

**FIFTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
ON AND FOR
ABBEY GLEN
A SUBDIVISION IN LUBBOCK COUNTY, TEXAS**

**STATE OF TEXAS {
 { **KNOW ALL MEN BY THE PRESENTS:**
COUNTY OF LUBBOCK {**

Whereas, the Declaration of Covenants, Conditions, Restrictions and Easements ("The Declaration") on January 19, 2017, for said property being Lots One (1) through Lots Sixty Six (66), inclusive, ABBEY GLEN, an Addition to the City of Lubbock, Lubbock County, Texas, according to the Map, Plat and/or Dedication Deed thereof recorded in Clerk's Document No. 2016046388, of the Official Public Records of Lubbock County, Texas. The Declaration was filed of record in Clerk's Document No. 2017002350 of the Official Public Records of Lubbock County, Texas;

Whereas, the Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements ("The Declaration") on May 30, 2018, for said property being Lots One (1) through Lots Sixty (66), inclusive, ABBEY GLEN, an Addition to the City of Lubbock, Lubbock County, Texas. The Declaration was filed of record in Clerk's Document No. 2018019684 of the Official Public Records of Lubbock County, Texas;

Whereas, the Corrected Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements ("The Declaration") on May 13, 2020, for said property being Lots One (1) through Lots Sixty (66), inclusive, ABBEY GLEN, an Addition to the City of Lubbock, Lubbock County, Texas. The Declaration was filed of record in Clerk's Document No. 2020018496 of the Official Public Records of Lubbock County, Texas;

Whereas, Abbey Glen Lubbock, LLC assigned to Red Canyon Development, LLC, a Texas limited liability company ("Red Canyon") on May 29, 2020, all of Abbey Glen Lubbock, LLC, rights, title and interest as "Declarant" in, to and under the Declaration, pursuant to that certain Assignment and Assumption of Declarant Rights by and between Abbey Glen Lubbock, LLC and Red Canyon Development, LLC. The Assignment was filed of record in Clerk's Document No. 2020020895 of the Official Public Records of Lubbock County, Texas;

Whereas, Red Canyon Development, LLC is the current "Declarant" under the Declaration and has the right to amend the Declaration for any purposes during the Development Period pursuant to that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions on and for Abbey Glen, a subdivision in Lubbock County, Texas. The Declaration was filed of record in Clerk's Document No. 2022007854 of the Official Public Records of Lubbock County, Texas ("**Third Amendment**");

Whereas, Red Canyon Development, LLC is the current "Declarant" under the Declaration and has the right to amend the Declaration for any purposes during the Development Period pursuant to that certain Fourth Amendment to Declaration of Covenants, Conditions and Restrictions on and for Abbey Glen, a subdivision in Lubbock County, Texas. The Declaration was filed of record in Clerk's Document No. 2022010308 of the Official Public Records of Lubbock County, Texas ("**Fourth Amendment**");

Declarant desires to add additional property (the "Additional Property") as described on **Exhibit "A"** to this Fifth Amendment (being Lots 123 through 143), inclusive, ABBEY GLEN, an Addition to the City of Lubbock, Lubbock County, Texas); and, Declarant desires that the Additional Property described on **Exhibit "A"** to this Fifth Amendment shall be added to the scheme of the Declaration, subject to the modifications and amendments as contained within this Fifth Amendment pertaining to said Additional Property.

Article II, Section 1, the Assessment Fees for these Single Family Lots is herein amended as follows:

Lots 123-143, inclusive, the maximum per lot regular assessment for these **Single Lots** shall be \$200 per Developed Lot; \$400 per Improved Lot.

Article V, Section 2, the Minimum Floor Space for these Single Family Lots is herein amended as follows:

Except as otherwise provided in this Declaration, Lots 123-143, inclusive, contain not less than 1,350 square feet of air conditioned floor space, exclusive of garage, open or screened porch, storage rooms, basement and other space not equipped with heating and cooling.

Article V, Section 3, Garages; Parking is herein amended as follows:

Lots 123-143, inclusive, will have front entry access and shall provide garage space for a minimum of two (2) conventional automobiles.

Article V, Section 4, Setback Requirements is herein amended as follows:

Each Dwelling Unit constructed on Lots 123-143, inclusive, shall have a front yard setback of fifteen (15) feet.

Article V, Section 6(n), Mail Cluster Boxes per United States Postal Service ("USPS") are required at the locations described on **Exhibit "B"** attached hereto.

Article V, Section 7, Landscaping of Lots is herein amended to include:

Landscaping shall include groundcover, trees, shrubs, vegetation, and other plant life. On all Lots, the landscaping in the front yard shall include one tree having a trunk diameter of 3 - 4 inch caliper, and shall be red oak, live oak, burr oak, lace bark elm, cedar elm, or such other variety as approved by the ARC (the ARC will not under any circumstances approve mulberry trees, pecan trees, silver leaf maple trees, weeping willow trees, or trees having root systems that could cause

damage to Improvements located on adjacent Lots). Additional landscaping information is provided in the Third Amendment Restrictive Covenants that will pertain to Lots 123-143.

Article V, Section 9, Trash Containers is herein amended as follows:

Lots 123-143 will have alleys; however, the trash service will be available and thus trash containers for those Lots will be designed for front yard pick-up ("Special Garbage Handling"). For those Lots receiving Special Garbage Handling, one trash container will be provided by the City of Lubbock, Texas and the Owners of the Lots receiving Special Garbage Handling will follow all rules and regulations established by the City of Lubbock, Texas for the pick-up of trash and debris. The trash containers utilized on Lots receiving Special Garbage Handling will not be placed in the front yard for pick-up earlier than 6:00 o'clock P.M. of the day prior to the day scheduled for the garbage pick-up service, and such containers must be removed from the front yard prior to nightfall of the day of the garbage pick-up service. At all other times, trash containers for Lots receiving Special Garbage Handling will be stored in the garage or otherwise screened from view of the street and other Lots. Declarant and the Association reserve the right to place dumpsters and other trash containers on Common Properties. All trash and debris shall be disposed of in proper containers, and at no time shall an Owner allow trash or debris to remain on a Lot.

The Declaration of Covenants, Conditions and Restrictions on and for Abbey Glen, a subdivision in Lubbock County, Texas previously imposed and herein described are not amended, changed, modified or altered in any way other than as specifically and expressly set out herein.

IN WITNESS WHEREOF, Declarant and the other parties have executed this Amendment to be effective as of October 12, 2023 (the "**Effective Date**").

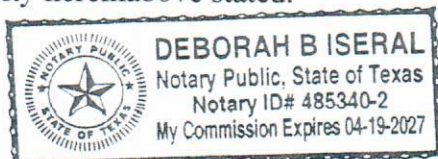
DECLARANT:

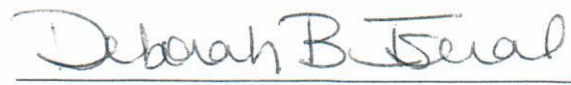
RED CANYON DEVELOPMENT, LLC, a Texas limited liability company

By:  Thomas K. Payne, Manager

THE STATE OF TEXAS {}
COUNTY OF LUBBOCK {}

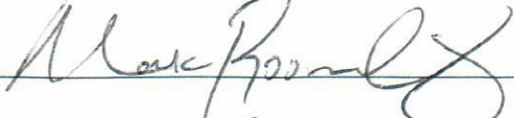
Before me, the undersigned authority on this 12th day of October, 2023 personally appeared THOMAS K. PAYNE, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of RED CANYON DEVELOPMENT, LLC, a Texas limited liability company, and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.




Notary Public, State of Texas

LENDERS:

PLAINS CAPITAL BANK

By: 

Print Name: Mark Rosenberg

Title: Senior Vice President

THE STATE OF TEXAS {}
COUNTY OF LUBBOCK {}

Before me, the undersigned authority on this 12th day of October, 2023, personally appeared Mark Rosenberg, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of Plains Capital Bank, a state banking association, and that he executed the instrument on behalf of the banking association for the purposes and consideration expressed, and in the capacity hereinabove stated.





Notary Public, State of Texas

EXHIBIT "A"

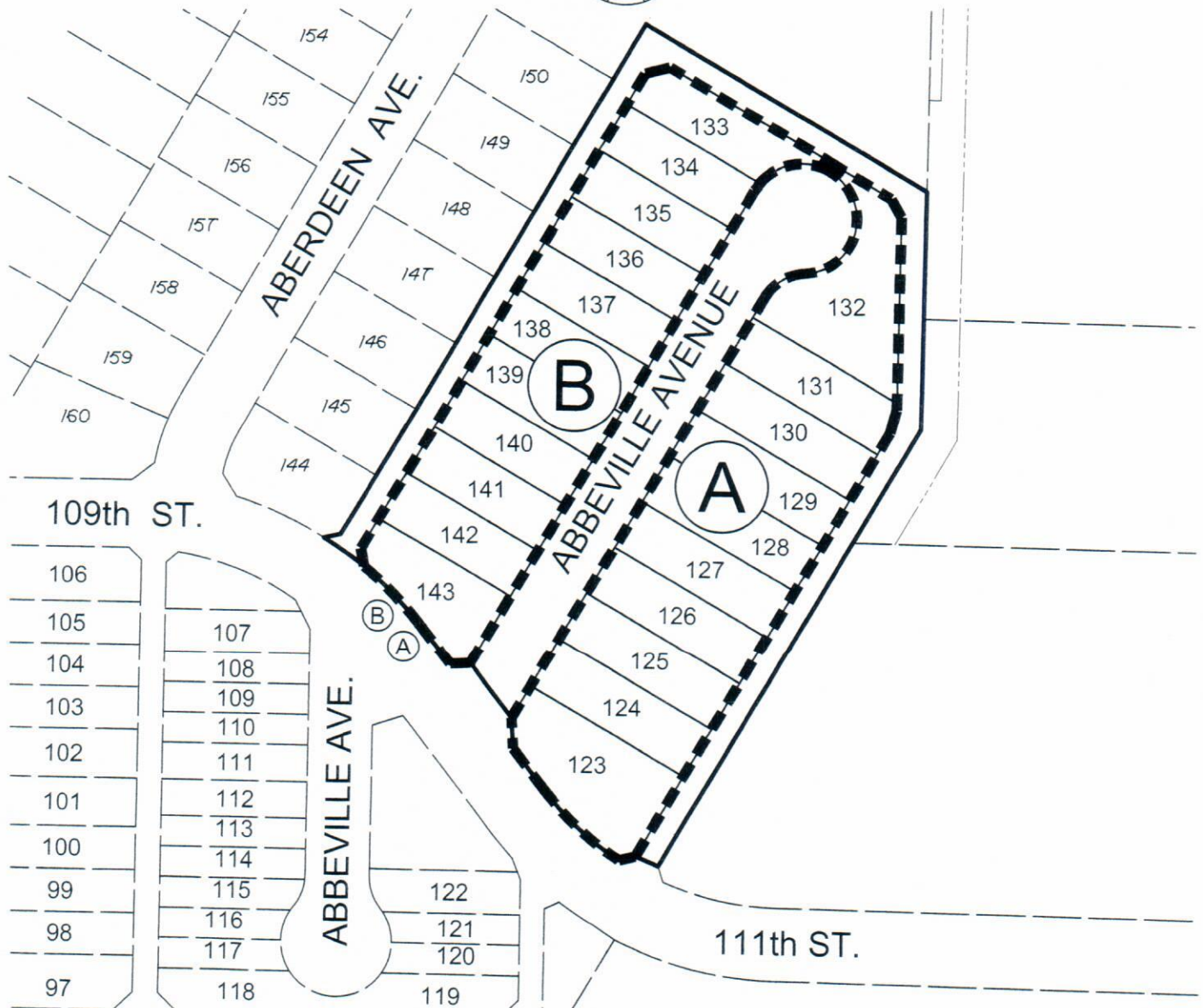
ADDITIONAL PROPERTY

Lots One Hundred Twenty Three (123) through One Hundred Forty Three (143), inclusive, ABBEY GLEN, an addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and or dedication deed thereof recorded in Clerk's Document No. 2021026084, as to, of the Official Public Records of Lubbock County, Texas.

EXHIBIT "B"
USPS CLUSTER BOX LOCATIONS

LOTS 123 - 143 ABBEEY GLEN

CLUSTER MAIL BOX CONFIGURATION



(A) - (B) CLUSTER MAIL BOX LOCATIONS

(A) - LOTS 123-132

(B) - LOTS 133-143

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
10/12/2023 12:33 PM
FEE: \$54.00
2023039425