

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIVE COVENANTS OF
HERITAGE PLACE,
a subdivision in Temple, Bell County, Texas**

STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF BELL §

KIELLA DEVELOPMENT ("Declarant"), is the owner of that certain tract of land situated in Bell County, Texas, more particularly described by metes and bounds in an exhibit entitled "Legal Description" attached to this Declaration, and designated as HERITAGE PLACE, a subdivision in Temple, Bell County, Texas (sometimes referred to as the "Subdivision").

Declarant makes and imposes the following covenants, conditions and restrictive covenants upon the Subdivision, according to the above referenced plat, which will be covenants running with the land, for the purposes set forth as follows:

PREAMBLE AND DECLARATION:

Declarant has created a subdivision with designated "Lots" (as defined below) for the benefit of the present and future owners of the Lots within the Subdivision, and desires to create and carry out a uniform plan for the improvement, development and sale of the Lots.

Declarant desires to ensure the preservation of the values and amenities of the Subdivision and for the maintenance of the "Common Area" (as defined below), and to this end desires to further subject the Subdivision to the assessments, charges, fines, and late fees (sometimes collectively referred to as "Charges"), conditions, covenants, easements, reservations and restrictions, and liens set forth below, each and all of which is and are for the benefit of the Subdivision and the owners thereof.

Declarant has deemed it desirable for the enforcement of the "Declaration" (as defined below) to create an "Association" (as defined below) to which will be delegated and assigned the power of administering and maintaining the Common Area in the Subdivision and of administering enforcing the Charges, conditions, covenants, easements, reservations and restrictions, and liens, including levying, collecting, and disbursing the Charges.

There has been or will be incorporated, one or more non-profit corporations created under the laws of the State of Texas, including the first being the **TEMPLE HERITAGE PLACE PROPERTY OWNERS' ASSOCIATION, INC.**, whose directors will establish the By-Laws by which the Association will be governed through its Board of Directors, for the purpose of exercising the functions mentioned in this Declaration. No more than one such non-profit corporation will be in existence at any one time.

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Declarant declares that additional land within the "Properties" (as defined below) may be annexed into the Association in stages, as provided below and in accordance with Declarant's scheme of the Properties. The annexed land will not be dependent upon future stages of the development, but will be subject to this Declaration.

Declarant declares that the Subdivision and all future phases or additions to the Subdivision is and will be held, transferred, sold, conveyed, occupied, and enjoyed subject to the following Charges, conditions, covenants, easements, reservations and restrictions, and liens and will be subject to the jurisdiction and assessments of the Association.

ARTICLE I PURPOSE

The Subdivision is encumbered by this Declaration of Covenants, Conditions and Restrictions for the following reasons: to ensure the best and highest use and most appropriate development of the Properties; to protect lot owners against improper use of surrounding lots; to preserve so far as practicable the natural beauty of the Properties; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate locations; to secure and maintain proper setbacks from streets and adequate free space; and, in general, to provide for development of the highest quality to enhance the value of investment made by the lot owners.

ARTICLE II DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) will have the following meanings.

1. "ARC" and "Architectural Review Committee" means the Architectural Review Committee of the Association.
2. "Association" means TEMPLE HERITAGE PLACE PROPERTY OWNERS' ASSOCIATION, INC., a Texas non-profit corporation, its successors, assigns, and replacements as provided in this Declaration, which has jurisdiction over all Properties located within the land encumbered or to be encumbered under this Declaration, as may be amended; and the power, duty, and responsibility of maintaining and administering the Common Area and administering and enforcing the Declaration and any amended or supplemental declaration. The Association is a "property owners association" as that term is defined in Texas Property Code §202.001(2).
3. "Board" and "Board of Directors" means the Board of Directors of TEMPLE HERITAGE PLACE PROPERTY OWNERS' ASSOCIATION, INC., a Texas non-profit corporation, its successors, assigns, and replacements as provided in this Declaration, the election and procedures of which are set out in the Articles of Incorporation and By-Laws of the Association. The Board of Directors will be the elected body having its normal meaning under Texas non-profit corporate law.

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4. "Builder Guidelines" means a publication of the ARC that sets forth general guidelines as to various standards, including but not limited to construction types, aesthetics, and exterior harmony of any and all improvements placed upon or constructed on any Lot, which publication may be amended by the ARC without notice to the Owners. If the Subdivision Plat designates Commercial Lots and Residential Lots, then there may be specific Builder Guidelines that relate to the Commercial Lots and specific Builder Guidelines that relate to the Residential Lots as specified.

5. "Builder Member" means a builder approved by Declarant and who owns one or more Lots for construction of improvements upon one or more Lot for resale to others.

6. "Commercial Lot" means any lot designated as commercial on the Subdivision Plat.

7. "Commercial Unit" means a commercial structure containing office or retail space located on a Commercial Lot.

8. "Common Area" means any easements or any real and personal property leased, owned, or maintained by the Association for the common use and benefit of the Members of the Association. Common Area may also include any entrance monuments, security gates, perimeter walls, drainage facilities and detention ponds, esplanade and right-of-way landscaping, any improvement areas lying within indicated public easements or rights-of-way as deemed appropriate by the Board of Directors of the Association for the preservation, protection and enhancement of the property values and the general health, safety or welfare of the Owners, safety lanes, marinas, and other areas as may be shown on the Subdivision Plat or as otherwise created by other documentation.

9. "Customer" means an individual or entity that buys or deals with an established business owned or leased by Operator of a Commercial Unit.

10. "Declarant" means KIELLA DEVELOPMENT, its successors or assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign. No person or entity purchasing one or more Lots from the Declarant in the ordinary course of business will be considered a "Declarant."

11. "Declaration" means this Declaration of Covenants, Conditions and Restrictions for HERITAGE PLACE, and any amendments and supplements to this Declaration made in accordance with the terms of this Declaration. The term "Declaration" will also include all Restrictive Covenants, Rules and Regulations, Builder Guidelines and By-Laws of the Association, if applicable.

12. "Improved Lot" means a Lot upon which a Commercial Unit, Living Unit, or Multi-Family Unit has been constructed and such Commercial Unit, Living Unit, or Multi-Family Unit is occupied by the Owner or its tenants. The term "Improved Lot" will also include model homes constructed by Declarant or a Builder Member.

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13. "Living Unit" means a single family residence and its garage situated on a Residential Lot, except where the Residential Lot is designated specifically as a Multi-family Lot. On a Multi-family Lot, the Living Unit will mean a structure containing separate living facilities for 2 or more Nuclear Families, i.e. duplexes, 4-plexes, etc.

14. "Lot" means any of the plots of land as shown on the Subdivision Plat.

15. "Member" means all those Owners who are members of the Association as provided in this Declaration.

16. "Multi-family Unit" means a multi-family structure and parking situated on a Multi-Family Lot.

17. "Multi-family Lot" means any Residential Lot specifically designated as multi-family on the Subdivision Plat.

18. "Nuclear Family" means a group related by blood, adoption, or marriage, or a number of unrelated roommates equal to the number of bedrooms in a Living Unit times 2.

19. "Operator" means each Owner or lessee of a Commercial Unit. Lessee is a bona fide lessee who has an enforceable lease agreement with an Owner of a Commercial Unit.

20. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion of a Lot, within the Properties, including contract sellers.

21. "Properties" means the properties collectively known as HERITAGE PLACE, and all additions to the Subdivision, as are subject to this Declaration or any amended or supplemental declaration.

22. "Resident" means each Owner or occupant of a Living Unit or Multi-Family Unit, or any individual who is otherwise lawfully domiciled in a Living Unit. Occupant is a bona fide lessee who has an enforceable lease agreement with an Owner and who resides in a Living Unit, their guests and invitees.

23. "Residential Lot" means any Lot designated as residential on the Subdivision Plat or any Lot with no designation. Residential Lot includes usage for both single family residences and multi-family structures as set out on the Subdivision Plat.

24. "Restrictive Covenants" means the restrictive covenants contained in this Declaration or attached to the Declaration as an exhibit, or the restrictive covenants set forth in instruments filed prior to or subsequent to the filing of this Declaration, together with all amendments of the foregoing. If the Subdivision Plat designates Commercial Lots and Residential Lots, then there may be specific Restrictive Covenants that relate to the Commercial Lots and specific Restrictive Covenants that relate to the Residential Lots as specified. Restrictive Covenants will also include all Builder Guidelines, as amended.

25. "Rules and Regulations" means the rules and regulations promulgated by the Board of the Association from time to time and which may be filed in the Real Property Records of Bell County, Texas. If the Subdivision Plat designates Commercial Lots and Residential Lots, then there may be specific Rules and Regulations that relate to the Commercial Lots and specific Rules and Regulation covenants that relate to the Residential Lots as specified.

26. "Subdivision" means the Subdivision as defined above.

27. "Subdivision Plat" collectively means the map or plat of the Subdivision, filed of record in Cabinet _____, Slide _____, of the Plat Records of Bell County, Texas, and any amendment, replat, or modification to the Subdivision Plat, and any master plat or plan, as may be amended or modified from time to time, for additional properties that may be added from time to time as provided by this Declaration. A copy of the master plat or plan may be attached to this Declaration as an exhibit entitled "Master Plat or Plan".

28. "Unimproved Lot" means a Lot upon which no improvements have been constructed.

ARTICLE III PROPERTY RIGHTS

Every Owner, guest, invitee, Customer and tenant will have a right and easement of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(1) the right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed or situated upon the Common Area and to impose reasonable limits on the number of guests who may use the facilities;

(2) the right of the Association to suspend an Owner's voting rights and the right to use any facility for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for infractions by an Owner of the restrictive covenants contained in this Declaration and/or the Association's Rules and Regulations for the duration of the infraction;

(3) the right of the Association to grant easements in and to the Common Areas to any public agency, authority or utility for such purposes as benefits the Properties and Owners;

(4) the right of the Association to borrow money for the purpose of improving the Common Area, for acquiring additional Common Area, or for constructing, repairing, or improving any facilities located or to be located on the Common Area, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area, provided a majority of each Class of Members present or represented by proxy at a meeting called for such purpose will approve; provided however, the lien and encumbrance of any such mortgage given by the Association will be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of

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Declarant or Owner, or the holder of any mortgage irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Subdivision;

(5) the right of the Association to dedicate or transfer all or any portion 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 Members of the Association. No such dedication or transfer will be effective unless an instrument agreeing to such dedication or transfer has been approved by a majority of the Class A Members of the Association which are present or represented by proxy at a meeting duly called for such purpose, and by the Class B Member so long as the Class B membership exists;

(6) the right of the Association to convey small portions of the Common Area to adjacent Owners when, in the sole opinion of the Board, the portion of the Common Area to be conveyed is so small in size, amount and value that it will have no material consequence to or impact upon the Association or the Subdivision or negatively affect the overall usage of the Common Area by the Owners as a result of such conveyance. In such an event, the Board may authorize such conveyance without the joinder of any other Owner; and

(7) the right of the Association to prescribe Rules and Regulations as they may be expanded, amended or otherwise modified. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of the Owner's Lot may be affected by this provision and that the Rules and Regulations may change from time to time. The Board has the authority to enforce the Rules and Regulations by all appropriate means, including but not limited to the imposition of fines, if notice and an opportunity to be heard are given, and a Member found to have violated the Rules and Regulations will be liable to the Association for all damages and costs, including reasonable attorney's fees.

ARTICLE IV ARCHITECTURAL REVIEW

In order to protect the overall integrity of the development of the Subdivision as well as the value of improvements of all Owners, a committee of representatives designated as the Architectural Review Committee is established to carry out all duties as noted in this Declaration. The ARC will have full authority to approve and disapprove; change, modify or waive; and ultimately control all construction, development, and improvement activities of any kind (including, without limitation, structures, buildings, building materials, and the placement of the improvements) within the Subdivision. The ARC will require that all improvements are constructed in a good and workman-like manner and in accordance with standard industry trade practices. The ARC will further require that all improvements are architecturally, aesthetically, and ecologically designed to be compatible with Declarant's conceptual plan for the overall Subdivision and/or is decided by the ARC.

The ARC may prescribe Builder Guidelines as they may be expanded, amended or otherwise modified. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of the Owner's Lot may be affected by this provision and that the Builder Guidelines may change from time to time. The ARC has the authority to enforce the DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIVE COVENANTS – HERITAGE PLACE

Builder Guidelines by all appropriate means, including but not limited to the imposition of fines, subject to the review of the Board, if notice and an opportunity to be heard are given, and a Member found to have violated the Builder Guidelines will be liable to the Association for all damages and costs, including reasonable attorney's fees. The Board will have the authority to enforce the Builder Guidelines in accordance with this provision in the event the ARC fails to enforce the Builder Guidelines.

No building, structure, fence, commercial structure, residence, house, garage, accessory building, outbuilding, addition, modification, or construction of any kind will be erected, placed, constructed, maintained, modified, redecorated, or altered, until a complete set of plans and specifications have been formally submitted to the ARC by a Owner or agent, contractor, or representative of Owner with a written request for approval and the ARC's written approval received. Plans and specifications which are submitted may contain and include, but not necessarily be limited to the following information: floor plans, including finished floor and ground elevations; exterior elevations for any building, fence or other structure; a plat or site plan showing easements and the location of any building, fence or other structure (including location of light poles and curb cuts, if applicable); exterior lighting and location; samples of exterior finish materials and color samples; and any other plans, specifications or information deemed pertinent by the ARC or Declarant.

The ARC will review all plans, specifications, and other information which are submitted by an Owner or agent, contractor, or representative of Owner for compliance with all the requirements of this covenant and for the compatibility of any improvements with the architectural, aesthetic, and ecological goals of the Subdivision and Declarant. It is the intent that all improvements will be compatible with all other improvements in the Subdivision and that they will be in harmony with their natural surroundings. The ARC will have full right and authority to utilize its sole discretion in approving or disapproving any plans and specifications that are submitted. In the event the ARC fails to approve submitted plans or to request additional information reasonably required within 30 days after submission, the applicant will give the ARC written notice of its failure to respond. Unless the ARC responds within 10 days of receipt of such notice, approval will be deemed granted.

The ARC may disapprove the construction or design of any improvement, on purely aesthetic grounds where, in its sole judgment, such disapproval is required to protect the continuity of design or value of the Subdivision, or to preserve the serenity and natural beauty of any surroundings. Prior approvals or disapprovals of the ARC pertaining to any improvement or activity or regarding matters of design or aesthetics will not be deemed binding upon the ARC for later requests for approval if the ARC feels that the repetition of such matters will have an adverse effect on the Subdivision. The ARC will have the express power to construe and interpret any covenant that may be capable of more than one construction.

During reasonable hours, members of the ARC, any member of the Board, or any authorized representative of any of them, will have the right to enter upon and inspect any Lot and the improvement or structure for the purpose of ascertaining whether or not the provisions of the Declaration have been or are being complied with, and said persons will not be deemed guilty of trespass by reason of such entry.

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The ARC will have the authority to employ professional consultants or architects at the expense of the Association to assist it in performance of its duties, including but not limited to the review of all plans, specifications and other information which are submitted for compliance. The decision of the ARC will be final, conclusive and binding upon the applicant. The ARC members will not be entitled to any compensation for any services rendered pursuant to this covenant.

Regardless of any language to the contrary, Declarant and any Builder Member approved by Declarant will not be required to submit plans, specifications or other information to the ARC for approval or obtain the ARC's written approval prior to construction of any improvements on a Lot.

Members of the ARC will not be liable to any person (including Owners and Builder Members) subject to or possessing or claiming any benefits of this Declaration and the covenants contained in this Declaration for any damage or injury to property arising out of their acts.

The number and initial ARC members will be decided by Declarant. So long as there is a Class B membership, in the event of the death or resignation of any member of the ARC, Declarant will have full power and authority to appoint a successor committee member or members, chosen in its sole discretion, with like authority. Upon the expiration of the Class B membership, the Board of Directors will appoint the members of the ARC, which shall consist of at least three (3) members.

ARTICLE V FILING OF MANAGEMENT CERTIFICATE

It is the intent of the Association to comply with all provisions of the Texas Property Code, and specifically Section 209, including but not limited to the filing of a management certificate in the Real Property Records of Bell County, Texas.

ARTICLE VI RESTRICTIVE COVENANTS

(1) Restrictive Covenants. The restrictive covenants are set out in an exhibit entitled "Restrictive Covenants" attached to this Declaration, or may be a separate instrument filed prior to or subsequent to the filing of this Declaration, together with all amendments of the foregoing.

(2) Character of Lots. Lots within the Subdivision designated as Residential Lots refers not only to the architectural design of the Living Unit, but also to the permitted number of inhabitants, which will be limited to a Nuclear Family per Living Unit. Multi-family Units will be limited to Multi-family Lots, if any, designated on the Subdivision Plat, and no Multi-Family Unit may be constructed on any Residential Lot not designated for use as multi-family. It is not the intent of the Declarant to exclude from a Living Unit any individual who is authorized to so remain by any state or federal law. If it is found that this paragraph, or any other provision contained in this Declaration is in violation of any law, then this Section will be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by law.

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(3) Business or Commercial Purpose. No Multi-Family Lot or Residential Lot may be used for business or commercial purposes. This provision will not prohibit an Owner's conduct of business activities that are merely incidental to the Owner's residential use within a Living Unit or Multi-Family Unit so long as (1) the existence or operation of the business activity is not apparent, detectable or visible by sight, sound or smell from outside the Living Unit or Multi-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 Living Unit or Multi-Family Unit by clients, Customers, suppliers or other business invitees or door-to-door solicitation of the Owners; and (d) the business activity is consistent with the residential character of the Subdivision and of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners, as may be determined in the sole discretion of the Board.

The terms "business" and "trade" as used in this paragraph 3 of Article VI will be construed to have their ordinary, generally accepted meanings and will 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: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of the entire Living Unit or Multi-Family Unit will not be considered a trade or business within the meaning of this paragraph 3 of Article VI. This paragraph 3 of Article VI does not apply to any activity conducted by the Declarant, or by a Builder Member, with respect to its development and sale of its Lot.

(4) Animals and Pets. No animals, livestock, poultry, or Exotic or Dangerous Animal (as defined below) of any type may be raised, bred or kept on any Lot within the Subdivision, except for cats, dogs, or other generally recognized household pets (collectively "Pets"). An "Exotic or Dangerous Animal" is an animal that may pose a safety or health threat to the Owners of the Subdivision, their guests, invitees, Customers, or tenants, and includes the (1) dog breeds of pit bull, rottweiler, and doberman pincher, regardless of whether the animal is purebred, a mixed breed, or registered with the AKC or similar registration organization; (2) poisonous insects, amphibians, or reptiles; (3) boa constrictors and other constrictor reptiles; (4) animals considered "feral" or wild by nature except guinea pigs, hamsters, and gerbils; (5) ferrets, and (6) alligators. Additional breeds of animals may be added to the definition of Exotic or Dangerous Animal from time to time, as determined necessary by the Board, in the Board's sole discretion, and the Rules and Regulations will be amended to include such breed of animal.

No more than 4 Pets (in any combination, but in no event will the combination include more than 2 dogs and 2 cats) may be kept on a Residential Lot designated for single family residences. No more than 1 Pet may be kept per living facility of a Multi-Family Lot. No Pet may be bred, kept or maintained for any commercial purpose on a Multi-Family Lot or a Residential Lot. This provision will not prohibit an Owner of a Commercial Lot from providing animal-related services or using the Commercial Lot for such commercial activity so long as (1) the activity conducted on the Commercial Lot is the primary business of the Owner or its tenant, such as a grooming service, veterinary office, or pet store; (2) the business activity conforms to

all zoning requirements and other restrictive covenants applicable to the Property; (3) the business activity is consistent with the neighborhood service character of the Commercial Lots of the Subdivision and of the Properties; and (4) the business activity does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners, as may be determined in the sole discretion of the Board.

All Pets must be kept in strict accordance with all local and state laws and ordinances (including leash laws), and in accordance with all rules established by the Association. All Pets must be vaccinated in accordance with local custom and laws. Each Pet should wear a tag provided by a licensed veterinary to evidence the up-to-date rabies vaccination. All Pets must be kept indoors, in a fenced area (fenced with standard materials or by an electronic animal control device), or on a leash. It will be the responsibility of the owner of the Pet to prevent the animals from running loose or becoming offensive or a nuisance to other Owners or occupants. Offensive barking or howling is considered an "offensive activity" and is not permitted. It will be the responsibility of the owner of the Pet to clean up after their Pet when in the Common Area or on the private property of others.

No Pets will be permitted in the Common Area except on a leash.

The Association may notify the Owner, in writing, of any offensive activity or other violation of the covenants of this Declaration and the steps required by Owner to correct the violation. If the Owner does not correct the violation and the violation continues; or if any Pet endangers the health of an Owner, his guests, invitees, Customers, or tenants, or creates a nuisance or an unreasonable disturbance, or is not a common household pet, as may be determined by the Board, in the Board's sole discretion, the Pet must be permanently removed from the Subdivision upon 7 days' written notice by the Board to the offending Owner. The Board may exercise all of its remedies allowed under the Declaration or by law to have the Pet or animal permanently removed from the Subdivision. If the offending Owner does not correct a violation and the violation continues, or does not remove the Pet or animal upon written request made by the Board, the offending Owner will be in violation of the covenants of the Declaration and subject to any Fine imposed by the Board in accordance with the Declaration.

ARTICLE VII ANTENNAS

No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite, or other signals of any kind will be placed, allowed, or maintained upon a Lot which is visible from any street, Common Area or other Lot unless it is impossible to receive signals from the location. In that event the receiving device may be placed in a visible location as approved by the ARC. The ARC may require as much screening as possible while not substantially interfering with reception. The Declarant and the Association will have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite, or other signals for the benefit of all or a portion of the Property. No satellite dishes will be permitted which are larger than 1 meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No Multichannel Multipoint Distribution Service ("MMDS") antenna mast may

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exceed the center ridge of the roofline by the height established by the Telecommunications Act of 1996 (the "Act") as same may be amended from time to time. No exterior antennas, aerials, satellite dishes, or other apparatus will be permitted, placed, allowed, or maintained upon any portion of the Property that transmits television, radio, satellite, or other signals of any kind. The Declarant by promulgating this Section is not attempting to violate the Act as same may be amended from time to time. This Section will be interpreted to be as restrictive as possible while not violating the Act.

ARTICLE VIII MODIFICATIONS AND VARIANCES

The ARC has the authority to modify or waive any and all of the Restrictive Covenants that would not, in the ARC's sole discretion, impair or detract from the quality of the Subdivision. In addition, the ARC has the authority to reduce the floor area requirement contained herein by 10% and to modify any building material requirements. Such modification or waiver may be by written instrument in recordable form.

The ARC, in its sole discretion, has the authority to grant variances of any setback line, to alter any setback line, and to waive any encroachment across or into any setback line, Common Area, or easement, to the extent that the ARC has the authority to waive such encroachment into an easement, as the ARC deems necessary. Such variance or waiver will be by written instrument in recordable form.

ARTICLE IX By-LAWS

The By-Laws are operational documents of the Association and may be attached to this Declaration as an exhibit entitled "By-Laws", or may be a separate instrument filed prior to or subsequent to the filing of this Declaration, together with all amendments of the foregoing, in accordance with Texas Property Code Sections 202.001 and 202.006.

ARTICLE X EASEMENTS AND ACCESS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, if any, no structure, planting, fence, or other material will be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or in the case of drainage easements, which may change or impede the direction of flow of water through drainage channels in such easements. The easement area of each Lot, if any, and all improvements in such area will be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Neither the Association, Declarant, nor any utility company using the easements will be liable for any damages done by them or their assigns, agents, employees, or servants to shrubbery, streets, flowers, or other property of the Owners situated on the land covered by the easements.

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There is created a right of ingress and egress across, over, and under the Common Area in favor of Declarant and the Association, for the sole purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, cable TV, electricity, gas, and appurtenances thereto.

An easement is extended and acknowledged to all police, fire protection, ambulance, garbage and trash collector pickup vehicles, and all similar persons to enter upon the Common Area in performance of their duties.

Each Lot is conveyed subject to all easements, conditions, and reservations shown on the Subdivision Plat and each Owner will take notice of all such easements, conditions, and reservations. No Owner will maintain any condition or improvements in any platted easement which will significantly interfere with the intended use of the easement.

Easements for drainage throughout the Subdivision are reserved as shown on the Subdivision Plat or by written instrument, including the Restrictive Covenants, filed in the Official Public Records of Real Property of Bell County, Texas prior to or subsequent to the filing of the Subdivision Plat. 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 the easements. More specifically and without limitation, no Owner, guest, invitee, Customer, or tenant may:

- (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) 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 ARC;
- (3) construct, erect, or install a fence or other structure of any type or nature within or upon such drainage easements;
- (4) permit storage, either temporary or permanent, of any type upon or within such drainage easements; or
- (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.

The failure of any Owner to comply with the provisions of this Article will in no event be deemed or construed to impose liability of any nature on the Association, ARC, or Declarant, and the ARC or Declarant will not be charged with any affirmative duty to police, control, or enforce such provisions.

ARTICLE XI LOT CONSOLIDATION

Any Owner owning two (2) or more adjoining Lots or portions of two or more such Lots may consolidate such Lots or portions thereof into a single building site for the purpose of constructing improvements as are permitted in this Declaration. The Lot resulting from the consolidation will bear, and the Owner will be responsible for, all assessments applicable to the original Lots before consolidation. Each consolidated Lot will meet all lawful requirements of any applicable statute, ordinance or regulation.

ARTICLE XII ENFORCEMENT

If the Owner of any Lot, or its heirs, executors, administrators, successors, assigns, or tenants, violates or attempts to violate any of the restrictions and covenants set forth in the Declaration, then the Association, Declarant, or any Owner subject to this Declaration may prosecute any proceedings against the person or persons violating or attempting to violate any such restrictions and covenants. If there is a failure by any Owner, guest, invitee, Customer, or tenant to comply with any restriction or covenant in the Declaration and if irreparable damage to Declarant and other Owners results or would result, then the breach of any provision of the Declaration may not only give rise to an action for damages at law, but also may be enjoined or may be subject to an action for specific performance in equity in any court of competent jurisdiction. In the event an action is instituted to enforce the terms of the Declaration or prohibit violations of the Declaration, and the party bringing such action prevails, then in addition to any other remedy provided in this Declaration or provided by law, such party will be entitled to recover court costs and reasonable attorney's fees. Neither the ARC, Association, nor Declarant will be charged with any affirmative duty to police, control, or enforce the terms of the Declaration and these duties will be borne by and be the responsibility of Owners.

ARTICLE XIII MEMBERSHIP IN THE ASSOCIATION, VOTING RIGHTS AND REGISTRATION

Every person or entity who is a record Owner of a free or undivided interest in any Lot that is subject to the jurisdiction of and to assessment by the Association will be a Member of the Association.

(1) **Classes of Membership.** The Association has two classes of membership:

Class A: Class A members will be all Owners and Builder Members, with the exception of Declarant, and will be entitled to 1 vote for each Lot owned. When more than 1 person holds an interest in a Lot, all such persons will be members. The vote for the Lot will be exercised as they among themselves determine, but in no event will more than 1 vote be cast per Lot.

Class B: The Class B member will be Declarant who is entitled to 3 votes for each Lot owned, including all Lots shown on a Master Plat or Plan. Class B membership will cease and be converted to Class A membership at such time as the Declarant has conveyed and/or sold the last of the Unimproved Lots within the Subdivision and all of the land area comprising the Properties, whether in a single or multiple transaction, to an Owner or to any governmental authority for public use.

(2) **Eligibility.** Eligibility to vote or serve as a representative, director, or officer will be predicated upon being a Member in good standing with the Association. To be in good standing, the Member must have all assessments of every type and category paid up to date and have no outstanding financial obligations to the Association that are delinquent. Additionally no Member will be allowed to vote or hold office if that Member is noted within the records of the Association to have a current deed restriction violation on one or more Lots in the Subdivision.

(3) **Suspension of Voting Rights.** All voting rights of an Owner may be suspended by the Board of Directors during any period in which the Owner is delinquent in the payment of any duly established assessment or Charge or is otherwise in default or violation of any of the terms of the Declaration.

(4) **Special Voting Requirements.** In the event a vote is required by the Members to alter or amend this Declaration and there are Lots designated as both Residential Lots and Commercial Lots or Multi-family Lots on the Subdivision Plat, and the purpose for the vote specifically applies to the commercial use of the Commercial Lots, it will take at least 2/3's of the Members that own Commercial Lots to approve such amendment or alteration. Likewise, if the purpose for the vote specifically applies to the residential use of the Residential Lots, it will take at least 2/3's of the Members that own Residential Lots to approve such amendment or alteration, or if the purpose for the vote specifically applies to the multi-family use of the Residential Lots, it will take at least 2/3's of the Members that own Multi-family Lots to approve such amendment or alteration.

(5) **Registration with the Association.** In order that the Declarant and the Association can properly determine voting rights and acquaint every Lot purchaser and every Owner and Member with these Covenants and the day-to-day matters within the Association's jurisdiction, each Owner and Member will have an affirmative duty and obligation to provide, and subsequently revise and update, within 15 days after a material change has occurred, various items of information to the Association such as: (a) the full name, mailing address, telephone number, facsimile number, and email address of each Owner and Member, and Fiduciary; (b) the business address, telephone number, facsimile number and email address, and occupation of each Owner and Member; (c) the name, address, and telephone number of other local individuals who can be contacted (in the event the Owner or Member cannot be located) in case of an emergency; and (d) such other information as may be reasonably requested from time to time by the Association. In the event any Owner or Member fails, neglects, or refuses to so provide, revise, and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner and Member will become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

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ARTICLE XIV COVENANTS FOR MAINTENANCE ASSESSMENTS

Declarant, for each Lot owned by it within the Properties, covenants, and each Builder Member and every Owner, by acceptance of a deed, whether or not it is so expressed in the deed or other conveyance, will be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments, to be fixed, established, and collected from time to time as provided below; (3) Member Charges levied against individual Owners to reimburse the Association for extra or unusual costs incurred by the Association for curing the Owner's violation of a restrictive covenant contained in this Declaration; and (4) Fines and Late Fees levied against individual Owners. The Charges, together with interest, reasonable attorney's fees, and costs of collection, as provided in this Declaration, will be a charge on the land and will be a continuing lien upon the Lot against which the Charges are made. Each Charge, together with interest, reasonable attorney's fees and cost of collection as provided in this Declaration, will also be the personal obligation of the Owner of the Lot at the time the obligation accrued.

The Charges levied by the Association will be used for the purpose of promoting the recreation, health, safety, and welfare of the Members, and in particular, for the improvement, maintenance, and operation of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas by the Members.

(1) **Annual Assessments.** The annual assessments ("Annual Assessments") for both Class A and Class B membership will be determined by the Board of Directors in the manner provided below after determination of current maintenance costs and anticipated needs of the Association during the year for which the assessment is being made. The maximum Annual Assessment may be adjusted by a majority vote of the Board of Directors, without membership vote, but will not increase to more than the greater of: (i) 110% above the prior year's Annual Assessment, or (ii) the result of multiplying the prior year's Annual Assessment by a fraction, the numerator of which is the latest Consumer Price Index published on or before the 60th day prior to the date the Board sets the new maximum Annual Assessment rate and the denominator of which is the Consumer Price Index published on the year prior to the one used in the numerator. Consumer Price Index is the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for All Urban Consumers. In the event the compilation or publication of the Consumer Price Index is substantially revised, transferred to any other governmental department or bureau or agency or is discontinued, then the index (or a substitute procedure which reasonably reflects and monitors fluctuations in consumer prices most nearly the same as the Consumer Price Index) will be used to make the calculations. The Association may increase the maximum Annual Assessment rate by more than the amount specified in the preceding sentence only upon receipt of a majority of the approving vote of the Owners present in person or represented by proxy at a meeting called for vote on the proposed increase.

The Annual Assessment will be an amount equal to the total amount of the annual budget multiplied by a fraction, the numerator of which is the number of Lots attributable to that Owner and the denominator of which is the total number of Lots in the Subdivision.

The Annual Assessment will be established by Declarant. The initial Annual Assessment for Residential Lots (the "Residential Annual Assessment") will be \$ 5000. The initial Annual Assessment for Multi-Family Lots and Commercial Lots (collectively the "Commercial Annual Assessment") will be \$ _____. For purposes of this Declaration, the Residential Annual Assessment and the Commercial Annual Assessment may be individually or collectively referred to as the Annual Assessment. The Annual Assessment, or a pro rata portion of the initial Annual Assessment based upon the date of closing of the Lot, will be due and payable from the new owner at the closing of the initial sale of the Lot by Declarant to a third party.

Regardless of any language to the contrary, the Charges will not apply to Declarant, as owner of or holder of title of any Lot, unless Declarant occupies a Living Unit or Commercial Unit constructed upon its Lot, or uses the Living Unit or Commercial Unit for its own personal use as rental property. Annual Assessments and Special Assessments (defined below) will not apply to Builder Members in the business of purchasing Lots for construction of improvements and subsequent resale to a third party unless the Builder Member occupies the Living Unit or Commercial Unit constructed on its Lot, or uses the Living Unit or Commercial Unit for its own personal use as rental property. Transfer Membership Assessments (defined below) will not apply to Builder Members for Lots purchased for resale to a third party but will apply to any subsequent sale and purchase of the Lot to a third party.

(2) Transfer Membership Assessments. In addition to the Annual Assessments provided for above, the Association may levy a transfer membership assessment ("Transfer Membership Assessment") on Class A membership at any time a Lot is sold by the Owner, including Declarant, to a third party. The Transfer Membership Assessment will be established by Declarant so long as the Declarant is the owner of a Lot and thereafter determined and established by the Board. The Transfer Membership Assessment will be collected from the purchaser of the Lot at closing. The initial Transfer Membership Assessment for Residential Lots (the "Residential Membership Assessment") to be collected at the sale of a Lot will be as follows:

(a) For the initial sale of the Residential Lot by Declarant,
\$ 5000; and

(b) For each subsequent sale of the Residential Lot to a third party,
\$ 5000.

The initial Transfer Membership Assessment for Multi-Family Lots and Commercial Lots (collectively the "Commercial Membership Assessment") will be as follows:

(a) For the initial sale of the Multi-Family Lot or Commercial Lot by Declarant, \$ _____; and

(b) For each subsequent sale of the Multi-Family Lot or Commercial Lot to a third party, \$ _____.

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For purposes of this Declaration, the Residential Membership Assessment and the Commercial Membership Assessment may be individually or collectively referred to as the Transfer Membership Assessment.

A table is attached to this Declaration setting forth the initial Annual Assessments and Transfer Membership Assessments.

(3) **Special Assessments.** In addition to the Annual Assessment and Transfer Membership Assessment provided for above, the Association may levy a special assessment ("Special Assessment") on Class A membership and Class B membership as follows:

(a) For the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement on or which is a part of the Common Area, in an amount determined by the Board;

(b) Respond to the unusual emergency needs of the Association as may be expected to appear from time to time, in an amount determined by the Board, or

(c) For such other lawful purpose related to the use of the Properties as the Board or the Owners may determine, provided that this assessment will have the approval of a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of the date, time and purpose of the meeting will be sent to all Owners.

(4) **Member Charge.** In addition to the Annual Assessment, Transfer Membership Assessment, and Special Assessment described above, the Association, by vote of the Board, may impose a charge ("Member Charge") upon any Owner for the purposes of reimbursing the Association for all direct and indirect costs incurred by the Association with regard to the maintenance, repair, or replacement of improvements on any particular Lot when the Board has determined the maintenance, repair, or replacement of improvements associated with the Lot has been neglected to the point where conditions existing on the Lot are not in conformance with the maintenance obligations set forth in this Declaration, or an Owner places anything in the Common Area. The Owner of the Lot will be notified in writing of the Board's determination and the specific deficiencies found to exist. The Owner will be afforded a reasonable period of time to respond to the Board's notice and to correct the deficiencies. The Owner will be assessed the cost necessary to reimburse the Association for any and all costs to secure compliance, including attorney's fees.

(5) **Fines and Late Fees.** In addition to the Annual Assessment, Transfer Membership Assessment, Special Assessment, and Member Charge described above, the Association, by vote of the Board, may impose fines and late fees (sometimes referred to as "Fine and Late Fee" or "Fine or Late Fee") upon any Owner for non-compliance or violations of the covenants of the Declaration or for late or nonpayment of any Annual Assessment, Transfer Membership Assessment, Special Assessment, or Member Charge. The Owner of the Lot will be notified in writing of the Fine or Late Fee assessed to the

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Owner and the cause of such Fine or Late Fee. The Owner will be afforded a reasonable period of time and notice to pay the applicable delinquent Annual Assessment, Transfer Membership Assessment, Special Assessment, or Member Charge, prior to the assessment of any Fine or Late Fee. The Owner will be assessed the cost necessary to reimburse the Association for any and all costs to secure compliance, including attorney's fees.

(6) Due Dates, Budget, and Late Charges. The Annual Assessments will be due and payable and collected as the Board of Directors of the Association determines. The amount of the Annual Assessment will be an amount which bears the same relationship to the Annual Assessment provided for above as the remaining number of months in that calendar year bear to twelve. The Board will use reasonable efforts to provide each Owner with an invoice statement as of the appropriate amount due, but any failure to provide a notice will not relieve any Owner of the obligation.

The Transfer Membership Assessment is due and payable at the closing of a sale of any Lot to a third party.

The due date of any Special Assessment will be as set out above or as fixed in the resolution authorizing such assessment.

The Member Charge and Fine and Late Fee are due and payable within 30 days after the Owner was served with notice by the Association of the amount of the Member Charge or Fine or Late Fee.

Each year, the Board of Directors of the Association will adopt an annual budget and set the amount of the Annual Assessment, taking into consideration the Association's operating cost for the then current year, expected increases or decreases in the costs over the next year, and future needs of the Association. The annual budget will be adopted by the Board at least 30 days prior to the commencement of each calendar year.

Any assessment, Member Charge, or Fine or Late Fee not paid within 30 days after the due date will bear interest from the due date at a rate to be determined, from time to time, by the Board, not to exceed the maximum permitted by law. If the Board refuses or fails to determine a rate of interest, the rate of interest will be the lesser of (i) 18% per annum, or (ii) the maximum rate allowed by law.

(7) Remedies and Lien for Annual Assessment, Transfer Membership Assessment, Special Assessment, Member Charge, and Fine and Late Fee. Each Owner, by his acceptance of a deed to a Lot, expressly vests in the Association, or its agents, the right and power to bring all actions against the delinquent Owner personally for the collection of the Charge as a debt and to enforce the lien by all methods available for the enforcement of liens, including non-judicial or judicial foreclosure by an action brought in the name of the Association, and grants to the Association the power of sale in connection with the lien. The President of the Board of Directors will have the right to appoint an agent and trustee, to mail and file the notices required by Texas Property Code § 51.002, and if applicable, by Texas Property Code § 209, to conduct the sale, and to otherwise

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comply with the statutes. The lien provided for in this Section will be in favor of the Association and will be for the benefit of all other Owners. No Owner may waive or otherwise escape liability for the Charges for nonuse of the Common Area or abandonment of his Lot.

In addition to the foregoing charges for delinquent accounts, each Owner will be obligated to pay to the Association all actual costs of collection incurred by the Association, including attorney's fees, as and when allowed by law, and such reasonable late charges and collection charges as the Board of Directors may establish, all of which will also be subject to the liens of the Association.

In the event of a delinquent account, the Association will provide all notices to the delinquent Owner as required by Texas Property Code § 209. A summary of the relevant parts of Texas Property Code § 209 will be maintained by the Association for review by each and every Owner upon request.

All payments will be applied first to costs and attorney's fees, then to interest, then to delinquent Charges, then to any unpaid Charges that are not the subject matter of suit in the order of their coming due, and then to any unpaid Charges that are the subject matter of suit in the order of their coming due.

Notice of the lien may be given, but is not required, by the recordation in the Real Property Records of Bell County, Texas an Affidavit of Delinquent And Notice Of Assessment Lien, duly executed by an officer, managing agent, attorney, or officer of the Association, setting forth the amount owed, the name of the last known Lot Owner or Owners of record, and the legal description of the Lot.

At any foreclosure, judicial or non-judicial, the Association will be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any foreclosure, the occupants of the Lot will be required to pay a reasonable rent for the use of such Living Unit or Commercial Unit. Their occupancy of the Lot will constitute a tenancy-at-sufferance, and the purchaser at the foreclosure sale will be entitled to appoint a receiver to collect rents and, further, will be entitled to sue for recovery of possession of such Lot by forcible detainer or by Writ of Possession.

The lien of the Charges will be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Lots subject to the Charges, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, non-judicial foreclosure, or conveyance in lieu of foreclosure or in satisfaction of mortgage debt. The sale or transfer will not relieve the Lot from liability for any Charges thereafter becoming due nor from the lien of any subsequent Charge.

**ARTICLE XI
REQUIREMENTS OF TEXAS PROPERTY CODE 209**

(1) The Association must give notice to Owners under the following circumstances:

- (a) When charging an owner for property damage;
- (b) When levying a fine for a violation of the Declaration;
- (c) When filing a lawsuit except for:
 - (i) Lawsuits to collect regular or special assessments;
 - (ii) Lawsuits where one of the causes of action is foreclosure under an Association lien;
 - (iii) Lawsuits for a temporary restraining order or temporary injunction;

In the event notice is given for any of the foregoing, Owner must first receive advance notice of his responsibility and obligation to pay attorney's fees in accordance with Texas Property Code Section 209 ("Section 209")

- (d) When suspending an Owner's right to use a Common Area, except for:
 - (i) a temporary suspension of a person's right to use a Common Area if the violation involved a significant and immediate risk of harm to others in the Subdivision.

(2) Each notice required under Section 209 must contain the following:

- (a) A description of any violation of the Declaration, property damage, or imposition of any Charges;
- (b) State any amount due the Association; and
- (c) A statement which informs the Owner that:
 - (i) The Owner is entitled to a reasonable time to cure the violation and avoid the fine or suspension and state what the reasonable time is to cure the violation and avoid the fine or suspension (unless Owner has already been given notice & opportunity to cure a similar violation within the preceding 6 months); and
 - (ii) The Owner may request in writing a hearing before the Board or designated committee on or before the 30th day after the date the Owner receives the notice;

(iii) If the hearing is before a designated committee, then the Owner has the right to appeal the decision of the committee to the Board by written notice to the Board.

(3) If a hearing is requested by an Owner as provided above, then the Association must:

(a) Hold a hearing within 30 days from the date of receipt of the Owner's request for a hearing.

(b) Notify the Owner of the date, time and place of the hearing not later than the 10th day before the hearing.

(c) Must grant a postponement of the hearing for a period of not more than 10 days if a postponement is requested by either the Board or Owner, however, additional postponements may be granted by agreement of both parties.

(d) Allow the Owner or the Association to make an audio recording of the hearing.

(e) Give the Owner the opportunity to attend the hearing, however, an Owner need not be present in order to hold a hearing.

(4) The Association may receive reimbursement of its attorneys fees and costs relating to collection and damages for enforcement of the Declaration, but only if it first gives the Owner written notice stating that attorney fees and costs will be charged to the Owner if the delinquency or violation continues after a date certain.

(5) An Owner will not have to pay for attorney fees that are incurred before the conclusion of the Hearing or the date by which an Owner could have requested a hearing (which is 30 days after the date the Owner receives the notice). Consequently, if an attorney sends letters prior to a hearing requested by an Owner or an attorney participates at such a hearing, attorney fees will not be reimbursable to the Association by the Owner.

(6) All attorney fees, costs, and other amounts collected from an Owner must be deposited into an account maintained at a financial institution in the name of the Association or its managing agent.

(7) Upon written request from an Owner, an Association must provide copies of invoices for attorney fees and other costs relating to the matter for which the Association is seeking reimbursement of fees and costs.

(8) In the event of a non-judicial foreclosure, the amount of attorney fees the Association may seek reimbursement for is limited to the greater of:

(a) 1/3 of the amount of all actual costs and assessments, excluding attorney fees, plus interest and court costs if those amounts are permitted to be included by law or by the Declaration; or

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(b) \$2,500.

(9) The Association may not foreclose an assessment lien if the debt consists solely of fines or attorney fees associated with the fines.

(10) If the Association conducts a foreclosure sale on a Lot, the Association must send written notice to the Owner by certified mail, return receipt requested, to the last known address as reflected on the records of the Association. This notice must be sent regardless of whether the foreclosure is non-judicial or judicial. The notice must be sent no more than 30 days after the foreclosure sale date informing the Owner of the following:

(a) The date and time of the sale and a statement informing the Owner that the Owner has 180 days from the date of the notice to redeem the Lot.

(b) Not later than the 30th day after the date the notice described above is sent, the Association must record an Affidavit in the Official Public Records of Real Property of Bell County, Texas stating:

(i) The date the Notice was sent to the Owner; and

(ii) A legal description of the Lot sold.

(11) If a foreclosure sale occurs, then the Owner is required to file an affidavit conforming with the provisions of Section 209. Failure to file the affidavit within the redemption period of 180 days from the date of the foreclosure sale will result in a conclusive presumption that the Owner did not redeem the Lot.

(12) An Owner will have 180 days to redeem the property following the date the Association mails written notice of sale to the owner. Additionally, the Purchaser at foreclosure may not transfer ownership of the property to anyone other than the redeeming owner during the 180 day redemption period.

(13) If the purchaser of the Lot at the foreclosure sale is the Association, in order to redeem the Lot, the Owner must pay to the Association:

(a) All amounts due the Association at the time of the foreclosure sale;

(b) Interest from the date of sale to date of redemption on all amounts owed to the Association at the rate stated in the Declaration or 10% (if no rate is stated);

(c) Costs incurred by the Association in foreclosing and conveying the Lot to the Owner including reasonable attorney fees;

(d) Any assessments coming due on the Lot since the foreclosure;

(e) Any reasonable costs incurred by the Association including mortgage payments, costs of repair, maintenance or leasing of the Lot; and

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(f) The purchase price paid by the Association at the foreclosure sale less any amounts in the first item above which were satisfied out of the foreclosure sale.

(14) If the purchaser of the Lot at the foreclosure sale is a person other than the Association ("Purchaser"), in order to redeem the Lot:

(a) Owner must pay to the Association:

(i) All amounts due the Association at the time of the foreclosure sale less the sales price received by the Association from the purchaser;

(ii) Interest from the date of foreclosure through date of redemption on all amounts owed to the Association at the interest rate as stated in the Declaration or if no rate is stated then an annual interest rate of 10%;

(iii) Costs incurred by the Association foreclosing the lien and conveying the property back to the redeeming owner, including reasonable attorney fees;

(iv) Any unpaid assessments coming due after the foreclosure; and

(v) Any taxable costs.

(b) Owner must pay to the Purchaser at foreclosure sale:

(i) Any assessments levied on the Lot after the foreclosure that were paid by the Purchaser at sale;

(ii) The purchase price paid by the Purchaser at sale;

(iii) The amount of the deed recording fee;

(iv) Any ad valorem taxes, penalties and interest on the Lot that were paid by the Purchaser at sale after the date of foreclosure;

(v) Any taxable costs.

(15) If the Owner redeems the Lot, then the Purchaser at foreclosure must immediately give the Owner a deed transferring the Lot back to the redeeming Owner. If the Purchaser at foreclosure does not comply, then the redeeming Owner may file a suit against the Purchaser to recover reasonable attorney fees.

(16) A Lot that is redeemed remains subject to all liens and encumbrances on the Lot before foreclosure.

(17) If the Purchaser at sale enters into a lease on the Lot and the Owner redeems, that Owner will have the right to re-occupy the property immediately upon redemption.

(18) If an Owner makes a partial payment of amounts due the Association at any time during the redemption period, but fails to pay all amounts necessary to redeem, the Association must refund any partial payments no later than the 30th day after the expiration date of the redemption period (or 210 days after the notice of foreclosure). Such payment will be mailed to the Owner's last known address as shown on the Association records.

(19) If an Owner sends a written request by certified mail, return receipt requested, wanting to redeem the Lot on or before the last date of the redemption period, the Owner's right of redemption is extended until 10 days after the Association and the Purchaser at foreclosure provides written notice to the Owner of the amounts that must be paid to redeem the Lot.

(20) The Association or Purchaser at foreclosure sale must record an affidavit in the Official Public Records of Real Property of Bell County, Texas stating that the Owner did not redeem the Lot during the redemption or extended redemption periods.

(21) The Association or Purchaser at foreclosure sale must state in the affidavit filed of record in the Official Public Records of Real Property of Bell County, Texas the date the citation was served in a lawsuit to foreclose (if applicable), a legal description of the property, and any other relevant facts relating to the foreclosure sale. Any person may then conclusively rely upon the information contained in the affidavit.

ARTICLE XVI MAINTENANCE FUND

Maintenance Fund. The Board, for the benefit of the Owners, shall establish and maintain a maintenance fund into which shall be deposited the Charges collected from Owners and which maintenance fund shall be used, without limitation, for the payment of the following:

(1) Taxes and assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Owners, if any.

(2) Care and preservation of the Common Area.

(3) The services of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board of Directors, (provided that any contract for management of the Association will be terminable by the Association, with no penalty, upon 90 days prior written notice to the managing party) and the services of other personnel as the Board of Directors or the manager deems necessary.

(4) Legal and accounting services.

(5) A policy or policies of insurance insuring the Common Area, the Association, its Directors, and Officers against any liability to the public or to the Owners (and/or guests, invites, Customers or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board of Directors.

(6) Workers compensation insurance to the extent necessary to comply with any applicable laws.

(7) Such fidelity bonds as may be required by the By-Laws or as the Board of Directors may determine to be advisable.

(8) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, or assessments (including taxes or assessments assessed against an individual Owner) which the Board of Directors is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion is necessary or proper for the enforcement of this Declaration.

(9) Perpetual maintenance and enhancement of all Common Area including walls, gates, grounds, landscaping, lights, irrigation, and electric for right-of-way and all entry monuments, walls, and signs owned or maintained by the Association.

(10) Enforcement of all this Declaration, the Restrictive Covenants, Builder Guidelines, and Rules and Regulation.

(11) The operation of the ARC.

**ARTICLE XVII
GENERAL POWERS AND DUTIES
OF THE BOARD OF DIRECTORS OF THE ASSOCIATION**

Powers and Duties of Board: The Board, for the benefit of the Owners, will have the following general powers and duties, in addition to the specific powers and duties provided in this Declaration and in the Bylaws of the Association:

(1) To execute all declarations of Ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.

(2) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board see fit.

(3) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.

(4) To protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.

(5) To make reasonable Rules and Regulations for the operation of the Common Areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument signed by a majority of the Owners, or with respect to a rule applicable to less than all of the Common Areas, by the Owners in the portions affected.

(6) To make available for inspection by Owners within 60 days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable times and intervals.

(7) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.

(8) To enforce the provisions of any Rules and Regulations, Builder Guidelines and Restrictive Covenants or other provisions of this Declaration or the By-Laws of the Association, and to enjoin and seek damages and fines from any Owner for violation of the same.

(9) To collect all Charges, and enforce all penalties for non-payment including the assessment of a Fine and Late Fee, the filing of liens and the institution of legal proceedings.

(10) To establish or amend a monetary "fines" system which shall include due process hearings and a discretionary range of fine amounts, which, when levied, shall constitute a permitted Member Charge secured by the lien herein established.

(11) To establish reserve funds which may be maintained or accounted for separately from other funds maintained for annual operating expenses.

(12) To convey small portions of Common Area to adjoining Owners if, in the opinion of the Board, such conveyance does not materially impact the Association or the Subdivision or negatively affect the overall usage of the Common Area by the Owners.

The Board will have the exclusive right to contract for all goods, services, and insurance payment of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board except as provided in this Declaration.

The Board, on behalf of the Association, will have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms of this Declaration, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable, and in the best interest of the Association.

At any annual meeting of the Association, 25% of the members of the Board of Directors will be elected by Owners other than Declarant or Builder Member if 25% of the Lots have been sold to third parties other than Declarant or Builder Member. At any annual meeting of the Association, 33-1/3% of the members of the Board of Directors will be elected by Owners other than Declarant or Builder Member if 50% of the Lots have been sold to third parties other than Declarant or Builder Member.

ARTICLE XVIII TITLE TO COMMON AREAS

If applicable, all initial Common Area within the Properties will be conveyed to the Association free of lien prior to the conveyance of the first Lot by the Declarant. The Association will own all Common Areas in fee simple and assume all maintenance obligations with respect to any Common Areas that may be established after the filing of the Declaration. Nothing in this Declaration will create an obligation on the part of Declarant to establish any Common Area.

Any and all Common Areas will be for the common use and benefit of each Member of the Association

This Article will not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property, nor from acquiring title to real property which may or may not be subject to this Declaration, nor from disposing small tracts of Common Area in accordance with the provisions of this Declaration.

ARTICLE XIX INSURANCE AND CONDEMNATION

(1) Fire, Hazard, and Casualty Insurance. Each Owner, at his sole cost and expense, covenants and agrees with all other Owners and the Association to carry all-risk casualty insurance on their Lot. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the Owner will proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original Living Unit or Commercial Unit. In the event the Living Unit or Commercial Unit is totally destroyed and the Owner determines not to rebuild or reconstruct, the Owner will clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of the construction.

Each Owner will be responsible, at his own cost and expense, for personal liability insurance to the extent not covered by the Association and public liability insurance acquired by the Association on behalf of all Owners with respect to the Common Area. Each Owner will be responsible, at his own cost and expense, to obtain and maintain hazard and/or liability insurance on the Lot once the Living Unit or Commercial Unit has been constructed on a Lot.

(2) Property and Public Liability Insurance With Respect to Common Area, Errors and Omissions and Indemnification.

(A) The Board of Directors of the Association may, at the Board's sole discretion, obtain and continue in effect property insurance, to insure the buildings and structures in the Common Area, naming the Association as beneficiary with an endorsement to the mortgagee, if any, against risks of loss or damage by fire and other hazards as are covered under

standard fire and extended coverage provisions. This insurance will also include coverage against vandalism.

(B) The Board of Directors of the Association may, at the Board's sole discretion, obtain comprehensive public liability insurance in such limits as it deems desirable, insuring the Association, its agents and employees, and each Owner, from and against liability in connection with the Common Area.

(C) The Board of Directors of the Association may, at the Board's sole discretion, obtain liability insurance covering errors and omissions of directors, officers, managers, employees, and representatives of the Association, and fidelity bonds for all officers and employees that have control over the receipt or disbursement of funds.

(D) The Association may indemnify directors, officers, employees, and agents and may purchase indemnity insurance in accordance with the provisions of Article 2.22A of the Texas Non-profit Corporations Act.

(3) Insurance Premiums with Respect to Common Area. All costs, charges, and premiums for all insurance with respect to the Common Area that the Board of Directors authorizes will be a common expense of all Owners and will be part of the annual assessment.

(4) Other Insurance. None of the above prevents the Board of Directors from obtaining other insurance as may be required by law (e.g. workers compensation) or other insurances which may become the norm for properties of this nature.

(5) Condemnation. If part or all of the Common Area is taken or condemned by any authority having the power of eminent domain, any compensation and damages will be paid to the Association. The Board of Directors will have the exclusive right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation issues affecting the to-be-condemned Common Area. The Owners may, by vote of 75% or more of the total voting power, agree to distribute the proceeds of any condemnation or taking by eminent domain, to each Owner and his mortgagee, if any, as their interest may appear. In the event that the Owners do not agree, the proceeds will be added to the funds of the Association, and the Association will decide on whether or not to replace or restore, as far as possible, the Common Area so taken or damaged.

The Association will give timely notice of the existence of the proceedings to all Owners and, if information is available, to their mortgagees, if any. The expense of participation in the proceedings will be common expenses chargeable to the Owners.

(6) Insufficient Proceeds. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in this Declaration.

ARTICLE XX AMENDMENT AND ANNEXATION

This Declaration will remain in force and effect for a period of 30 years after this Declaration is recorded, and each 10th anniversary thereafter, this Declaration will be renewed and continued for a period of 10 years unless amended as provided in this Declaration. This Declaration may be amended by written instrument approved by the affirmative vote of the Members of the Association holding at least 75% of the total votes. The amendment will be effective when it is certified by the President of the Association as to the requisite number of votes and recorded in the Official Public Records of Real Property of Bell County, Texas. Any amendment so certified and recorded will be conclusively presumed to have been duly adopted. Declarant will have the right to file an amendment to this Declaration, or any other Restrictive Covenant that may be filed, for any reason, without the necessity of joinder by any other Owner, at any time during the construction period of the Subdivision or the Properties, and for so long as Declarant is developing the Properties. Notwithstanding the foregoing, after Declarant has ceased to develop the Properties, Declarant will have the right to file an amendment to this Declaration, without the necessity of joinder by any other Owner, for the limited purposes of correcting a clerical error, clarifying an ambiguity, removing any contradiction in the terms of this Declaration, or for the purpose of making such additions or amendments to this Declaration as may be required by FHA, HUD, VA, or other governmental authority to qualify the Properties for mortgage guaranties issued by FHA or VA.

During the construction period of the Subdivision and the Properties and for so long as Declarant is developing the Properties, Declarant will have the right, privilege and option to annex additional land to make it subject to this Declaration until Declarant no longer owns a Lot by filing in the Official Public Records of Real Property of Bell County, Texas an amendment annexing additional property. Additional property may be annexed and made subject to this Declaration, or property may be withdrawn, by written instrument approved by the affirmative vote of the Members of the Association holding at least 75% of the total votes and filed of record in the Official Public Records of Real Property of Bell County, Texas.

ARTICLE XXI GOVERNMENTAL REQUIREMENTS

By acceptance of a deed to a Lot, or initiating construction of improvements to a Lot, each Builder Member and contractor assumes responsibility for complying with all certifications, permitting, reporting, construction, and procedures required under all applicable governmental rules, regulations, and permits, including, but not limited to those promulgated or issued by the Environmental Protection Agency or any other governmental authority and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176 et seq.), and with the responsibility of ascertaining and complying with all regulations, rules, rulings, and determinations of the Texas Water Development Board and Texas Water Commission, related to each Lot, including, without limitation, the provisions of chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms of the foregoing. The foregoing references are made for the benefit of builders and contractors and do

DECLARATION OF COVENANTS, CONDITIONS, AND
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not in any way limit the terms and requirements of this covenant and the requirement that all Builder Members and contractors comply with all governmental regulations, and any plan required by such regulations such as Storm Water Pollution Plan, affecting each Lot and construction site with which they are associated, including delivery to Declarant of a certification of understanding relating to any applicable NPDES permit prior to the start of construction. Each Builder Member and contractor, by acceptance of a deed to a Lot or undertaking the making of improvements to a Lot, holds harmless and indemnifies Declarant from all cost, loss, or damage occasioned by the failure to abide by any applicable governmental statute, rule, regulation or permit related to the Properties.

By acceptance of a deed to a Lot, each Builder Member and Owner accepts responsibility to maintain his or its Lot so that any storm water drainage ditch(es) do not fill up, become clogged, or prohibit the free flow of drainage or pollute storm water.

By acceptance of a deed to a Lot, each Builder Member and Owner agrees that Declarant and the Association will have the right to enter upon any Lot on which one or more conditions or activities prohibited by appropriate governmental authority is maintained, or on which there has been a failure to perform any act required by appropriate governmental authority. The Declarant and the Association may enter the upon the Lot for the purpose of curing any violation, provided that the Owner or Builder Member has been given 5 days prior written notice and has failed to remedy the complained of violation within such time. Each Owner and Builder Member indemnifies and holds harmless Declarant and the Association from all cost and expense of such curative action and any cost or expense of penalty or fine levied by any governmental authority as a result of the act or failure to act of the Owner or Builder Member with respect to his Lot or the Properties. The foregoing remedy will be cumulative of all other remedies for violations of provisions of these covenants.

ARTICLE XXII GENERAL PROVISIONS

(1) Interpretation. If this Declaration or any word, clause, sentence, paragraph, or other part thereof will be susceptible to more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration will govern. Whenever in the application of the provisions of this Declaration, or any amendment hereto, conflict with the application of any provision of the By-Laws of the Association, or any other restriction or covenant filed separately or as a part of this Declaration, the provisions or application of this Declaration shall prevail.

If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration is omitted from this Declaration, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence, or provision will be supplied by inference.

The singular, whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions here apply

DECLARATION OF COVENANTS, CONDITIONS, AND
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either to corporations or individuals, males or females, will in all cases be assumed as though in each case fully expressed.

(2) Notices. Any notice required to be given to any Owner or Member will be complete when the notice is deposited in the United States Mail, postage prepaid, and addressed to the Owner or Member at the last known address as shown by the records of the Association, is faxed to the Owner or Member at the last known facsimile number as shown by the records of the Association and a confirmation of successful transmission is obtained and filed by the Association, or is emailed to the Owner or Member at the last known email address as shown by the records of the Association and a confirmation of delivery notice is received by the Association and stored electronically, pursuant to Article X, Section C of this Declaration.

(3) Headings. The headings contained in this Declaration are for reference purpose only and will not in any way affect the meaning or interpretation of this Declaration.

(4) Invalidation of any one or more of these covenants, restrictions, conditions, and limitations by judgment or court order, will in no way affect any of the other provisions of this Declaration which will remain and continue in full force and effect.

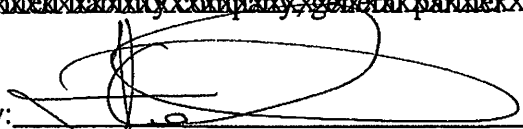
(5) These covenants, restrictions, conditions, and limitations are in all respects subject to any applicable zoning regulations lawfully in force or hereafter adopted.

EXECUTED TO BE EFFECTIVE January 19, 2004.

~~xx KIELLA FAMILY, LTD., a Texas limited~~
~~xx partnership xx~~

KIELLA DEVELOPMENT

~~xx By: KIELLA MANAGEMENT, L.C., a Texas~~
~~xx limited liability company, general partner xx~~

By: 

JOHN R. KIELLA, President
Vice

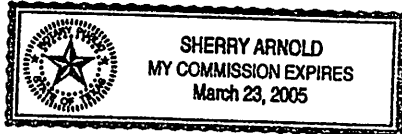
(ACKNOWLEDGMENT)

STATE OF TEXAS
COUNTY OF BELL

§

§

This instrument was acknowledged before me on Jan. 19, 2004,
by JOHN R. KIELLA, in his capacity as ^{Vice} President of ~~KIELLA MANAGEMENT, L.P., a Texas~~
~~limited liability company, in his capacity as general partner of KIELLA FAMILY, LTD., a Texas~~
~~limited partnership, on behalf of said limited liability company and limited partnership~~ ~~xxxxxx~~
DEVELOPMENT, a Texas corporation, on behalf of said corporation.



Sherry Arnold
NOTARY PUBLIC

PREPARED IN THE LAW OFFICE OF:

crm

BAIRD, CREWS, SCHILLER & WHITAKER, P.C.

ATTN: THOMAS C. BAIRD

15 North Main Street

Temple, Texas 76501

AFTER RECORDING, RETURN TO:

BAIRD, CREWS, SCHILLER & WHITAKER, P.C.

ATTN: THOMAS C. BAIRD

15 North Main Street

Temple, Texas 76501

DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIVE COVENANTS – HERITAGE PLACE

Transfer

Member Classification	Initial Membership Assessment*	Initial Annual Assessment *	Initial Membership Assessment (Subsequent Purchaser)*
Residential	\$ <u>50⁰⁰</u>	\$ <u>50⁰⁰</u>	\$ <u>50⁰⁰</u>
Commercial	\$ _____	\$ _____	\$ _____

* Annual Assessments and Membership Assessments are due and payable in accordance with the Minutes and Declaration, on a per Lot basis, beginning with the calendar year 2004.

BEING a 19.177 acre tract of land situated in the ELIZABETH BERRY SURVEY, ABSTRACT No. 56 and the A.G. MOORE SURVEY, ABSTRACT No. 596, Bell County, Texas and being a part or portion of that certain 151- $\frac{3}{4}$ acre tract of land described in a Deed dated April 6, 1953 from Henry C. Watson and wife, Kate Watson to Laurin H. Watson and Mary Julia Watson and being of record in Volume 803, Page 65, Deed Records of Bell County, Texas and being the same 151- $\frac{3}{4}$ acre tract as found in Probate No. 16528 to BOLES ORPHAN HOME; said 19.177 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a $\frac{5}{8}$ " iron rod found in the south boundary line of said 151- $\frac{3}{4}$ acre tract and being in the north boundary line of Lot One (1), Block Two (2), of the REPLAT OF NORTHWEST HILLS 2nd EXTENSION, a subdivision to the City of Temple, Bell County, Texas according to the map or plat of record in Cabinet A, Slide 17-A, Plat Records of Bell County, Texas; said $\frac{5}{8}$ " iron rod found being the called southeast corner (calls $\frac{5}{8}$ " iron rod) of that certain 1.444 acre tract of land (Exhibit "A") (John Paul Jones Drive extension) described in a Warranty Deed dated December 31, 1997 from Boles Home, Inc. to the City of Temple, and being of record in Volume 3729, Page 381, Official Public Records of Bell County, Texas, from which a 1" metal pipe found bears N. 68° 44' 01" E., 0.75 feet;

THENCE departing said south boundary line and said north subdivision line and with the east boundary line of said 1.444 acre tract the following two (2) calls:

- (1) N. 19° 15' 04" E., 1020.92 feet (calls S. 19° 16' 24" W., 1020.99 feet) to a $\frac{1}{2}$ " iron rod with cap marked "VANNOY, RPLS 1988" found (calls $\frac{5}{8}$ " iron rod) for corner;
- (2) N. 63° 18' 40" E., 29.31 feet (calls S. 63° 14' 05" W., 29.27 feet) to a $\frac{1}{2}$ " iron rod with cap marked "VANNOY, RPLS 1988" found in the apparent south right-of-way line of Nugent Avenue (no recorded document found for the right-of-way of said Nugent Avenue) for corner;

THENCE S. 72° 43' 49" E., 175.86 feet departing said 1.444 acre tract and with said south right-of-way line to a $\frac{1}{2}$ " iron rod with cap marked "VANNOY, RPLS 1988" found being the called west corner (calls $\frac{5}{8}$ " iron rod) of that certain 0.059 acre tract of land (Exhibit "B") described in a Warranty Deed dated December 31, 1997 from Boles Home, Inc. to the City of Temple and being of record in Volume 3729, Page 381, Official Public Records of Bell County, Texas for corner;

THENCE S. 72° 48' 07" E., 580.00 feet (calls N. 72° 47' 43" W., 1223.21 feet) continuing with the said south right-of-way line to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said south right-of-way line and over and across the said 151- $\frac{3}{4}$ acre tract the following five (5) calls:

- (1) S. 17° 11' 53" W., 154.68 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- (2) S. 72° 48' 07" E., 15.00 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;



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LEGAL DESCRIPTION

- (3) S. 17° 11' 53" W., 780.00 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (4) N. 72° 48' 07" W., 36.20 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (5) S. 17° 11' 53" W., 103.41 feet to a ½" iron rod with cap stamped "RPLS 2475" set being in the north boundary line of the said NORTHWEST HILLS 2nd EXTENSION for corner,

THENCE N. 72° 57' 59" W., 792.36 feet with the said north boundary line to the Point of BEGINNING and containing 19.177 acres of land.

I, Victor D. Turley, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.

Victor D. Turley
 Victor D. Turley, R.P.L.S. #2475
 February 7, 2003



Field Notes revised April 18, 2003

THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE STATE OF TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTES, AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT #4009

THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 31' 58"

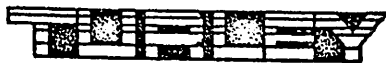
THE COMBINED COORECTION FACTOR (CCF) IS 0.999884

PUBLISHED CITY COORDINATES ARE X=3223785.33 Y=10382788.37

THE TIE FROM THE ABOVE MONUMENT TO THE POINT OF BEGINNING IS S. 16° 35' 08" W., 1021.39 FEET

See attached surveyors sketch that accompanies this set of field notes (ref: Turley Associates, Inc. drawing no. 11067-D)

Cabinet C. Slide 354a



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FILED FOR RECORD
 04 MAR 29 AM 9 25
 VADA
 CN
 CNTY CLERK BELL CNTY TX
 BY *[Signature]*
 DEPUTY

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