



DECLARATION
 Of
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
 For
OAKS OF WINDCREST SUBDIVISION PHASE I AND PHASE II
Fredericksburg, Texas

STATE OF TEXAS §
 §
 COUNTY OF GILLESPIE §

KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR OAKS OF WINDCREST is made and executed by Oaks of Windcrest, L.P., a Texas limited partnership (the "Declarant").

WITNESETH:

A. The Declarant is the owner of that certain real estate situated in the City of Fredericksburg and County of Gillespie, Texas more particularly described as follows:

That certain tracts of land situated in the City of Fredericksburg, Gillespie County, Texas, to be designated as the Oaks of Windcrest Subdivision, Phase I and Oaks of Windcrest Subdivision, Phase II, in accordance with the map or plat thereof to be recorded among the Map or Plat Records of Gillespie County, Texas, said tract of land being more particularly described on the attached Exhibit "A" Phase I and Exhibit "B" Phase II.

- B. The Declarant desires to create on the Property a planned residential community sharing certain common easements and other facilities and Improvements, to be instituted in phases with the Declarant adding undeveloped land in the future, for the purpose of developing that land as a part of the common plan.
- C. The Declarant hereby states that the real estate described above is held and shall be sold and conveyed subject to the following Covenants, Conditions, Restrictions and Easements which shall run with the land in order to protect the value and desirability of such real estate binding upon any and all parties having any right, title or interest in and to such land or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner who may have an interest in said land.
- D. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said Development, to create an entity to which would be delegated and assigned the powers of maintaining and administering the common properties and facilities, administering and enforcing the Covenants and Conditions set forth herein and collecting and disbursing the Assessments and charges hereinafter created.
- F. Pursuant to the foregoing, Declarant has caused or will cause to be incorporated under the laws of the State of Texas "Oaks of Windcrest Property Owners' Association, Inc.", a Texas non-profit corporation.

NOW, THEREFORE, Declarant hereby declares that the Property shall be owned, held, transferred, sold, conveyed, occupied and developed subject to the Cove-

nants, Conditions, Restrictions, Easements, reservations, charges, liens and stipulations hereinafter set forth.

ARTICLE I

DEFINITIONS

1. Association. "Association" shall mean Oaks of Windcrest Property Owners' Association, Inc., a Texas non-profit corporation, of which each Owner shall be a Member.
2. Assessment. "Assessment" or "Assessments" shall mean any one or more of the following Assessments:
 - 2.1. Special Assessment(s). "Special Assessment(s)" shall mean a charge against a particular Owner or Owners, and his or their respective Lot(s), as applicable, directly attributable to such Owner(s) and/or their respective Lot(s), equal to the cost incurred by the Association for corrective action or special services performed, or attorneys' fees and other charges payable by such Owner(s), pursuant to the provisions of this Declaration, plus interest thereon and costs of collection thereof as provided for in the Covenants of this Declaration.
 - 2.2. Annual Assessment(s). "Annual Assessment(s)" shall mean the amount, which is to be paid, by each Member and/or Owner to the Association to promote the recreation, health, safety, and welfare of the residents and/or Owners of the Properties and for the Improvement and maintenance of the Common Area.
3. Board. "Board" shall mean the Board of Directors of the Association.
4. Bylaws. "Bylaws" shall mean the Bylaws of the Association.
5. City. "City" shall mean the City of Fredericksburg, Texas, and its applicable agencies, departments and committees.
6. Committee. "Committee" shall mean the Architectural Control Committee as referred to in Article IV, Section 20 hereof.
7. Common Area. "Common Area" shall mean all real property (including the Improvements thereto) leased, owned or maintained by the Association for the common use and enjoyment of the Owners, whether in existence at the time of the imposition of this Declaration, or which may be added at any time in the future. By way of illustration, Common Area may include, but not necessarily be limited to, the following: private streets, sewage system, signs, street medians, entry gates, guardhouse, tennis courts, recreation area, detention areas, landscaping, lighting, entrance signs, walls, bridges, trails, green belts, and other similar or appurtenant Improvements.
8. Covenant. "Covenant" or "Covenants" shall mean the covenants, conditions, restrictions, easements, reservations, charges, liens and stipulations set forth herein that shall be applicable to, and will govern the Development, Improvement, ownership, use, occupancy, conveyance, administration and maintenance of, the Property and the Common Areas thereof.
9. Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.
10. Development. "Development" shall mean the Property, together with all Improvements now or hereafter situated thereon and all rights and appurtenances thereto, together with the Improvements thereon and rights and appurtenances thereto.
11. Improvement. "Improvement" or "Improvements" shall mean every structure on the Property and all appurtenances thereto of every type and kind, including, but not limited to, buildings, outbuildings, storage sheds or buildings, guest quarters, gazebos, patios, driveways, walkways and paved areas, tennis courts, fountains, large barbecue units, greenhouses, barns, basements, and large visible decorative items, swimming pools, garages, fences, screening walls, retaining walls, stairs, decks, landscaping,

- poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.
12. Lot. "Lot" or "Lots" shall mean and be defined as a separate single-family residential building site within the Property as the same is added to, subdivided and described pursuant to and in accordance with the plat(s) of the Property, as they may be amended from time to time and shall include any Improvements from time to time constructed, erected, placed, installed or located thereon.
 13. Member. "Member" shall mean a member of the Association.
 14. Mortgage. "Mortgage" shall mean the conveyance of any Lot to secure the payment of a debt which conveyance shall be released or re-conveyed upon the due payment of such debt and shall include a Deed of Trust.
 15. Mortgagee. "Mortgagee" shall mean a person or entity to which a Deed of Trust lien upon a Lot is given and shall include the Beneficiary of a Deed of Trust.
 16. Owner. "Owner" or "Owners" shall mean a person or persons, entity or entities, including Declarant, holding a fee simple interest in any portion of the Property, but shall not include a Mortgagee, unless or until Mortgagee forecloses on any Lot and becomes a fee simple owner thereof.
 17. Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide the construction, alteration or erection of any Improvement.
 18. Property. "Property" shall mean and refer to that certain real property hereinbefore described as the Subdivision and more particularly described as Oaks of Windcrest Subdivision, Phase I and Oaks of Windcrest, Phase II, according to the plat of said Subdivision as recorded in the Plat Records of Gillespie County, Texas, noted above, or any additions thereto.
 19. Restriction. "Restriction" or "Restrictions" shall mean the covenants, conditions, restrictions, easements, reservations, charges, liens and stipulations set forth herein that shall be applicable to, and will govern the Development, Improvement, ownership, use, occupancy, conveyance, administration and maintenance of, the Property and the Common Areas thereof.
 20. Rules and Regulations. "Rules and Regulations" shall mean the Rules and Regulations pertaining to the landscaping and architectural control of Improvements constructed in the Subdivision.
 21. Single-Family Unit. "Single-Family Unit" shall mean and refer to any Improvements on a Lot, which are designed and intended for occupancy and use as a residence by one person, by a single-family, or by persons related by blood, marriage or adoption, who are maintaining a common household. Nothing in this section should be interpreted to prohibit occupancy of the Property by a temporary guest of the occupants.
 22. Subdivision. "Subdivision" shall mean the real estate hereinabove described.

ARTICLE II

REQUIREMENTS FOR LAND USE AND CONSTRUCTION

1. Single-Family Residential Lots. All Lots within the Subdivision shall be single-family residential Lots. No structure shall be erected on any single-family Lot to exceed thirty-five feet (35') in height; including private garages and garden structures such as are ordinarily used in connection with a single-family residence, excepting aerials and chimneys.
2. Setbacks. Setbacks lines are hereby established as follows:
 - 2.1. Front setback line - Twenty-five feet (25').
 - 2.2. Rear setback line - Ten feet (10').
 - 2.3. Side setback line - Five feet (5').

- 2.4. Side setback lines (the street side of a corner Lot) - Fifteen feet (15').
- 2.5. No building shall be erected or permitted to remain on any residential Lot nearer than the foregoing setback lines.
3. Re-subdividing. No Lot shall be re-subdivided. Only one (1) single-family structure shall be permitted on each Lot. A Lot Owner, who owns two or more contiguous Lots, may combine said Lots to form one Lot through replatting. The original Lot lines which are being removed or fall within this combined Lot shall be released of building setbacks providing there are not existing utilities along these lines at the time of re-platting. All subdividing and re-plating must be approved by the Architectural Control Committee and platted to the rules, laws and regulations of the City of Fredericksburg, Gillespie County and the State of Texas.
4. Temporary Structures. No trailer, mobile home, tent, shack, garage, barn or other outbuilding shall at any time be used on any part of the Subdivision as a residence, temporarily or permanently, nor shall any residence of temporary character be erected or permitted on any part of the Subdivision, except that portable buildings and trailers may be used to house construction materials or for a construction office, however, all such portable buildings and trailers must be removed immediately upon completion of construction.
5. Minimum Size. All Single-Family Units shall contain not less than 1,300 square feet of enclosed, air-conditioned and heated living space, exclusive of porches (open or covered), decks and garages. Additionally, all two-story dwellings shall contain not less than 1,600 total square feet, of which a minimum of 1,000 square feet shall be first floor living area. The Architectural Control Committee is hereby permitted to approve deviations in the dwelling size (on a floor-by-floor basis) in instances where, in the judgment of said Committee, such deviation will result in a more beneficial use of the Lot and will not distract from the general appearance and quality of the Property.
6. Garages. No carports will be permitted. Boats, trailers and recreational vehicles shall be parked in a garage or in a rear yard so as to be hidden from any street. However, for a period not to exceed forty-eight (48) hours, boats, trailers and recreational vehicles may be parked on a drive or in front of a residence for loading and unloading purposes.
7. Multi-Family Structures. No multi-family dwelling of any kind shall be permitted on any Lot. No boardinghouse, apartment or other rental unit shall be permitted on any Lot or as part of any residence in the Subdivision.
8. Offensive Conduct, Nuisances. Except as expressly provided in this Declaration, no Owner shall permit or suffer anything to be done or kept about or within his or her Lot, or on or about the Property, which may obstruct or interfere with the rights of any other Owner, or persons authorized to use and enjoy the Common Areas, or annoy them by unreasonable noises, odors or otherwise, nor will the Owner commit or permit any nuisance or commit or suffer any illegal act to be committed therein. Each Owner shall comply with the Association Rules, and the requirements of all health authorities and other governmental authorities having jurisdiction over the Property. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.
9. Commercial Activities. No trade or profession shall be carried on or practiced for commercial purposes on any residential Lot. No signs of any kind shall be displayed to the public view on any residential Lot except one sign of not more than four square feet in area advertising a Lot(s) for sale, or signs used by the Declarant or builders to advertise on Lot(s) during the construction period.
- 9.1. No Commercial Use. Except for Declarant's use of the Property as provided in 9.4 below, no business no business activity, whether

for profit or not, shall be permitted in or on any Lot, except that an Owner or occupant may conduct business activities that are merely incidental to the Owner's residential use within a Single-Family Unit so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Single-Family Unit; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (c) the business activity does not involve visitation of the Single-Family Unit by clients, customers, suppliers or other business invitees in numbers or frequency that would exceed normal household traffic; (d) the business activity does not involve door-to-door solicitation of residents of the Subdivision; and (e) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Oaks of Windcrest, as may be determined in the sole discretion of the Board. A day-care facility, home day-care facility, church, nursery, pre-school, beauty parlor, barbershop or other similar facility is expressly prohibited.

- 9.2. The terms "business" and "trade" as used in this Section shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods or services for or to other persons other than the provider's family, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does not generate a profit; or (c) a license is required therefore. This Section does not apply to any activity conducted by the Declarant, or by a builder with approval of the Declarant, with respect to its Development and sale of the Real Property.
- 9.3. No vehicles with more than two axles shall be permitted to be parked or stored for a period in excess of twenty-four (24) hours in Oaks of Windcrest, without prior written permission of the Association, whose approval may be withheld in its sole and absolute discretion.
- 9.4. The Declarant and its agents and representatives have the right to the nonexclusive use, without charge, for display and exhibit purposes, for the maintenance of sales facilities and model homes and for purposes of selling Lots and/or construction of Improvements.
10. Second Hand Structures. No old or second hand buildings or house trailers shall be located on any Lot in the Subdivision unless used to temporarily house construction materials or for a construction office. However, all such buildings or trailers must be removed immediately upon the completion of construction.
11. Fences.
- 11.1. All fences within the Subdivision shall be of the following composition:
- 11.1.1 All masonry (if concrete tile block, must be plastered and painted); or
- 11.1.2 all wrought iron; or
- 11.1.3 any combination of wrought iron and masonry; or
- 11.1.4 a combination of masonry and cedar; or
- 11.1.5 all cedar or redwood.
- 11.2. Cedar or redwood fences shall be constructed of galvanized or painted pipe posts, nine feet (9') maximum on center, set in concrete. Three 2X4 wolmanized or metal rails are required (top, middle and bottom). The cedar facing must be to the "outside" of the Lot when adjacent to streets.

- 11.3. No fence, wall, or hedge may be higher than six feet (6). Hedges may not be installed or maintained forward of the front building line of the main structure in excess of four feet (4') in height. No fence or wall shall be built forward of the front wall line of the main structure. Side fences on corner Lots shall not be constructed within the building setback line established from any side street.
- 11.4. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive the aforesaid composition requirements for fences and the aforesaid height or set-back limitation in connection with retaining walls and decorative walls if, in its sole discretion, such waiver is advisable in order to accommodate a unique, attractive or advanced building concept design or material or to accommodate unusual slopes or topography of a particular Lot, and the resulting fence, decorative wall and/or retaining wall (whichever is applicable) will not detract from the general appearance of the neighborhood.
- 11.5. No chain-link fences may be built or maintained on any Lot, other than to enclose a dog or pet enclosure, provided that the chain-link fencing is not visible from the street and not located outside the building setback lines.
- 11.6. No fence, wall, or hedge or shrub planting which obstructs sight lines shall be placed or permitted to remain on any corner Lot within the area as designated by the building regulations of the City of Fredericksburg code. No tree shall be permitted to remain within such distance of such intersections, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.
12. Ordinance. All Improvements shall be erected in conformity with the ordinances of the City of Fredericksburg.
13. Architectural Styles. Designs of traditional Southwestern style, Mediterranean, Tuscan, California Territorial Spanish, Texas Hill Country, Spanish Colonial or Monterrey style architecture and construction shall be favored. The Architectural Control Committee shall in its exclusive discretion approve the proposed architectural character and style of any Improvements to be constructed in the Subdivision. The following standards shall apply to the Subdivision as a general rule; however, the Architectural Control Committee may permit deviations where the Committee deems appropriate.
14. Materials. Building surface materials shall be primarily stucco, brick or stone; materials such as metal siding, vinyl siding, fiberboard siding, metal panels, mirrored glass; un-stuccoed masonry cinder block or cement shall be prohibited. Wood siding or Hardy Board (cement board) shall not be allowed for an entire wall unless on the rear of the main structure.
- 14.1. All Single-Family Units shall be constructed of recognized standard construction quality. New construction materials (except stone) shall be used in constructing any dwelling or outbuilding situated on a Lot. The exterior walls of all one-story residential buildings and the lower story and entire (both first and second stories) front of all two-story residential buildings shall be composed of sixty percent 60% masonry or masonry veneer (masonry or masonry veneer includes stucco, ceramic tile, clay, brick, and rock). In addition, the exterior walls of all two-story residential buildings shall be composed of masonry or masonry veneer for fifty percent 50% or more of the total exterior wall area. The minimum masonry percentage shall apply to the aggregate area of all exterior walls but be exclusive of door, window and similar openings.

- 14.2. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive or modify this Restriction and that contained in the preceding paragraph if, in its sole discretion, such waiver or modification is advisable in order to accommodate a new or a unique or advanced building concept, design, or material, and the resulting structure will not detract from the general appearance of the Property.
15. Color. The color of residences shall be approved by the Architectural Control Committee and shall generally be in tans, off-whites, browns, Mediterranean, and earth tones. Surfaces of stone or brick shall be in natural color. Entries and portals may be emphasized by the use of white or other colors or materials. Painting of residences with bold patterns shall be prohibited.
16. Roof Form, Slope and Shape. Residences shall be designed with clay and cement tile roofs, fire-rated composition shingles or standing-seam metal roofs (no reflective finishes). Rock-type roofs or roll-type composition roofs shall be prohibited when visible from the street, unless otherwise exempted by the Architectural Control Committee.
17. Facades, Cantilevers, Arches. Long uninterrupted horizontal facades shall be avoided through the use of portals, offsets in the wall, variations in roof or parapet heights and by other means. The use of arches shall be permitted.
18. Roof-Mounted Equipment. Roof-mounted mechanical (including, without limitation, air-conditioning and heating equipment), microwave dishes, aeri-als, telephone and television equipment and other obtrusive structures shall be architecturally screened or avoided and shall be of a low profile to minimize visibility. Solar devices shall be mounted flush with the roof, behind a parapet or otherwise architecturally screened to minimize visibility.
19. Porches, Portals and Patios. The use of porches, portals and patios, wood beams, vigas, corbels, spindles, columns, planters, tile niches, and stone details and other such unique architectural details shall be encouraged in the design of any residence.
20. Landscaping/Exterior Lighting. Landscaping and exterior lighting plans for front and side yards visible from the street shall be submitted to the Architectural Control Committee for approval. All exterior lighting shall be designed and installed in such a fashion that in the judgment of the Architectural Control Committee the privacy of the other Lot Owners shall not be affected.
21. Exceptions. The Architectural Control Committee shall have the right to make exceptions to any of the requirements, conditions, or Covenants of this Declaration, except where such exception may be in conflict with any law, ordinance or other governmental regulation.
22. Building Time Requirements. By the acceptance of this Declaration each Owner and agrees with the Declarant:
- 22.1 Commencement. To commence the construction of a residence on such Owner's Lot within twenty-four months (24) from the date of the original purchase of such Lot from the Declarant. The Architectural Control Committee may grant a two (2) year extension of the date upon which construction must commence.
- 22.2 Termination. To complete such construction within one (1) year from the date of the commencement of construction however; the period to complete construction shall be extended by the Architectural Control Committee for: (a) interruption of construction due to acts of God, labor strikes, delay in the transportation of materials, fire or casualty loss and other interruption which in the opinion of the Architectural Control Committee was reasonably beyond the control of the Owner, and/or (b) if construction of a residence has been carried on continuously the Architectural Con-

trol Committee may grant a reasonable extension for the completion of such construction. In the event an Owner shall fail to commence construction as required by Paragraph 21.1 the Declarant shall have the right without obligation, to repurchase such Owner's Lot at the original purchase price of such Lot from Declarant, excluding original closing costs. The Declarant may exercise this right to repurchase at any time within eighteen (18) months after such right accrues by serving written notice to that effect upon such Owner.

23. Driveways and Sidewalks. All driveways and any sidewalk running from the street to the front entry of the residence shall be of concrete or masonry construction, brick pavers or a combination of other decorative masonry materials that has been approved by the Architectural Control Committee. No asphalt driveways or sidewalks are permitted.
24. Swimming Pools. Movable, aboveground swimming pools in excess of eight feet (8') in diameter are strictly prohibited. All swimming pools in excess of eight feet (8') in diameter must be of a permanent nature built into the ground and in a fenced enclosure with self-closing and self-latching gates, in accordance with any applicable ordinances, regulations, or statutes. No swimming pools shall be constructed in front or side yards.
25. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property, and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers to the rear of the residence and such containers shall be kept within enclosed structures or appropriately screened from view by the public, and contents thereof disposed of regularly as required by the City.
26. Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.
27. Construction of Improvements and Design Restrictions. In order to protect the overall integrity of the Development as well as the quality and appearance of Improvements of all Property Owners within the Subdivision, the Architectural Control Committee shall have full authority to control all construction, Development and improvement activities of any kind within the Subdivision, and to insure that all such activities are properly conducted in accordance with and in good workman-like manner, and in accordance with standard industry trade practices. Traditional style architectural designs are encouraged. No geodesic, A-frames, log homes, or free-style architectural designs shall be permitted.
28. Sidewall Design. The sidewall of each house on a corner Lot that faces a side street will be designed and completed to create an attractive appearance that is comparable to its front elevation in terms of building materials, use of architectural trim and decor, windows, doors and other relief areas.
29. Repair of Buildings. All Improvements upon any of the Property shall at all times be kept in good, safe, attractive condition and repair and adequately painted or otherwise maintained by the Owner thereof.
30. Removal of Improvements. In the event that a Single-Family Unit or other Improvement on a Lot shall be damaged or destroyed by casualty, hazard or other cause, including fire or windstorm, then, within a reasonable period, not exceeding three (3) months following the occurrence of the offending incident, the Owner of the affected Improvement shall cause the damage or destroyed Improvements to be repaired, rebuilt or reconstructed, or in the alternative, to be removed and cleared from such Lot. Any such repair, rebuilding or reconstruction shall be approved and accomplished as

otherwise required for new construction pursuant to the provisions of this Declaration.

31. Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property, which are or might be unsafe or hazardous to any Person or Property.
32. Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. No tank for the storage of oil, gasoline, or other hazardous products may be maintained on any Lot.
33. Unightly Articles; Vehicles. No unsightly article shall be permitted to remain on any Lot so as to be visible from adjoining Property or public streets (except as noted below in paragraph 35). Without limiting the generality of the foregoing, trailers, trucks (other than pickups not to exceed one-ton capacity), boats, tractors, vans, recreational vehicles and other vehicles used or designed for use as commercial vehicles, campers, wagons, buses, motorcycles and similar two (2)-and four (4)-wheel motorized vehicles, motor scooters, golf carts, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in fully enclosed garages or other structures, screened from public view.
34. Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time, and no travel trailers or recreational vehicles, shall be parked on or near any Lot so as to be visible from adjoining Property or public streets for more than forty-eight (48) hours.
35. Animals - Household Pets. No animals, including pigs (except as permitted by City ordinances), hogs, swine, poultry or fowl (although birds which are commonly kept as household pets, including but not limited to Parrots, Cockatiels, Canaries, etc., shall be permitted), wild animals, reptiles (except, turtles, lizards and non-venomous snakes kept and contained solely within the residence), horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept or maintained on the Property. No domestic household pet shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than on the Lot of its Owner unless confined to a leash. The household within each Lot shall not keep more than two (2) dogs and/or two (2) cats at any one time, or two (2) of any other type of domestic animal of any one (1) kind. No animal may be stabled, maintained, kept, caged for or boarded for hire or remuneration on the Property and no kennels or breeding operations of animals will be allowed on any Lot. Dog runs shall not be visible from any portion of the Property at street level. No vicious or dangerous animals shall be allowed on the Property.
36. Maintenance of Lot and Lawns and Plantings. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot cultivated, pruned or mowed, free of trash, weeds and other unsightly material. Prior to the construction of a residence on a Lot, the Lot Owner shall regularly mow such unimproved Lot and keep it neatly trimmed and free of trash and other unsightly material.
 - 36.1 Commensurate with the completion of construction, front yards (and side yards on corner Lots) shall be fully sodded, seeded or planted in other ground cover within two (2) months of completion of the residence.
 - 36.2 All front yards (and side yards on corner Lots) must be landscaped with vegetation, thereby prohibiting yards that are essentially

covered by cement, gravel, crushed granite or other hard surface or impervious materials.

ARTICLE III **DEVELOPMENT OF THE PROPERTY**

1. **Addition of Land.** Declarant hereby reserves to itself and shall hereafter have the right, but not the obligation, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any Owner, party or person whomsoever or whatsoever, to impose this Declaration or a substantially similar Declaration upon additional property adjacent, contiguous or nearby to the Property. Declarant may, at any time and from time to time, add any other lands to the Property, and upon such addition, this Declaration and the Covenants, Conditions, Restrictions and obligations set forth herein shall apply to the added land, and the rights, privileges, duties and liabilities of the persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration, unless such supplemental Declaration shall provide for changes to the Declaration to deal with the unique character of Declarant's overall Development plans for the added property. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Real Property Records of Gillespie County, Texas, a notice of addition of land (in the form of a Supplemental Declaration) containing the following provisions:
 - 1.1. A reference to this Declaration, which reference shall state the book and page numbers of the Gillespie County Real Property Records wherein this Declaration is recorded;
 - 1.2. a statement that the provisions of this Declaration shall apply to the added land;
 - 1.3. a legal description of the added land; and
 - 1.4. any Covenants, Conditions or Restrictions that are different or unique to the added land.
2. **Withdrawal of Land.** Declarant may, at any time and from time to time, reduce or withdraw areas owned by Declarant from the Property, and upon such withdrawal, this Declaration and the Covenants, Conditions, Restrictions and obligations set forth herein shall no longer apply to those lands withdrawn. In order to withdraw lands from the Property hereunder, Declarant shall be required only to record in the Real Property Records of Gillespie County, Texas, a notice of withdrawal of land containing the following provisions:
 - 2.1. A reference to this Declaration, which reference shall state the book and page numbers of the Gillespie County Real Property Records wherein this Declaration is recorded;
 - 2.2. a statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
 - 2.3. a legal description of the withdrawn land.

ARTICLE IV **THE ASSOCIATION**

1. **Purpose.** The Association shall be responsible for:
 - 1.1. Maintenance of landscaping within the medians of Post Oak Road and the drainage detention areas;
 - 1.2. maintenance of lighting within the Subdivision.
 - 1.3. Operations. The Association shall act by and through its Board of Directors who shall be elected in accordance with the Bylaws of the Association and whose duties will be governed by the terms of this Declaration, the Articles of Incorporation and Bylaws of the Association.

2. Membership. Each Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Lot. Ownership of a Lot shall be the sole qualification of membership. The membership held by an Owner shall not be transferred, pledged or alienated in any way except upon the sale or encumbrance of such Lot and then only to the purchaser or Mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected on the books and records of the Association. Evidence of transfer of membership shall be furnished the Association in the form of a certified copy of the recorded conveyance of a Lot by the current Owner thereof as reflected upon the books and records of the Association.
3. Voting Class. The Association shall have two classes of voting membership with the voting rights herein indicated:
 - 3.1. Class A Member. Class A Members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interest in any Lot, all such persons shall constitute one Member and the one vote for such Lot and shall be exercised as they among themselves shall determine but in no event shall more than one vote be cast with respect to any such Lot.
 - 3.2. Class B Member. Declarant, its successors and assigns, shall be a Class B Member and shall be entitled to three (3) votes for each developed Lot owned and twelve (12) votes per acre of undeveloped land owned by Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
 - 3.2.1. When the total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership;
 - 3.2.2 January 1, 2014; or
 - 3.2.3. such time, earlier than the occurrence of 3.2.1 or 3.2.2, above, as may be determined by Declarant in its sole discretion.
4. Turnover.
 - 4.1. At any time after commencement of operations of the Association, at Declarant's sole discretion, the Property Owners may be required to take over the management of the Association and relieve Declarant of all duties associated therewith. Upon such "Turnover" by the Declarant, the Property Owners within the Subdivision will be required to choose their own Board of Directors to represent them and to manage the Association in accordance with the terms and conditions of these Restrictions and to establish any and all Bylaws, procedures and other management devices by which the Association shall operate. After "Turnover," any Board Members/Directors must be Owners within the Subdivision.
 - 4.2. Notwithstanding anything to the contrary, until such "Turnover" has taken place, the management of the Association shall be by Declarant and its staff, and any expenses incurred in such management shall be reimbursed to Declarant by the Association. Said reimbursable expenses shall include the cost of Declarant's staff for the time spent in the management thereof of this Association. From and after the time of such turnover, the Association shall indemnify and hold Declarant harmless from and against any and all claims or damages of every kind arising out of the development and operations of the Association, or Common Areas, if any.
5. Personal Obligation and Lien Rights Associated with Collection of Dues and Assessments.

- 5.1. Each Lot Owner, by acceptance of a deed, whether or not it shall be so expressed in such deed, is deemed to agree to pay to the Association regular Annual Assessments and all other Association dues, fees, fines, Assessments or charges of any kind, including Special Assessments for capital improvements, which may be established and collected as hereinafter provided.
- 5.2. The Annual and Special Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Property against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Property at the time when the Assessment became due and payable. The personal obligation for delinquent Assessments shall not pass to any successors or assigns in title unless assumed by them.
6. Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents and/or Owners of the Properties and for the Improvement and maintenance of the Common Area. These expenses may include, but shall not necessarily be limited to, payment of taxes and insurance, construction, repair or replacement of improvements to the Common Area, cost of trash and debris clean-up, street and Lot cleaning, cost of professional or other outside services, and labor, equipment, materials, outside management and supervision necessary to carry out its authorized functions. Additionally, any other expenses which, in Declarant's or Association's sole discretion, are deemed necessary to uphold the Subdivision's Property values and/or are for the overall betterment of the Development and its appearance, shall be the responsibility of the Association and shall be paid out of Assessments including, but not necessarily limited to, cost of security, Covenant enforcement, Lot cleaning, general maintenance and road cleaning.
7. Initial Annual Assessment. Until adjusted pursuant to the terms as noted in this document, the maximum Annual Assessments shall be as follows:
 - 7.1. Class A: \$ 100.00 per individual Lot.
 - 7.2. Class B: \$ 25.00 per individual Lot developed Lot and no Assessment for undeveloped acreage.
8. Increases. Unless an increase in the Annual Assessment is necessitated because of the addition of Common Areas, the following formulae shall govern the amount of the allowable increase:
 - 8.1. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment may be increased each year by not more than 15% above the maximum Assessment for the previous year without a vote of membership.
 - 8.2. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment may be increased above 15% by a vote of seventy-five percent (75%) of the Members who are voting in person or by proxy at a meeting duly called for this purpose.
 - 8.3. The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum noted above.
9. Special Assessments. In addition to the Annual Assessment authorized, the Board of Directors of the Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital Improvement on or which is a part of the Common Areas, or for carrying out other purposes of the Association as stated herein or in the Articles of Incorporation of the Association.
10. Notice and Quorum for any Action Authorized Under Sections 8 and 9. Written notice of any meeting called for the purpose of taking any action

authorized under Section 8 or 9 above and the "Annexation" portion of these Restrictions shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of any meeting. At the first such meeting called, the presence of Members or proxies entitled to cast thirty percent (30%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called by the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

11. Uniform Rate of Assessment. Any and all dues of the Association or Special Assessments must be fixed at a uniform rate for all classes of Lots and may be collected on a monthly basis in lieu of annually. This decision may be made by the Declarant until Turnover occurs, and thereafter may be made by a majority of the Board of Directors.
12. Date of Commencement of The Annual Assessments. The Annual Assessments for any particular Lot by the Property Owners' Association provided for herein shall not commence until June 1, 2007.
 - 12.1. For billing purposes, the Annual Assessment period will be the first day of each January and shall commence as to each Lot on the first day of the month following the time of commencement, as noted above, and shall be prorated accordingly with all dues payable in advance at the closing up to the time of the next future billing. The Board of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto.
 - 12.2. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.
 - 12.3. Notwithstanding any other terms or conditions set forth in these Restrictions, any expenses which are incurred by Declarant prior to the establishment of the Association, or prior to sufficient income being received from Assessment billings, and which would normally be the responsibility of the Association, shall be reimbursed to Declarant from proceeds of the Association as funds become available from dues and Assessments, but, in any case not later than one (1) year after the time of establishment of the Association and/or the expense was incurred.
13. Effect of Nonpayment of Assessments: Remedies of the Association. The Property Owners' Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owners' Lot.
14. Subordination of the Lien to Mortgage. The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of the Lot pursuant to a Mortgage foreclosure shall extinguish the lien of such Assessments as to payments, which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.
15. Exempt Property. All Common Areas and other portions of the Properties, if any, which are dedicated to public authorities, shall be exempt from Assessment.
16. Option to Cure. Declarant, or the Association, has the option, but not the obligation to perform any action required of any Owner by these Restriction-

tions. In the event that Declarant or the Association elects to do so, all sums incurred by the Declarant or the Association in performing the required action shall be charged against the Owner and if not paid within thirty (30) days after it is due said sums shall bear interest at the highest legal rate and shall be secured by a lien (the same as if said sums were dues and/or Assessments) on all Lots owned by said Owner. The Declarant or the Association may bring an action at law against the Owner of the Lot subject to the Assessment for payment thereof and/or bring an action to foreclose the lien, which secures the Assessment.

17. Suspension of Voting Rights. The voting rights of any Member shall be automatically suspended during any period in which he shall be delinquent in the payment of Assessments due the Association.
18. Board of Directors. The Board of Directors of the Association shall be two in number. The original Board of Directors shall be composed of the following: Jon H. Starnes, Austin, Texas, and Eddie Karam, El Paso, Texas, who shall commence to serve at the time of recordation of this Declaration and shall serve until their successors are elected pursuant to the provisions of the Bylaws of the Association. The original Directors shall serve at the pleasure of the Declarant and may be removed from office at any time by Declarant and during said period, Declarant shall have authority in its sole discretion, to fill any vacancies, created or existing on said Board. The number of Board members may be increased from time-to-time, at the discretion of the Board, but shall not be greater than seven Board members.
19. Rules and Regulations. The Association shall have the power to establish and enforce compliance with Rules and Regulations and to amend the same from time to time. A copy of such Rules and Regulations shall be delivered or mailed to each Member promptly upon the adoption thereof.
20. Architectural Control Committee. The Directors shall appoint or act as the Architectural Control Committee and delegate to said Committee such power and authority to control and supervise the construction and landscaping in the Subdivision. No building, fence, wall, exterior lighting installation or other structure or Improvement shall be commenced, erected or maintained upon the Subdivision, nor shall any exterior addition to or change or alteration therein be made until the Plans and Specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Committee. In the event said Committee fails to approve or disapprove such design and location within thirty (30) days after said Plans and Specifications have been submitted, approval will be presumed.
 - 20.1. The goal of the Committee is to encourage the construction of Improvements of good architectural design; quality and proper size compatible with Declarant's conceptual plan for the Property. The Committee may disapprove the construction or design of an Improvement on purely aesthetic grounds where, in its judgment, such disapproval is required to protect the continuity of design or values of the neighborhood and of other homeowners, or to preserve the serenity and natural beauty of any surroundings. Prior judgments regarding such matters of design or aesthetics shall not be deemed binding upon the Architectural Control Committee if such Committee feels that the repetition of such matters will have an adverse affect on the Properties.
 - 20.2. No Improvement, as that term is defined in Article I of this Declaration, shall be erected, constructed, placed, altered (either by addition or deletion), maintained or permitted to remain on any portion of the Property until Plans and Specifications, in such form and detail as the Committee may deem necessary, shall have been submitted to and approved in writing by such Committee. The

- Architectural Control Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the Architectural Control Committee shall be final, conclusive, and binding upon the applicant.
- 20.3. The Committee may establish and publish from time to time reasonable administrative procedures and separate building guidelines covering residential and non-residential Improvements.
 - 20.4. The Owner must submit a design plan, which must adequately reflect to the Committee the true design quality of the proposed work. Final Plans and Specifications shall be submitted in complete form in duplicate and shall include a site plan, floor plan and all elevations of any proposed structure(s) (including walls, signs, pools, pool buildings, etc.), roof height, specification of materials, colors, textures and shapes. All exterior measurements and dimensions must be shown at a scale of 1/4" = 1' minimum. Description of materials and finishes must be clearly indicated.
 - 20.5. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install Improvements which are in variance from the Covenants, Restrictions, or architectural standards which are provided in this Declaration or the applicable Covenants which may be promulgated in the future. In any case, however, such variances must, in the Committee's sole discretion, blend effectively with the general architectural style and design of the community and must not detrimentally affect the integrity of the Property nor harmony with the natural surroundings.
 - 20.6. No member of the Committee shall be liable to any Owner for claims, causes of action or damages arising out of the grant of any variance to an Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Committee's right to strictly enforce the Covenants, Restrictions and architectural standards provided hereunder, against any other Owner.
 - 20.7. If the Architectural Control Committee fails to approve or to disapprove either the preliminary design plans or the final Plans and Specifications or to reject them as being inadequate within thirty (30) days after submittal thereof, it shall be conclusively presumed that such Committee has approved such preliminary design plan or such final Plans and Specifications. If preliminary design plans or final Plans and Specifications are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.
 - 20.8. All requests for a variance must receive written approval from the Committee. If no approval is received within thirty (30) days after submittal thereof, it shall be conclusively presumed that such Committee has rejected such request for a variance from the Covenants, Restrictions, or architectural standards which are provided in this Declaration or the applicable Covenants of these which may be promulgated in the future.
21. Limitation of Liability. Neither the Declarant, the Association, the Architectural Control Committee, nor any of the members of such Committee shall be liable in damages or otherwise to anyone submitting Plans and Specifications or request for a variance for approval or to any Owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or

- disapproval or failure to approve or to disapprove any Plans and Specifications and/or request for a variance.
22. Contracts. The Association shall have authority to enter into contracts with persons, firms or organizations for the purpose of installing and maintaining landscaping therein, and for any other purpose approved by all of the Owners of the Subdivision.
23. Delinquent Assessments. The payment of an Assessment shall be considered delinquent if not paid upon the due date thereof and shall bear interest from such date until paid at the highest legal rate of interest per annum permitted under applicable laws of the State of Texas. The Association shall also be entitled to collect a late charge in such amounts and upon such conditions that the Board of Directors may from time to time determine. Each Owner (whether one or more) shall be and remain personally liable for the payment of all Assessments which may be levied against such Owner by the Association in accordance with the terms and provisions of this Declaration until such Assessment shall be paid in full, both principal and interest. In the event of sale of conveyance of a Lot, the purchaser of such Lot shall be entitled to pay delinquent Assessments out of the sales price for such Lot, and failing this such purchaser shall become personally liable for payment of such delinquent Assessments by his acceptance of a Deed to such Lot from an Owner in default.
24. Deed of Trust Lien. EACH OWNER, UPON ACCEPTANCE OF OWNER'S DEED TO A LOT GOVERNED BY THIS DECLARATION CONVEYS THE LOT TO JON STARNES, AS TRUSTEE (OR SUCH OTHER PARTY AS MAY BE DESIGNATED FROM TIME TO TIME BY THE ASSOCIATION BY FILING AN APPROPRIATE DESIGNATION AMONG THE REAL PROPERTY RECORDS OF GILLESPIE COUNTY, TEXAS), IN TRUST, FOR SO LONG AS THE DECLARATION REMAINS IN EFFECT, SUCH CONVEYANCE OPERATING AS A DEED OF TRUST. IF AN OWNER FAILS TO PAY ANY ASSESSMENTS OR REIMBURSEMENTS WHEN DUE, OR PERFORM ANY OBLIGATIONS REQUIRED OF SAID OWNER UNDER THIS DECLARATION, THE ASSOCIATION MAY PERFORM THOSE OBLIGATIONS, ADVANCING FUNDS AS REQUIRED, AND BE REIMBURSED BY OWNER ON DEMAND FOR ANY SUM SO ADVANCED, INCLUDING ATTORNEY'S FEES, INTEREST AND ALL OTHER AMOUNTS DUE IN ACCORDANCE WITH THIS DECLARATION. THE SUM TO BE REIMBURSED SHALL BE SECURED BY THIS DEED OF TRUST.
25. Breach of Lien. If an Owner fails on demand to reimburse the Association for the sums advanced or the Assessments owed, and such failure continues within the time which it must be cured, as may be required by law or by written agreement, then the Association, as the Beneficiary of the Deed of Trust may request that the Trustee foreclose the lien according to the Texas Property Code Section 51.002, as it may be subsequently amended, and Texas Property Code Chapter 209, as it may be amended. To the extent determined necessary by the President of the Association, in its sole discretion, said party may, by amendment to this Declaration, without the joinder of any other party, file an amendment in the office of the County Clerk of Gillespie County, Texas, to amend the provisions hereof so as to comply with any amendments to said Section 51.002 and/or Chapter 209 of the Texas Property Code, or such other statute or laws as may be subsequently implemented which affect and/or control the lien, and foreclosure of the lien, as set forth herein.
26. Exemption. No Owner may exempt himself from liability for Assessments duly levied by the Association nor release the Lot owned by him from the liens and charges hereof by waiver of the use and enjoyment of the services furnished by the Association or by abandonment of his Lot.
27. Assessment Roll. The Assessments against all Owners shall be set forth upon a roll of the Lots which shall be available in the office of the Association for inspection at all reasonable times by Owners or their duly authorized representatives. Such Assessment roll shall indicate for each Lot, the name and address of the Owner, or Owners, the Assessments for all purposes and the amounts of all Assessments, paid and unpaid. A Certifi-

cate made by the Board of Directors or an officer of the Association, as the status of an Owner's Assessment account shall limit the liability of any person for whom made, other than the Owner. The Association shall issue such Certificates to such persons as an Owner may request in writing and shall be entitled to charge a reasonable fee therefore in such amount as shall be determined by the Board of Directors from time to time.

28. Enforcement. The Association may enforce collection of delinquent Assessments by suit at law for a money judgment and may seek non-judicial or judicial foreclosure of the lien reserved herein. Failure to seek judicial foreclosure of such Vendor's Lien in any suit at law for a money judgment shall not operate to waive such lien, but same shall remain in full force and effect to secure payment of all Assessments due or become due by such Owner.
29. Event of Default. Failure to comply with any of the terms of this Declaration, the Articles of Incorporation or Bylaws of the Association or the duly adopted Rules and Regulations of the Association, shall constitute an event of default and shall be grounds for relief which may include without limitation, an action to recover sums due for damage and injunctive relief or any combination thereof. In addition to all other remedies herein contained or as may be provided by law, the Association may discontinue the finishing of services to an Owner who is in default of his obligations to the Association upon ten (10) days written notice to such Owner. In any proceeding arising because of any alleged default by an Owner, the Association, if successful, shall be entitled to recover the costs of the proceedings and reasonable attorney's fees from such Owner.
30. No Waiver. The failure of the Association or of any Owner to enforce any right, provision, Covenant or condition which may be granted by this Declaration, the Articles of Incorporation or Bylaws of the Association or the Rules and Regulations shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provision, Covenant or condition in the future.
31. Dissolution. The Association may be dissolved at any time after the expiration of twenty-five (25) years from the date this Declaration is recorded by the vote of at least seventy-five percent (75%) of all the Members of the Association. In the event the Members vote to dissolve the Association, the Vendor's Liens reserved for the benefit of the Association shall be released.

ARTICLE V

GENERAL CONDITIONS

1. Easements. The Subdivision Plats dedicated for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such Subdivision Plats further establishes limitations, reservations and Restrictions applicable to the Properties. Further, Declarant and Declarant's predecessors in title may have heretofore granted, created and dedicated by recorded instruments certain other easement and related rights affecting the Properties. All dedications, limitations, Restrictions and reservations shown on the Subdivision Plats and all grants and dedications of easements and related rights heretofore made by Declarant and Declarant's predecessors in title affecting the Properties are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Properties.
2. Covenants. The Covenants of this Declaration shall run with the Land and be binding upon each Owner, his successors in interest, and all persons claiming under them for a period of twenty-five (25) years from the date

these Covenants are recorded; thereafter these Covenants shall be automatically extended for successive period of ten (10) years each, unless amended or extinguished by a written instrument executed and acknowledged by seventy-five percent (75%) of the Owners of the Property, then subject to this Declaration and filed of record in the Real Property Records of Gillespie County, Texas.

3. Costs. Enforcement of the terms, provisions and Covenants of this Declaration may be at law or in equity against any person(s) violating, or attempting to violate, any term, provision or Covenant hereof, and may seek to restrain such violation and/or to recover damages as may be appropriate. Any person determined by the trier of fact to have violated, or to have attempted to violate, any provision of this Declaration shall be charged with all costs of suit, including reasonable attorney's fees.
4. Severability. Invalidation of any of these Covenants by judgment or Court Order shall in no way affect any of the other provisions, which shall remain in full force and effect.
5. Amendments. Declarant shall have the right to amend this Declaration and thereafter, this Declaration may be amended from time to time by a written instrument executed and acknowledged by seventy-five percent (75%) of the Owners of the Property, then subject to this Declaration, and filed of record in the Real Property Records of Gillespie County, Texas.
6. Validity. If any of the provisions of these Covenants, Conditions, Restrictions and Easements or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity will not affect the validity of the remainder of these Covenants, Conditions, Restrictions and Easements, and the application of any provisions, paragraph sentence, clause, phase or word in any other circumstances will not be affected thereby.
7. Enforcement. Any Owner, holder of a first lien Mortgage on any Lot or the City of Fredericksburg will have the right to enforce by a proceeding at law or in equity against or seek recovery of damages from any person or persons violating or attempting to violate these Covenants, Conditions, Restrictions and Easements. In the event any party seeking to enforce these Covenants, Conditions and Restrictions applies for injunctive relief no bond or other security will be required. Any person who prevails in obtaining injunctive relief against or recovers damages from any person or persons violating or attempting to violate these Covenants, Conditions, Restrictions and Easements will be entitled to recover his reasonable attorneys' fees, expert fees and court costs. Any failure or delay by any Owner to enforce any of these Covenants, Conditions, Restrictions and Easements will in no event be deemed a waiver of the right to do so.
8. Savings Provision. Notwithstanding anything to the contrary, Declarant shall have the right at any time, at its sole discretion and without any joined or consent of any other party, to amend this Declaration for the purposes of correcting any error, ambiguity or inconsistency appearing herein or for any reason whatsoever deemed necessary for the benefit of the overall Development as determined by Declarant, it is sole discretion. Said amendment shall be effective upon filing the said amended Restrictions with the County Clerk of Gillespie County, Texas.
9. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the Development and operation of the Property and of promoting and effectuating the fundamental concepts of the Development of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.
10. Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may in writing filed of record referring to this Declaration by volume and page number, expressly assign, in whole or in part, any of its privileges, exemptions, rights and duties under this

Declaration to any other Person or entity and may permit the participation, in whole or in part, by any other Person or entity in any of its privileges, exemptions, rights and duties hereunder. Upon assignment by Declarant of any or all of Declarant's rights, the Declarant shall no longer be liable for performance of such assigned rights provided that the assignee expressly assumes in the recorded assignment the obligations of Declarant that are assigned.

11. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.
12. Singular and Plural; Gender. Whenever the context of this Declaration shall require, the singular shall include the plural, and vice-versa, and the use of any word of gender shall include any other gender, as the context shall require.
13. Consent Discretionary. Except as expressly set forth otherwise herein, any judgment or approval decision to be made and any opinion to be given by Declarant and/or the Association hereunder shall be made or given, as the case may be, in such party's sole discretion.
14. Notices. Unless otherwise provided by the terms hereof, in each instance in which notice is to be given to a Member or to an Owner, the same shall be in writing and shall be given and be deemed to have been served and given (a) if hand delivered, when delivered in person to the last known address of the Member or Owner as set forth in the records of the Association at the time of such notice, or (b) if mailed, forty-eight (48) hours following deposit in the United States mail, postage prepaid, addressed to the last known address of the Member or Owner as reflected in the records of the Association at such time. Each Member and Owner shall be responsible for providing the Association with their respective addresses for notices hereunder and keeping those addresses current.
15. Nonliability of Officials. To the fullest extent permitted by law, neither the Declarant, the Association or any committee or person to which powers have been delegated pursuant to the provisions of this Declaration, nor any officer, director or employee of any of the above, shall be liable to any Owner, Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of any matter, course of action, act, omission or the like made in good faith, whether or not erroneous or negligent, and which such Declarant, Association, committees or persons reasonably believed to be within the scope of their powers and duties. The Association shall, to the fullest extent permitted by law, indemnify and hold harmless such Declarant, and/or committees or persons with respect to any of such decisions, approvals, disapprovals, courses of action, acts, omissions or the like, and to defray the costs of this indemnification obligation, the Association shall be entitled to assess each Owner for such Owner's share of such costs.
16. Availability of Association Documents. The Association shall, within ten (10) days of the request of any Owner or Owner's agent, make available to such requesting person or party copies of this Declaration, the Articles of Incorporation, the Bylaws, the Architectural Standards, any then current and effective Rules and Regulations promulgated pursuant to the provisions of this Declaration, and other Association constituent documents, including a promulgated resale certificate; provided, however, the Association shall be entitled to charge a reasonable fee to cover any assembly, copy or delivery costs incurred in connection with the furnishing of documentation.

ARTICLE VI
DECLARANT'S DISCLAIMER

The Declarant owns 96.97 acres of land that it intends to develop. Said tract of land being more particularly described on the attached Exhibit "C". Of the 96.97 acres, 28.6 acres of land (being all of Outlots Numbers 119 and 126 and part of Outlot 118) is located in Gillespie County, Texas. Adjacent to the 28.6 acres is 68.37 acres of land that the Declarant intends to develop for residential use. The 68.37 acres is situated in the City of Fredericksburg, Gillespie County, Texas, being all of Outlots Numbers 108, 109, 110, 115, 116, 117 and parts of Outlots Numbers 111 and 114 as said Outlots are shown on the Map of Fredericksburg, Texas, and Environs by the German Emigration Company. The 68.37 acres encompasses Oaks of Windcrest's Phase I and Phase II. While Declarant has planned to eventually complete construction of additional phases in the 68.37 acres, such phases may be either single-family residential, patio homes, zero lot line residential, townhouses and/or residential condominiums (or a combination thereof). Development of the 28.6 acres may be developed for any use as allowed by the City of Fredericksburg and/or Gillespie County, Texas. It is specifically understood that Declarant, its successors and/or assigns, are not under any obligations to complete any portion thereof other than Phase I and Phase II. Further, it is understood that there are no time limitations on the length of time that said construction of the development might take.

ARTICLE VII
ANNEXATION

Other properties or units owned or developed by Declarant may (at Declarant's sole discretion) be annexed into or added on to the Association by Declarant at any time prior to December 31, 2016. Additional residential property and Common Area may thereafter be annexed to the Properties with the consent of two-thirds (2/3) of the Owners. As long as there remains any Class B Membership and any first lien Mortgage is in effect with respect to any Lot which is insured by FHA or VA, the following actions shall require prior approval of FHA or VA, but only if such approval is required under the then applicable FHA or VA regulations: Amendment of the Articles of Incorporation, Declaration or Bylaws; annexation of additional property; mortgaging or dedication of Common Areas, and dissolution of the Association.

ARTICLE VIII
WAIVER AND LACHES

The obligation to abide by the provisions contained in this Declaration shall be deemed to be of a continuing and continual basis. Each and every day an Owner allows a condition to exist on his or her Lot, which is not in compliance with the requirements contained herein, shall constitute a separate and individual violation hereof, and shall give rise to a new cause of action for such breach. The intended effect and express purpose of this provision shall be that every Owner, by accepting title to a Lot, hereby waives the affirmative defenses of the statute of limitations, waiver and laches with respect to Covenant violations. Noncompliant Conditions shall be allowed to exist on a Lot only upon the Owner obtaining a written variance in accordance with the applicable provisions herein. Failure of Declarant, the Association, the Committee, or of any Owner to enforce the terms of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE IX
ASSESSMENTS BY AWARD OR JUDICIAL DECREE

In the event arbitration or litigation is necessary to enforce any provision contained within this Declaration, any and all awards granted by the arbitrator, or damages, penalties, fees, costs, and/or any other charges awarded in the decree shall also constitute an Assessment, which shall likewise run with the land, and which shall have the same priority as the lien created in Article IV herein.

ARTICLE X
EASEMENTS

1. Reserved Easements. All dedications, limitations, restrictions and reservations shown on any plat covering all or any portion of the Property and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes, as is fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Further, Declarant hereby creates, declares, grants and reserves for the benefit of Declarant, Gillespie County, the City, and all Owners and any public or private providers of utility services to the subject Property and their respective successors and assigns, a nonexclusive easement for utility purposes over, under, within and upon other easement areas shown on the plats of the Property, as hereafter amended, for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing from time to time any and all utility lines, systems and facilities from time to time deemed necessary or appropriate by Declarant for development of the Property. Further, Declarant reserves the right, and all Owners agree to cooperate to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, electricity, telephone, sanitary, sewer and drainage), in favor of any Person or entity across any Lot or on any portion of the Property as is necessary or efficient to supply all utilities to all Lots.
2. Drainage Easements. Easements for drainage throughout the Subdivision are reserved as shown on the aforementioned-recorded plats, such easements being depicted thereon as "drainage easement." No Owner of any Lot in the Subdivision may perform or cause to be performed any act which would alter or change the course of such drainage easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically, and without limitation, no Owner may:
 - 2.1. Alter, change or modify the existing natural vegetation of the drainage easements in a manner that changes the character of the original environment of such easements;
 - 2.2. alter, change or modify the existing configuration of the drainage easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom without the prior written approval of the City of Fredericksburg;
 - 2.3. construct, erect or install a fence or other structure of any type or nature within or upon drainage easements. However, upon approval by the City of Fredericksburg, fencing shall be allowed across drainage easements only such that the bottom of the fence shall be a minimum of the flow depth plus free board above the design flow line of any channel or drain, it being understood that in no case shall the flow of drainage be hampered;

- 2.4. permit storage, either temporary or permanent, of any type upon or within such drainage easements; or
 - 2.5. place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.
 - 2.6. The failure of any Owner to comply with the provisions of this Article shall in no event be deemed or construed to impose liability of any nature on the Declarant. Declarant shall not be charged with any affirmative duty to police, control or enforce such provisions. The drainage easements provided for in this provision shall in no way affect any other recorded easement in the Subdivision.
3. Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers and for paving of driveways, unless otherwise specifically prohibited by the plat or any other recorded easement. However, neither Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation or driveways as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

[Signature page to follow]

IN WITNESS WHEREOF, Declarant has executed this instrument as of the 17th day of APRIL, 2007.

DECLARANT:

OAKS OF WINDCREST, L.P., a Texas limited partnership

By: Oaks of Windcrest Development, L.L.C., a Texas limited liability company, General Partner

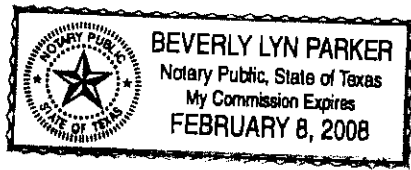
By: Allied Interests Inc., a Texas corporation, Manager

By: Jon H. Starnes
Jon H. Starnes, President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on April 17, 2007 by Jon H. Starnes, President of Allied Interests Inc., a Texas corporation, Manager of Oaks of Windcrest Development, L.L.C., a Texas limited liability company, on behalf of such limited partnership.

Beverly Lyn Parker
Notary Public for the State of Texas



MORTGAGEE'S CONSENT

STATE OF TEXAS §
COUNTY OF Travis §

The undersigned, Security State Bank and Trust, herein "Lien Holder," being the sole owner and holder of an existing mortgage and lien recorded among the Official Public Records of Gillespie County, Texas, against the Property described above, being known as the Oaks of Windcrest Subdivision Phase 1 and Phase II, as mortgagee and Lien holder, hereby consents to and joins in the Declaration set forth above.

This instrument is executed for the purpose of subordinating the liens held by the undersigned to all of the provisions of said Declaration, except for the subordination of the Assessment liens as set forth in Article IV, Paragraph 14, above.

Each and every party who accepts title to any property subject to the above and forgoing Declaration acknowledges that the undersigned is not a party to the Declaration, except for the sole purpose of subordinating the liens of the undersigned as styled above. Each party who accepts title to Property governed by the Declaration releases the undersigned from all claims and liabilities arising out of the Declaration, except to the extent any action may be taken against the undersigned as a successor in interest to Declarant.

Dated this the 13 day of April, 2007.

SECURITY BANK STATE AND TRUST

By: Joe David Sherrad
Its: S.V.P.

STATE OF TEXAS §
COUNTY OF Travis §

This instrument was acknowledged before me on the 13 day of April, 2007, by Joe David Sherrad, S.V.P., on behalf of Security Bank State and Trust.

Vickie C. Williams
Notary Public for the State of Texas

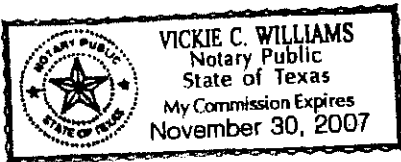
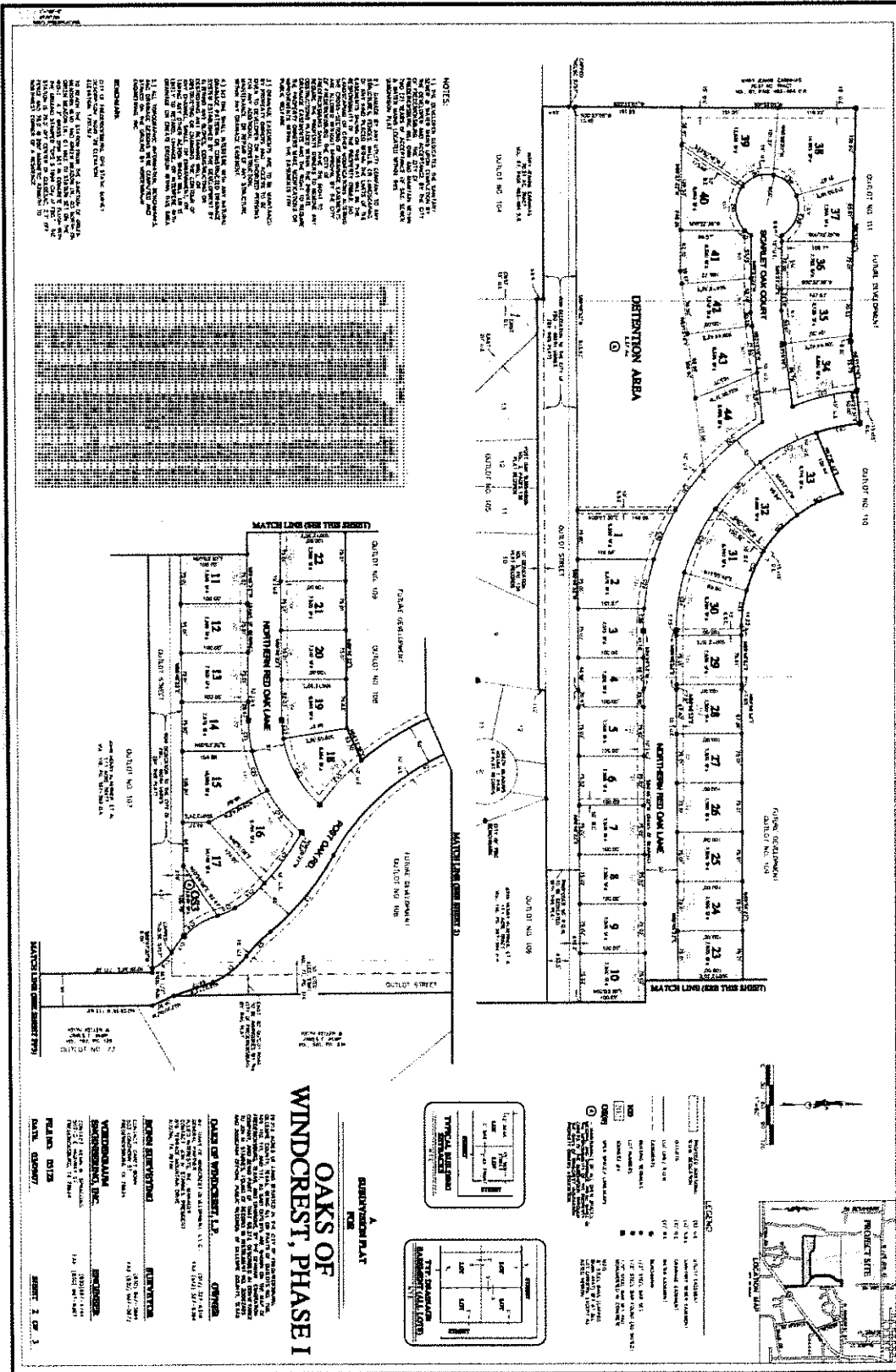


Exhibit "A"

Oaks of Windcrest Phase I



HCT

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Mary Lynn Rusche

Mary Lynn Rusche, County Clerk

Gillespie County TEXAS

May 02, 2007 10:17:41 AM

FEE: \$119.00

20072282

KC