

STATE OF ALABAMA)

COUNTY OF MOBILE)

## **THEODORE CROSSINGS Unit I (Prelim) RESTRICTIONS**

KNOW ALL MEN BY THESE PRESENT, that this Declaration of Restrictions and Covenants is made, adopted, published and declared this the 15th day of June, 2023, by Paul S Powers, hereinafter sometimes referred to as “Developer”;

### WITNESSETH:

WHEREAS, the undersigned is the Developer of the real property in the County of Mobile, Alabama, and described as follows:

Theodore Crossings Subdivision Unit I as per plat thereof recorded in **Instrument #**, of the records in the Office of the Judge of Probate of Mobile County, Alabama.

WHEREAS, Developer is desirous of placing certain restrictions, conditions and reservations (hereinafter collectively referred to as “restrictions”) upon the above described property in accordance with a general scheme or plan in order (a) to protect the owners of each lot against improper use of surrounding lots as will depreciate the value of the property, (b) to preserve, as far as practicable, the natural beauty of each lot, (c) to insure the creation of attractive, well designed, properly proportioned and appropriate homes of suitable materials with appropriate locations on said lots, (d) to insure proper building setbacks from street and lot lines, (e) to provide adequate free space between structures, and (f) in general, to assure the best and most appropriate development, improvement and maintenance of the subdivision and each lot therein:

NOW, THEREFORE, Developer does hereby impose the following protective restrictions:

1. **RESIDENTIAL USE ONLY:** All lots in the subdivision shall be known and described as residential lots, and no lot may be used for anything other than residential purposes. No site built house may be constructed with less than 1400 square feet of living area, and must be completed within 12 months after commencement of construction. Only 1 residence is allowed per lot.

2. ARCHITECTURAL COMMITTEE: No home, building or other improvement shall be erected, placed or altered on any lot in this subdivision until the said

home is approved or building plans, specifications, and plot plan showing the location of such building have been approved in writing by an Architectural Committee composed of Paul S Powers, or by a representative designated by the member of said committee. The committee shall be provided all available documentation, including construction contracts, showing the nature and extent of the improvements to be undertaken and the time frame within which the improvements are to be completed. In the event of death or resignation of either member of said committee, the remaining member shall have full authority to appoint a successor member and to approve or disapprove such design and location, or to designate a representative with like authority. In the event said committee, or its designated representative fails to approve or disapprove such design and location with thirty (30) days after said plan and specification have been submitted to it or, in any event, if no suit to enjoin the erection of such building or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required and this covenant will be deemed to have been fully complied with. Such deemed approval shall be only with regard to those matters subject to approval by the Architectural Committee and does not compromise applicable governmental regulations regarding subdivisions in general. If such plans and specification are disapproved, written notice of such disapproval shall be given to the submitting lot owner in person or by the U.S. Mail. Neither the members of such committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. All proposed building or construction plans, specification, plot plans, information or related data, drawings, or request for approval, shall be submitted to the Developer at 3558 Oak Tree Drive Semmes, AL 36575.

3. BUILDING HOME LOCATION: The minimum building setbacks on all lots will be as shown on the recorded plat, unless otherwise approved as above by the Architectural Committee. The side yard and rear lot line setbacks on all lots will remain at five (5) feet unless otherwise specified herein or approved as above by the Architectural Committee. For the Purpose of this covenant, eaves and steps shall be considered as part of a building; but they shall not encroach closer than five (5) feet on any side lot line, without prior written approval of the Architectural Committee. All building locations must also comply with the Ordinances and setbacks or sidelines to secure any necessary approval from governmental authority and other property owners and to cause to be recorded such map or plat as may be required to accomplish such change.

4. RE-SUBDIVISION: There shall be no re-subdivision of any lot, or combination of lots so as to create any additional lot, and no combination of lots so as to form a lesser number of lots unless approved by the Architectural Committee of the Developer. Lot lines may be relocated at the discretion of the governmental authority having jurisdiction of subdivisions upon application by adjoining owners when such relocation is in the opinion of such authority, in harmony with the existing lots and necessary to make said lots conform to existing conditions.

5. OFFENSIVE ACTIVITIES, ETC.: No trade or business activity of any kind shall be carried on or upon any lot, or in any dwelling nor shall any noxious or offensive activity be done thereon which shall be or become any annoyance or nuisance to the neighborhood. No outside clotheslines shall be permitted in the subdivision. No structure,

including fences, shall be erected so as to channel water on an adjacent lot; nor shall any lot owner alter the topography or elevation of a lot and cause a change in the directional flow and/or quantity of drainage water from the original subdivision engineering design approved by the County Engineering Department of Mobile. No inoperable vehicles allowed on any lot unless in a fully enclosed garage and vehicles cannot remain parked on the grass or in the yard more than a consecutive length of 72 hours.

6. TRAILERS, ETC.: No trailers, RVs, campers, motor homes or pre-constructed buildings, basement, tent, shack, garage, barn or other outbuilding erected or placed on any lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Motor homes, RVs, campers and/or boat trailers which are approved by the Architectural Committee may be kept on the premises only if kept either within a fully enclosed garage or under a carport and behind a 6-foot screening fence not visible from any public street. No boat over twenty-six (28) feet in length may be kept on the premises and all boats must be kept on trailers on the rear yard not visible from any public street or within a garage or carport not visible from any public street.

7. TYPE AND SIZE OF BUILDING: No building shall be erected, altered, placed or permitted to remain on any lot in the subdivision, other than one single family dwelling, which shall be not more than two and one-half (2 ½) stories in height and shall have a heated and cooled habitable area, exclusive of basements, open porches and garages, of at least 1400 square feet, with not less than 1000 square feet on the ground floor if it is more than one story in height. Minimum interior ceiling height shall be a minimum of 9 ft. A detached garage or other approved outbuilding (not to be occupied as living quarters), may be erected or permitted to remain upon a lot only if the written approval of the Architectural Committee is first obtained, and a building plan, specifications, and a plot plan are all submitted to the Architectural Committee for approval before any construction begins. All dwellings will be completed in accordance with the documents submitted to the Architectural Committee and no portion of the improvements shall be left for future completion beyond the time provided for completion in said documents.

The roof pitch shall not be less than 8/12 on a single story home, and shall not be less than 9/12 on residence of one and one-half or more stories. The finished floor elevation on all residences shall not be less than 8 inches above the finished ground elevation.

All detached buildings, including storage, utility, and/or pump houses will be located to the rear of the dwelling and shall be screened from view from the front of said dwelling by an approved fence (wood or masonry) which shall be not less than six feet in height. The architectural design, construction and material of such buildings will be subject to Committee or Developer approval. Its size, location, and screening, all are subject to written approval of the Architectural Committee before placing same upon the property. (Any storage or utility buildings must be approved before any construction by the architectural committee).

No fuel containers of any type will be allowed above the finished grade and any ancillary lines from the container to any structure of appurtenance will also be buried beneath finished grade.

No mill-finish aluminum windows will be allowed in the construction of any improvement on the lots of the subdivision.

Vinyl siding may cover no more than 20% of the exterior walls of a single-story structure, and no more than 30% of the exterior walls of a one and one-half story structure, and no more than 40% of the exterior walls of a structure of two or more stories, without Architectural Committee approval.

All dwellings must be completed within twelve (12) months from the issuance date of the building permit from the County of Mobile, unless waived by written approval of the Architectural Committee.

8. ANIMALS: Dogs, cats and other small household pets, not exceeding four, may be kept by each lot owner, animals shall not be kept, bred or maintained for any commercial purpose or use, shall be properly contained within your lot and are not a nuisance, annoyance or danger to the neighborhood. and all lots shall be allowed up to 5 chicken hens that must be caged at all times. Any chicken coops must be positioned behind fence and out of sight. Horses shall be allowed. However, no more than 1 horse per acre. No other unapproved animal or fowl shall be kept or maintained on any part of said property without written consent from the architectural committee.

9. DRIVEWAYS AND YARDS: Each lot must have an approved hard surface driveway minimum of 50ft long. Material, length and width must be approved by the Architectural Committee. All yards must be maintained in good condition with grass mowed, landscaping maintained by weeding and trimming, and driveways edged. Each lot owner must keep yards free from debris and garbage. Front of house must be landscaped with shrubs, plants with pine straw or mulch immediately after construction. Landscaping plans must be approved by the Architectural Committee before the construction begins.

10. GARBAGE DISPOSAL CONTAINERS AND EQUIPMENT: No lot shall be used as dumping ground for rubbish and all debris and trash from clearing or construction must be placed in sanitary container or disposed of promptly. Each lot owner must use garbage service and remove garbage containers from street within 24 hours of pickup. No burn barrels or incinerators are allowed. No burning of household garbage allowed. Containers for the temporary storage of disposal must be screened from frontal view.

11. FENCES, WALLS, HEDGES AND ORNAMENTAL STRUCTURES: All fences or hedges must be approved by the Architectural Committee as to their location and material. Concerning corner lots, on which the location of fences, hedges, etc., must be pre-approved by the Architectural Committee; and no fence, wall or ornamental structure, other than one which is an integral part of the dwelling itself, shall be constructed upon any

portion of any lot without prior written approval of the Architectural Committee. All fences must be made of wood, brick, stone or other materials acceptable to the Architectural Committee.

12. SIGNS: No sign of any kind shall be displayed to public view on any lot except one professionally lettered sign of not more than four (4) square feet in size, which may advertise the property for sale or rent; except during the construction period, when one additional sign may be erected by the builder and a security service sign shall also be allowed when applicable.

13. EASEMENTS: All easements shown on the recorded plat of the subdivision are hereby adopted as part of these restrictions and all lots in the subdivision shall be subject to such easements. The undersigned developer of the subdivision reserves unto itself and its successors and assigns the right and easement, but not the obligation, to construct, install, maintain, repair and replace, power, gas, sewer, telephone, and other utility lines, equipment and facilities and drainage ditches, in on, over and under the streets, and road easements shown on the recorded plat of the subdivision, and to construct, install, operate, maintain, repair and replace lights, walls, fences, shrubbery, bushes and trees and other decorative or screening improvements in, on, over and under the property included within the areas designated as " DRAINAGE AND UTILITY EASEMENT", if any , with full right of ingress and egress to and from said streets and roads and easements across adjoining property; and the undersigned reserves unto itself and its successors and assigns the right to contract generally with others for the doing of any and all such things and the right to grant unto others such easements, rights and privileges as the undersigned may deem appropriate or convenient in connection therewith.

14. COMPLIANCE WITH ADEM REQUIREMENTS PRIOR TO AND DURING CONSTRUCTION: The lot owner shall be responsible for any compliance with the provisions of the ADEM Storm Water Permit (NPDES) applicable to construction relating to the lot, specifically including the installation of all necessary erosion control items including but not limited to hay bale sediment barriers, silt fencing, temporary construction (stone surfaced) entrances, and all other required Best Management Practices designed to prevent the diversion, overflow, or by-pass of silt, sediment or soil or debris laden storm runoff beyond the limits of said lot. Within thirty (30) days of the initial clearing of any lot, the owner of said lot shall mulch and seed the lot in a manner that will provide a ground cover pending the final sodding required by Paragraph 12. If the lot owner is fined or cited for violation by ADEM due to the non-performance of this covenant, the lot owner shall pay all fines, indemnify and hold harmless the Developer from all cost and expense related thereto. Lot owner will be liable if Builder or Subcontractor tracks mud on roadways or ditches and lot owner will be responsible for removal.

15. CONSTRUCTION REQUIREMENT: All dwellings shall be completed in accordance with the plans and specifications and within the time provided therein. Any exceptions to this requirement will be only by written approval of the Developer.

16. AMENDMENT OR MODIFICATION OF RESTRICTIONS; Any and all of the restrictions or requirements herein set forth may be annulled, amended, or modified at any time by the Owner/Developer, or their designated or assigned representatives without the consent of the property owners or by the owners of not less than eighty percent of the lots in said subdivision. Any amending instrument shall be acknowledged by the Owner or Owners signing same and shall be filed for record in the office of the Judge of Probate of Mobile County, Alabama, provided that no amendments shall place an additional burden, restrictions or requirement on any lot in said subdivision the owner of which does not join in the said amending instruments.

17. No lot shall be conveyed, devised, leased or demised at any time hereafter except as being subject to the covenants, terms, conditions, restrictions, and limitations, herein contained, and the obligation to observe and perform the same; and whether or not it be so expressed in the deeds or other instrument of conveyance of the property, the same shall be absolutely subject to the covenants, terms, conditions, restrictions and limitations herein contained, which shall run with and be appurtenant to the land and every part thereof, as fully as if expressly contained in proper and obligatory covenants or conditions in each and every contract and conveyance of, or concerning any part of the land or the improvements to be made thereon.

**18. Each property owner and future property owner acknowledges that the Mobile area is subject to approximately 60 inches of rain per year and hence this Subdivision and each lot therein is subject to heavy rainfall and surface waters flowing across said lots as a result of such rainfall. Each future owner or owners of any lot in THEODORE CROSSINGS SUBDIVISION acknowledges that the Developer has complied with all subdivision requirements of the County of Mobile. Each property owner understands that the paved access easement as shown on plat has no underground drainage or ditches and each property owner will be responsible for individual lot grading, landscaping, and erosion control and agrees to release, indemnify, and hold harmless the developer from any water drainage from street or adjoining property onto their lot**

Each owner or future lot owner of any lot in THEODORE CROSSINGS SUBDIVISION, by the acceptance of a deed subject to these restrictions, does herewith concur, consent and agree that the Developer's compliance with such subdivision requirements constitutes the exercise of reasonable care.

19. Should any future owner or owners of any lot or lots within THEODORE CROSSINGS SUBDIVISION or any of their heirs, executors, administrators or assigns, violate or attempt to violate any of covenants, terms, conditions, restrictions, and/or limitations herein contained, any person or persons owning any real property situated in said Subdivision may prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same, to prevent such person or persons from so doing, or to recover damages for such violations or attempted violations.

20. The Developer herein expressly reserves unto itself the sole and unilateral right to amend, modify, change, cancel or annul such covenants, limitations and restrictions in whole or in part, at any time during the term of same as existing, or as may be amended, modified, changed, cancelled or annulled in accordance with the foregoing reservation. Such action on the part of the Developer is to be evidenced by an instrument executed by a duly authorized agent of Developer and recorded in the office of the Judge of Probate, Mobile County, Alabama.

It is reserved and stipulated herein that such actions may be taken by Developer in accordance with the foregoing authority and power, may result in any, all or part of any covenant, restriction or limitation as existing or as may be amended or changed, being either more or less restrictive or burdensome than the foregoing covenants, restrictions or limitations contained herein.

No action on the part of the Developer pursued in accordance with the foregoing reserved authority shall place an additional restriction or limitation on a specific lot previously conveyed by Developer, unless the then owner of same shall consent thereto by joining in said instrument, or by execution such other instrument as will properly evidence owner's consent, the same being subsequently recorded as set forth hereinabove.

21. TERM: The foregoing restrictions shall run with the land and shall be binding on all lot owners, or upon all parties and persons claiming under or through them, each of whom shall, by virtue of his acceptance of acquisition of title or other interest, accept and agree to be bound by and to abide by all terms and provisions of this instrument, all of which shall be and remain in full force and effect until November 15, 2040. After which time said restriction shall automatically be extended for successive periods of ten years unless amended pursuant to paragraph 17.

22. ENFORCEMENT: If any person or persons shall violate or attempt to violate any of the restrictions contained herein, it shall be lawful for the developer or any party owning any real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such restriction and either to prevent him or them from so doing and to recover damages, which shall include a reasonable attorney's fees, for such violation. Neither the Developer nor its employees, agent or assigns or any of its partners or their representative, heirs, personal representatives, successors and assigns (jointly referred to as Developer) shall be liable to any lot owner or lot owners in THEODORE CROSSINGS SUBDIVISION for the manner in which the Developer exercises, or for its failure or refusal to exercise, any right or authority herein granted to Developer whether discretionary or not; for the failure or refusal of any lot owner to comply with any of the provisions hereof; or the failure or refusal of the Developer to enforce any of the provisions hereof against any lot owner.

23. SEVERABILITY: Invalidation of any one of the covenants by judgment or court order shall in no wise effect any of the other provisions which shall be and remain in full force and effect.

24. UTILITY CONNECTIONS: Each lot owner must enter into a contract with utility companies for utility connections and service. All connection fees are the responsibility of the lot owner.

IN WITNESS WHEREOF, THEODORE CROSSINGS SUBDIVISION has caused this instrument to be executed in its name and on its behalf by its officers thereunto duly authorized on the date set out in the acknowledgement below.

By: \_\_\_\_\_  
Paul S Powers

**STATE OF ALABAMA  
COUNTY OF MOBILE**

I, the undersigned, a Notary Public, in and for said County and State, do hereby certify that Paul S Powers, a married man, who is known to me, acknowledged before me on this day, that, being informed of the contents of said instrument, he executed the same voluntarily, on the day the same bears date.

Given under my hand and notarial seal on this the 15th day of June, 2023.

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NOTARY PUBLIC (SEAL)