

AFTER RECORDING RETURN TO:
FRANK O. CARROLL III
WINSTEAD PC
401 CONGRESS AVENUE, SUITE 2100
AUSTIN, TEXAS 78701
EMAIL: focarroll@winstead.com



SOUTHERN POINTE

NOTICE OF APPLICABILITY

[COMMERCIAL] [SECTION 403]

DECLARANT: BV SOUTHERN POINTE DEVELOPMENT, INC., a Texas corporation

Cross reference to that certain (i) Southern Pointe Amended and Restated Master Covenant [Mixed-Use], recorded as Document No. 1485065 in the Official Public Records of Brazos County, Texas, as amended; and (ii) Southern Pointe Development Area Declaration [Commercial], recorded as Document No. 1485543 in the Official Public Records of Brazos County, Texas, as may be amended from time to time.

**SOUTHERN POINTE
NOTICE OF APPLICABILITY
[COMMERCIAL] [SECTION 403]**

This Notice of Applicability (this “**Notice**”) is made and executed by **BV SOUTHERN POINTE DEVELOPMENT, INC.**, a Texas corporation (“**Declarant**”), and is as follows:

1. **Applicability of Master Covenant.** This Notice of Applicability is filed with respect to Section 403 of Southern Pointe, a subdivision located in Brazos County, Texas, according to the map or plats recorded in Volume 18822, Page 117 in the Official Public Records of Brazos County, Texas (the “**Property**”). Pursuant to that certain Southern Pointe Amended and Restated Master Covenant [Mixed-Use], recorded as Document No. 1485065, in the Official Public Records of Brazos County, Texas, as amended (the “**Covenant**”), Declarant served notice that portions of the Property described on Exhibit “A” to the Covenant, upon the Recording of appropriate Notices of Applicability from time to time, may be made a part of the Development and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Covenant.

2. **Applicability of Development Area Declaration.** Pursuant to the Covenant and to that certain Southern Pointe Development Area Declaration [Commercial], recorded as Document No. 1485543 in the Official Public Records of Brazos County, Texas, as amended (the “**Development Area Declaration**”), Declarant served notice that portions of the Property described on Exhibit “A” to the Covenant, upon the Recording of appropriate Notices of Applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of a Development Area Declaration. Pursuant to this Notice, the Development Area is subject to the terms and provisions of the Development Area Declaration.

3. **Development Area.** The real property described and identified in Attachment 1, attached hereto and incorporated herein by this reference, will constitute one of the Development Areas that is permitted, contemplated and defined under the Covenant.

4. **Property Incorporated into Development.** The provisions of the Covenant and the Development Area Declaration shall apply to the Development Area. The Development Area is hereby included within and made a part of the Development, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Covenant, the Development Area Declaration, and the Bylaws.

5. **Allocation of Votes and Assessment Units.** Pursuant to *Section 3.5.2* and *Section 5.9.3* of the Covenant, the Declarant hereby assigns votes and Assessment Units to the Development Area as set forth on Attachment 2, attached hereto and incorporated herein by reference; (ii) the Owner(s) of the Development Areas shall become mandatory members of the

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[SECTION 403]

Commercial Property Owners' Association of Southern Pointe, Inc. (the "**Association**"); and (iii) the Assessment lien granted to the Association shall apply to the Development Area.

6. **Higher Authority.** The terms and provisions of the Covenant and the Development Area Declaration are subordinate to Applicable Law, and any indemnification or hold harmless obligations of Owners of real property within the Development Area in the Covenant and/or the Development Area Declaration shall be interpreted to apply to the Owners of real property within the Development Area to the fullest extent permitted by Applicable Law.

7. **Amendment to Covenant.** As provided in *Section 10.3* of the Covenant, Declarant may unilaterally amend the Covenant by Recording an instrument executed and acknowledged by Declarant. To the extent the terms and provisions of this Notice of Applicability conflict with the terms and provisions of the Covenant, the terms and provisions of this Notice of Applicability shall control, and this Notice of Applicability shall be construed as an amendment to the Covenant to the extent necessary or required to give effect to the terms and provisions hereof.

8. **Miscellaneous.** This Notice constitutes a Notice of Applicability under *Section 9.5* of the Covenant. This Notice, to the extent required, shall be considered an amendment to the Covenant. Any capitalized terms used and not otherwise defined in this Notice shall have the meanings set forth in the Covenant.

[Signature Page Follows]

EXECUTED to be effective as of the date this instrument is Recorded.

DECLARANT:

BV SOUTHERN POINTE DEVELOPMENT, INC,
a Texas corporation

By: Vicki Hillert
Name: Vicki Hillert
Title: Secretary

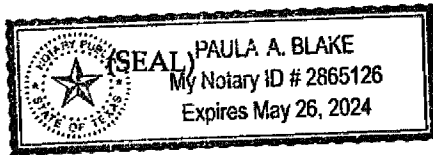
THE STATE OF TEXAS

COUNTY OF

Brazos

§
§
§

This instrument was acknowledged before me on September 20, 2023 by
Vicki Hillert, Secretary of BV Southern Pointe
Development, Inc., a Texas corporation, on behalf of said corporation.



Paula A. Blake
Notary Public Signature

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ATTACHMENT 1
DESCRIPTION OF DEVELOPMENT AREAS

Lots 1 through 4, Block 82, of Southern Pointe Section 403, a subdivision in Brazos County, Texas, according to the map or plat thereof recorded in Volume 18882, Page 117, Official Public Records of Brazos County, Texas.

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ATTACHMENT 2
**ALLOCATION OF ASSESSMENT UNITS AND VOTES IN THE MASTER
ASSOCIATION AND THE ASSOCIATION**

<u>Use</u>	<u>Assessment Units and Votes</u>
Commercial	0.40 per 1,000 gross square feet of building improvements, excluding structured parking
Multifamily	0.50 per separate apartment dwelling unit
Standard of Measurement: For purposes of allocating votes and Assessment Units, the total square feet of building Improvements shall be calculated based on the BOMA 2018 Gross Areas: Standard Methods of Measurement ((BOMA/ANSI Z65.3-2018) Gross Area 2 (International Comparison Method)) published by the Building Owners and Managers Association International; provided, however, the square footage of any structured or surface vehicular parking areas shall expressly be excluded.	

Until expiration or termination of the Development Period, the Declarant reserves the right to establish additional categories of property type and the vote and Assessment Unit allocations attributable thereto by Recorded instrument. If a use is not listed on the chart or Covenant and the Declarant has not established a property type and vote and Assessment Unit allocation attributable to the property type, the property type will be assigned 0.40 votes and Assessment Units per 1,000 gross square feet of building improvements, excluding structured parking. Votes and Assessment Units will be rounded to the nearest whole number, provided that in any case a Development Area shall in no event be allocated less than 1 vote and Assessment Unit.

For a Development Area with multiple uses, the votes and Assessments Units allocated to the Development Area will take into consideration each projected use. For example, if a Development Area is anticipated to include 150 individual apartment dwelling units and 5,000 square feet of retail (excluding structured parking), the votes and Assessment Units attributable to the Development Area will equal 77 $([150 \text{ apartment dwelling units} \times 0.5] + [5,000 \text{ square feet of retail} / 1,000 \times 0.4])$.

**Brazos County
Karen McQueen
County Clerk**

Instrument Number: 1512256

Volume : 18851

ERecordings - Real Property

Recorded On: September 20, 2023 02:02 PM

Number of Pages: 7

" Examined and Charged as Follows: "

Total Recording: \$50.00

******* 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: 1512256

Receipt Number: 20230920000080

Recorded Date/Time: September 20, 2023 02:02 PM

User: Thao C

Station: CCLERK06

Record and Return To:

Simplifile

5072 NORTH 300 WEST

PROVO UT 84604



STATE OF TEXAS
COUNTY OF BRAZOS

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 Brazos County, Texas.

Karen McQueen
County Clerk
Brazos County, TX