity are essential for the preservation and enhancement of the value of the Lots and the harmonious functioning of the community affected hereby, no improvements may be erected on any Lot by anyone other than the Declarant without the approval of the Development Review Board (as such term is hereinafter defined) appointed by the Board of Directors of the Association. The term "improvements" shall include but shall not be limited to the erection of any structure, including but not limited to additions to or alteration of any buildings, detached buildings, privacy walls, fences, storage buildings, tool sheds, or other buildings; the erection of any fence; the moving of any structure from another locality to a Lot; the grading,



scraping, excavation or other rearranging of the surface of any Lot; the construction of any driveway, alleyway, walkway, entryway, patio, surface, including the repainting of any painted surfaces and the painting of formerly unpainted surfaces; and the planting, replanting or rearrangement of any plant life or treatment visible from another Lot, the Common Area, or public streets.

Section 2. Development Review Board. The Board of Directors of the Association will appoint a Development Review Board composed of up to five (5) persons to approve improvements proposed to be made by an Owner other than the Declarant. The Development Review Board may include persons with special expertise who are not members of the Association. An Owner may submit a preliminary set of plans according to the Development Standards for each lot as soon as practical to the Development Review Board. Approval may be conditioned upon completion within a specified period of time. All decisions shall be made by a majority vote of the Development Review Board.

Section 3. Extent of Development Review Board's Authority. The Development Review Board shall have the authority, prior to granting its approval, to relocate on the plans structures, landscaping and other proposed improvements and may require changes in the appearance of proposed improvements. Such relocation, changes, and other requirements may be based upon, among other things, aesthetic preference of the majority of the Development Review Board or impervious cover guidelines and the decision of the Development Review Board shall be final and binding.

Section 4. Grading, Excavation and Runoff Control Plans. These plans are to accompany architectural plans submitted to the Development Review Board and shall include description of proposed cuts and fills, plans for handling excavated material and plans for controlling runoff during construction and after the construction proposed on site is completed.

Section 5. Landscaping Plan. A landscaping and irrigation plan shall accompany any architectural plan submitted to the Development Review Board and it shall include a description of the overall landscaping plan and specific information about plans for existing trees on site with trunks measuring 12" in diameter or more measured 4' above ground level, with the exception of those trees located

within areas planned for buildings, pavement, detention facilities or utility trenches, or which are located in an area that is to receive grading (excavation or fill) in excess of 12 inches.

## **ARTICLE X EASEMENT AND RIGHTS**

Section 1. General Easement. The Declarant (so long as it shall retain record title to any Lot or the Common Areas) and the Association reserve the right and easement to the use of the Common Area and any Lot or any portion thereof, as may be needed for repair, maintenance, or construction on such Lot or any other Lot or the Common Areas.

Section 2. Drainage Easement. Each Owner covenants to provide such easements for drainage and waterflow as the contours of the land and the arrangement of improvements thereon requires.

Section 3. Utility Easement. An easement of ingress and egress is hereby granted on all Lots and the common Areas in favor of any utility company for the purpose of the repair, construction and maintenance of all utility lines; provided, however, no new utility line may be constructed or no existing utility line may be relocated without the approval of the Development Review Board.

Section 4. Construction Easement. Any easement granted to an Owner to construct a driveway and driveway apron shall be constructed and maintained at the sole expense of the Owner. Should the Owner fail to maintain the easement in accordance with standards prescribed by the Development Review Board, the Association may maintain any driveway and secure repayment by special assessment of the Owner.

Section 5. Blanket Easement. An easement is hereby retained in favor of Declarant and the Association over the Lots and the common areas for the construction of a common telecommunications system, a common sprinkler, security cameras or any other item for the common benefit of the Owners. An easement is further granted for the purpose of the repair and maintenance of any item so constructed. An entry upon any Lot or the Common Areas to effectuate the foregoing purposes shall not be deemed trespass. Each Owner covenants not to damage or destroy any

portion of an item so constructed and shall hold the Association and/or Declarant harmless for the cost of repairing or replacing any portion damaged or destroyed by such Owner, his employees, his guests or invitees.

## **ARTICLE XI DEVIATIONS**

The Association may grant approval for waivers or deviations from the restrictions provided in herein.

## **ARTICLE XII GENERAL PROVISIONS**

Section 1. Enforcement. The restrictions herein set forth shall run with the land and bind the present Owners except as otherwise provided, its successors and assigns, and all parties claiming by, through or under it, shall be taken to hold, agree and covenant with the owner of said land, its or their heirs, personal representatives, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots and construction of improvements thereon. No action for enforcement of these covenants may be commenced until the procedure specified in Article VIII, Section 2 or Section 3, as appropriate, has been completed. Failure of Declarant or the Association to enforce any of the restrictions herein set forth shall in no event be deemed a waiver of the right to do so or to enforce other restrictions. The Association shall be the only entity which has the power to decide whether these Covenants have been violated and to enforce these Covenants.

Section 2. Invalidation. The invalidation of any of the covenants or restrictions set forth herein by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Right to Assign. The Declarant may, by appropriate instrument, assign or convey to any Person any or all of the rights, reservations, easements, and privileges herein reserved by the Declarant, and upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign such rights, reservations, easements, and privileges or any one or more of them at any time or times in the same way and manner as those directly reserved by them or it in the instrument.

Section 4. Duration and Amendment. All of the restrictions set forth herein shall continue and be binding for a period of fifty (50) years from the date of this instrument and shall automatically be extended thereafter for successive periods of ten (10) years; provided, however, that the Owners of two-thirds (2/3) of the Lots may, at the end of such fifty (50) year term or at the end of any successive ten (10) year period thereafter, by a written instrument signed by such 2/3 of Owners, vacate or modify all or any part of this Declaration.

During the initial fifty (50) year period a vacation or modification hereof shall be effective if a written instrument is signed by seventy-five percent (75%) of the Owners of the Lots.

Any such vacation or modification shall be filed of record in the Gregg County Deed Records promptly when executed.

Section 5. Notices. All notices given or required to be given by the Association to its Members shall be deemed to have actually been given if actually received and, whether or not actually received, when deposited in the United States Mail, postage prepaid, and addressed to the Member at his address to the Member at his address as it appears on the books of the Association, and shall be deemed given when mailed.

EXECUTED this 19 day of March, 2013.

Kilgore Economic Development  
Corporation

BY:   
Bill Mishkind, President

DECLARANT AND OWNER OF LOTS 1,  
1A, 3B, 7B, 9, 10, 11 and 12