

**NOTICE OF FILING OF DEDICATORY INSTRUMENT FOR
LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.**

STATE OF TEXAS

COUNTY OF COLLIN

This Notice of Filing of Dedicatory Instruments for Lakepointe at Lavon Homeowners Association, Inc., (“Notice”) is made by and on behalf of Lakepointe at Lavon Homeowners Association, Inc. (the “Association”) to be effective as of this 1st day of June 2023.

RECITALS:

WHEREAS, the Association is a property owners association as defined in Section 202.001(2) of the Texas Property Code; and

WHEREAS, The Association is governed by a dedicatory instrument, which covers the property described therein entitled Declaration of Covenants, Conditions and Restrictions for Lakepointe at Lavon Homeowners Association, Inc., filed or to be filed in the Real Property Records of Collin County, Texas (the “Declaration”), as Lakepointe at Lavon Homeowners Association, Inc., such may be amended, supplemented and/or corrected from time to time; and

WHEREAS, Section 202.006 of the Texas Property Code requires a property owners association to file the dedicatory instrument in the Real Property Records of each county in which the property to which the dedicatory instrument relates is located; and

WHEREAS, the Association desires to file a Notice by adding the instruments attached hereto herein adopted by the Association.

NOW THEREFORE, the Association files true and correct copies of the following instruments of the Association which are attached hereto:

- **SHARED DETENTION POND MAINTENANCE AGREEMENT**

IN WITNESS WHEREOF, the undersigned agent of Lakepointe at Lavon Homeowners Association, Inc., certifies that, to the best of his/her knowledge, as of the effective date of this Notice of Filing of Dedicatory Instrument that the foregoing instruments are a true and correct copy of the current instruments of the Association.

[Signature follows on next page]

Executed this 20th day of January 2024.

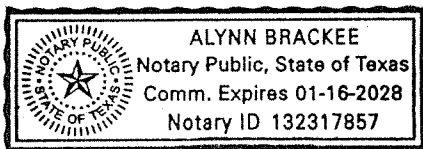
By: Connie Kindle
**Connie Kindle, Authorized
Representative, Essex Association
Management L.P.,
Its Managing Agent.**

STATE OF TEXAS

COUNTY OF DALLAS

Before me, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared **Connie Kindle, Authorized Representative, Essex Association Management L.P.**, on behalf of **Lakepointe at Lavon Homeowners Association, Inc.**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 20TH DAY OF JANUARY, 2023.



Alynn Brackee
**Notary Public in and for the State of
Texas**

SHARED DETENTION POND MAINTENANCE AGREEMENT

THIS SHARED DETENTION POND MAINTENANCE AGREEMENT (this "Agreement") is made and entered into to be effective as of the 15th day of June, 2023 (the "Effective Date"), by and between **ELEVON HOMEOWNERS ASSOCIATION, INC.**, a Texas non-profit corporation (the "Elevon Association"), and **LAKEPOINTE AT LAVON HOMEOWNERS ASSOCIATION, INC.**, a Texas non-profit corporation (the "LakePointe Association"); the Elevon Association and LakePointe Association are sometimes referred to as the "Association(s)").

BACKGROUND STATEMENT

WHEREAS, the Elevon Association is a mandatory membership property owners' association empowered to maintain its Common Areas (as defined in the Elevon Declaration) and other property and improvements within the Elevon residential development located in the City of Lavon, Collin County, Texas, pursuant to that certain First Amended Master Declaration of Covenants, Conditions and Restrictions for Elevon recorded on November 16, 2021, under Instrument No. 20211116002346270 of the Deed Records of Collin County, Texas (such Declaration, as it may be amended from time to time, is referred to as the "Elevon Declaration", and all property subject thereto, together with any property which may from time to time be added by amendment, is herein referred to as the "Elevon Property"); and

WHEREAS, the LakePointe Association is a mandatory membership property owners' association which governs the residential planned unit development known as LakePointe located in the City of Lavon, Collin County, Texas (the "LakePointe Development") pursuant to that certain Declaration of Covenants, Conditions and Restrictions for LakePointe recorded on August 7, 2020, under Instrument No. 20200807001276210 of the Deed Records of Collin County, Texas (such Declaration, as it may be amended from time to time, is referred to as the "LakePointe Declaration", and all property subject thereto, together with any property which may from time to time be added by amendment, is herein referred to as the "LakePointe Property"); and

WHEREAS, the LakePointe Property and the Elevon Property are hereinafter collectively referred to as the "Properties"; and

WHEREAS, as generally depicted on Exhibit "A" attached hereto and incorporated herein by reference, the Elevon Association is responsible for the maintenance of all of the "Shared Detention Pond" and related facilities located (a) partially on Common Areas within Section I of the Elevon Property, and (b) partially on property within the LakePointe Property that will be dedicated to Elevon Municipal Utility District No. 1-A of Collin County (the "Elevon MUD 1-A") on the date (the "Dedication Date") which is within thirty (30) days after the later of (i) recording of the Final Plat for Phase 3 of the LakePointe Property, or (ii) the execution of this Agreement by both Associations; and

WHEREAS, acknowledging that the present and future owners and residents of the Properties benefit from the Elevon Association's continued maintenance of the Shared Detention Pond, the LakePointe Association and the Elevon Association desire to provide for the care and maintenance of the Shared Detention Pond to at least the standards set forth herein and to provide

for an equitable allocation of the costs of such maintenance between the Elevon Association and the LakePointe Association.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties agree as follows:

ARTICLE I
OBLIGATION TO MAINTAIN AND INSURE

Section 1.1. **Elevon Association's Obligation to Maintain.** (a) The Elevon Association covenants and agrees to maintain, repair, replace and insure (all of the foregoing are collectively referred to as the "**Maintenance Services**"), at its sole cost and expense, all of the Shared Detention Pond hereunder (including, without limitation, the portion of the Shared Detention Pond dedicated to Elevon MUD 1-A) (i) in a manner consistent with the level of Maintenance Services (A) customary for a detention pond in subdivisions similar to the Properties, and (B) generally prevailing throughout the Properties, and (ii) as may be requested or required from time to time by the City of Lavon (the "**City**"), Elevon MUD 1-A, or any other governmental authority. Such Maintenance Services shall include, without limitation, the Maintenance Services described on **Exhibit "B"** attached hereto and incorporated herein by reference. In the event that all or any portion of the Elevon Association's responsibilities under this **Section 1.1** are assumed by any local, state, or federal governmental entity, the Elevon Association shall be relieved of such responsibility to the extent so assumed and performed by such governmental entity; provided, the Elevon Association may provide additional Maintenance Services or a higher level of Maintenance Services to any portion of the Shared Detention Pond maintained by such governmental entity if the board of directors of the Elevon Association determines, in its sole discretion, that such additional Maintenance Services are necessary or desirable to maintain the standard of maintenance generally prevailing in the Properties.

(b) Notwithstanding the foregoing, (i) the Elevon Association shall install, maintain, repair, and replace (and the Maintenance Services shall not include) the landscaping and irrigation on the Elevon Property adjacent to the Shared Detention Pond, and (ii) the LakePointe Association shall install, maintain, repair and replace, and the Maintenance Services shall not include, the landscaping and irrigation on the LakePointe Property adjacent to the Shared Detention Pond.

(c) The Elevon Association shall (i) timely pay all costs and expenses incurred by or on behalf of the Elevon Association in connection with the Maintenance Services, and (ii) immediately remove any liens filed against the LakePointe Property related to the Maintenance Services and indemnify and hold harmless the LakePointe Association and LakePointe Property from and against any and all such liens.

Section 1.2. **Request for Higher Level of Maintenance.** The board of directors of the LakePointe Association may request at any time that the Elevon Association provide a higher level of Maintenance Services as to all or a portion of the Shared Detention Pond than that required under **Section 1.1** above and, upon the Elevon Association's acceptance of such higher level of maintenance and the LakePointe Association's payment of any additional costs associated therewith to the Elevon Association, the Elevon Association shall provide such higher level of

maintenance.

Section 1.3. **Failure to Perform Maintenance Services.** (a) If, in the opinion of the LakePointe Association, the Elevon Association has failed in any of the foregoing duties or responsibilities, then the LakePointe Association shall give the Elevon Association written notice of such failure and the Elevon Association must perform the care or make arrangements with the LakePointe Association for performance of the required Maintenance Services within thirty (30) days after delivery of such notice.

(b) Should the Elevon Association fail to fulfill its duties and responsibilities and fully perform the Maintenance Services within such thirty (30) day period, then the LakePointe Association, through its authorized agent or agents, shall have the right and power, but not the obligation, to (i) enter onto the Elevon Property as necessary or appropriate to access the Shared Detention Pond and to perform such Maintenance Services without any liability for damages for wrongful entry, trespass or otherwise to any person or party, the Elevon Association or the Elevon Property, and (ii) assess all costs incurred by the LakePointe Association against the Elevon Association and the Elevon Property, and the Elevon Association shall pay such amounts within ten (10) days of such assessment or request. Notwithstanding the above, prior notice is not required in the event that the LakePointe Association determines, in its sole discretion, that an emergency situation exists which requires immediate entry to perform emergency maintenance or repairs. In the event that emergency maintenance or repairs are performed by the LakePointe Association, the LakePointe Association shall notify the Elevon Association as soon as reasonably practical of such entry and the emergency maintenance and repairs performed on behalf of the Elevon Association.

(c) If, during the performance of the Maintenance Services, either Association or Elevon MUD 1-A damages any landscaping, irrigation systems, improvements, and/or other property (the damaged landscaping, irrigation systems, improvements and/or other property are collectively referred to as the "**Damaged Property**") located within the Properties, any such damage shall be promptly repaired or replaced (with respect to any particular parts of such Damaged Property which are not capable of repair) by the party causing the damage (the "**Damaging Party**") at its sole cost and expense. If, in the opinion of the Association other than the Damaging Party, the Damaging Party fails or refuses to repair or replace the Damaged Property, then the Association other than the Damaging Party (the "**Non-Damaging Party**") may give the Damaging Party written notice of such failure and the Damaging Party must perform the repairs and/or replacements, as applicable, within thirty (30) days after delivery of such notice. Should the Damaging Party fail to timely repair and/or replace, as applicable, the Damaged Property within such thirty (30) day period, then the Non-Damaging Party, through its authorized agent or agents, shall have the right and power, but not the obligation, to (i) perform the required repairs and/or replacements, as applicable, and (ii) assess all costs incurred by the Non-Damaging Party against the Damaging Party, and the Damaging Party shall pay such amounts within ten (10) days of such assessment or request.

Section 1.4. **Obligation to Insure.** In addition to the duties and responsibilities to perform the Maintenance Services as generally set forth above, the Elevon Association shall, at its sole cost and expense, (a) obtain and maintain in effect property and public liability insurance on the Shared Detention Pond (i) satisfying the requirements for insurance set forth in the Elevon Declaration, and (ii) reflecting the LakePointe Association as an additional insured or co-insured

on such policy(ies) to the extent relating to the Shared Detention Pond, and (b) deliver to LakePointe Association a certificate of insurance and/or copies of such policy(ies) prior to the Effective Date and at least thirty (30) days prior to expiration of such policy(ies). If the Elevon Association fails to maintain and/or timely renew such policy(ies), the LakePointe Association may, but shall not be obligated to, obtain such insurance, in which event the Elevon Association shall reimburse the LakePointe Association for all costs incurred in connection with such policy(ies) within ten (10) days of request therefor.

1.5 **Assumption of Risk.** The LakePointe Association acknowledges the inherent dangers associated with living in proximity to the Shared Detention Pond and hereby expressly acknowledges that (a) reasonable noise may occur during normal business hours from maintenance equipment used in performing the Maintenance Services, (b) pesticides or chemicals may be used on the Shared Detention Pond to control such items as algae or pests, (c) view restrictions around the Shared Detention Pond may be caused by maturation of trees and shrubbery around the Shared Detention Pond, (d) odors may emanate from the Shared Detention Pond from the occurrence of algae growth or storm water drainage, and (e) there may be a reasonable reduction in privacy during normal business hours on the portion of the LakePointe Property on which the Shared Detention Pond is located caused by the performance of Maintenance Services on the Shared Detention Pond.

ARTICLE II

OBLIGATION TO SHARE COSTS

Section 2.1. **LakePointe Association Maintenance Fee.** (a) During the period that the Shared Detention Pond exists and is used for detention of storm water drainage from the LakePointe Property and subject to the provisions of **Section 3.3** hereof, the LakePointe Association covenants and agrees to pay to the Elevon Association a fee on the first day of each quarter (in an amount set forth below) to cover a portion of the costs incurred by the Elevon Association in performing the Maintenance Services and insuring the Shared Detention Pond (the "**Maintenance Fee**"). Payment of the Maintenance Fee shall be the personal obligation of the LakePointe Association.

(b) The LakePointe Association's obligation to pay the Maintenance Fee shall be a separate and independent covenant on the part of the LakePointe Association, provided that LakePointe Association may setoff and/or offset against the Maintenance Fee any amounts incurred by LakePointe Association for or in connection with any Maintenance Services performed by LakePointe Association as provided in **Section 1.3** hereof as a result of any alleged failure of the Elevon Association to adequately perform the Maintenance Services hereunder.

Section 2.2. **Estoppel Certificate.** The Elevon Association shall, upon ten (10) business days' prior written notice, furnish to the LakePointe Association (or its agent or representative) a certificate in writing signed by an officer of the Elevon Association setting forth whether the Maintenance Fee has been paid, offset, credited and/or reduced as provided herein. Such certificate shall be conclusive evidence of payment to the Elevon Association of any Maintenance Fee therein stated to have been paid, offset, credited and/or reduced as provided herein. The Elevon Association may require the advance payment of a reasonable processing fee (not to exceed \$50.00 for each certificate issued) for the issuance of such certificate.

Section 2.3. **Computation of Maintenance Fee.** The initial annual Maintenance Fee shall be Five Thousand Nine Hundred and Seventy-Nine and No/100 Dollars (\$5,979.00) which represents LakePointe Association's share of the cost of maintenance of the Shared Detention Pond. Beginning on January 1, 2024, and on January 1 of each calendar year thereafter, the annual Maintenance Fee amount for such calendar year shall be the annual Maintenance Fee amount applicable to the immediately preceding calendar year as increased by four percent (4.0%). Any costs incurred by the Elevon Association over and above the Maintenance Fee paid by the LakePointe Association shall be the sole responsibility of the Elevon Association without a right of setoff or contribution from the LakePointe Association.

Section 2.4. **Payment of Maintenance Fee.** On the first day of each calendar quarter commencing after the Effective Date, the LakePointe Association shall pay to the Elevon Association one-quarter (1/4) of the annual Maintenance Fee. Any payment of the Maintenance Fee by the LakePointe Association which is delinquent for a period of more than thirty (30) days shall accrue interest (at the rate of twelve percent per annum) on the amount that is past due from the date such amount becomes delinquent and continuing until such delinquent amount is paid with the interest accrued thereon.

Section 2.5. **Date of Commencement of Maintenance Fee.** The Maintenance Fee shall commence on the first day of the calendar month following the Dedication Date. The first Maintenance Fee shall be prorated according to the number of days remaining in the calendar year at the time the Maintenance Fee commences hereunder.

ARTICLE III GENERAL

Section 3.1. **Notice.** Any notice provided for in this Agreement shall be served personally, or mailed by registered or certified mail, or sent to the party's electronic mailing address, if to the Elevon Association, then delivered to the Association's agent designated on the Elevon Association's Management Certificate, or if to the LakePointe Association, then delivered to the Association's agent designated on the LakePointe Association's Management Certificate, or such other address as is provided to a party by written notice from a party. All such notices shall, for all purposes, be deemed delivered (a) upon personal delivery to the party or address specified above, (b) on the third (3rd) day after mailing, when mailed by registered or certified mail, postage prepaid, and properly addressed, and (c) upon delivery to the party's electronic mailing address.

Section 3.2 **Recordkeeping.** The Elevon Association shall maintain or cause to maintained complete and accurate books of account with respect to its management, maintenance, and operation of the Shared Detention Pond. Such books and records and financial statements related to thereto shall be made available for inspection and copying by the LakePointe Association within 10 days' of receipt of a written request, during normal business hours or under other reasonable circumstances. All inspection costs incurred by LakePointe Association shall be paid by the LakePointe Association. If the LakePointe Association desires to have the financial records audited to insure that the payments made by the LakePointe Association are being used as intended, it may do so at its expense, and the Elevon Association shall cooperate by making available to the party performing the audit the records, including all supporting material (e.g., check copies, invoices,

etc.) for the year then audited. Any variances from the actual expenses of the Elevon Association from that determined by the audit shall be taken into account in the following quarter's Maintenance Fee.

Section 3.3. **Amendment**. This Agreement may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the directors of the Elevon Association and a majority of the directors of the LakePointe Association. Unless modified, amended, or terminated in accordance with this **Section 3.3**, this Agreement shall remain in effect until the earlier of (a) removal or cessation of use of the Shared Detention Pond by mutual agreement of the Associations, (b) assumption of all of Elevon Association's duties and responsibilities herein by Elevon MUD 1-A or any governmental entity, (c) dissolution of Elevon Association with no successor thereto designated to take over the role of the Elevon Association under the Elevon Declaration or this Agreement, or (d) dissolution of LakePointe Association with no successor thereto designated to take over the role of the LakePointe Association under the LakePointe Declaration or this Agreement.

Section 3.4. **Interpretation**. This Agreement shall be governed by and construed under the laws of the State of Texas.

Section 3.5. **Gender and Grammar**. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 3.6. **Severability**. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Agreement to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Agreement are declared to be severable.

Section 3.7. **Captions**. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 3.8. **Entire Agreement**. This Agreement, and the exhibits attached hereto, contain all the representations and the entire agreement between the parties to this Agreement with respect to the subject matter hereof. Any prior emails, correspondence, memoranda or agreements are superseded in total by this Agreement and the exhibits attached hereto. The provisions of this Agreement will be construed as a whole according to their common meaning and not strictly for or against any party.

Section 3.9. **No Public Dedication**. Nothing contained herein will be deemed to constitute a grant to any public agency or governmental authority, or a public dedication, as it is the intention of the parties that this Agreement shall be strictly limited to and for the purposes expressed herein.

Section 3.10. **Counterparts**. This Agreement may be executed simultaneously in two or

more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Section 3.11. **Default.** (a) In the event either party defaults in the performance of any of its obligations required to be observed or performed by such party pursuant to this Agreement, the non-defaulting party shall have the right, but not the obligation, upon the expiration of thirty (30) days' written notice to the defaulting party, to cure such default for the account of and at the expense of the defaulting party, provided that the defaulting party has not, prior to the expiration of such thirty (30) days' notice period, cured the default or commenced to cure the same thereafter diligently pursue the cure of the default to completion. Notwithstanding the provisions of the preceding sentence, in the event of emergency conditions constituting a default hereunder, a non-defaulting party acting in good faith shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as reasonably possible thereafter to effectuate any such cure.

(b) The pursuit of any non-defaulting party of the remedies expressly provided for in this Agreement shall be without prejudice of such non-defaulting party to pursue such other remedies against the defaulting party as are available at law or in equity for the defaulting party's breach, including, without limitation, suits for damages, applications for temporary restraining orders, preliminary injunctions and permanent injunctions enjoining any such violation or attempted violation or default, as well as actions for specific performance of the defaulting party's obligations under this Agreement.

(c) Any amount due by either Association hereunder which is not paid by the due date thereof shall accrue interest thereon at the rate of 12% per annum until such past due amounts and accrued interest thereon are paid in full. Any payments made herein shall be applied (i) first, to any costs and expenses incurred by the non-defaulting Association in collecting the past due amounts, (ii) then, to any accrued but unpaid interest thereon, and (iii) then, to the amount due herein.

(d) In any action to enforce the terms and provisions hereof or to collect any amounts due hereunder, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party in connection with such action.

Section 3.12. **No Partnership or Joint Venture.** Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of the others.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective as of the Effective Date first above written.

ELEVON ASSOCIATION:

**ELEVON HOMEOWNERS ASSOCIATION,
INC.**, a Texas non-profit corporation

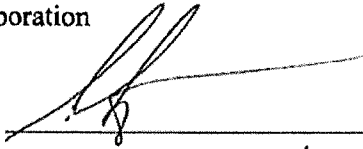
By: 

Printed Name: Allen Jones

Its: Vice President

LAKEPOINTE ASSOCIATION:

**LAKEPOINTE AT LAVON HOMEOWNERS
ASSOCIATION, INC.,** a Texas non-profit
corporation

By:  _____

Printed Name: Steve Lenart

Its: President

EXHIBIT "A"

SHARED DETENTION POND

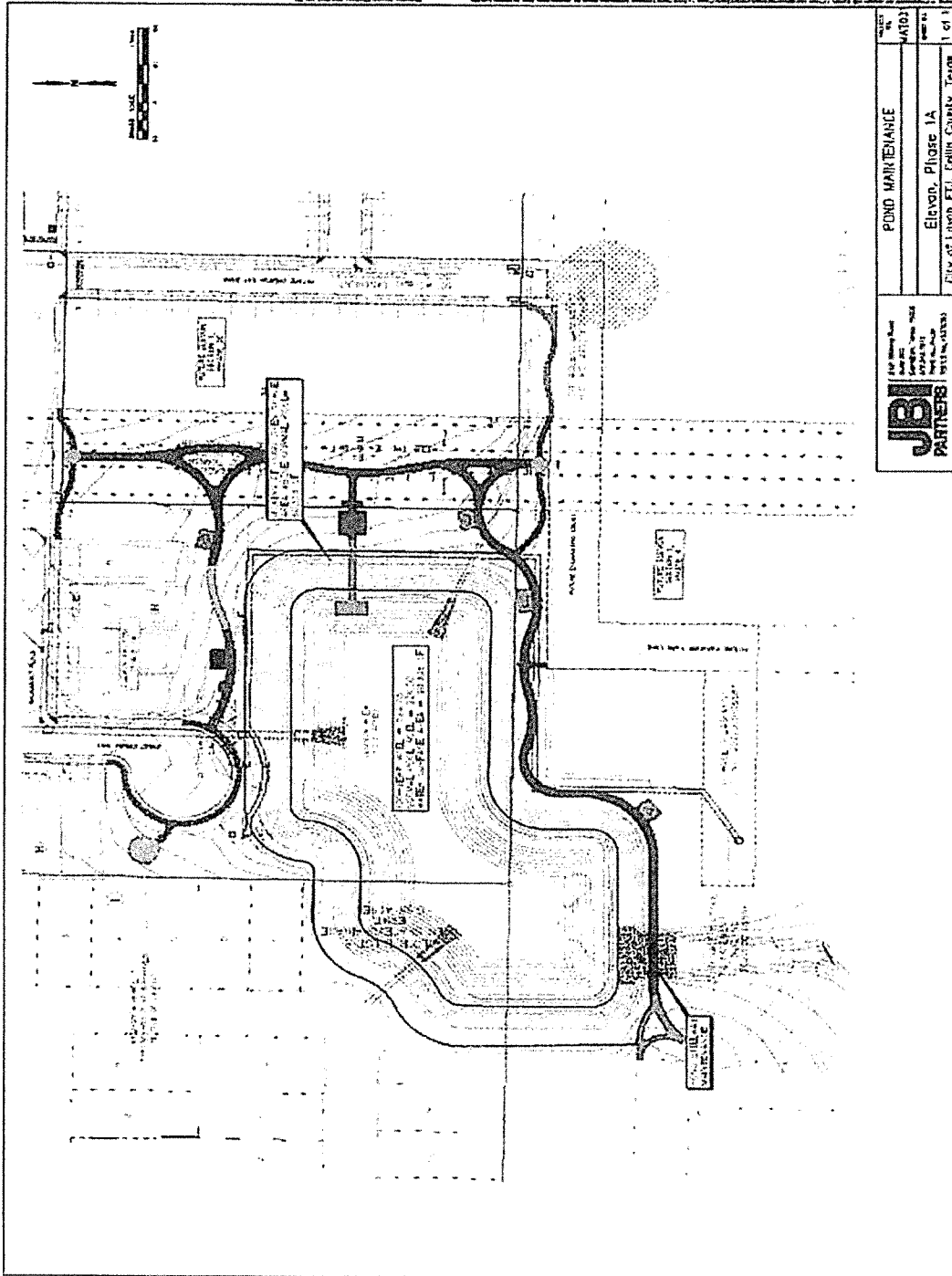


EXHIBIT "B"

MAINTENANCE SERVICES

Mowing and maintaining the ground cover on the slope (the "Slope") of the Shared Detention Pond

Maintain, repair and replace the Slope and the Shared Detention Pond

Prevent and repair Slope failure

Dredge and remove silt as needed to ensure the proper functioning of the Shared Detention Pond (typically approximately every 15 years depending on watershed development and rainfall)

Perform regular maintenance and management of algae and aquatic weeds, including labor, application fees, aquatic herbicides, algacides, pond colorants, and nutrient binders

Perform regular sediment surveys and monitor silt loading (as needed, but not less frequently than every 3 years after construction of the Shared Detention Pond)

Establish, design, address and accommodate storm water drainage from the Properties into and out of the Shared Drainage Pond

Make any repairs and improvements requested or required by any governmental or other authority or financing, improvement, utility or other district

Design, install, maintain, repair and replace all drainage structures, weirs, dams, headwalls, pipes, inlets, culverts and outlets

Remove trash and debris from and around the Shared Detention Pond

Miscellaneous

**Collin County
Honorable Stacey Kemp
Collin County Clerk**

Instrument Number: 2024000019333

eRecording - Real Property

NOTICE

Recorded On: February 21, 2024 01:20 PM

Number of Pages: 14

" Examined and Charged as Follows: "

Total Recording: \$73.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

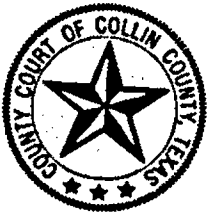
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2024000019333
Receipt Number: 20240221000359
Recorded Date/Time: February 21, 2024 01:20 PM
User: Patricia B
Station: Station 2

Record and Return To:

Simplifile



**STATE OF TEXAS
COUNTY OF COLLIN**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Public Records of Collin County, Texas.

Honorable Stacey Kemp
Collin County Clerk
Collin County, TX