TERRACE TWO (THE)

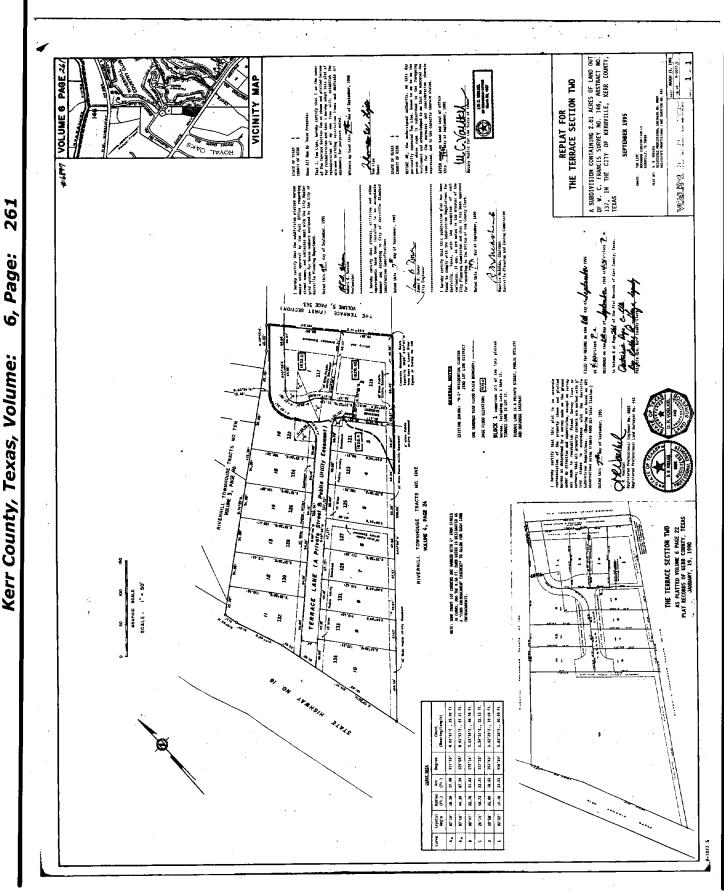
RESTRICTIONS

Volume 6, Page 22 and Volume 6, Page 261, Plat Records of Kerr County, Texas and Volume 815, Page 184, Real Property Records of Kerr County, Texas, BUT OMITTING ANY COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

OTHER EXCEPTIONS

- Easement to L.C.R.A., dated April 10, 1946, recorded in Volume 79, Page 129, Deed Records of Kerr County, Texas.
- Easement to L.C.R.A., dated December 19, 1961, recorded in Volume 3, Page 519, Easement Records of Kerr County, Texas.
- Easement Agreement dated April 16, 1982, recorded in Volume 14, Page 193, Easement Records of Kerr County, Texas, executed by and between John C. Nelson and wife, Hilda Nelson, and Riverhill Club & Estates, Ltd.
- Easements as per plat recorded in Volume 5, Page 343, Plat Records of Kerr County, Texas. (As per Lots 1 & 2 only)
- Easements and Building Set Back Lines as per the plat recorded in Volume 6, Page 22 and Volume 6, Page 261, Plat Records of Kerr County, Texas.
- Easements and Building Set Back Lines as reserved in the Restrictions dated September 8, 1995, recorded in Volume 815, Page 184, Real Property Records of Kerr County, Texas.
- Annual assessments and charges as described in the Restrictions dated September 8,
 1995, recorded in Volume 815, Page 184, Real Property Records of Kerr County, Texas.
- Any visible and/or apparent roadways or easements over or across the subject property.
- Rights of Parties in Possession. (AS PER OWNER'S POLICY ONLY)

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THE TERRACE SECTION TWO

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION AND AGREEMENT (this "Declaration and Agreement") made this 8th day of September , 1995, by the undersigned ("Declarant", whether one or more);

WITNESSETH:

- B. Declarant desires to provide for the preservation of the values and amenities of the Property and to this end desires to subject the Property to the covenants, conditions, restrictions and easements, hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof ("Owner").

NOW, THEREFORE, Declarant declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements, hereinafter set forth, which shall constitute covenants running with the land, binding upon all Owners of the Property, or any part thereof, and their respective heirs, legal representatives, successors and assigns:

- 1. Land Use. The Property shall not be used for any purpose other than for single family residential purposes which shall refer to a structure containing one dwelling unit attached or detached only and occupied by not more than one family. The Property shall not be used for any commercial or business purpose.
- 2. <u>Dwelling Size and Composition</u>. The liveable area of a single family residential structure on the Property, exclusive of open or screen porches, stoops, open terraces, and garages shall not be less than one thousand two hundred (1,200) square feet. The exterior walls of any single family residence shall be 50% rock, stucco, or masonry construction. All driveways from

any road to a residence on the Property shall be paved with concrete. All roofing material for a single family residence or outbuilding shall be of either metal, wood shake, tile or top grade dimensional composition or fiberglass shingle (minimum of 240 pounds) and if such roofing is composition the color shall be weathered woods (or other similar color if approved by the Architectural Committee, as herein defined).

- 3. New and Permanent Construction. All buildings and other structures on the Property shall be of new and permanent construction; and no structure shall be moved from any location on or off the Property onto any portion of the Property, provided, however, that temporary structures may be placed and maintained on the Property in connection with the construction of buildings, structures or improvements thereof. Any such temporary structure shall be promptly removed upon completion of the construction to which it relates.
- 4. Temporary Structures. No ready-built home or building, trailer, mobile home, including any such mobile home with the tires and wheels removed therefrom, regardless of how affixed to the Property, tent, shack, garage, barn or other outbuildings or any structure of a temporary character shall be used on the Property at any time as a residence, either temporarily or permanently. Notwithstanding anything herein to the contrary, each Owner of a Lot may erect a storage building on the Lot owned by such Owner provided that the siding and roof of such storage building match the siding and roof of Owner's residence on such Lot.
- 5. Nuisance. No noxious or offensive activity shall be permitted on the Property nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to the Property and no odor shall be permitted to arise thereon, so as to render the Property or a portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or its occupants.
- 6. Animals. No poultry, swine, horses or livestock or any other animals other than household pets shall be kept upon the Property. Household pets shall be limited to a total of not more than three (3) of either dogs and/or cats; all dogs shall be on a leash or confined with a yard fence adequate to confine the animal or animals with the Property.
- 7. Burning and Incinerators. No open fires or burning shall be permitted on the Property at any time and no incinerators or like equipment shall be placed, allowed or

maintained upon the Property unless a permit for such burning is secured from the City of Kerrville or such burning is otherwise permitted by the City of Kerrville and/or the ordinances of the City of Kerrville, as amended from time to time. The foregoing shall not be deemed to preclude the use, in customary fashion, of outdoor residential barbecues or grills or any other similar uses permitted by ordinances of the City of Kerrville, as amended.

- 8. Fences. All perimeter fonces on the Property shall be constructed to comply with City of Kerrville Ordinance No. 93-05, as amended from time to time. Other fences within the Property shall be wood and shall not be higher than six (6) feet. Chain link or metal fences are prohibited.
- 9. Oil and Mineral Activity. No oil exploration, drilling, development or refining operations and no quarrying or mining operations of any kind, including oil wells, surface tanks, tunnels, or mineral excavation or shafts shall be permitted upon or under the Property; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on the Property.
- 10. <u>Boats, Trailers</u>. Neither a motorboat, houseboat or other similar water-borne vehicle nor any "camper" vehicle nor trailers, inoperable vehicles or motor homes of any kind may be maintained, stored or kept on any parcel of property covered by these covenants except in an enclosed garage thereon.
- shall, at his sole cost and expense, maintain and repair the portion of the Property owned by such Owner and the dwelling and other improvements situated thereon, keeping the same in good condition and repair. In the event that any such Owner shall fail to maintain and repair such portion or dwelling and improvements as required hereunder, the Architectural Committee shall have all remedies available hereunder or by law, and without waiving any of said alternative remedies, shall have the right, through its agents and employees, to enter upon said Property and to repair, maintain, and restore the same and the exterior of the dwelling and other improvements situated thereon; and each Owner (by acceptance of a deed) hereby covenants and agrees to repay the cost thereof immediately upon demand.
- 12. Architectural Approval. Anything contained herein to the contrary notwithstanding, no erection of buildings or exterior additions or alterations to any building situated upon the Property nor erection of or changes or additions in fences, hedges, walls and other structures, nor construction of any improvements nor any changes in the exterior color of any

building, structure, fence, wall or other improvement, shall commenced, erected, or maintained until (i) a preliminary sketch showing the basic plan and general specifications of same shall have been submitted to and approved by the Architectural (ii) the final plans and Committee, herein specified, and nature, kind, the specifications showing materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design, appearance, and location in relation to surrounding structures and topography by such Architectural Committee. In the event such design and location is not so approved within thirty (30 days after the said plans and specifications have been submitted as herein provided, or, in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this paragraph will be deemed to have been fully complied with. Architectural Committee may waive any of the requirements set forth herein, without negating or waiving other or future requirements. The waiver of any requirement shall in no wise effect any other requirement.

- 13. Encroachments. Declarant hereby reserves for itself and each Owner of a portion of the Property, an easement and right of overhang and encroachment with respect to any dwelling constructed on the Property for the overhang of the roof of any such constructed dwelling (which overhang shall be guttered) and for the encroachment of any such constructed dwelling upon an adjoining portion of the Property as a result of the construction, repair, shifting, settlement or movement of any portion of any such constructed dwelling, together with an easement and right of ingress and egress for the maintenance of the portion of such dwelling so encroaching or overhanging.
- 14. Restricted Actions by Owners. No Owner shall permit anything to be done or kept on the Property which will result in the cancellation of or increase of any insurance carried by an adjoining Owner or which would be in violation of any law.
- 15. <u>Signs</u>. No sign of any kind shall be displayed to the public view on or from any part of the Property, without the prior consent of the Architectural Committee, except signs temporarily used by Declarant and builders in the development and sale of the Property and Lots within the Property.
- 16. Attachments. Except for utilities which may be attached to a wall of a residence that is on a boundary line of a Lot, no permanent attachments of any kind or character whatsoever (including, but not limited to, television and radio antennas, satellite equipment and dishes) shall be made to the roof or

walls of any home, unless such attachments shall have been first submitted to and approved by the Architectural Committee.

- 17. Mailboxes. Mailboxes on each Lot shall be constructed of brick, stone or stucco similar to materials used on the home located on such Lot.
- 18. <u>Drainage</u>. Each Owner shall not alter or change the drainage or seepage on, over or across, nor the grade of such Owner's Lot, by channeling, filling, grading, excavating or any other means or acts and shall not do, permit or cause to be done any act that results or might reasonably be expected to result in any adverse change or affect on such drainage or seepage.
- 19. Architectural Committee. Until all Lots within the Property are sold Declarant and/or Declarant's designated agent(s) or representative(s) shall serve and act as the Architectural Committee and thereafter it shall be composed of three (3) or more representatives appointed by the Board of Directors of the Association. Said Committee and its members or those acting as said Committee shall not be personally liable for the exercise of any authority or power herein set forth and shall not be responsible nor obligated to review or inspect any construction pursuant to said plans, to insure compliance with said plans, to pass upon any methods of construction nor to inspect or prevent any defects in construction.
- 20. Utility Easements. Easements for installation, maintenance, repair and removal of utilities (including, but not limited to, sewer, water, telephone, power, gas and street lighting) and drainage facilities and floodway easements over, under and across the Property are reserved by Declarant for itself, its successors and assigns. Declarant shall have the right to grant easements for such purposes over, under, and across the Property. Full rights of ingress and egress shall be had by Declarant and its successors and assigns, at all times over the Property for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility.
- 21. Underground Electric Distribution System. An underground electric distribution system has been or will be installed to service the Property. The Owner of each Lot within the Property shall, at his own cost furnish, install, own and maintain (all in accordance with the requirements of local

governing authorities and the National Electrical Code) underground service cable and appurtenances from the point of the electric company's metering on customer's structure to the point of attachment at such company's installed transformers energized secondary junction boxes, such point of attachment be made available by the electric company at a point designed by such company at the property line of each Lot. The company furnishing service shall make the necessary connections at said point of attachment and at the meter. In addition Owner of each Lot shall, at his own cost, furnish, install, and maintain a meter loop (in accordance with then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of electric company for the residence constructed on such Owner's Lot. For so long as underground service is maintained, the electric service to each Lot therein shall be underground, uniform in character and exclusively of the type required by such utility company.

22. Ingress and Egress by Owners, Declarant. Each Owner shall have the right of ingress and egress at all times over and upon each adjoining Lot for the maintenance and repair of any such Owner's Lot; provided, that any entry by each such Owner upon any such adjoining Lot shall be made with as minimum inconvenience to the Owner of each such adjoining Lot as practical, and any damage caused thereby shall be repaired by each such entering Owner at his expense. Each Owner and such Owner's family, guests, servants and invitees shall additionally have an easement for ingress and egress at all times over and upon the Road.

Declarant and its successors and assigns shall have the right of ingress and egress at all times over and upon each Lot for the purpose of construction work on adjoining Lots; provided, that any entry by Declarant and its successors and assigns shall be made with as minimum inconvenience to the Owner of such Lot as practical; however, Declarant and its successors and assigns shall have the right to remove any obstruction that may be placed within five (5) feet of that boundary line on a Lot that is directly opposite of the "zero-lot line" for such Lot. The "zero-lot line" for a Lot is the boundary line of such Lot which there is no building set back requirement.

23. Ingress and Egress by Police, etc. The police, fire department, emergency units, ambulance company, utility companies, and any government agency or department having jurisdiction, shall have the right to ingress and egress at all times over and upon the Property, for the performance of their respective duties and responsibilities with respect to the Property and in order to service the Property.

24. Association.

A. Membership and Voting Rights

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

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

Class B: The Class B member shall be the Declarant and shall be entitled to four (4) votes for each Lot owned.

Section 3. The Association shall be managed by its Board of Directors pursuant to the procedures set forth in the Association's articles of incorporation and bylaws, subject to this Declaration and Agreement.

B. Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges, and (2) special assessments for Road improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but shall constitute a lien against and on the property subject thereto.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement, maintenance, management and repair of the Road; and for the payment of insurance premiums as provided for herein. The assessment shall include all charges for taxes, assessments, liability insurance, accounting and legal fees, and other expenses of upkeep, maintenance, and management actually incurred by the Association regarding the Road, and the cost of and a reserve for maintenance and repair, reinstatement, rebuilding, and replacement of the Road which may be required, from time to time.

Section J. Special Assessments for Road Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Road, which is not covered by the reserve in the annual assessment, provided that any such assessment shall have the assent of two-thirds (2/3) of the total votes entitled to be cast who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Notice and Quorum for any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members of the Association not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of the total votes entitled to be cast shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Rate of Assessment. Both annual and special assessments must be fixed by the Association at a uniform rate for all lots owned by the members. The annual assessment amount shall be \$25.00 per lot per year, and shall be payable on July 1 of each year beginning in 1997. Special assessments shall be collected at such times as determined by the Association.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or file in Kerr County,

Texas a statement describing such Lot and assessment thereupon a lien shall be imposed upon such Lot in favor of the Association for such assessment and the Association may foreclose the lien against such Lot. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly agrees to and creates a lien for unpaid assessments and vests in the Association, its successors, or assigns, the right and power to bring all against such Owner personally for the collection of such as a debt and to enforce the aforesaid lien by all methods the enforcement of such liens, including available for foreclosure by an action brought in the name of the Association, its agents, successors or assigns, in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with sai lien and there is incorporated by reference the provisions of Section 51.002 of the Texas Property Code, as to the procedure for non-judicial foreclosure.

The lien provided for in this section shall be in favor of the Association, its successors or assigns, and shall be for the benefit of all Owners. The Association, acting on behalf of all Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Road or abandonment of his Lot.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be prior and superior to all other liens except only (a) ad valorem taxes and (b) all sums unpaid on a first mortgage or deed of trust of record. The sale or transfer of any Lot shall not affect the assessment lien; provided, however, that the sale or transfer of any Lot pursuant to the foreclosure of a first mortgage thereon shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

25. Miscellaneous.

A. The Covenants, Conditions and Restrictions of the Association hereof shall run with and bind the Property and shall inure to the benefit of and be enforceable by Declarant and/or any Owner of any land subject hereto, their respective legal representatives, heirs, successors, and assigns, for a term of

thirty (30) years form the date hereof, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Owners of the Property has been recorded, agreeing to abolish or amend the same, in whole or in part; provided, however, that no such agreements to change shall be effective unless made and recorded ninety (90) days in advance of the effective date of such change.

B. The Covenants, Conditions and Restrictions hereof may be abclished, amended and/or changed in whole or in part, only with the consent of seventy-five percent (75%) of all of the Votes (as hereinafter defined) of the Owners and Declarant. All amendments, if any, shall be recorded in the office of the County Clerk of Kerr County, Texas.

Votes shall be defined as follows:

- (i) All Owners of Lots (except Declarant) shall be entitled to one (1) vote for each Lot in which they hold an interest. When more than one (1) person holds such interest or interests in any Lot, all such persons shall have one (1) vote and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (ii) Declarant shall be entitled to four (4) votes for each Lot in which it holds an interest.
- C. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity including without limitation injunction, mandatory or prohibitive, against any person or persons violating or attempting to violate them, or to recover damages and the failure to enforce same shall in no event be deemed a waiver of the right to do so. In the event an action is brought to enforce such covenants, the party bringing such action shall be entitled to recover, from the party or parties violating the restrictive covenants, all costs of court and attorneys' fees incurred in connection therewith.
- D. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, all of which shall remain in full force and effect.
- E. Except for judicial construction, the Declarant shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any

adjudication to the contrary by a court of competent jurisdiction, the Declarant's construction or interpretation of the provisions hereof shall be fixed, conclusive and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

P. The headings contained in this Declaration are for reference purpose only and shall not in any way affect the meaning or interpretation of this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this 8th day of September , 1995.

DECLARANT:

THOMAS W. LIPE Lyse

THE STATE OF TEXAS

COUNTY OF KERR

This instrument was acknowledged before me on Spicmber 8. 1995, by THOMAS W. LIPE.

Notary Public, State of Texas

FILED By & Return to: VOELLEL ENGINEERING

212 Clay Kerrville, Lx. 18028

LEE C. VOELKEL MY COMMISSION EXPIRES March 28, 1997

FILED FC RECORD at 436 n'rinnk P M

SEP - 8 1995

PATRICIA DYE

COUNTY OCUL. Keef County, Texas

Maria County Deputy

MORTGAGEE JOINDER

JOHN C. NELSON and wife, HILDA NELSON, the owner of a mortgage indebtedness secured by a deed of trust covering the Property, joins in the foregoing Declaration.

JOHN C. NELSON

HILDA NOISON TILLA.

THE STATE OF TEXAS

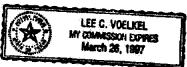
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COUNTY OF KERR

- 2

This instrument was acknowledged before me on September 8, 1995, by JOHN C. NELSON and wife, HILDA NELSON.

Notary Public, State of Texas



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I hereby certly but this estrument was FLED in File Number Sectiones on the sale and at the time stamped hereon by the and was duly RECDADED at the Michael Pathic Records of Real Property of Kerr County, Texas on

SEP 8 1995

Patricia Dye county, texas

VOL 5/5 PG 897

SEP 81995

COUNTY CLERK, KERRI COLLETY

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CERTIFICATE OF LEGALITY AND AUTHENTICITY

ON FILM

No 0815 PAGE 196

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Name of government	Signature of Record Castodian
County Clerk Name of Office	Patricia Dye
Name of office	Name of Records Custodian
Date Certified	County Clerk Title of Records Custodian
Kerrville, Texas Place Certified	
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Kerrville, Texas , on	fied Dual Head Camera
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Title of Camera Operator	

TITLE PAGE

Between this title page and the certificate of legality and authenticity or declaration of intent are the KERR COUNTY,

OFFICIAL PUBLIC RECORDS OF REAL PROPERTY of Local government and/or subordinate organizational unit(s).

BEGINNING FILE #

VOLUME AND FIRST PAGE FILMING

DATE OF FILMING

RESTRICTIONS OR CLASSIFICATION INFORMATION

BIBLIOGRAPHIC INFORMATION

PATRICIA DYE, COUNTY CLERK KERR COUNTY, TEXAS

Mayan Chaples