

State of Georgia Wayne County	Clerk's Office Superior Court
File No. <u>2018-002449</u>	
I certify that the within instrument of writing was filed for record at <u>3:25</u> o'clock <u>P</u> M, this <u>16</u> day of <u>July</u> , 20 <u>18</u> and duly recorded in Book <u>747</u> of <u>Deeds</u> folio <u>435446</u> the <u>16</u> day of <u>July</u> , 20 <u>18</u>	
<u>James B. Gargan</u> Clerk, Superior Court, Wayne Co., Ga.	

MOSS LANDING PHASE 2
PROTECTIVE COVENANTS

STATE OF GEORGIA,
COUNTY OF WAYNE,

THIS DECLARATION OF PROTECTIVE COVENANTS, made and published this 17th day of June, 2018 by FIRST SOUTHERN BANK, herein referred to as the Developer;

-WITNESSETH-

THAT, WHEREAS, Developer is the owner of the following described parcels of land in Moss Landing, Phase 2, Wayne County, Georgia, to-wit:

TRACT 1:

All those certain tracts or parcels of land situate, lying and being in Land Lot #341 of the Third Land District, Wayne County, Georgia, and more particularly shown as LOTS 45, 46, 47, 48, 49, 50, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, & 70 of MOSS LANDING SUBDIVISION PHASE 2, on a plat of same prepared by Everett Tomberlin, Georgia RLS #2922, dated January 17, 2008, and recorded in the Office of the Clerk of Superior Court, Wayne County, Georgia in Plat Book 47, page 77. For a further description, reference is hereby made to the aforesaid plat and the record thereof.

TRACT 2:

All those certain tracts or parcels of land situate, lying and being in Land Lot 341 of the Third Land District of Wayne County, Georgia, and being more particularly shown as LOT 17, LOT 18, LOT 41 and LOT 43 of MOSS LANDING SUBDIVISION, on that certain plat prepared by Everett Tomberlin, Georgia RLS # 2922, dated October 28, 2009, and recorded in the Office of the Clerk of Superior Court of Wayne County, Georgia, in Plat Book 49, Page 21. Reference to the aforementioned plat and the record thereof is hereby made for any and all descriptive purposes.

2018 JUL 16 PM 3:25
James B. Gargan
Clerk of Superior Court

TRACT 3:

All those certain tracts or parcels of land situate, lying and being in Land Lot 341 of the Third Land District of Wayne County, Georgia, and being more particularly shown as LOT 51, LOT 52, LOT 53, LOT 54, LOT 55, LOT 56, LOT 71, LOT 72, LOT 73, LOT 74, LOT 75, LOT 76 and LOT 77 of MOSS LANDING SUBDIVISION PHASE 2, on that certain plat prepared by Everett Tomberlin, Georgia RLS # 2922, dated January 17, 2008, and recorded in the Office of the Clerk of Superior Court of Wayne County, Georgia, in Plat Book 49, Page 23. Reference to the aforementioned plat and the record thereof is hereby made for any and all descriptive purposes.

TRACT 4:

All those certain tracts or parcels of land situate, lying and being in Land Lot 341 of the Third Land District of Wayne County, Georgia, and being more particularly shown as LOT 15 and LOT 40 of MOSS LANDING SUBDIVISION, on that certain plat prepared by Everett Tomberlin, Georgia RLS # 2922, dated December 14, 2009, and recorded in the Office of the Clerk of Superior Court of Wayne County, Georgia, in Plat Book 49, Page 24. Reference to the aforementioned plat and the record thereof is hereby made for any and all descriptive purposes.

TOGETHER WITH a forty-foot wide easement for purposes of ingress and egress from Arnold River Road to Lot 29, said easement located at the point where the northwestern corner of Lot 27 and the eastern boundary of Arnold River Road join as shown on that certain plat prepared by Everett Tomberlin, Georgia RLS # 2922, dated December 14, 2009, and recorded in the Office of the Clerk of Superior Court of Wayne County, Georgia, in Plat Book 49, Page 24.

TRACT 5:

All of those certain tracts or parcels of land situate, lying and being in Land Lot 341 of the Third Land District of Wayne County, Georgia and known and designated as LOTS 1 THROUGH 12, inclusive, of MOSS LANDING SUBDIVISION, and more particularly shown on a plat of same prepared by Everett Tomberlin, Georgia RLS # 2922, dated December 7, 2011, and recorded in the Office of the Clerk of Superior Court of Wayne County, Georgia in Plat Book 51, Page 84. Reference to said plat and the record thereof is made for descriptive purposes.

TRACT 6:

All of that certain tract or parcel of land situate, lying and being in Land Lot 341 in the Third Land District of Wayne County, Georgia, containing 0.980 acre, and being shown as LOT 42 on that certain plat prepared by Everett Tomberlin, Georgia R.L.S. No. 2922, dated September 7, 2011, and recorded in the Office of the Clerk of Wayne County Superior Court in Plat Book 51, folio 3. Reference is hereby made to said plat and the record thereof for

all purposes of description.

TOGETHER WITH a permanent, non-exclusive easement for rights of ingress and egress over and upon that certain right-of-way easement shown on said plat and other roads within Moss Landing Subdivision as shown on the aforesaid Moss Landing Subdivision Phase 2 Plat, recorded in Plat Book 47, Page 77.

WHEREAS, it is to the interest, benefit and advantage of Developer and each and every person who shall hereafter purchase any of said designated lots in said subdivision that certain protective covenants governing and regulating the use and occupancy of the same be established, set forth and declared to be covenants running with the land;

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by Developer and each and every subsequent owner of any of said designated lots in said subdivision, said Developer does hereby set up, establish, promulgate and declare the following protective covenants to apply to all of said designated lots and to all persons owning said lots, or any of them, hereafter. These protective covenants shall become effective immediately and run with the land and shall be binding on all persons claiming under and through Developer until terminated as hereinafter provided, to-wit:

1. LAND USE AND BUILDING TYPE. No part of said lots shall be used for any purpose other than non-commercial residential purposes, or as a site for structures appurtenant to residential use, or for providing access roads and utility services to the proposed residential sites thereon. The use of a portion of a lot as an office, studio, workshop or other such accessory use shall not be considered to be a violation of this covenant, if such use does not create regular customer, client or employee traffic. No building shall be erected, altered, placed, or permitted to remain on any lot other than one stick-built detached single family dwelling not to exceed 2-1/2 stories in height, a private garage for not more than two cars, and one utility building. Satellite receivers may be permitted upon approval of the architectural control authority as set out in paragraph 13, if such receivers are appropriately integrated with the landscaping. No mobile home, manufactured houses, or house trailer of any kind shall be permitted thereon regardless of whether or not the foundation therefor is temporary or permanent, and regardless of whether or not the same is a single or double-wide unit; and this absolute prohibition against mobile homes, manufactured houses and house trailers of all kinds may not be circumvented by immobilizing the same by permanently affixing it to the land. No part of said lots shall be used at any time for the purpose of farming or agricultural activities, with the exception that a garden serving any permitted residential use hereunder may be permitted. No

vehicles shall be parked outside of any lot other than vehicles regularly used for transportation by persons residing upon, visiting at, or providing a service to such lot. However, nothing in this paragraph shall prevent the erection on any lot by a homeowner's association of any building or facility the use of which is available to all lot owners on equal terms.

2. LOCATION OF BUILDINGS. Any building erected, altered or placed on any lot must be set back at least twenty (20') feet from the side lot line of all parcels as originally established and conveyed by Developer, and set back thirty (30') feet from the street front property line and twenty-five (25') feet from the bluff line. All such buildings erected, altered, placed or permitted to remain on any lot shall comply with all applicable ordinances, laws and regulations, including without limitation, all zoning laws and sanitary codes.

3. DWELLING SIZE, WATER SUPPLY AND SANITATION. No dwelling shall be permitted on any lot which has an interior area of less than fourteen hundred (1,400) square foot exclusive of porches and garages. No dwelling shall be permitted on any part of said lots which does not have inside plumbing, running water and septic tanks. All dwellings shall be connected and utilize exclusively the community water system for the subdivision.

4. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, bus or other outbuilding shall be used on any part of said lots at any time as a residence, either temporarily or permanently.

5. COMPLETION OF EXTERIOR. The exterior of every building constructed upon any part of said lots shall be completed within twelve (12) months of the date construction commences.

6. SEPTIC TANKS. It shall be incumbent upon the owner to install a water closet connected to a sanitary septic tank in conformity with the rules and regulations established by the state and county health departments before any dwelling is occupied temporarily, casually or permanently. No latrines, privies, or cesspools shall be permitted upon any of the property in said subdivision, and no waste is to be discharged on the ground surface or into any water adjoining the lot.

7. OIL AND MINING OPERATIONS. No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

8. LIVESTOCK AND POULTRY. No animals, livestock, or poultry of

any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

9. HUNTING. There shall be no hunting of any animals, birds, etc. on the property with any type of weapon whatsoever, at any time.

10. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers, and shall be placed in the community trash cans at least every seven (7) days.

11. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date hereof, unless (a) extended thereafter, or (b) terminated prior thereto, by an instrument in writing executed by all of the owners of all the lots of the subdivision and no such extension or termination shall become effective until such instrument in writing shall be officially filed for record in Wayne County, Georgia; provided, however, that these Protective Covenants may in no event be terminated prior to three (3) years from the date hereof or until a majority of the lots or parcels of land, as set forth above, are sold, whichever comes later.

12. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. Such enforcement may be maintained by any persons owning any lot in said subdivision. Developer may, but is under no affirmative obligation to, sue for enforcement of any such alleged violation hereof.

13. SEVERABILITY. Invalidity of any one of these covenants by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

14. ARCHITECTURAL CONTROL. No structure of any kind shall be erected on any lot until the plans and specifications with the proposed site plan therefor have been submitted to and approved as to outward appearance and design and a written permit issued therefor, by Developer, its successors and assigns; provided, however, that if the approving authority fails to approve or disapprove such plans, specifications and proposed site within sixty (60) days after submission, or if no suit to enjoin erection has been commenced prior to the completion thereof, such approval shall not be required. After sale of 60% of the lots or parcels of land as set forth above, Developer, its successors and assigns, shall be authorized but not required to designate Moss Landing Home Owners Association as the approving authority under this paragraph

with all rights and powers with respect thereto which Developer, its successors and assigns, may have. The following minimum guidelines are adopted:

a. All dwellings and/or residences shall only be constructed of brick, wood frame or logs. Vinyl will be allowed on soffits and eaves.

b. All outbuildings shall be constructed to match the residence and shall be enclosed.

c. Any structures placed on the bluff must first be approved by the DNR and the owner will be responsible for any erosion damages to owner's lot and contiguous lots. The owner must receive a written variance from the DNR and provide a copy to the Developer and/or Homeowner's Association within 30 days of receipt or before construction begins, whichever occurs first.

d. All LP tanks must be enclosed or buried underground.

e. No overhead power lines, pulley, hoist or trolley systems from upper bluff to the river will be allowed.

f. No tarps shall be used for shade or shelter.

g. No fences shall be constructed or otherwise allowed on any lots in the subdivision.

h. With the exception of automobiles, any under home storage must be enclosed.

i. No window-mounted heating or air conditioning units will be permitted.

j. Screened porches will only be allowed on the rear and sides of the dwelling.

k. All outdoor appliances, other than grills, must be stainless steel, operational, and built into an outdoor kitchen island. Outdoor refrigerators cannot be taller than forty (40") inches.

l. No exposed plumbing on residence or dock areas.

m. No items shall remain on the riverfront which can be floated down river by rising water.

15. COMMON PROPERTIES. The Developer has or may convey to Moss Landing Home Owners Association certain properties which are intended for the common use and enjoyment of all lots in Moss Landing Subdivision, Phase 2. Upon purchase of any lot or parcel in

Moss Landing, Phase 2 as set forth above, the purchaser shall become a member of Moss Landing Home Owners Association (hereinafter Association). It is expected that the association shall hold said common properties, maintaining and controlling them for the benefit of all members. Membership in the Association shall be determined as set forth in the By-laws of the Association, copies of which are attached hereto as Exhibit "A".

As a part of the plan for the common properties, all members of the Association, other than the Developer, shall be assessed dues on a periodic basis in accordance with the By-Laws of said Association. If any member shall fail to pay said dues, the member and member's heirs, successors or assigns, shall be ineligible to use the common properties until the delinquent dues, plus interest at 12% per annum from date of delinquency, shall be paid in full. Delinquent members shall also be ineligible to vote or otherwise participate in the Association.

16. CONSTRUCTION DEBRIS. During the continuance of construction by an owner, such owner shall require its contractors to maintain the property upon which such work is being done in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the property on which such construction has been completed. Owners shall require contractors and delivery vehicles to use the service entrance to enter the development.

17. LANDSCAPING APPROVAL. To preserve the aesthetic appearance of the Development, no owner shall be entitled to cut, remove or mutilate any trees, shrubs, bushes or other vegetation having a trunk diameter of four (4") inches or more at a point of four (4') feet above the ground level (except for pine trees) or other significant vegetation, unless located within ten (10') feet of a building, without obtaining the prior approval of the Architectural Review Committee, provided that dead or diseased trees which are inspected and certified as a dead or diseased by the Architectural Review Committee or its representatives, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any property by the Owner thereof. In the event trees are removed from the bluff area the root mat must remain to deter erosion.

18. NUISANCES. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Development, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly or detrimental to persons using or occupying any other portions of the Development. Any

Owner, or his family, tenants, guests, invitees, servants or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of \$250.00, whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due to which such Owner and his property are subject.

19. MOTOR VEHICLES, TRAILERS, BOATS, ETC. Each Owner shall provide for parking of automobiles, boats, golf carts, ATVs, etc., off the streets and roads within the Development. All boats and watercraft must be in useable and workable condition. No empty boats or watercraft trailers may be stored for longer than 3 months outside of an enclosure. Golf carts and ATVs will be used on the roadways only and the operators must be of legal age. No vehicles of any kind will be allowed on the bluffs or sloped area and there is an absolute prohibition against mud bogging. It is the intention of Developer that the Architectural Review Committee shall restrict the type and number of automobiles, pick-up trucks, and other gas-powered vehicles allowed within the Development. Such policies may change from time to time with changing technology. The purpose of vehicle restrictions is to minimize the impact of vehicles on the natural environment and roads. No owners or other occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within a property subject to this Declaration except (a) within enclosed garages or workshops, or (b) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

20. OWNER'S RESUBDIVISION. No Common Area or Lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to any political subdivision with jurisdiction thereof; however, this provision shall not prohibit the combining of two (2) or more contiguous Lots into on (1) larger lot. Following the combining of two (2) or more lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of this Declaration.

21. TRESPASS. Whenever the Developer, the Association or the Architectural Review Committee is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on the property of any Owner, or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

22. ASSIGNMENT OF DEVELOPER'S RIGHTS TO THE ASSOCIATION. The Developer reserves the right to assign to the Association, at his sole discretion, his rights reserved in this Declaration. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action shall be required by it.

23. OTHER RIGHTS AND RESERVATIONS. THE OMISSION OF ANY RIGHT OR RESERVATION IN THIS ARTICLE SHALL NOT LIMIT ANY OTHER RIGHT OR RESERVATION BY THE DEVELOPER WHICH IS EXPRESSLY STATED IN OR IMPLIED FROM ANY OTHER PROVISIONS IN THIS DECLARATION.

24. MAINTENANCE EASEMENT. There is hereby reserved for the benefit of Developer, the Association, and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement to enter upon any property subject to this Declaration for the purpose of providing insect and reptile control, mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Developer or the Association to perform any such actions, or to provide garbage or trash removal services. Furthermore, it is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns, an alienable transferable, and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of properties subject to this Declaration which are located within twenty (20) feet from the water's edge of any lagoon, pond or other body of water within the Development for the purpose of (a) mowing such area and keeping the same clear and free from unsightly growth and trash, (b) maintaining such bodies of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards, and (c) installing, constructing, repairing, replacing, and maintaining bulkheads, provided that the foregoing reservation of easements should not be deemed to and shall not in any way limit the responsibility therefor by Owners. The costs thereof incurred as a result of the action or inaction of any Owner shall be paid by such Owner.

25. ENVIRONMENTAL EASEMENT. There is hereby reserved for the benefit of Developer, the Association, and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all unimproved portions of properties subject to this Declaration for the purpose of taking any acting necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors, the Architectural Review Committee, or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides.

26. RESPONSIBILITIES OF OWNERS. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of lots, and waterfront property adjacent to any such property, together with all other improvements thereon or

therein and all lawns, landscaping, grounds trees and shrubs on and within such property shall be responsibility of the Owner thereof. Each Owner shall be responsible for maintaining his or its property in a neat, clean, and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of the improvements to all lots and other structures and all lawns, trees, shrubs, hedges, grass and other landscaping. Each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner, but which responsibility such Owner fails or refuses to discharge. No Owner shall do any work which, in the reasonable opinion of the Architectural Review Committee, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Committee and the Owners, and the mortgagees of property directly affected thereby or benefitting from such easement or hereditament.

27. WORK IN BEHALF OF OWNERS. In the event that Developer or the Moss Landing Home Owners Association determines that: (a) any Owner has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or (b) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the association hereunder is caused through the willful or negligent act of an owner, his family, tenant, guests or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, Developer or the Association, except in the event of an emergency situation, may give such owner written notice of Developer's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such owner shall have fifteen (15) days within which to complete the same in a good workmanlike and timely manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15)-day period, to commence said maintenance, cleaning, repair, or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any owner to comply with the provisions hereof after such notice, Developer or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such owner and said cost shall be added to and become a part of the assessment to which such Owner and his property are subject and shall become a lien against such property. In the event that Developer undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly

reimburse Developer for Developer's costs and expenses.

28. OWNER'S INSURANCE. It shall be the individual responsibility of each owner at his own expense to provide, as he sees fit, public liability, property damage, title, and other insurance with respect to his or its own property. The Moss Landing Home Owners Association may require all owners to carry public liability and property damage insurance with respect to their respective properties and to furnish copies or certificates thereof to the Association.

29. NO PARTITION. There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof, seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

30. DAMAGE OR DESTRUCTION TO OWNER'S PROPERTIES. In the event of damage or destruction by storm, fire or other casualty to any lot subject to this Declaration, or the improvements thereon, and in the further event that the owner responsible for the repair and replacement of such property elects not to repair or rebuild, such owner shall promptly clear away the ruins and debris of any damages, improvements or vegetation and leave such property in a clean, orderly, safe and sightly condition. Should such owner elect to repair or rebuild such property or other improvements thereon, such Owner shall repair or rebuild to substantially the same condition as existed prior to such storm, fire or other casualty, and in accordance with all applicable standards, restrictions and provisions of this Declaration, and all applicable zoning, subdivision, building and other governmental regulations. All such work or repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

31. Developer or Moss Landing Home Owners Association will provide a community water system at a cost to be determined at the time of hook up. In addition to the connection charge the Developer or the Homeowner's Association will charge a monthly user fee. The terms of the contract providing the water between the Developer and/or Homeowners Association and the purchaser will govern the responsibilities of each party.

32. DEVELOPER'S RESERVATION TO AMEND, MODIFY, ETC. Developer and its successors and assigns reserves the right to amend modify or delete from or add to these protective covenants by an instrument in writing which shall become effective when such instrument shall be signed by the then owners of all of the lots or

tracts in said development as set forth above and officially filed for record in the Office of the Clerk of Superior Court of Wayne County, Georgia.

IN WITNESS WHEREOF, Developer has hereunto set his hand and seal on the day and year first above written.

FIRST SOUTHERN BANK

By: [Signature] (Seal)
Its: Pres/CEO

Attest: [Signature] (Seal)
Its: Vice President

Signed, sealed and delivered
in the presence of:

1.

[Signature]
Witness

2.

[Signature]
Notary Public, State of Georgia

(Notarial Seal)

