

OFFICIAL RECORDS
FAYETTE COUNTY, TEXAS

07- 2962

Declaration of Covenants, Conditions & Restrictions

Prepared For

Stargate Subdivision

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**Declaration of Covenants, Conditions
& Restrictions for Stargate Subdivision**

THE STATE OF TEXAS §
 §
COUNTY OF FAYETTE §

Texana Oaks Investments, L.P., a Texas limited partnership, and Chelsea Oaks, Inc., a Texas corporation, being the record owner of all of the property proposed to be developed as Stargate Subdivision in Fayette County, Texas, in order to carry out a general plan of development of said subdivision (herein sometimes called the "Subdivision"), and in order to promote desirable agricultural, open space, and residential purposes in said Subdivision, to ensure harmony in connection therewith, to maintain the suitability of said Subdivision for agricultural, open space, and/or private residential purposes, and to carry out a general plan for the protection, benefit, use, recreation and convenience of each and every purchaser of a tract or parcel of land in said Subdivision, hereby impose the following covenants, conditions, and restrictions, to-wit:

Witnesseth:

The undersigned hereby declare that all of the Property (as hereinafter defined) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall constitute covenants running with, the real property located in the Subdivision, shall be binding on all parties having any right, title, or interest in such real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof, and their respective heirs, executors, successors and assigns.

Article I
Definitions

1.01. Association. "Association" shall mean and refer to Stargate Owners Association, a Texas non-profit corporation, its successors and assigns. The Association shall have all those powers, duties and responsibilities set out herein, and such other powers, duties and responsibilities not inconsistent herewith provided for in its Certificate of Formation and/or its Bylaws as the same may be amended from time to time by proper action of its members.

1.02. Board of Directors. The terms “Board” and/or “Board of Directors” shall mean and refer to those persons who currently serve as directors of the Association.

1.03. Committee. The terms “Committee” or “ACC” shall mean and refer to the Architectural Control Committee designated and constituted as provided herein.

1.04. Common Area. “Common Area” and/or “Common Areas” shall mean all property together with any improvements thereon owned by the Association for the common use and benefit of the Owners. The Common Area shall include and be limited to land designated on the Plat or any replat as “Common Area”.

1.05. Declarant. “Declarant” shall mean and collectively refer to Texana Oaks Investments, L.P., a Texas limited partnership, and Chelsea Oaks, Inc., a Texas corporation, and their respective successors and assigns, if such assigns, if any, are designated in writing as an assignee of the rights of Declarant set forth herein.

1.06. Declaration. “Declaration” shall mean this *Declaration of Covenants, Conditions & Restrictions for Stargate Subdivision*.

1.07. Livestock. “Livestock” means cattle and horses. Hogs, swine, dogs, cats, animals, birds, poultry, and/or fowl, not specified herein, are not permitted and are not included in the definition of “Livestock”.

1.08. Lot. “Lot” shall mean and refer to each lot shown or designated on the Plat of Stargate Subdivision to which map or plat reference is here made for all purposes and any additional lots shown or designated upon any subsequent replat of any lot shown on the Plat.

1.09. Motor Home. The term “motor home” is defined as follows:

- A. A motor vehicle which is designed to provide temporary living quarters and which is built onto as an integral part of, or is permanently attached to, a motor vehicle chassis and otherwise satisfies the requirements or definition of a “motor home” under the Motor Vehicle Commission Code of the State of Texas, Art. 4413(36), as the same may be amended;
- B. Recreational travel trailers designed to be towed by an ordinary motor vehicle; and/or
- C. Camper trailers (including “pop-ups”).

The term “motor home” does not include a mobile home or manufactured home, and no mobile home or manufactured home may be permitted on the Property except for a temporary sales office placed by the Declarant or the Declarant’s agents, and which temporary office shall removed by the Declarant at the conclusion of all sales activity.

1.10. Owner. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Property, including contract seller(s), but excluding those having an interest merely as security for the performance of an obligation.

1.11. Plat. “Plat” shall mean and refer to the subdivision plat for Stargate Subdivision recorded in Volume 2, Page 111, of the Plat Records of Fayette County, Texas.

1.12. Property. “Property” shall mean and refer to all of the land shown and described on the Plat, and which is more specifically identified as follows:

- A. The real property described on the attached Exhibit A, and the improvements thereon, and which property encompasses 178.531 acres of land.
- B. The real property described on the attached Exhibit B, and the improvements thereon, and which property encompasses 6.177 acres of land.

1.13. Restrictions. “Restrictions” shall mean this *Declaration of Covenants, Conditions & Restrictions for Stargate Subdivision*.

1.14. Single Family. As used in this Declaration, the term “single family” means either:

- A. Husband and wife, their dependent children, and their dependent parents, grandparents, grandchildren, brothers and sisters who are maintaining a common household and who are members of a single family related by blood, marriage, or adoption; or
- B. One or more natural persons not so related but who are maintaining a common household in a single family residence on a nonprofit, noncommercial basis with a common kitchen and dining area; and
- C. The bona fide domestic servants of either.

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1.15. Water Company. “Water Company” shall mean and refer to the Fayette Water Supply Corporation.

Article II

Use Restrictions

2.01. Limited Use. Each Lot shall be restricted to the residential, open space, and/or agricultural uses permitted herein. No other uses are permitted. No residence may be occupied by more than one single family. Without limitation of the foregoing, as used in this Declaration the term “residential use” or similar terms shall be construed to prohibit the use of any Lot or the residence thereon for apartment houses or other type of dwelling designed for multi-family dwelling, or use for or operation of a boarding or rooming house or residence for transients, or the use of any permitted outbuilding as an apartment.

2.02. Residential Use.

A. Construction.

- 1) No building shall be erected, altered, or permitted to remain on any Lot (or any resubdivision thereof) other than:
 - a) One (1) single-family residential dwelling not exceeding two (2) stories in height, and which residence may have either a single private garage that accommodates up to four (4) vehicles or a single carport that accommodates up to four (4) vehicles;
 - b) Up to two (2) bona fide servants' or guest quarters; and/or
 - c) A single farm or storage building.
- 2) On any Lot that contains five (5) or more acres of land, there is also permitted one (1) structure designed to accommodate Livestock, as permitted herein. The structure shall not exceed the main residential dwelling in height and shall not contain more than 2,000 sq. ft. in floor space.
- 3) All structures placed on any Lot shall be new. No existing buildings or structures may be moved onto any Lot and/or remodeled for purposes of converting same to a residence, barn, or other structure. No temporary dwellings shall be moved or erected on any Lot.

B. Motor Homes. Motor homes may be occupied for residential use on a temporary basis not to exceed fifteen (15) days in the aggregate in any thirty (30) day period. Any motor home located on any such Lot and occupied in the aggregate for more than fifteen (15) days in any thirty (30) day period shall be removed from the Subdivision or parked unoccupied (at such other location as may be designated by the Committee) for not less than thirty (30) days between each such occurrence. Any location of a motor home (whether or not occupied) shall be subject to approval by the Committee as to location; provided however, the Committee may not allow such location in close proximity to any residential structure being used as a primary residence (as opposed to weekend). The motor home shall be removed from the Subdivision, for a period of not less than thirty (30) days, at the earlier of either: (i) the cessation of continuous occupancy by Owner or Owner's guest(s); or (ii) the accumulation of fifteen (15) days in the aggregate in any thirty (30) day period.

C. Storage Buildings. Storage buildings, as approved by the Committee, may be constructed prior to construction of the primary residence.

2.03. Livestock. The raising of Livestock (as limited hereby) are permitted on any Lot(s) containing five (5) or more contiguous acres of land, as long as such activity is in conjunction with residential use and does not attribute to the Lot(s) any appearance of a commercial or non-residential use and no sign is displayed. Permitted Livestock shall be confined within fences, pens or buildings suitable for the particular species and not allowed to run loose. The number of Livestock per Lot (that equals or exceeds five (5) acres) is limited to no more than one (1) horse or one (1) head of cattle for each full acre of land; provided further that the sum of all horses and/or cattle shall not exceed the total number of acres of land.

2.04. Non-Owner Occupancy of Residence. When a Lot is occupied as a primary residence by persons other than the Owner thereof, the Owner shall deliver to such occupants a complete copy of this Declaration.

2.05. Architectural Control. The Architectural Control Committee ("Committee" or "ACC") is hereby created and shall consist of three (3) persons subject to appointment and removal by Declarant until such time as Declarant has sold one hundred percent (100%) of the Lots in the subdivision, as shown on the Plat, and until a residential dwelling is constructed on every Lot. Neither the Declarant nor the Committee nor the individual members thereof shall be liable for any act or omission in performing or purporting to perform the functions delegated hereunder. All actions of and by the Committee shall be a majority vote of the Committee's members; provided, however, that the three (3) Committee members may appoint one of the members to act on behalf of the Committee as to all matters other than variances permitted by this Declaration.

- A. No buildings, walls, hedges, fences, repairs, maintenance, renovations, and/or improvements of any character shall be erected or placed or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot or Common Area until the construction plans and specifications and a plan showing the location of the structure or improvements have been submitted to and approved in writing by the Committee, as to size, roof pitch, exterior type and quality of material, harmony of external design, materials and color scheme with existing and proposed structures, and as to location with respect to topography and finish grade elevation, and otherwise as to compliance with this Declaration. The exterior of all structures must be brick, stone, stucco, or other exterior siding approved by the Committee; provided further that the preceding restriction shall not apply if the structure is of a Victorian design. As to color scheme, colors shall be "earth tone" or comparable colors approved by the Committee. Any portion of the exterior of any improvement that is other than brick or stone shall be stained or painted. All dwelling structures must be built on site and no part of the structure shall be factory built components without specific written approval of the Committee. Metal roofs, clay tile roofs, concrete tile roofs, and flat asphalt roofs, if desired, must be approved on a case by case basis by the Committee as a variance to this Declaration. Asphalt roofing shingles, if used, shall be 300 lb weight or better. The exterior of any approved structure shall be completed within six (6) months after the date in which construction begins or material placed on the building site, whichever occurs first; provided further that the entirety of the construction process shall be completed within one (1) year from the start of construction. The approval of any construction that is not commenced within six (6) months after approval by the Committee shall be void.
- B. No unpainted sheet metal or fiberglass structures shall be placed on any Lot for use as an accessory building.
- C. No motor home shall be placed on any Lot unless and until approved by the Committee as to location.
- D. In the event the Committee fails to indicate its approval or disapproval within thirty (30) days after the receipt of all required documents, then the Lot Owner's request shall be deemed as disapproved without prejudice to resubmit the request. If the Lot Owner resubmits the disapproved request, without any changes or modifications to the request, within thirty (30) days of the deemed disapproval, and the Committee does not approve or disapprove such resubmitted request within thirty (30) days after the resubmission, then approval will not be required for a timely filed resubmission and the related covenants set out herein shall be deemed to have been fully satisfied. If a Lot Owner resubmits a request that is modified, in whole or in part, from the original request, then this type of resubmission shall be deemed to be an original submission for which all times frames shall run anew. The approval or lack of disapproval by the Committee shall not be deemed to constitute any warranty or representation by such Committee including,

with limitation, any warranty or representation relating to fitness, design or adequacy of the proposed construction or compliance with applicable statutes, codes, regulations, and/or this Declaration, nor shall lack of disapproval constitute a waiver of any rights or remedies available to the Declarant, the Committee, and/or the Association.

- E. Notwithstanding anything to the contrary herein contained, a majority of the Committee is hereby authorized and empowered, at its sole and absolute discretion, to make and permit reasonable modifications of and deviations from any of the requirements of this Declaration relating to the type, kind, quantity or quality of the building materials to be used in the construction of any building or improvement on any Lot and of the size and location of any such building or improvement when, in the sole and final judgment and opinion of a majority of the Committee, such modifications and deviations in such improvements will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Property and its improvements as a whole.
- F. The Committee may require the submission to it of such documents and items (including as examples but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If a majority of the Committee shall approve such request for a variance, the Committee shall evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved (including as examples, but without limitation, the time limitation of such approved variance, if any, the type of alternate materials to be permitted, or specifying the location, plans and specifications applicable to an approved outbuilding), and signed by a majority of the then members of the Committee. Any request for a variance shall be deemed to have been disapproved for the purposes hereof in the event of either: (a) written notice of disapproval from the Committee; or (b) failure by the Committee to respond to the request for variance within thirty (30) days of the request for variance. In the event the Committee or any successor to the authority thereof shall not then be functioning, no variances from the covenants of this Declaration shall be permitted, it being the intention of Declarant that no variances be available except at the discretion of the Committee.

2.06. Minimum Square Footage Within Residential Improvements. The living area of a one-story main residence structure (exclusive of porches, garages, and servant's quarters) shall not be less than one thousand five hundred (1,500) square feet. Two story residences shall not be less than two thousand (2,000) square feet with at least one thousand five hundred

(1,500) square feet on the ground floor. The above restrictions shall not apply to motor homes approved by the Committee and used for temporary occupancy, as permitted and provided elsewhere in this Declaration.

2.07. Location of Improvements Upon the Lot. Front yard setbacks for buildings and other improvements shall be not less than fifty (50) feet from the street right-of-way line, and twenty-five (25) feet from all other property lines. In addition, no structure intended to house any livestock shall be closer than fifty (50) feet to any dwelling or to any front, rear, or side Lot property line. As used herein, "front yard" shall mean and refer to that part of each Lot from the adjacent street, right-of-way line to the front building setback line; and on corner Lots, the front yard shall be all that area on both adjacent street rights-of-way to the building setback line of each such Lot.

2.08. Adjoining Lots & Re-Subdivision. Any Owner of one (1) or more adjoining Lots may consolidate such Lots or portions into one (1) building site, with the privilege of placing or constructing improvements on such site, in which case side setback lines and utility easements as provided in this Declaration shall be measured from the resulting side property lines rather than from the Lot lines shown on the recorded Plat. Any such proposed composite building site(s) must be approved in writing by the Committee.

2.09. Re-Subdivision or Replat. No Lot may be re-subdivided or replatted; provided, however, the Declarant, in its sole and absolute discretion, can subdivide or replat any Lot until such time that all of the Lots have been sold.

2.10. Easements. Easements are as shown and provided for on the Plat and no structure of any kind shall be erected upon any of said easements. Neither the Association, nor any company using the easements, shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, grass, hay, or any other improvements of the Owner located on the land within or affected by said easements.

A. A blanket easement is hereby created on all Lots and the Common Area for ingress and egress, installation, repair, construction, replacement and maintenance of all utilities, including but not limited to, water, sewer, telephone, cable, gas, and electricity. In the event that any utility company or other entity or person furnishing a service covered by the general easement provided herein requests a specific easement on the Property by separate recordable instrument, the Association shall have the right to grant such easement on said Property without conflicting with the terms hereof, provided that the granting of any such easement does not adversely affect any mortgage theretofore given to secure either a purchase money or improvement loan on any Lot affected by such easement.

- B. Without limiting the foregoing, a blanket easement is hereby created in favor of the Declarant and its assigns over the Property for access through the Property and for the inspection, maintenance, repair, replacement, construction, reconstruction and/or operation of electrical, gas, phone, cable, water, sewer, and all other utility services, if any, located on, through, under, or within the Property.
- C. All easements that are shown on the recorded Plat for the purposes of installation and maintenance of utilities, and all such easements hereafter granted for such purposes, shall be observed by each Lot Owner and shall not be in any manner obstructed so as to hinder or defeat any such easement. All property Owners shall grant all easements that may be necessary to serve any Lot therein with utility services.

2.11. Prohibition of Trade. Except as provided in Article II, section 2.03 above, no business, professional, commercial, and/or manufacturing use may be made of any Lot or any improvement located thereon even though such business, professional, commercial, and/or manufacturing use be subordinate or incident to use of the premises as a residence, and regardless of whether or not done for profit or remuneration. Notwithstanding the foregoing, a single family residence may be used for maintenance of a personal professional library, keeping of personal or professional records or accounts or handling personal business or professional telephone calls, or for maintenance of one home office, but if and only if such business activity:

- A. Does not involve use of any part of the applicable Lot, or residence or other building or improvement thereon, by a person other than the Owner or the Owner's tenant (but not both), no on-site employees are otherwise permitted, and the public is not invited, permitted, or allowed to enter the Lot to conduct any business thereon;
- B. Is not detectable by sight, sound, or smell from outside the residence and there is no other external evidence thereof (including signs, advertising, or contacts in person at the residence with clients or customers);
- C. Does not involve the storage of any equipment, materials, or devices other than as consistent with operation of a small home office and in all events which are not hazardous and do not constitute any type of threat to health or safety or other nuisance;
- D. Complies with all applicable municipal and/or county ordinances (including zoning ordinances), and with all other governmental laws, rules, regulations and permitting or licensing requirements applicable to same;
- E. Is consistent with the residential character of the Subdivision; and

- F. Does not cause any annoyance or unreasonable inconvenience to Owners or occupants of area Lots or any Common Area.

2.12. Use of Temporary Structures. Except for motor homes permitted on a temporary basis as set forth in section 2.02, no structures of a temporary character, mobile home, camper, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence. Portable buildings used for accessory or storage purposes shall not be permitted on any Lot. Notwithstanding any provision in this Declaration to the contrary, temporary structures or trailers may be used by Declarant or its assigns as storage or for sales offices during periods of the sale of lots or construction within the Property. Such structures or trailers shall be sightly and be removed after completion of intended uses.

2.13. Storage of Automobiles, Boats, Trailers, & Other Vehicles. Except as provided herein, no boat trailer, boats, travel trailers, inoperative automobiles, campers, motor homes or vehicles of any kind shall be stored or parked on the Common Area, Common Area streets or anywhere within the Subdivision. Storage of such items and vehicles must be screened from public view, within the garage or such other area as may be from time to time designated and approved by the Committee. All such storage in an area designated by the Committee shall meet all conditions of storage as approved by the Committee.

2.14. Mineral Operation. All Lot Owners who acquire a Lot on or after May 1, 2007, are prohibited from installing, constructing, erecting, maintaining, engaging, or permitting any:

- A. Oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind upon or in any Lot or Common Area;
- B. Tanks, tunnels, mineral excavation, or shafts upon or in any Lot or Common Area; and/or
- C. Derrick or other structures designated for the use of boring or drilling for oil or natural gas upon or in any Lot or Common Area.

2.15. Animal Husbandry. Except as permitted in section 2.02 above, no animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot; provided, however, that dogs, cats, or other common household pets of the domestic variety may be kept provided that they are not kept, bred, or maintained for commercial purposes, and provided further that no more than three (3) of such animals, in the aggregate, is kept. All pets (other than cats) shall be on leash(es) at all times except when they are confined within the premises on the Lot of the Owner. Mice, rats, rodents, reptiles, wild animals, and/or swine are not considered common household pets as defined

by this Declaration.

2.16. Walls, Fences & Hedges. No wall, fence, or hedge shall be erected or maintained within the front yard setback. No side or rear fence, wall, or hedge shall be more than seven feet (7') in height. Any wall, fence, or hedge erected on a Lot shall pass ownership with title to the Lot and it shall be the Owner's responsibility to maintain said wall, fence, or hedge thereafter. No walls, fences, and/or hedges shall be erected or maintained on any Lot within the Property without the prior written consent of the Committee.

2.17. Storage of Materials; Accumulation of Trash; Etc. Owners shall in no event use any Lot for storage of tools, materials, and/or equipment except for normal residential or permitted commercial requirements or incident to construction of improvements thereon as herein permitted. No garbage or trash shall be placed or kept on any Lot or Common Area except in covered containers of a type, size, and/or style approved by the Committee. The accumulation of garbage, trash, brush, or rubbish of any kind, and/or the burning of any such materials is prohibited. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after five (5) days written notice thereof, the Association or its assigns may, without being under any duty to so do or liability, in trespass or otherwise, for so doing, enter upon said Lot, and remove or cause to be removed, such garbage, trash, and/or rubbish or do any other thing necessary to secure compliance with this Declaration and to place said Lot in a neat, attractive, healthful, and/or sanitary condition. The Association may assess the Owner or any occupant of such Lot for the actual cost of such work, as well as all attorneys' fees and legal expenses related thereto, incurred by the Association in connection with such default and assessment. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. In the event any such charge shall remain unpaid for thirty (30) days after written notice thereof, such charge shall be added to and become a Special Assessment on such Lot, and shall bear interest at the rate of twelve percent (12%) per annum, or the highest rate allowed by law, whichever rate is less.

2.18. Signs, Advertisements, Billboards.

A. Restrictions:

No signs, billboards, posters, banners, pennants or advertising devices of any kind, including without limitation business, professional, promotional or institutional signs, are permitted on any Lot, or upon any residence or within any residence if visible from the exterior of the residence, or within the Subdivision without the prior written consent of the Committee except as otherwise provided in this section. THE BOARD OR THE COMMITTEE MAY REMOVE OR CAUSE TO BE REMOVED ANY SIGN, BILLBOARD, POSTER, BANNER, PENNANT OR

ADVERTISING DEVICE OF ANY KIND WHICH IS NOT APPROVED AS AFORESAID OR IS OTHERWISE PROHIBITED UNDER THIS DECLARATION OR OTHER GOVERNING DOCUMENTS AND MAY DISPOSE OF SAME AS DEBRIS WITHOUT LIABILITY FOR TRESPASS, CONVERSION, OR OTHERWISE.

B. Prohibited Signs:

No sign is permitted that is vulgar, obscene, or otherwise patently offensive to persons of ordinary sensibilities. Permitted signs must be professionally printed and prepared, and must be properly installed and maintained, to avoid unsightly appearance. The good faith determination of the Board or the Committee as to any of the foregoing is final. No sign is permitted to be larger than four square feet. No sign may be illuminated. No sign may be placed on any Lot closer than ten feet from any street or any side or back Lot line, or within any traffic sight line area as defined under this Article. No Owner, Owner's tenant, or their Related Parties, is permitted to place any sign on another Owner's Lot or upon any Common Area. Distressed, foreclosures, and bankruptcy references are specifically prohibited.

C. Permitted Signs:

- 1) To the extent required by law or in any event upon prior approval of the Committee, but subject to applicable provisions of this Article, each Owner is permitted to place upon (and only upon) such Owner's Lot:
 - a) One (1) sign advertising the particular Lot on which the sign is located for sale or for rent, but only during periods of time when the Lot is in fact for sale or for rent;
 - b) Security device signs as provided by a professional security service company, subject to reasonable regulation as to number, size, location, and/or appearance by the Board or the Committee on a case by case basis and/or pursuant to applicable architectural guidelines set forth herein; and
 - c) Political signs to the extent permitted by Section 202.009 of the Texas Property Code ("Political Signs"), or as amended. No Political Sign is permitted earlier than the 90TH day before the date of the election to which the sign relates, and each Political Sign must be removed in its entirety by the 10TH day after the election date. No more than one Political Sign for each candidate or ballot item may be displayed per Lot. Each Political Sign must be ground-mounted. No Political Sign may: (i) contain roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (ii) be attached in any way

to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; (iii) include the painting of architectural surfaces; (iv) contain language, graphics, or any display that would be offensive to the ordinary person; or (v) be accompanied by music or other sounds or by streamers or be otherwise distracting to motorists.

- 2) Notwithstanding any other provision herein to the contrary, as long as Declarant or its assigns owns property in the Subdivision, Declarant may maintain:
 - a) Signs along Kallus Road and/or FM 2436; and/or
 - b) In or upon such portion of the Property as Declarant may determine, offices, storage areas, model units and signs (directional or otherwise). Declarant may also use, and permit buildings (who are at the relevant time constructing and selling residential buildings in the Subdivision) to use residential structures, garages or accessory buildings for sales offices and display purposes but all rights of Declarant and of any building action with Declarant's permission under this sentence shall be operative and in effect only during the construction and sales period.

2.19. Antenna. Except for not more than (2) satellite antennae not to exceed eighteen inches (18") in diameter, no antenna or other device of any type for the transmission or reception of television signals, radio signals or any form of electromagnetic radiation shall be erected, constructed, placed, or permitted to remain on any Lot, houses, building or structures; provided, however, that the Committee, in its discretion, may permit the installation and maintenance of antennae or other devices for the transmission or reception of radio signals only if the antenna or other device is: (i) well screened by trees, to the extent reasonably feasible, and in harmony with existing structures in the immediate vicinity, all as determined by the Committee, in its sole and absolute discretion; and/or (ii) otherwise approved by the Committee, in its sole and absolute discretion, as to location and design. No such radio antenna or device shall be erected or placed, or the erection thereof begun, or changes made in the design thereof after original construction, until the construction plans and specifications and a plan showing the location of the structure have been submitted to and approved in writing by the Committee as complying with the foregoing requirements.

2.20. Future Antenna Requirements. Notwithstanding any other provision contained in this Declaration to the contrary, in the event that any of the foregoing restrictions in the immediately preceding paragraph are now or hereafter prohibited by state or federal constitution, law, rule, or regulation, then this Declaration shall be deemed modified and amended to the extent necessary to bring the same into compliance with such applicable constitution, law, rule, or

regulation; provided further that this Declaration shall continue in effect to the fullest extent permitted by law. In such event, such restrictions may be amended in writing by Declarant as permitted herein.

2.21. Utility Services. Water service is or will be provided to each Lot by way of a water distribution system to be transferred by Declarant to the Water Company as hereinafter provided. The distribution system to the point of connection at the meter of each user shall be the property of and shall be operated and maintained by the Water Company. The portion of the distribution system from the meter to the Owner's property shall be owned and maintained by the Owner. Water service to each Lot shall be limited to service from the Water Company's central water distribution system and shall not be serviced by any private water wells, or other water system. Notwithstanding any other provision in this Declaration to the contrary, all water meters shall be installed and maintained at the expense of each Lot Owner.

2.22. Sanitary Sewer. Sanitary sewer service shall be by separate septic facilities owned and maintained by the Owner in compliance with all applicable federal, state, county, and/or municipal ordinances, statutes, laws, rules, and/or regulations.

2.23. Maintenance. Each Owner shall be responsible for the maintenance of the exterior of all buildings, homes, and appurtenant structures at a standard in keeping with the level of such maintenance exhibited by a majority of the improvements on the Lot and/or the Subdivision, whichever standard is higher or more strict, and each Owner shall be responsible for maintenance and repairs to roofs, glass in windows and doors, and for all structural matters, as well as plumbing, electrical equipment, foundation maintenance and repairs, landscaping, all improvements on Owner's Lot and the driveways extending from Owner's Lot to the street, and the regular mowing of grass and weeds. In the event of default on the part of the Owner or occupant of any Lot in observing the above requirements or any of them, such default continuing after thirty (30) days written notice thereof, the Association or its assigns may, without being under any duty to so do or liability in trespass or otherwise for so doing, enter upon said Lot and perform such maintenance, repairs, and/or landscaping, or do any other thing necessary to secure compliance with this Declaration. The Association may assess the Owner or occupant of such Lot for the actual cost of such work and legal fees incurred in connection with such default and assessment. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. In the event any such charge shall remain unpaid for thirty (30) days after written notice thereof, such charge shall be added to and become a Special Assessment on such Lot, and shall bear interest at the rate of twelve percent (12%) per annum, or the highest rate allowed by law, whichever rate is less.

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2.24. Care of Yards & Common Area. Each Lot Owner shall be responsible for design, and regular maintenance, repair, and/or upkeep of the yard, shrubs, grass, hay, trees, and/or other landscaping objects located on the Lot. Each present Owner (and each subsequent Owner by acceptance of a deed to a Lot, whether or not expressed in such deed shall be deemed to covenant and agree) that each Lot Owner shall maintain that portion of any Common Area between the Owner's Lot and the street.

2.25. Clearance of Lots. All Lots upon which there has occurred a fire or other casualty shall be cleared of all damaged improvements within ninety (90) days of the occurrence of the casualty.

2.26. Firearms. Except as may be necessary for matters of self-defense, no Owner shall use or discharge or permit the use or discharge, on or from the Owner's Lot or elsewhere on the Property, of any pistol, rifle (including a pellet gun, air rifle, or pistol), shotgun or any other firearm, or any bow, arrow, or any other device capable of killing or injuring a person or causing property damage.

2.27. No Excavation/Deforestation. No excavation shall occur on any Lot or Common Area for removal of soil, rock, gravel, or other substance of any kind except as necessary for construction of improvements and landscaping and construction and maintenance of road and utility services as permitted by this Declaration. Nor shall any Owner engage in deforestation, except for personal use within that Owner's Lot.

2.28. Ponding. No modification of the existing topography of a Lot (whether by fill, placement of improvements, grading, beams or other method or means) shall be permitted as to any Lot Owner that would result in the ponding or accumulation of surface drainage water along, upon, or across any adjoining Lot. This section shall not apply to the Declarant.

2.29. Other Activities & Uses. Without limiting the other terms and provisions of this Declaration, and in addition thereto, rather than limitation thereof, the following activities and uses are prohibited:

- A. Except as otherwise permitted under section 2.02, no motor vehicle may be parked or stored on any part of any Lot, easement, right-of-way, or Common Area or in the street adjacent to any Lot, easement, right-of-way, or Common Area, unless such vehicle does not exceed either 6'-6" in height and/or 7'-6" in width and/or 21'-0" in length and is concealed from public view inside a garage or other enclosure approved by the Committee, except passenger automobiles, passenger vans (the term "passenger vans" specifically excludes motor homes and recreational vehicles),

motorcycles, pick-up trucks, and/or pick-up trucks with attached-bed campers, and that are in operating condition, have current license plates and inspection stickers, and are in daily use as motor vehicles on the streets and highways of the State of Texas, and which do not exceed either 6'-6" in height and/or 7'-6" in width and/or 21'-0" in length. No non-motorized vehicle, trailer, boat, marine craft, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement, right-of-way, or Common Area or in the street adjacent to any Lot, easement, right-of-way, or Common Area, unless such object is concealed from public view inside a garage or other enclosure approved by the Committee. The phrase "enclosure approved by the Committee" means any fence, structure, or other improvement approved in writing by the Committee. If a complaint is received about a violation of any part of this paragraph, the Committee will be the final authority on the matter. This restriction shall not apply to any vehicle machinery or maintenance equipment temporarily parked and in use for the construction, repair, or maintenance of any improvements in the immediate vicinity.

- B. Maintenance and repair of any vehicles, boats, motorcycles, or trailers, unless performed in an enclosed garage or other enclosed structure; provided further that repairs in an enclosed garage or structure shall be limited to the Owner's vehicles, boats, motorcycles, or trailers.
- C. The parking within the Subdivision of any vehicle of any size that normally transports flammable, explosive, or toxic cargo; provided, however, this provision shall not apply to gasoline or diesel powered engines of passenger automobiles, passenger vans (the term "passenger vans" specifically excludes motor homes and recreational vehicles), motorcycles, pick-up trucks, and/or pick-up trucks with attached-bed campers.
- D. The parking or storage of inoperable vehicles or machinery, or vehicles or machinery on blocks, if such vehicles or machinery can be viewed from any public area within or outside the Subdivision.
- E. The operation of any four wheeler, all-terrain vehicle, motorcycle or other motorized vehicle (other than electric carts) on any of the Common Area other than the streets in the Subdivision.
- F. A junkyard, pipe yard, wrecking yard or other similar business activity.
- G. Noxious or offensive activity that may be or may become an annoyance or nuisance to any portion of the Subdivision.
- H. The use of incinerators or other equipment for the storage or disposal of rubbish, trash, garbage, or waste.

- I. The use of waste materials, pesticides, or other such similar chemicals, which might contaminate any adjacent Lot, drainage areas, creeks, stock-tanks, or any portion of the Subdivision.
- J. The storage of trash cans where exposed to public view.
- K. Any activity or use of the erection or maintenance of any structure which violates in any way any law, statute, ordinance, regulation or rule of any Federal, State, County or governmental entity.
- L. To the fullest extent allowed by law, no Lot or any part of a single family residence or structure thereon may be used for the operation of a group home, half-way house, day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters. The foregoing does not include a "community home" established and maintained pursuant to and in strict compliance with Chapter 123 of the Texas Health and Safety Code, and all applicable governmental licensing requirements, rules and regulations.
- M. All activities and uses otherwise prohibited by this Declaration and not specifically set forth under this section 2.29.

Article III

Enforcement of the Restrictions

3.01. Enforcing Person. The term "Enforcing Person" means every person or entity, whether one or more, whether jointly or severally, that has any right, title, and/or interest in any Lot or parcel of land within the Subdivision, and who brings a legal proceeding or otherwise asserts a claim in law or in equity to stop or prevent a violation or attempted violation of this Declaration. The term "Enforcing Person" further includes, but is not limited to, the Declarant, the Association, the Committee, every Lot Owner, and/or their respective agents, representatives, successors, and/or assigns.

3.02. Enforcement. The Declarant, the Association, the Committee, and/or every Lot Owner shall have the right but not the obligation to enforce, by any proceeding or claim at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall never be deemed a waiver of the right to do so thereafter. The rights provided herein include, but are not limited to, the right to prevent a violation or attempted violation of any provision

of this Declaration. The Enforcing Person may also seek to abate, restrain, and/or enjoin any violation or attempted violation, and may further seek all such damages as allowed by any Constitution, statute, rule, regulation, and/or the common law.

3.03 Entry Upon a Lot. In addition to all other remedies provided by law, or in equity, an Enforcing Person may enter upon the Lot of another owner, if the Enforcing Person can do so without a breach of the peace, to abate and/or remove any violation or attempted violation of this Declaration, all at the expense of the owner of said Lot, and the Enforcing Person shall not thereby be guilty of any manner or matter of trespass or otherwise for such entry, abatement, and/or removal.

Article IV

Stargate Owners Association Membership & Voting Rights

4.01. Association Membership. Every Owner of a Lot or Lots shall become and remain a member in good standing of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any such Lot. Ownership of such Lot shall be the sole qualification for membership. The membership held by any Owner shall not be alienated, transferred, or pledged in any way except by the sale or encumbrance of such Lot and, then, only to the purchaser or mortgagee of such Lot.

4.02. Voting Classes. The Association shall have two classes of voting membership.

Class A. Except as provided under "Class B" below, each Owner as defined in Article I shall be a Class A member. Each Class A member shall be entitled to one (1) vote for each full acre of land (in whole numbers) contained within the Lot owned; provided further, however, fractions of an acre shall not count. By way of example, and example only, if a Lot contains 10.200 acres of land, then the Lot Owner shall have ten (10) votes. If the a Lot contains 9.890 acres of land, then the Lot Owner shall have nine (9) votes. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the co-Owners determine, but in no event shall the number of votes to be cast by the co-Owners exceed the number of full acres of land (in whole numbers) for such Lot; provided further, in the event co-Owners cannot agree as to how to cast their vote, then they shall be deemed to have abstained from voting on the issue or issues as to which they disagree. Holders of future interests not entitled to present possession (excepting Owners of Lots which are rented or leased to

others) shall not be considered as Owners for the purposes of voting hereunder.

Class B. The Class B member shall be Declarant. The Class B member shall be entitled to two hundred (200) votes in the aggregate regardless of the number of Lots owned, held, or possessed by the Class B member; provided further, the Class B membership shall cease when the Declarant has sold all the Lots as shown on the Plat (or any replat thereof).

Article V

Covenant for Maintenance Assessment & Charges

5.01. Establishment of Lien. All sums assessed against any Lot pursuant to this Declaration, whether by regular, special, or specific assessment as provided herein, are secured by a continuing lien on such Lot in favor of the Association. The recordation of this Declaration constitutes record notice and perfection of the Associations' continuing lien, effective from the date of recordation of this Declaration.

5.02. Priority of Lien. The Association's continuing lien is superior to all other liens or encumbrances on each Lot except: (i) a lien for real property taxes and other governmental assessments or charges on a Lot; (ii) a first lien securing payment of purchase money for a Lot, or a lien securing payment for work and materials used in constructing improvements on a Lot; and (iii) such other mortgages, deeds of trust, liens, or other encumbrances to which the Board may from time to time by written agreement specifically and expressly agree, subject to such terms and conditions as set forth in the applicable written agreement. All assessments subsequent to a foreclosure of such a superior lien shall continue to bind the mortgaged property and be secured by a continuing lien as herein provided. The Association shall have the power to subordinate the continuing lien to any other lien, and to extinguish such continuing lien and the underlying debt, such powers being entirely within the discretion of the Association. Except as otherwise provided herein, no sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the continuing lien therefor, but such continuing lien shall exist as, and constitute, a separate and distinct charge and lien on each Lot.

5.03. Personal Obligation of Assessments. Each present Owner hereby covenants and agrees (and each subsequent Owner by acceptance of a deed to a Lot, whether or not expressed in such deed, shall be deemed to covenant and agree) to pay the Association: (i) Regular Assessments; (ii) Special Assessments as provided under Article II; and/or (iii) Other Special Assessments as determined by the Association, in its sole and absolute discretion; all such

assessments collectively referred to in this Declaration as “the Assessments.” Such Assessments shall be established and collected as hereinafter provided. All sums assessed as provided for in this Declaration but unpaid, together with interest, costs of collection and reasonable attorneys' fees, shall be a continuing lien and charge upon the Lot against which each such Assessment is made, which shall bind and be a continuing charge upon such Lot. Each such Assessment, together with interest, costs of collection and reasonable attorneys' fees, shall also be the personal obligation and debt of the person who was the Owner of the Lot at the time when the Assessment fell due.

5.04. Purpose of Assessments. The Assessments, and all funds derived therefrom, shall be used exclusively for: (i) the maintenance, repair, and/or care of the Common Areas (including recreational areas and private streets), and improvements to or on the Common Areas and Lots for which the Association is herein given responsibility; (ii) the furtherance and fulfillment of the purposes of this Declaration and other herein provided responsibilities of the Association; (iii) the promotion of the recreation, health, safety, and/or welfare of the Owners of the Lots; and/or (iv) administrative costs and other costs and expenses of the Association, which costs and expenses may include fidelity insurance or bonds for acts of directors, officers, managers, members, volunteers, and/or employees of the Association responsible for the handling of Association funds; liability insurance covering the Common Areas and all damage and the injury caused by the negligence of the Association, its employees and agents; mowing grass, caring for the grounds and for any swimming pool, recreational building, and/or equipment that may be placed upon the Common Area; landscaping; garbage pickup; outdoor lighting; security service for the Subdivision; any water and sewer service that may be furnished to, by, or through the Association; maintenance and improvement of Common Area as shown on the Plat (or any replat); discharge of any liens on the Common Area; payment of fees to managing agents, accountants, attorneys, and other parties providing professional and/or other services to the Association in connection with the performance of the Association's duties and responsibilities; and other charges required by this Declaration or other charges that the Association is authorized to incur which the Association shall determine to be necessary or desirable to benefit the Owners, including the establishment and maintenance of a reserve for repair, maintenance, replacement, and/or other charges as specified herein (herein collectively called “Association Expenses”). All assessments paid to the Association and any other income to the Association for fees for use of any Common Area shall be used only for the purposes herein provided.

5.05. Annual Budget. The Board shall adopt an annual budget to cover the anticipated expenses of the Association for the calendar year in which the budget relates. The annual budget shall further include reasonable reserves, such reserves to be determined in the sole and absolute discretion of the Board, plus all anticipated Special Assessments as provided or permitted by this Declaration.

5.06. Regular Assessments. Regular Assessments include both the Annual Assessment and the Transfer Fee Assessment set forth herein.

- A. **Annual Assessment.** Until changed in accordance herewith by the Association, the amount of the Annual Assessment for all Lots shall be twenty-five dollars (\$25.00) per acre or part of an acre per year; provided that no assessment shall apply to any Lot or Lots owned by the Declarant until ninety percent (90%) or more of all Lots have been sold by the Declarant.
- B. **Transfer Fee Assessment.** In addition to the above Annual Assessment, each Owner (exclusive of Declarant) shall pay to the Association a Transfer Fee Assessment of \$100.00 upon conveyance of a Lot.
- C. **Discount.** The Association may allow a discount for prepayment of the Annual Assessment under such terms and conditions as may be approved by the Association.
- D. **Uniform Rate of Assessment.** Regular Assessments, Special Assessments, and Other Special Assessments shall be fixed at a uniform rate (on a Lot basis) and shall commence and be due in accordance with the provisions hereof.

5.07. Collection of Regular Assessments.

- A. The Annual Assessment shall be payable, without penalty or interest, on or before the thirty-first (31ST) day of January of each year.
- B. The Regular Assessments (Monthly and Transfer) may be charged by the Board from time to time. The Annual Assessment shall be fixed by the Board at an amount calculated to cover in advance the anticipated actual costs of fulfilling the obligations, duties, and/or responsibilities of the Association.
- C. The Association shall be entitled to assess a one-time late fee charge in the amount of ten percent (10%) of the Annual Assessment on any assessment that is fifteen (15) or more days past due.
- D. In fixing the amount of the Annual Assessment, the Board may, but shall not be required to, add reasonably anticipated depreciation and necessary replacement and repair of assets and/or improvements and may from time to time establish one or more funds or accounts to accumulate amounts deemed necessary therefor.

5.08. Special Assessments Under Article II. In addition to any Regular Assessments, the Association may levy Special Assessments on a Lot and the Owner thereof

pursuant to Article II of this Declaration.

5.09. Other Special Assessments. Notwithstanding any other provision in this Declaration to the contrary, and in addition to the Regular Assessments and the Special Assessments permitted under Article II, the Association may levy in any calendar year one (1) or more Other Special Assessments applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, maintenance, repair, and/or replacement of any expected or unexpected expense or improvement upon the Common Area, including fixtures and personal property related thereto. If an Other Special Assessment does not exceed \$100.00 per acre or part of an acre for the year to be assessed, then such Other Special Assessment may be approved by simple majority and levied by the Board. In the event an Other Special Assessment exceeds \$100.00 per acre or part of an acre for the year sought to be assessed, then all amounts in excess of the first \$100.00 per acre or part of an acre must be approved by simple majority of the Board, as well as those Lot Owners who hold two-thirds (2/3rds) or more of the acreage within the Subdivision, and who cast their votes in favor of an Other Special Assessment either in person at a regular or special meeting called for that purpose, or by proxy executed in writing by Lot Owner or the Lot Owner's duly authorized attorney-in-fact, as permitted by applicable law.

5.10. Date of Commencement of Regular Assessments; Due Dates. The Annual Assessment provided for herein shall commence on the date of sale of a Lot from Declarant to another Owner; and as to Lots owned by Declarant, when Declarant has sold ninety percent (90%) or more of the Lots as shown on the Plat. The Association shall fix the amount of the Regular Assessments for calendar year 2007 and subsequent calendar years at least thirty (30) days in advance of each such calendar year. Failure of the Association to meet or to fix the amount of the Regular Assessments as herein provided shall be deemed to constitute a setting of the amounts at the levels fixed for the previous calendar year. Written notice of any change in the Regular Assessments shall be mailed (by U.S. first class mail) to every Owner subject thereto. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid and the amount of any delinquencies. The Association shall not be required to obtain a request for such certificate signed by the Owner but may deliver such certificate to any party who in the Association's judgment has a legitimate reason for demanding same.

5.11. Effect of Nonpayment of Assessments; Remedies. All payments shall be made to the Association at its place of business in Fayette County, Texas, or at such other place as the Association may direct. Any assessment not paid within fifteen (15) days of its due date shall be subject to a one-time late fee of ten percent (10%) of the past due assessment amount. Any assessment not paid within thirty (30) days after the due date shall bear interest from such thirtieth (30TH) day until paid at the rate of twelve percent (12%) per annum, or the highest rate allowed by

law, whichever rate is less. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or foreclose the continuing lien against the Lot involved; and accrued interest, attorneys' fees, and all expenses of litigation, including, but not limited to, court costs, shall be added to the amount of the assessment. In no event shall the Association be liable to any Owner or other person or entity for failure or inability to enforce or attempt to enforce collection. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of the Owner's Lot. Further, the powers and enforcement granted to the Association in this section shall be cumulative of, and shall be in addition to, all other remedies and powers of the Association.

5.12. Foreclosure. Upon compliance with the notice provisions set forth herein below, the Association may foreclose its continuing lien against any Lot. Each undersigned Owner, and such subsequent Owner by his acceptance of a deed to a Lot, expressly grants and vests in the Association and its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid continuing lien, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property as provided in Section 51.002 of the Texas Property Code, and any amendments thereto, or as otherwise may be permitted by law; and each undersigned Owner (and each subsequent Owner by acceptance of a deed to a Lot) expressly grants to the Association a power of sale in connection with said continuing lien. The continuing lien herein provided for shall be in favor of the Association for the benefit of all Owners. The Association acting on behalf of the Owners shall have the power to bid upon an interest foreclosed at a foreclosure sale and to acquire and hold, lease, mortgage, and/or convey the same and to treat the proceeds of any such lease, mortgage, and/or conveyance in the same manner as assessments hereunder.

5.13. Notice of Lien. An action may be brought to foreclose the Association's continuing lien notwithstanding the fact that written notice of a claim under or related to the continuing lien was not sent to the Lot Owner, or filed for record in the property records of Fayette County, Texas. If a claim or notice of a claim is sent to a Lot Owner or filed for record, then such claim or notice should provide a sufficient legal description of the Lot(s) that are the subject of the claim or notice, the name of the record owner or reputed owner thereof, the amount claimed (which may, at the Association's option, include any late charge and interest on the unpaid assessment as herein provided, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

5.14. Insurance. The Association, or its duly authorized agent, shall have the authority to and may obtain a broad form public liability policy covering all the Common Area, and all damage or injury caused by the negligence of the Association or any of its employees or agents. Such comprehensive public liability policy shall have coverage of not less than \$1,000,000.00 per

occurrence for personal injury and/or property damage; and also shall contain a clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or of another Owner. The Association may also obtain and maintain fidelity insurance or bonds for the acts of its directors, officers, manager, members, volunteers, and/or employees responsible for the handling of funds collected by the Association as provided herein, which shall be in an amount not less than one and one-half times the Association's estimated annual operating expenses and reserves. Premiums for all such insurance shall be common expenses payable out of assessments. All such insurance coverage shall be written in the name of the Association as the insured for the benefit of the Owners in accordance with the terms of this Declaration, and the Owners will cooperate with the Association by doing any and all such acts and things as may be necessary to effect such insurance.

5.15. Board of Directors. The affairs of the Association shall be managed by the Board of Directors of the Association, as provided in the Bylaws of the Association. The initial Board of Directors of the Association shall be appointed by Declarant; and such initial Board of Directors shall serve until Declarant has sold ninety percent (90%) or more of the Lots as shown on the Plat, at which time the members of the Association shall elect a new Board of Directors, all as more particularly set forth in the Bylaws of the Association.

5.16. Meeting & Voting. The manner of meeting and voting of the Association shall be governed by the Bylaws thereof.

Article VI

General Provisions

6.01. Mediation. In the event of a disagreement by, among, or between the Declarant, the Committee, the Association, and/or any Lot Owner with regard to this Declaration, the Declarant, the Committee, the Association, and the Lot Owner, as the case may be, agree to negotiate in an effort to resolve any disputes that may arise between them. If the parties cannot resolve such disputes between themselves, then the parties agree that they will attempt to mediate their disputes. The mediator shall be someone mutually acceptable to the parties. If the parties cannot agree on the person to serve as mediator, then the parties agree to attempt to mediate their disputes with a mediator chosen by the District Court Judge for the 155TH District Court of Fayette County, Texas. The parties further agree to share equally the cost of the mediator's fee.

6.02. Waiver. No delay, consent, nonenforcement, or waiver, express or implied, by the Declarant, the Committee, and/or the Association to or of any breach or default by any Lot Owner

in the performance by the Lot Owner's obligations under this Declaration shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by the Lot Owner of the same or any other obligation of the Lot Owner under this Declaration, and the Declarant, the Committee, and/or the Association shall have the right to declare any such default at any time and to take such action as may be lawful or authorized hereunder, either at law or in equity. Failure on the part of the Declarant, the Committee, and/or the Association to complain of any act or failure to act of the Lot Owner or to declare the Lot Owner in default, irrespective of how long such failure continues, shall not constitute a waiver by the Declarant's, the Committee's, and/or the Association's rights under this Declaration.

6.03. Severability. If any provision of this Declaration or the application thereof to any person or circumstance shall be illegal, invalid, or unenforceable to any extent, the remainder of this Declaration and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law. It is hereby declared the intention of the Declarant, the Committee, the Association, and every Lot Owner that each shall be bound by the remaining portion of this Declaration without including herein any such part or portion that may for any reason be hereafter declared illegal, invalid, or unenforceable.

6.04. Member's Easement of Enjoyment. Every member of the Association shall have a right and easement of enjoyment in and to any Common Area which shall be appurtenance to and shall pass with the title to every Lot. All such rights and easements shall be subject to the following provisions:

- A. The automatic suspension of voting rights of an Owner for any period during which any assessment against his Lot remains unpaid.
- B. The right of the Association to suspend the right to use any recreational facility or Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for each infraction of its published rules and regulations, which rules and regulations may be adopted by resolution of the Association from time to time.
- C. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Lot Owners as herein provided. No such dedication or transfer shall be effective unless an instrument is signed by those Lot Owners who hold two-thirds (2/3rds) or more of the acreage within the Subdivision and who agree to such dedication or transfer, and such dedication or transfer has been filed of record in the Real Property Records of Fayette County, Texas, and unless written notice of the proposed action is sent to every Lot Owner not less than ten (10) days

nor more than fifty (50) days in advance of any action taken.

- D. The right of the Association to make rules and regulations concerning the use by members of the Common Area, all on such terms as the Board may determine, in its sole and absolute discretion, including without limitation the right of the Association to institute regulations and rules with respect to construction of any storage facilities.
- E. The right of the Association to collect and disburse funds as set forth in this Declaration and/or otherwise provided by law.
- F. The right of the Association to borrow money as necessary or desirable to perform its functions hereunder, and to mortgage and/or pledge the Common Area and improvements thereon, accounts receivable and assessment liens as security for such loans upon the approval thereof by members entitled to cast two-thirds (2/3rds) of the votes of the Association; provided, however, that the rights of any such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder.
- G. The right (but not the obligation) of the Association to adopt, implement and maintain for the Property a private security system, a garbage collection system and an exterior lighting system for all Subdivision streets (including private streets), consistent with applicable laws.
- H. The right of the Association to establish rules and regulations governing traffic and parking on the Subdivision streets (including private streets) and parking areas within the Common Area, and to establish sanctions for any violation or violations of such rules and regulations.
- I. The right of the Association to regulate noise within the Property, including, without limitation, the right of the Association to require mufflers on engines or to prohibit the use of devices producing excessive noise.
- J. The right of the Association to control the visual attractiveness of the Property.

6.05. Transfer of Common Area. The Common Area will be conveyed by deed from the Declarant to the Association when eighty percent (80%) of the lots are sold. The Common Area shall be transferred AS IS, WHERE IS, AND WITH ALL FAULTS, KNOWN AND UNKNOWN, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, EXCEPT A WARRANTY OF TITLE, IT BEING THE INTENTION OF THE DECLARANT TO EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES AS TO THE CONDITION OF THE COMMON AREA AND THE IMPROVEMENTS , IF ANY, SITUATED THEREON.

6.06. Delegation of Use. Subject to the Bylaws of the Association, any Owner may delegate his right of enjoyment to the Common Area and facilities only to resident members of his family, the Owner's guests, and tenants and contract purchasers who reside on the Property.

6.07. Reimbursement by the Association. In the event that the Declarant bears any cost and expense, on behalf of the Association, incident to any necessary to effectuate the performance and discharge by the Association of its duties, obligations, and/or responsibilities hereunder, then the Declarant shall be reimbursed the full amount of the direct expense incurred, upon demand by Declarant, after the Association shall have collected sufficient Assessments. The Declarant shall further receive interest on all sums due the Declarant. Interest shall be at the rate of twelve percent (12%) per annum, or the highest rate allowed by law, whichever sum is less.

6.08. Amendments.

- A. **By the Owners.** The covenants and restrictions of this Declaration shall run with and bind the Property, for a term of forty (40) years from the date this Declaration is recorded in the county records of Fayette County, Texas, after which time the covenants and restrictions shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended during the first forty (40) year period by an instrument signed by the Owners of not less than seventy-five percent (75%) of the total votes of each class of membership of the Association. No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed of record in the county records of Fayette County, Texas.
- B. **By the Declarant.** The Declarant shall have and reserves the unlimited right at any time and from time to time, as the Declarant, in the Declarant's sole and absolute discretion deems appropriate or necessary, to amend or modify, without limitation, this Declaration by an instrument in writing duly signed, acknowledged, and filed of record in the county records of Fayette County, Texas. It is further understood that all such modifications and/or amendments may occur without the joinder or consent of any Owner or other person; provided, however, no such amendment or modification shall unreasonably and materially impair or affect the vested property or other rights of an Owner or his, her, or its mortgagee.
- C. **By a Court.** In the event that any of this Declaration is now or hereafter prohibited by any municipal, county, state, or federal constitution, law, rule, or regulation, then a court of competent jurisdiction may amend or modify this Declaration to the extent necessary to bring the same into compliance with such applicable constitution, law, rule, or regulation; provided further that this Declaration shall continue in effect to the fullest extent permitted by law.

6.09. Annexation. Additional property and Common Area may be annexed to the Property with the consent of seventy-five percent (75%) of the total votes of each class of membership of the Association.

6.10. Interpretation. If this Declaration or any word, clause, sentence, paragraph, section, article, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation most nearly in accordance with the general purposes and objectives of this Declaration shall govern.

6.11. Omissions. If any punctuation, word, clause, sentence, or provisions necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omissions were unintentional and that the omitted punctuation, work, clause, sentence, or provision shall be supplied by inference.

6.12. Validity. If any one or more of the provisions of this Declaration are declared unenforceable in whole or in part, the remainder of this Declaration shall not be affected thereby and shall remain in full force and effect.

6.13. Governing Law. This Declaration is governed by the laws of the State of Texas. Venue and jurisdiction of any action arising in connection with this Declaration shall be in a court of competent jurisdiction located in Fayette County, Texas, and not elsewhere; provided, however, all actions in which the Declarant is a party shall be brought in Harris County, Texas, and not elsewhere.

6.14. Attorneys' Fees. In the event the Association and/or an Enforcing Person brings an action or a claim against any person or entity who is violating or attempting to violate this Declaration, and the Association and/or Enforcing Person is a prevailing party in such proceeding, then the Association and/or Enforcing Party shall be entitled to recover their court costs and reasonable attorneys' fees, as well as prejudgment and post-judgment percent (12%) per annum, or the highest rate allowed by law, whichever sum is less.

6.15. Interest. All sums of money due any Enforcing Person, the Association, and/or the Declarant shall accrue interest, whether prejudgment, post-judgment, or otherwise, at the rate of twelve percent (12%) per annum, or the highest rate allowed by law, whichever sum is less.

6.16. Usury. It is the intention of the parties hereto to comply with the usury laws of the State of Texas and United States, whichever may permit the higher rate. Accordingly, it is agreed

that notwithstanding any provisions to the contrary in this Declaration or any instrument evidencing any indebtedness related to this Declaration, in no event shall this Declaration require the payment or permit the collection of interest in excess of the maximum amount permitted by such laws. If any such excess of interest is contracted for, charged, or received under this Declaration or under the terms of any indebtedness or otherwise relating thereto, or in the event that all or part of the principal or interest of the indebtedness shall be prepaid, so that under any of such circumstances, the amount of interest contracted for, charged, or received, under this Declaration or any instruments evidencing the indebtedness, on the amount of principal actually outstanding from time to time under this Declaration, shall exceed the maximum amount of interest permitted by the usury laws of the State of Texas or the United States, whichever may permit the higher rate, then in any such event: (a) the provisions of this section govern and control; (b) neither any Lot Owner or other person or entity now or hereafter liable for the payment of any indebtedness shall be obliged to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by the usury laws of the State of Texas or United States, whichever may permit the higher rate; (c) any such excess that may have been collected shall be either applied as a credit against the then unpaid principal amount hereof or refunded to the Lot Owner, at the holder's option; and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under the usury laws of the State of Texas or United States, whichever may permit the higher rate, as are now or hereafter construed by the courts having jurisdiction thereof. It is further agreed that without limitation of the foregoing, all calculations of the rate of interest contracted for, charged, or received under this Declaration that are made for the purpose of determining whether such rate exceeds the maximum lawful contract rate, shall be made, to the extent permitted by the laws of the State of Texas or United States, whichever may permit the higher rate, by amortizing, prorating, allocating, and spreading in equal parts during the period of the full stated terms evidenced by this Declaration or the instruments evidencing the indebtedness, all interest at any time contracted for, charged, or received from the Lot Owner or otherwise by the holder or holders hereof in connection with this Declaration.

6.17. Definitions. Wherever used in this Declaration, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the following word or words shall mean the following:

- A. "Person" shall mean an individual, corporation, limited liability company, partnership (general and/or limited), joint venture, and/or unincorporated association.
- B. "Hereof," "herein," and "hereunder" and words of similar import when used in this Declaration shall refer to this Declaration as a whole and not to any particular provision of this Declaration. All sections, subsections, schedules, and exhibit references are to this Declaration unless otherwise specified.

6.18. Gender & Number. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The singular includes the plural and vice versa.

6.19. Headings, Titles, & Captions. The captions of articles, sections, and paragraphs used in this Declaration are for convenience of reference only and shall have no significance in the construction or interpretation of this Declaration.

6.20. Time. Time is of the essence.

[SIGNATURES ON FOLLOWING PAGES]

This Declaration shall be effective when the same is filed of record in the Real Property Records of Fayette County, Texas.

EXECUTED on this 24TH day of May 2007.

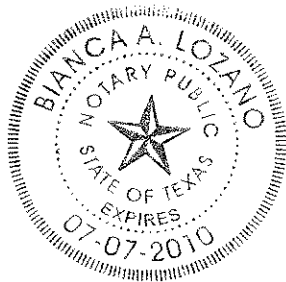
DECLARANT
TEXANA OAKS INVESTMENTS, L.P.

BY ITS GENERAL PARTNER,
TEXANA OAKS MANAGEMENT, L.L.C.

By: *Stephen A. Mendel*
Stephen A. Mendel, Manager

THE STATE OF TEXAS §
 §
COUNTY OF FAYETTE §

This instrument was acknowledged before me this 24TH day of May 2007, by Stephen A. Mendel, Manager of Texana Oaks Management, L.L.C., a Texas limited liability company, in its capacity as the general partner of Texana Oaks Investments, L.P., a Texas limited partnership, on behalf of said limited partnership.



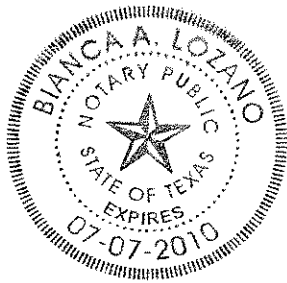
Bianca A. Lozano
Notary Public In & For
The State of Texas

DECLARANT
CHELSEA OAKS, INC.

By: *Stephen A. Mendel*
Stephen A. Mendel, President

THE STATE OF TEXAS §
 §
COUNTY OF FAYETTE §

This instrument was acknowledged before me this 24TH day of May 2007, by Stephen A. Mendel, President of Chelsea Oaks, Inc. a Texas corporation, on behalf of said corporation.



Bianca A. Lozano
Notary Public In & For
The State of Texas

Exhibit A

STATE OF TEXAS

TRACT "1"

COUNTY OF FAYETTE

178.531 ACRES

All that certain tract or parcel of land containing 178.531 acres situated in the David Berry League, A-15, in Fayette County, Texas and being comprised of the following:

Part of that tract described as 127.647 acres in a deed from Ann S. Brown to the Ann S. Brown Living Trust dated August 1, 2003 and recorded in Volume 1227, Page 369 of the Official Records of Fayette County;

Part of that tract described as 104.92 acres in a deed from Ann Lenora Brown to the Ann S. Brown Living Trust dated September 15, 2004 and recorded in Volume 1284, Page 426 of the Official Records of Fayette County;

said 178.531 acre tract being more particularly described by metes and bounds as follows:

Beginning at a 1/2" iron rod found in the fenced Northwest margin of "Kallus Road" for the Northeast corner of the (called) 80.12 acre Delbert and Marilyn Gast Living Trust tract (Vol. 1242, Pg. 622 F.C.O.R.), the Southeast corner of said 127.647 acre Ann S. Brown Living Trust tract, the most Southerly corner of the tract herein described and the PLACE OF BEGINNING, said point having a coordinate value of North = 13,859,620.32 feet and East = 2,625,682.81 feet according to the Texas State Plane Coordinate System - South Central Zone - NAD 83 (SARN);

Thence North 79 degrees 19 minutes 40 seconds West, departing said road margin, 2,301.33 feet along the common line between said 127.647 acre Brown tract and said Gast tract to a 1/2" iron rod found in the Southeast line of the (called) 71.59 acre Frances Warner tract (Vol. 1205, Pg. 727 F.C.O.R.) for corner;

Thence North 38 degrees 39 minutes 06 seconds East, 204.73 feet along the Northwest line of said 127.647 acre Brown tract to a 1/2" iron rod found for the East corner of said Warner tract, the South corner of said 104.92 acre Brown tract and an inside corner of the tract herein described;

Thence North 47 degrees 21 minutes 50 seconds West, 865.60 feet along the common line between said 104.92 acre Brown tract and said Warner tract to a 1/2" iron rod found for the South corner of said (called) 86.06 acre Randall Heger tract (Vol. 1187, Pg. 260 F.C.O.R.) and a West corner of said Brown tract;

Thence North 25 degrees 37 minutes 18 seconds East, 1,776.46 feet along the common line between said 104.92 acre Brown tract and said Heger tract to a 1/2" iron rod found for corner;

Thence North 72 degrees 38 minutes 19 seconds West, 261.26 feet along said common line to a 1/2" iron rod set for corner;

Thence North 05 degrees 23 minutes 19 seconds West, 273.29 feet along said common line to a 1/2" iron rod found for corner;

Exhibit A

TRACT "1" - 178.531 ACRES
PAGE 2 OF 4

Thence North 43 degrees 03 minutes 26 seconds East, 125.61 feet along said common line to a 1/2" iron rod found for corner;

Thence North 47 degrees 15 minutes 34 seconds West, 112.99 feet along said common line to a point in the center of Creamer Creek for the Southwest corner of the (called) 15.92 Joe Stibora tract (Vol. 1143, Pg. 430 F.C.O.R.) and the Northwest corner of said Brown tract;

Thence down the center of Creamer Creek, also being the common line between said Brown and Stibora tracts, as follows:

North 10 degrees 23 minutes 21 seconds East, 29.80 feet;
North 39 degrees 36 minutes 18 seconds East, 66.98 feet;
North 72 degrees 44 minutes 31 seconds East, 43.14 feet;
South 85 degrees 58 minutes 28 seconds East, 62.29 feet;
South 61 degrees 55 minutes 30 seconds East, 89.40 feet;
North 79 degrees 39 minutes 24 seconds East, 117.61 feet;
North 41 degrees 08 minutes 48 seconds East, 54.77 feet;
North 63 degrees 17 minutes 57 seconds East, 111.85 feet;
North 81 degrees 16 minutes 36 seconds East, 95.10 feet;
South 79 degrees 03 minutes 43 seconds East, 310.56 feet;
North 54 degrees 32 minutes 17 seconds East, 158.93 feet;
North 51 degrees 17 minutes 59 seconds East, 111.03 feet;
North 74 degrees 05 minutes 45 seconds East, 123.25 feet;
North 51 degrees 28 minutes 24 seconds East, 129.08 feet;
North 40 degrees 07 minutes 57 seconds East, at 126.79 feet

passing the Southwest right-of-way line of F.M. Highway 2436 and continuing for a total distance of 205.93 feet to a point within said highway for the West corner of the (called) 9.09 acre Phillip Rogers tract (Vol. 1265, Pg. 407 F.C.O.R.), the Northeast corner of said 104.92 acre Brown tract and the Northeast corner of the tract herein described;

Thence South 50 degrees 14 minutes 04 seconds East, 367.03 feet along the common line between said Brown and Rogers tracts to a point within said highway for the North corner of a 6.177 acre tract also surveyed this date and the most Northerly East corner of the tract herein described;

Thence South 41 degrees 06 minutes 40 seconds West, departing said common line, at 69.52 feet passing a 1/2" iron rod set in the Southwest right-of-way line of said F.M. Highway 2436, and continuing for a total distance of 825.11 feet to a 1/2" iron rod set within said 104.92 acre Brown tract for the West corner of said 6.177 acre tract and an inside corner of the tract herein described;

Thence South 48 degrees 53 minutes 20 seconds East, 208.00 feet to a 1/2" iron rod set for a Southwest corner of said 6.177 acre tract and an inside corner of the tract herein described;

Thence North 86 degrees 06 minutes 40 seconds East, 179.61 feet to a 1/2" iron rod set for a Southeast corner of said 6.177 acre tract and an inside corner of the tract herein described;

Exhibit A

TRACT "1" - 178.531 ACRES
PAGE 3 OF 4

Thence North 41 degrees 06 minutes 40 seconds East, at 633.53 feet passing a 1/2" iron rod set in said Southwest right-of-way line of F.M. Highway 2436, and continuing for a total distance of 700.89 feet to a point within said highway and in the common line between said 104.92 acre Brown tract and said Rogers tract for the East corner of said 6.177 acre tract and a corner of the tract herein described;

Thence South 48 degrees 57 minutes 47 seconds East, along said common line, at 62.7 feet passing a common corner of said Rogers tract and the (called) 7.30 acre Richard Frenzel tract (Vol. 1265, Pg. 431 F.C.O.R.), and continuing for a total distance of 72.93 feet to an angle point:

Thence South 47 degrees 58 minutes 30 seconds East, along the common line between said Brown and Frenzel tracts, at 50.8 feet passing a common corner of said Frenzel tract and the (called) 19.12 acre Thompson Management Trust tract (Vol. 1275, Pg. 699 F.C.O.R.), at 390.8 feet passing a common corner of said Thompson tract and the (called) 0.61 acre Windmill Hills Farm tract (Vol. 1266, Pg. 590 F.C.O.R.) and continuing for a total distance of 562.40 feet to a point in the Northwest line of said (original) 127.647 acre Brown tract for the South corner of said Windmill Hills Farm tract and the East corner of said 104.92 acre Brown tract;

Thence North 44 degrees 14 minutes 30 seconds East, 76.63 feet to a 1/2" iron rod set in the Northeast right-of-way line of said F.M. Highway 2436 for the North corner of said 127.647 acre Brown tract, the East corner of said 0.61 acre Windmill Hills Farm tract and the Southwest corner of the (called) 165.16 acre Windmill Hills Farm tract (Vol. 1199, Pg. 674 F.C.O.R.);

Thence South 05 degrees 28 minutes 39 seconds East, departing said Northeast right-of-way line, 96.72 feet along the Northeast line of said 127.647 acre Brown tract and the original Southwest line of the (called) 165.79 acre Lillian Koether tract (Vol. 637, Pg. 525 F.C.D.R.) to a point within said highway for corner:

Thence South 47 degrees 12 minutes 43 seconds East, 701.68 feet along the original common line between said Brown and Koether tracts to a point for the North corner of the 27.257 acre Texana Partners tract (Vol. 1284, Pg. 431 F.C.O.R.) and the most Northerly East corner of the tract herein described;

Thence South 43 degrees 43 minutes 03 seconds West, departing said original common line, at 46.20 feet passing a 1/2" iron rod found in the Southwest right-of-way line of F.M. Highway 2436, and continuing for a total distance of 1,886.36 feet to a 1/2" iron rod found for the West corner of said Texana Partners tract and an inside corner of the tract herein described;

Exhibit A

TRACT "1" - 178.531 ACRES
PAGE 4 OF 4

Thence South 46 degrees 16 minutes 57 seconds East, at 54.86 feet passing a 1/2" iron rod found for the most Westerly common corner of said Texana Partners tract and the 12.743 acre Ann Lenora Brown tract (Vol. 1284, Pg. 421 P.C.O.R.), and continuing for a total distance of 1,141.17 feet to a 1/2" iron rod found in the fenced Northwest margin of "Kallus Road" for the South corner of said Ann Lenora Brown tract and the most Southerly East corner of the tract herein described;

Thence South 43 degrees 43 minutes 03 seconds West, 407.68 feet along said road margin and the Southeast line of said 127.647 acre tract to the PLACE OF BEGINNING and containing 178.531 acres, of which 2.6 acres lie within the right-of-way of F.M. Highway 2436.

Bearings, distances and coordinates used herein are "GRID" based on the Texas State Plane Coordinate System - South Central - NAD 83(HARN). Convergence = +01 degree 00 minutes 56 seconds. Combined Factor = 0.99988401.

STATE OF TEXAS

COUNTY OF FAYETTE

I, Kevin Von Minden, a Registered Professional Land Surveyor, do hereby certify the foregoing field notes to be true and correct to the best of my knowledge and belief.

BEFCO ENGINEERING, INC.

Consulting Engineering & Land Surveying



Kevin Von Minden, R.P.L.S.
Registration No. 4438
May 1, 2005
BEFCO Job No. 04-4120(1)

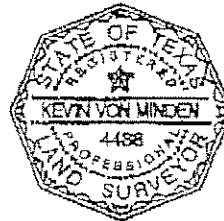


Exhibit B

STATE OF TEXAS

COUNTY OF FAYETTE

6.177 ACRES

All that certain tract or parcel of land containing 6.177 acres situated in the David Berry League, A-15, in Fayette County, Texas and being a part of that tract described as 104.92 acres in a deed from Ann Lenora Brown to the Ann S. Brown Living Trust dated September 15, 2004 and recorded in Volume 1284, Page 426 of the Official Records of Fayette County, said 6.177 acre tract being more particularly described by metes and bounds as follows:

Commencing at a point in F.M. Highway 2436 for the East corner of said 104.92 acre Brown tract, the South corner of the (called) 0.61 acre Windmill Hills Farm tract (Vol. 1266, Pg. 590 F.C.O.R.), and an inside corner of a 178.531 acre tract also surveyed this date, said point having a coordinate value of North = 13,862,585.05 feet and East = 2,625,865.79 feet according to the Texas State Plane Coordinate System - South Central Zone - NAD 83 (HARN) and from which a 1/2" iron rod set in the Northeast right-of-way line of said highway bears North 44 degrees 14 minutes 30 seconds East, 76.63 feet;

Thence North 47 degrees 58 minutes 30 seconds West, along the Northeast line of said 104.92 acre Brown tract and within said highway, at 171.6 feet passing the common corner of said Windmill Hills Farm tract and the (called) 19.12 acre Thompson Management Trust tract (Vol. 1275, Pg. 698 F.C.O.R.), at 511.6 feet passing the common corner of said Thompson Management tract and the (called) 7.30 acre Richard Frenzel tract (Vol. 1265, Pg. 431 F.C.O.R.) and continuing for a total distance of 562.40 feet to an angle point in said line;

Thence North 48 degrees 57 minutes 47 seconds West, continuing along said Northeast line, at 10.2 feet passing the common corner of said Frenzel tract and the (called) 9.09 acre Phillip Rogers tract (Vol. 1265, Pg. 407 F.C.O.R.) and continuing for a total distance of 72.93 feet to a point for the East corner of the tract herein described, a North corner of said 178.531 acre tract and the PLACE OF BEGINNING;

Thence South 41 degrees 06 minutes 40 seconds West, departing said Northeast line, at 67.36 feet passing a 1/2" iron rod set in the Southwest right-of-way line of F.M. Highway 2436, and continuing for a total distance of 700.89 feet to a 1/2" iron rod set for a Southeast corner of the tract herein described and an inside corner of said 178.531 acre tract;

Thence South 86 degrees 06 minutes 40 seconds West, 179.61 feet to a 1/2" iron rod set for a Southwest corner of the tract herein described and an inside corner of said 178.531 acre tract;

TRACT "2" - 6.177 ACRES
PAGE 2 OF 2

Exhibit B

Thence North 48 degrees 53 minutes 20 seconds West, 208.00 feet to a 1/2" iron rod set for the West corner of the tract herein described and an inside corner of said 178.531 acre tract;

Thence North 41 degrees 06 minutes 40 seconds East, at 755.59 feet passing a 1/2" iron rod set in said Southwest right-of-way line of F.M. Highway 2436, and continuing for a total distance of 825.11 feet to a point in the common line between said 104.92 acre Brown tract and said 9.09 acre Rogers tract for the North corner of the tract herein described and an East corner of said 178.531 acre tract;

Thence South 50 degrees 14 minutes 04 seconds East, 105.87 feet along said common line to an angle point;

Thence South 48 degrees 57 minutes 47 seconds East, 229.16 feet along said common line to the PLACE OF BEGINNING and containing 6.177 acres, of which 0.5 acre lies within the right-of-way of F.M. Highway 2436.

Bearings, distances and coordinates used herein are "GRID" based on the Texas State Plane Coordinate System - South Central - NAD 83 (HARN). Convergence = +01 degree 00 minutes 56 seconds. Combined factor = 0.99988401.

STATE OF TEXAS

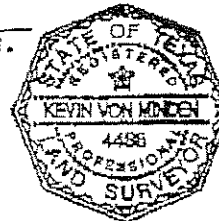
COUNTY OF FAYETTE

I, Kevin Von Minden, a Registered Professional Land Surveyor, do hereby certify the foregoing field notes to be true and correct to the best of my knowledge and belief.

BEFCO ENGINEERING, INC.

Consulting Engineering & Land Surveying

Kevin Von Minden
Kevin Von Minden, R.P.L.S.
Registration No. 4438
May 1, 2005
BEFCO Job No. 04-4120(2)



FILED
3:30 p.m.
MAY 3 1 2007

Carolyn Kubos Roberts
CAROLYN KUBOS ROBERTS
CO. CLERK, FAYETTE CO., TEXAS



CAROLYN KUBOS ROBERTS
COUNTY CLERK, FAYETTE COUNTY, TEXAS

Carolyn Kubos Roberts

MAY 3 1 2007

STATE OF TEXAS
COUNTY OF FAYETTE
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me, and was duly RECORDED in the Volume and Page of the Named RECORDS of Fayette County, Texas as stamped hereon by me on.

\$180.00 Pd.

AFTER RECORDING
RETURN TO: *4 Filed by:*

The Mendel Law Firm, L.P.
1155 Dairy Ashford, Suite 104
Houston, TX 77079
Tel: 281-759-3213

Fayette County

County Clerk

Carolyn Kubos Roberts

P.O. Box 59

La Grange, Texas 78945

(979)968-3251

(979)968-6558

Fax Number (979)968-8531

NOTE: BE SURE TO ADD RECORDS MANAGEMENT FEE, SECURITY FEE & RECORDS ARCHIVE FEE WHEN APPLICABLE.

RECORDING:

Records Management Fee, per document.....	5.00
Records Archive Fee, per document	5.00
Security Fee, per document.....	1.00

All Deed, Deeds of Trust, Oil & Gas Leases, Mechanics Liens, Releases, Affidavits, Power of Attorneys, Lis Pendens, Bill of Sale, Abstract of Judgements, State Tax Liens or Releases of State Tax Liens Utility Security Instruments, and other miscellaneous instruments filed in Official Records.

First Page..... 5.00

Additional page or part of a page..... 4.00

Plus a fee for each attachment or rider (14" Max.)..... 4.00

Plus for each additional name to be indexed over 5..... .25

Assumed Name recordings..... 1 pg. \$14.00 / 2 pg. \$16.00

Federal Tax Liens or Release...(This fee includes all fees, do not add any other fees).. 16.00

State Tax Liens or Release...(This fee includes all fees, do not add any other fees)..... 11.00

Financing Statements in Official records

Same fee as above recording fee.

UCC FINANCING STATEMENTS:

Records Management Fee, per UCC..... 5.00

Security Fee, per UCC..... 1.00

Standard Form

UCC-3, Termination..... 10.00

UCC-11, per debtor..... 10.00

Non-Standard Form

UCC-3, Termination..... 25.00

UCC-11, per debtor..... 25.00

NOTE: For filing fees for UCC records to be filed in Official records look under recording fees.