

## **VISTA ESCONDIDAS de CYPRESS SPRINGS ESTATES RESTRICTIONS**

Volume 1006, Page 53, and Volume 1050, Page 48, Real Property Records of Kerr County, Texas; Volume 1068, Page 146 having been assigned at Volume 1308, Page 169, Real Property Records of Kerr County, Texas; Volume 1207, Page 270 having been assigned at Volume 1501, Page 859, Official Public Records of Kerr County, Texas, and Volume 1265, Page 874, Real Property Records of Kerr County, Texas; Volume 7, Page 363-364, Plat Records of Kerr County, Texas; Volume 1542, Page 230; Volume 1570, Page 491, and Volume 1611, Page 15, Official Public 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 dated June 3, 1959 to L.C.R.A., recorded in Volume 3, Page 177, Easement Records of Kerr County, Texas. (AS PER LOTS 101, 102, 124, 144, 149, 150 & 151 ONLY)
- Telephone Line Right-Of-Way Easement dated November 15, 1996 to Hill Country Telephone Cooperative, Inc., recorded in Volume 906, Page 535, Real Property Records of Kerr County, Texas.
- Resident's easement to enjoy common area as provided in Declaration of Covenants, Conditions and Restrictions, dated April 12, 1999, recorded in Volume 1006, Page 53, Real Property Records of Kerr County, Texas, and dated July 31, 2002, recorded in Volume 1207, Page 270, Real Property Records of Kerr County, Texas; Volume 1542, Page 230, Official Public Records of Kerr County, Texas, and restated in Volume 1611, Page 15, Official Public Records of Kerr County, Texas.
- Annual assessments and/or current maintenance charges as set forth in instrument dated April 12, 1999, recorded in Volume 1006, Page 53, Real Property Records of Kerr County, Texas, and dated July 31, 2002, recorded in Volume 1207, Page 270, Real Property Records of Kerr County, Texas; Volume 1542, Page 230 and Volume 1570, Page 491, Official Public Records of Kerr County, Texas; and amended and restated in Volume 1611, Page 15, Official Public Records of Kerr County, Texas.
- Building Set Back Lines and Easements as per the Restrictions recorded in Volume 1006, Page 53, and Volume 1207, Page 270, Real Property Records of Kerr County, Texas; Volume 1542, Page 230, Official Public Records of Kerr County, Texas; and amended and restated in Volume 1611, Page 15, Official Public Records of Kerr County, Texas.
- Building Set Back Lines as per the Restrictions recorded in Volume 1050, Page 48, Real Property Records of Kerr County, Texas.
- Easements as per the Plat recorded in Volume 7, Page 363-364, Plat Records of Kerr County, Texas.
- Mineral reservation by Declarant, Aaron Whitby Properties, L.L.C., a Texas limited liability company, as described in Declaration of Covenants, Conditions and Restrictions of Cypress Springs Estates, dated April 12, 1999, recorded in Volume 1006, Page 53, Real Property Records of Kerr County, Texas, reference to which instrument is here made for all purposes, together with all rights, expressed or implied in and to the property covered by this policy arising out of or connected with said interests and conveyance. Title to said interest not checked subsequent to date of aforesaid instrument.
- Affidavit regarding certified copies of Map of the Cypress Springs Public Water System being a part of Aqua Texas, Inc., Certificate of Convenience and Necessity #12902, recorded in Volume 1634, Page 80, Official Public Records of Kerr County, Texas.

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**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE ONE  
A SUBDIVISION IN KERR COUNTY, TEXAS**

FILED FOR RECORD  
at 2:52 o'clock .....M

APR 18 1999

JANNETT RIEPER  
Clerk, County Court, Kerr County, Texas  
101/51

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OF CYPRESS SPRINGS ESTATES, PHASE ONE  
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EXHIBIT LIST

- A. The Property
- B. Common Area Roadways
- C. Common Area Detention Pond
- D. Annexation Area
- E. Drainage Control Device
- F. Drainage Control Device
- G. Drainage Easement
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- J. Fence detail
- K. Master Plan

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE ONE  
A SUBDIVISION IN KERR COUNTY, TEXAS

THIS DECLARATION is made on the date hereinafter set forth by AARON WHITBY PROPERTIES, L.L.C., a Texas limited liability company, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Kerr County, Texas, that has been platted and subdivided into a subdivision known as CYPRESS SPRINGS ESTATES, Phase One according to the plat thereof recorded in Volume 7, Page 12 of the Real Property Records of Kerr County, Texas.

Declarant desires to develop certain land, being all of CYPRESS SPRINGS ESTATES, Phase One, save and except the COMMON AREAS, the COMMON AREA ROADWAYS and the COMMON AREA DETENTION POND, as a residential subdivision and subject it to this declaration and to provide and adopt a uniform plan of development, including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control, and preserve the values and amenities of this land for the development, improvement, sale, use, and enjoyment of the Property as a residential subdivision for the benefit of this land and each owner of any part of this land. The land subject to this Declaration is referred to as the "Property."

The Property shall include the following Lots and Common Areas:

**LOTS**

Lots 2-45, CYPRESS SPRINGS ESTATES, PHASE I, a subdivision containing 112.85 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No. 678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; and Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres; as fully set-out in Exhibit "A" attached hereto and fully incorporated herein by reference;

**COMMON AREAS:**

**COMMON AREAS:**

Lot 1, CYPRESS SPRINGS ESTATES, PHASE I, a subdivision containing 112.85 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No.



678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; and Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres; **as fully set-out in Exhibit "A"** attached hereto and fully incorporated herein by reference; and more commonly known as 101 Cypress Estates Parkway, Ingram, Kerr County, Texas.

#### COMMON AREA ROADWAYS:

Being all of a certain tract or parcel of land containing 10.29 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows: Survey No. 679, James Watson Survey, Abstract No. 369, 9.42 acres and Survey No. 1351, W.M. Watson Survey, Abstract No. 718, 0.87 acres, part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County; **as fully set-out in Exhibit "B"** attached hereto and fully incorporated herein by reference; and as named on the plat as follows: CYPRESS ESTATES PARKWAY, OAKHAMPTON TRAIL, CRANBROOK COURT AND GLEN LAKES COURT;

#### COMMON AREA DETENTION POND:

Being all of a certain tract or parcel of land containing 4.58 acres, more or less, out of various Original Patent Surveys in Kerr County, Texas as follows: Survey No. 679, James Watson Survey, Abstract No. 369, 1.60 acres and Survey No. 1351, W.M. Watson Survey, Abstract No. 718, 2.98 acres, part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May and recorded in Volume 952 at Page 58 of the Real Property of Kerr County, Texas; **as fully set-out in Exhibit "C"** attached hereto and fully incorporated herein by reference

All Common Areas subject to this Declaration are, however, specifically excepted from Article IX, Restrictions of Use and Article V, Covenant for Maintenance Assessment.

It has been deemed desirable, for the efficient preservation of values and amenities in the Property, to create an Association to which shall be delegated and assigned the powers of administering and enforcing the provisions of this Declaration including levying, collecting, and disbursing the assessments.

To exercise these functions, the CYPRESS SPRINGS ESTATES PROPERTY OWNERS ASSOCIATION, Inc., (hereinafter referred to as the "Association,") a nonprofit corporation created under the laws of the State of Texas, has been incorporated. The directors of the Association have

established By-laws by which the Association shall be governed.

Declarant declares that the Property shall be developed, improved, sold, used, and enjoyed in accordance with and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions of this Declaration, all of which are adopted for and placed upon the Property; shall run with the Property and be binding on all parties who now or hereafter have or claim any right, title, or interest in the Property or any part of the Property, and on the heirs, executors, administrators, successors, and assigns of such parties, regardless of the source of or the manner in which any such right, title, or interest is or may be acquired and shall inure to the benefit of each owner of any part of the Property.

## ARTICLE I DEFINITIONS

Section 1. "Annexation Area" shall mean that certain parcel of about 773.08 acres which is more fully described or depicted on Exhibit "D" attached hereto and fully incorporated herein by reference, which Declarant may cause to be annexed to the Subdivision and the Association.

Section 2. "Architectural Control Committee" (ACC or "Committee") shall mean and refer to the Committee created hereinafter, subject to the provisions herein, by Declarant.

Section 3. "Association" shall mean and refer to Cypress Springs Estates Property Owners Association, Inc., a non-profit corporation incorporated under the laws of the State of Texas, and its successors and assigns as provided for herein.

Section 4. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Cypress Springs Estates Property Owners Association, Inc., the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

Section 5. "Builder" shall mean and refer to a department of Declarant or any other entity to which Declarant conveys or transfers lots within the Subdivision for the purpose of constructing homes or other permitted structures thereon.

Section 6. "Committee" see "Architectural Control Committee."

Section 7. "Common Areas" and Common Facilities shall mean and refer to all real property leased, owned, or maintained by the Association for use and benefit of the Members of the Association. The initial Common Area to be conveyed to the Association shall include Lot 1, CYPRESS SPRINGS ESTATES, PHASE 1, the COMMON AREA ROADWAYS [as set-out in Exhibit "B"] and the COMMON AREA DETENTION POND [as set-out in Exhibit "C"], provided however, Declarant reserves the right to further restrict the permitted improvements and uses of said areas beyond the restrictions on use set forth herein. Ownership of the initial Common Area will be

transferred to the Association, free of lien, by Declarant prior to the sale of the last Lot in the Subdivision, provided however, that Declarant reserves the right to use the Common Areas for Declarant, its successors or assigns, or Builders for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property and/or annexed areas have been sold. Nothing herein shall be construed as requiring Declarant to construct improvements upon the common facilities.

Section 8. "Common Maintenance Area" may mean and refer to the Common Areas and all, if any, entrance monuments, perimeter walls, drainage facilities, trails, playground, and detention ponds, esplanade and right-of-way landscaping and other areas deemed appropriate by the Board of Directors of the Association to be maintained by the Association for the preservation, protection, and enhancement of the property values of the Subdivision and/or the general health, safety, welfare or benefit of the Owners.

Section 9. "Conveyance" shall mean and refer to conveyance of a fee simple title to the surface estate of a Lot from one Owner to another.

Section 10. "Declarant" shall mean and refer to AARON WHITBY PROPERTIES, L.L.C., a Texas corporation, and 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.

Section 11. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions and any amendments, annexations and supplements hereto made in accordance with the terms hereof and filed of record in the Real Property Records of Kerr County, Texas.

Section 12. "Development Period" shall mean and refer to that period of time in which Declarant is the owner of any Lot, whether in Phase One or any additional annexed areas.

Section 13. "Drainage Control Device" shall mean and refer to those easements as set-out in Exhibits "E" and "F," attached hereto and fully incorporated herein by reference, and referred to herein as "artificial pond(s)"

Section 14. "Improvement" shall mean every structure on the Properties and all appurtenances thereto of every type and kind, including but not limited to, buildings, outbuildings, storage sheds or buildings, guest quarters, gazebos, patios, driveways, walkways and paved areas, tennis courts, fountains, large barbeque units, green houses, barns, basements, and large visible decorative items, swimming pools, garages, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 15. "Living Unit" shall mean and refer to a single-family residence and its attached

or detached garage situated on a Lot.

Section 16. "Lot" shall mean and refer to any of the plots of land numbered Lots 2-45, Cypress Springs Estates, as shown on the Subdivision Plat.

Section 17. Master Plan shall mean that certain preliminary plan of development for the Project area, as depicted on Exhibit "K" attached hereto and fully incorporated herein by reference, the original of which plan is maintained at Declarant's offices. The Master Plan is not binding on Declarant and may be amended by Declarant from time to time.

Section 18. "Member" shall mean and refer to those Owners entitled to membership as provided in the Articles of Incorporation of the Association.

Section 19. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the Properties given to secure the payment of a debt.

Section 20. "Mortgagee" shall mean the holder or holders of any Mortgage or Mortgages, or any other interest held as security for the performance of an obligation.

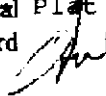
Section 21. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the surface estate in any Lot, or portion of a Lot, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 22. "Plans and Specifications" shall mean any and all documents designed to guide the construction, alteration or erection of any Improvement.

Section 23. "Property" shall mean and refer to CYPRESS SPRINGS ESTATES, Phase One, a subdivision in Kerr County, Texas, save and except COMMON AREAS/ROADS, and any additions thereto as may hereafter be brought within the Jurisdiction of the Association.

Section 24. "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a living unit.

Section 25. "Subdivision" shall mean and refer to the Property, as defined herein.

Section 26. "Subdivision Plat" shall mean and refer to the map or plat of CYPRESS SPRINGS ESTATES, Phase One, filed for record in Volume 7, Page 12, of the Real Property Records of Kerr County, Texas, and any amendment thereof upon filing of same for record in the Real Property Records of Kerr County, Texas. 

Section 27. "Transfer" shall mean and refer to the transfer of the surface estate of a Lot, from

one legal entity to any department thereof or to another legal entity whether or not the owner of record changes.

## ARTICLE II RESERVATION, EXCEPTIONS, DEDICATIONS AND CONDEMNATION

**Section 1. Incorporation of Plat.** The subdivision plat of CYPRESS SPRINGS ESTATES, Phase One, dedicates for use as such subject to the limitations set forth therein, certain streets and easements shown thereon, and such subdivision plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on the subdivision plat, to the extent they apply to the Property, are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of Declarant, conveying each Lot within the Property.

**Section 2. Reservation of Minerals.** The Property, and any future land made subject to this Declaration, are hereby subjected to the following reservation and exception: All oil, gas and other minerals in, on and under the hereinabove described property are hereby excepted or reserved by Declarant.

**Section 3. Condemnation.** If all or any part of the Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all Owners and to all First Mortgagees (as defined in Article X hereof) known to the Association to have an interest in any Lot. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article V hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as follows. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined such damages or awards shall be paid to the Association. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible, the Common Areas so taken or damaged. In the event it is determined that

such Common Areas should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners. If it is determined that the Common Area should not be replaced, the Association shall pay the funds received as damages to the account of each Owner and First Mortgagee, if any, as their interests may appear.

### ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easements Of Enjoyment. Every Lot Owner who resides on the Property shall have a right to an easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;

(b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or improvement or store any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess the cost of such removal against the Owner responsible;

(c) the right of Declarant (and its sales agents and representatives) to the nonexclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarant hereby reserves; provided, however, that such use shall not continue for a period of more than ten (10) years after conveyance of the Common Areas within the Property to the Association; provided further, that no such use by Declarant or its sales agenda or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;

(d) the right of the Association to limit the number of guests of Owners utilizing the recreational facilities and Improvements owned by the Association and provided upon Common Areas;

(e) the right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees pertaining to the use of any recreational facilities owned by the Association; and

(f) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any recreational facility of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and

to suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its By-Laws or at law or in equity on account of any such default or infraction.

Section 2. Delegation of Use. Owners subject to an easement of enjoyment in and to the Common Areas may delegate, in accordance with the By-Laws, their right to or enjoyment of the Common Areas to members of their families, tenants or contract purchasers who reside in Owner's residential dwelling.

Section 3. Waiver of Use. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas thereof or by abandonment of Owner's Lot.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each person or entity who is a record Owner of any of the Property which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

Section 2. Voting Classes. The Association shall initially have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant (except as hereinafter provided) 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 of such Lot, shall be exercised as the persons among themselves determine, but in no event shall more than one vote be cast with respect to each Lot owned.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned.

Class B membership shall cease and be converted to Class A membership on the earlier of the following dates:

(a) the date on which the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or

(b) January 1, 2003.

ARTICLE V  
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 the 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:

- (a) annual assessments or charges; and
- (b) special assessments which are to be established and collected as hereinafter provided.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. Personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purposes of Assessment. The assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the members of the Association and for the improvement and maintenance of the Common Areas including the improvements and landscaping thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot, to an Owner, the maximum annual assessment shall be FOUR HUNDRED-TWENTY AND NO/100 DOLLARS (\$420.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by the percentage change by which the Consumer Price Index for the immediately preceding calendar year exceeds such Index for the calendar year prior thereto or by fifteen percent (15%), whichever is greater. As used herein, the "Consumer Price Index" shall mean the year end Consumer Price Index for All-Urban Consumers, published by the U. S. Department of Labor (or a generally accepted replacement should such index no longer be published).

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment may be increased above the rates specified in this



Section 3, paragraph by a vote of two-thirds (2/3) members duly called entitled to vote in person or by proxy, at a meeting called for this purpose.

Section 4. Special Assessments for Capital 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 for necessary purposes of the Association, such as the construction, reconstruction, repair or replacement of a capital improvement in the Common Areas, including fixtures and personal property related thereto, or for counsel fees or the fees of other retained experts provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members entitled to vote in person or by proxy, at a meeting duly called for this purpose.

Section 5. Rate of Assessment. All Lots within the Property shall commence to bear their applicable assessments simultaneously, and improved Lots owned by the Declarant are not exempt from assessment. Lots which are owned by or transferred to a Builder or which are occupied by residents and improved Lots owned by Declarant shall each be subject to an annual assessment as determined by the Board of Directors pursuant to the terms of this Declaration. Unimproved Lots which are owned by Declarant shall be assessed at the rate of one-fourth (1/4) of the annual assessment; however, said assessment shall be made only in the event and then only to the extent that assessments from Lots owned by members other than Declarant are not sufficient to meet the operating budget of the Association. As used herein, the term "Improved Lot" shall mean a Lot on which a residential dwelling has been constructed and is ready for occupancy as evidenced by the issuance of a Certificate of Occupancy by the County of Kerr, Texas. A Lot assessment shall be assessed against a builder, instead of Declarant when a Lot is made available for improvement by said Builder and there is written confirmation, reservation, or conveyance of said Lot by Declarant in favor of Builder. As used in this Section 5, the term "Declarant" shall be construed to mean only Aaron Whitby Properties, L.L.C., and its successors and assigns, acting in their capacity as land developers; and a Lot owned, reserved, or held by a home building division or any commercial construction division of Declarant shall be subject to full assessment as provided herein.

If there is a deficit in the annual operating budget of the Association for a given calendar year, after assessment of Declarant's unimproved Lots and funds are not available to the Association from prior year budget surpluses, then Declarant shall contribute the funds necessary to cover the deficit. Declarant's obligation to fund these budget deficits as described hereinabove shall terminate on the date that Class B membership ceases, as described herein.

Section 6. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner or a transfer of any Lot owned by Declarant to a Builder. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. The due dates shall be established by the

Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified Lot have been paid.

Section 7. 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 lesser of the maximum lawful rate or twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot.

Section 8. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall not extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. However, said assessments are subject to the rights of the first mortgage holder to recover all sums due said mortgagee. No sale or transfer shall relieve such Lot from liability of any assessments which thereafter become due or from the lien thereof.

Section 9. Exempt Properties. Any portion of the Property dedicated to and accepted by a local public authority, or owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to residential dwelling use shall be exempt from said assessments.

## ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Architectural Approval. The overall plan for the development of the various areas and sections which make up the Subdivision contemplates centralization of architectural control to enhance, insure and protect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, Declarant hereby reserves and retains the right of architectural control to itself or its assignee as hereinafter provided. Declarant shall initially appoint an Architectural Control Committee, consisting of not less than three (3) members, who need not be members of the Association, and who by majority vote may designate a representative to act for them. Any vacancy shall be filled by a successor appointed by Declarant, until such successor(s) shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications, and plot plans submitted or to designate a representative with like authority. Declarant retains the exclusive right to review and approve or disapprove all plans and specifications for original construction on the Property.

It is accordingly covenanted and agreed that no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or

change or alteration to such structure or the color thereof (including, without limitation, site landscaping visible from any part of the Property and grading plans, patio covers and, trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. In the event said Committee, or its designated representative, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been received by it, approval will not be required, and this Article will be deemed to have been fully complied with. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot, or the Owner's authorized agent. The Architectural Control Committee shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans. The requirement of this Article is in addition to any approvals or permits required by any appropriate governmental approval of plans as complying with the applicable Minimum Construction Standards adopted and promulgated from time to time for the Property by Declarant or its assigns, shall be only for such purposes and shall not serve as approval for any other purpose.

Declarant hereby reserves and retains the right, at its option, to assign its rights hereinabove set forth to an Architectural Control Committee appointed by the Association. In the event Declarant elects to assign such rights of approval, such assignment shall be evidenced by an instrument in writing and acknowledged by the proper officers of Declarant and placed of record in the appropriate records of the County Clerk of Kerr County, Texas.

Section 2. No Liability. Neither Declarant, the Association, its Board of Directors, nor the Architectural Control Committee or the members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of a Lot, affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Committee for approval agrees by submission of such plans and specifications, and every Owner agrees, that no action or suit for damage will be brought against Declarant, the Association, its Board of Directors, the Architectural Control Committee, or any of the members thereof.

Section 3. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of issuance of a building permit by municipal or other governmental authority for any improvement, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of this Article VI unless actual notice of such noncompliance or noncompletion, executed by the Architectural Control Committee, or its designated representative, shall appear of record in the office of the County Clerk and Recorder of Kerr County, Texas, or unless legal proceedings shall have been instituted to enforce compliance or completion.

Section 4. Rules and Regulations. The Architectural Control Committee may from time to time, in its sole discretion, adopt, promulgate, amend and repeal rules and regulations interpreting and implementing the provisions of this Article VI.

Section 5. Variances. The Architectural Control Committee, by the vote or written consent of a majority of the Members thereof, may allow reasonable variances as to any of the covenants, conditions or restrictions contained in this Declaration under the jurisdiction of such committee pursuant to this Article VI, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property.

## ARTICLE VII DUTIES AND MANAGEMENT OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) Own, maintain and otherwise manage all Common Areas and all facilities, improvements and landscaping thereon, and all other property acquired by the Association, including the Common Area Detention Pond.

(b) Pay any real and personal property taxes and other charges assessed against the Common Areas.

(c) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric services and refuse collection.

(d) Grant easements where necessary for utilities and sewer facilities over the Common Areas to serve the Common Areas and the Property in general.

(e) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members.

(f) Have the authority to contract with a management company for the performance of maintenance and repair and for conducting other activities on behalf of the Association, provided that such contract shall be limited to a duration of one (1) year, except with the approval of a majority of the Members entitled to vote. Any such management agreement shall provide that it will be terminable by the Association without a termination fee for cause upon thirty (30) days written notice or without cause by either party upon ninety (90) days written notice.

(g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.

(h) Have a duty to landscape and maintain the landscaping upon the Common Areas and the duty to maintain the perimeter walls or fences located at entrances to the Property, Common Areas, and fencing and walls located on portions of Lots described herein:

The duty to maintain fencing or walls extends to any such structures located on the boundary lines of the perimeter of the subdivision, the entrance fencing and the entry and exit gates and structures.

(i) Have a duty to maintain the COMMON AREA ROADWAYS located throughout the subdivision and as set-out herein.

(j) Have a duty to maintain the artificial ponds as established by the easements set out Exhibits "E" and "F" and as set-out and recorded on the Subdivision Plat.

(k) Have a duty to maintain the three drainage easements as set-out in Exhibits "G", "H" and "I", attached hereto and fully incorporated herein by reference, and as set-out and recorded on the Subdivision Plat.

#### ARTICLE VIII UTILITY BILL, TAXES AND INSURANCE

##### Section 1. Obligation of Owners.

(a) Each Owner shall have separate electric, gas and water meters and shall directly pay for all gas, water, sanitary sewer service, telephone service, security systems, cable television and other utilities used or consumed by Owner.

(b) Each Owner may directly render for taxation Owner's Lot, and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot.

##### Section 2. Obligation of the Association.

(a) The Association shall pay, as a common expense of all Owners, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Areas or any part thereof.

(b) The Association may render for taxation and as part of the common expenses of all owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto.

(c) The Association shall have authority to obtain and continue in effect, as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Areas, and the contents thereof, and the Association against risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the Common Areas.

(d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association, as hereinabove provided, shall be paid as a common expense of all Owners and shall be paid out of the assessments.

#### ARTICLE IX RESTRICTIONS OF USE

Section 1. Single Family Residential Construction. Subject to Sections 2 and 13 of this Article, each Lot shall be used only for single family residence purposes. No building shall be erected, altered or permitted to remain on any Lot other than one single-family detached residential dwelling not to exceed three (3) stories in height, and a private garage for not less than two (2) nor more than three (3) cars and a bona fide servants' quarters or guest house, which structure shall not exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined in this Declaration or that may appear on any recorded plat or replat approved by Declarant or its assignee.

Section 2. Prohibition of Offensive or Commercial Use. No activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot, or which shall degrade property values or distract from the aesthetic beauty of the Property, shall be conducted thereon. No repair work, dismantling, or, assembling of boats, motor vehicles or other machinery shall be done in any driveway or adjoining street. No part of the Property shall ever be used, or caused to be used, or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes. Notwithstanding the above, Declarant, its successors or assigns, or Builders may use the Property for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property have been sold.

Section 3. Minimum Square Footage. The living area of the main residential structure for a Lot exclusive of porches, garage and servant's quarters shall not be less than 2,400 square feet.

**Section 4. Building Materials.** The predominant exterior materials of the main residential structure and the garage, whether attached or detached, shall be masonry, stucco, stone or wood. No single family construction, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by Declarant or a Builder during the completion and sale of all construction of this subdivision.

**Section 5. Location of Improvements upon the Lots.** No building shall be located on any Lot or nearer to the front line nor nearer to the side street line than fifteen (15) feet. No building shall be located on any Lot nearer than fifteen (15) feet to any side or rear street line. Building setbacks from interior side lot lines shall be subject to the following provisions:

Subject to the provisions of Article VI, Sections 1 and 5 and Section 6 of this Article, no building on Lots shall be located nearer than fifteen (15) feet to an interior side lot line. No detached type garages shall be allowed on the following listed Lots and garages must be an integral part of the volume of the house so as to avoid screening artificial pond views from adjacent Lots:

Lots 2-6, 7-11, 40-45, CYPRESS SPRINGS ESTATES, PHASE 1.

Garages located fifteen (15) feet or more from the front lot line on all other Lots may be a minimum distance of fifteen (15) feet from an interior lot line. For the purpose of this provision, eaves, steps, box-type windows and unroofed ground-level terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any improvement of a Lot to encroach within fifteen (15) feet of the side or rear lot line or upon another Lot.

For the purpose of these restrictions, carports located on Lots shall be considered as garages and shall meet all the requirements for garages, including location, materials and construction. Access to corner lot garages directly from side streets is prohibited unless specifically approved by Declarant or its assignee.

**Section 6. Deviations.** Declarant, at its sole discretion, is hereby permitted to approve deviations in these restrictions on building area, location of improvements on the Lots and building materials in instances where in its judgment, such deviation will not adversely affect the development of the property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions.

**Section 7. Composite Building Sites.** Any Owner of one or more adjoining Lots, or (or portions thereof) may consolidate such Lots or portions into one (1) building site, with the privilege of placing or constructing improvements on such resulting site, in which event setback lines shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of lots in the same block of CYPRESS SPRINGS ESTATES,

Phase One. Any revision of Lot sizes may be made only with written approval of Declarant.

Section 8. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plat, and no structure shall be erected on any of such easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or contractors to shrubbery, trees, flowers or improvements located on the land covered by such easements.

Section 9. Universal Easement. The owner of each Lot within the Property is hereby declared to have a universal easement, and the same is hereby granted to Declarant, over all adjoining for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. In addition, each Lot within the Property is hereby declared to have an easement for overhanging roofs and eaves as originally constructed over each adjoining Lot for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recondition of this Declaration and shall be appurtenant to the Lot being served and shall pass with each conveyance of said Lot. Said Universal Easement will continue so long as completed dwellings or dwellings under construction remain on any Lot. In the event Lots upon which no construction of any type has commenced, are reclassified, the provisions hereof shall no longer apply thereto.

Section 11. Electrical Distribution Service. An electric distribution system will be installed in the Property, in a service area that will embrace all of the lots which are platted in the Property. The Owner of each lot containing a single dwelling unit, shall, at its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes. The point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter.

Declarant has, either by designation on the plat or by separate instrument, granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each Owner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, or in the case



of a multiple dwelling unit structure, the Owner and developer thereof, shall at its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter or such electric company for each dwelling unit involved. For so long as this service is maintained in the Property, the electric service to each dwelling unit shall be underground, uniform in character, and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the electric distribution system in the Property at no COST to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the lots are being developed for residential dwelling units, including homes, all of which are designated to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes.)

Easements for the underground service may be crossed by driveways and walkways provided the Lot Owner makes prior arrangements with the utility company furnishing any utility service occupying the easement and provides and installs the necessary conduit of approved type and size under such driveway or walkways prior to construction thereof.

Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios or other pavings, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways or walkways providing conduit has been installed as outlined above) of the Lot Owner located on the land covered by such easements.

Section 12. Audio and Video Communication Service. In the event that audio and video communication services and facilities are made available to any Lot by means of an underground coaxial cable system, there is hereby reserved to the company furnishing such services and facilities a two (2) foot wide easement along and centered on the underground wire or cable when and as installed by the company furnishing the service from and at a right angle to the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed, upon the Lot and in a direct line from the nearest utility easement to the point of connection.

Section 13. Temporary Structures and Out Buildings. No structures of a temporary character, nor any recreational vehicle, mobile home, trailer, basement, tent, shack, garage, barn, playhouse or other outbuilding shall be constructed, erected, altered, placed or permitted to remain on any Lot, at any time as a residence. Outbuildings or structures, whether temporary or permanent, used for accessory, playhouse, storage or other purposes shall be limited to eight feet in height and one hundred (100) square feet in area and must be approved in accordance with Article VI, Section 1 of this Declaration. Temporary structures may be used as sales offices or as construction offices and for other related purposes by Declarant or Builders during the construction and sales period.

Such structures shall be inconspicuous and sightly and shall be removed at completion and sale of all construction of this subdivision.

No temporary structures or outbuildings shall be allowed on the last thirty-five (35) feet toward the rear drainage control device easement line, as shown on the Subdivision Plat, of the following listed Lots:

Lots 2-6, 7-11, 40-45, CYPRESS SPRINGS ESTATES, PHASE 1.

Section 14. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other common household pets provided they are not kept, bred or maintained for commercial purposes. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity, including any noxious odors or smells. Animals are not permitted to roam the Property and must be controlled on a leash if they are not on a Lot. Owners are required to immediately clean-up any waste products left by their animal on the Common Areas or any property within the Subdivision which is visible from the street.

Section 15. Walls, Fences and Hedges. All walls, fences, planters and hedges shall be controlled strictly for compliance with this Declaration and architectural standards established by the Declarant or the Architectural Control Committee. Placement of all walls, fences, planters and hedges shall be controlled by the Architectural Control Committee.

No wall, fence, planter or hedge in excess of two (2) feet in height shall be erected or maintained on a side lot line beyond a point located three (3) feet back from the front exterior wall of the main residential structure located on a Lot. For the purpose of this provision the front wall of the main residential structure excludes bay or box windows, chimney structures or any other similar appendage.

No wall, fence, or hedge in excess of six (6) feet in height shall be erected or maintained on a side lot line from a point located three (3) feet back from the front exterior wall of the main residential structure, backward to the rear property line on a Lot. No rear fence, wall or hedge shall be more than six (6) feet high.

(a) The foregoing notwithstanding, fencing on the Lots listed below shall conform to the details shown in Exhibit "J" attached hereto, made a part hereof and incorporated herein for all purposes, and shall be composed of wood, cedar planks:

Lots 2-45, CYPRESS SPRINGS ESTATES, PHASE 1.

(b) The foregoing notwithstanding, fencing on the Lots listed below shall conform to the details shown in Exhibit "J" attached hereto, made a part hereof and incorporated herein for all purposes, and shall be composed of wood, cedar planks, with the exception that fencing constructed

along the drainage control device easement shall be wrought iron, with a maximum height of four (4) feet, and approved by the Architectural Control Committee for design:

Lots 2-11, 40-45, CYPRESS SPRINGS ESTATES, PHASE 1.

(c) The foregoing notwithstanding, fencing on the Lots listed below shall conform to the details shown in Exhibit "J" attached hereto, made a part hereof and incorporated herein for all purposes, and shall be composed of one inch by six inch (1" X 6"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks:

Lots 2, 12-13, 15-19, 21-22, CYPRESS SPRINGS ESTATES, PHASE 1.

(d) Perimeter fencing on all Lots shall be maintained to a fence standard equivalent to original construction and all fencing must be consistent with this Declaration and architectural standards established by Declarant or the Architectural Control Committee.

(e) Fences of wire or chain link construction are prohibited, and the design and materials of all fences shall be approved by the Architectural Control Committee prior to construction pursuant to the approval requirements of Article VI, Section 1, of this Declaration.

(f) All masonry used in a fence or wall on a Lot shall match the primary masonry used on the residence. All masonry columns shall be six and one-half feet (6'6") in height and shall be no further than twenty-five feet (25') apart if visible from any street. All wood, if any used in fencing (including wooden gates for wing walls) shall be composed of one inch by four inch (1" X 4"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks, or one inch by six inch (1" X 6"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks. Cedar fencing may be stained, painted, or sealed only with ACC approval. All wood fences along the street side of Lots shall have the smooth side facing the street and framing facing the interior of the Lot with a top rail. All wrought iron used in fencing shall be painted black. All gates shall be composed of the same material as the fence. No fence shall exceed six feet (6') in height unless specifically approved by the ACC and governing authority.

(g) Each Owner shall maintain all fencing placed on his Lot including the reconstruction or replacement of fences which are tilted more than ten (10) degrees from a vertical position and the replacement of broken or cracked wooden pickets.

#### Section 16. Yards.

(a) Front Yard. All landscaping designs for the front yard area shall be approved by the Architectural Control Committee prior to construction or alteration. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been

approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the front of a residence to the side Lot lines. Installation of all landscaping and irrigation systems must be completed within ninety (90) days of first occupancy in accordance with the landscape plan approved by the Architectural Control Committee. Statues, statuary fountains, multiple tier planters, concrete and other lawn furniture are prohibited in front and side yards. Placement of any decorative items in front or side yards is subject to ACC approval.

(b) Back Yard. The Owners or occupants of any Lots as the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view from a street or Common Area shall construct and maintain an inner fence or other improvements as approved by the ACC to adequately screen from view of streets and Common Area any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition.

- (1.) Clothes hanging devices exterior to a dwelling shall not exceed six feet (6') in height and shall be so located as to not be visible from any street or Common Areas.

Section 17. Antennas. No radio or television aerial or antennae or other radio or television related apparatus or equipment shall be placed or maintained on any residence or on any other exterior portion of a Lot except with the prior written approval of the Architectural Control Committee which shall have the authority to disapprove the installation of same. With the prior written consent of the Architectural Control Committee, a satellite disc or dish may be placed on a Lot where not visible from a street or Common Area and where such location does not adversely affect the view from an adjacent Lot.

Section 18. Artificial Vegetation. No artificial vegetation shall be installed or kept in front or side yard areas on any Lot.

Section 19. Athletic Facilities. Tennis-court lighting and fencing shall be allowed only with the approval of the ACC. Basketball goals, or backboards, or any other similar sporting equipment (portable basketball goals) of whether permanent or temporary nature shall not be placed within twenty feet (20') from the front property line of any Lot or the side Lot lines of corner Lots, or within five feet (5') of any interior side Lot line in the Subdivision without the prior written consent of the ACC. All basketball backboards shall be of a clear, see through material. The ACC will consider other quality backboard materials. All supporting poles and stanchions shall be painted either black or dark hunter green. Basketball backboards may not regulate the appearance and placement of all sporting apparatus including basketball goals. All basketball backboards shall be maintained in a playable condition at all times and any damaged structure shall be repaired or removed immediately.

1. All children's play equipment or structures shall be submitted to the ACC for review.
2. Landscaping and fencing requirements may be established by the Committee for the purpose of screening courts in an aesthetically pleasing manner.

**Section 20. Visual Obstructions at the Intersections of Public Streets.** No object or thing which obstructs sight lines at elevations, between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

**Section 21. Lot Maintenance.** All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. The following Lots shall have the additional duty to maintain the perimeter portion of any artificial pond which shall lie on their property, as set out in the plat for CYPRESS SPRINGS ESTATES, PHASE 1, and as set out in the property descriptions attached hereto as Exhibits "E" and "F", and incorporated fully herein by reference:

Lots 2-11 and 40-45.

**Section 22. Storage of Automobiles, Boats, Trailers Other Vehicles and Equipment.** No automobiles, boats, trailers, campers, recreational vehicles, motorcycles, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored permanently or semi-permanently on any Subdivision street right-of-way, front yard area or on driveways. Permanent or semi-permanent storage of such vehicles or items must be completely screened from public view either within the garage or behind a solid fence. For the purposes of these restrictions, the words "semi-permanent" shall be defined as remaining in the same location without movement for forty-eight (48) or more consecutive hours. No eighteen wheel vehicles and other similar large van or flat-bed type vehicles may be parked on any public street right-of-way, front yard area or on driveways except to deliver merchandise or other materials to residents or construction sites.

**Section 23. Signs, Advertisements and Billboards.** No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely advertising the Lot for sale or rent, and except signs used by Declarant or a builder to advertise the Lot during the construction and sales period. The Declarant and the Association shall have the right to remove any signs, advertisement, billboard or structure which is placed on said Lot in violation of this section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

**Section 24. Removal of Soil and Trees: Pruning.** The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lots. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting by Declarant, the ACC or the Association, given in their sole discretion. No trees shall be pruned during the months of February through May, without obtaining written approval for such pruning from the Declarant, the ACC or the Association, given in their sole discretion.

**Section 25. Roofing Material.** Roofing materials may include composition shingles having a minimum weight classification of 300 pounds per square, slate, clay or concrete tiles; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams. Composition shingle roofs shall be comparable in color to weather wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type roofing material shall be permitted only at the sole discretion of the Declarant, the Architectural Control Committee or its assigns upon written request.

**Section 26. Driveways and Curbs**

**(a) Driveways**

1. Driveways on each residential Lot and visible from a street must be constructed of broom finished concrete, pebble finish concrete, or brick pavers, provided, however, the first four (4) feet of the driveway entry shall be broom finished concrete.
2. No more than one curb cut per Lot shall be permitted without approval of the Committee. Except with approval of the Committee, no circular driveway shall be more than twenty feet (20') in width. Driveway locations shall be only as approved by the Committee.
3. Driveways which have more than six inches (6") of exposed concrete foundation sides shall have masonry veneer applied or be fully parged. Landscaping may be required depending on the amount of exposure.
4. The driveway leading directly to the garage shall in all cases, and regardless of the house being on the topographically low or high side of the street, be constructed in a manner consistent with the following guidelines:

- (1) The elevation of the driveway surface at a point ten (10) linear feet from the curb line shall be at least nine inches (9") higher than the pavement grade at gutter line.
- (2) For Lots on the topographically low side of the street, and in addition to the above, the driveway shall be constructed with a protective swale in front of the garage to prevent runoff water from entering into the house and/or garage. Also, the driveway shall not have the effect of "trapping" a low area of ground with no other convenient route of drainage. The overall general guidelines of the Architectural Control Committee will serve to indicate areas of concern.

(b) Curbs

1. The header curb adjacent to the asphalt must be concrete and scored with the same scoring pattern as the curb.
2. Any portion of curbing which is damaged, whether during construction or afterwards, shall be repaired as soon as practicable at the sole and exclusive expense of and by the Owner of the Lot appurtenant to such damaged curb.

- (c) General Asphalt paving and loose gravel driveways are specifically prohibited forward of the front building line. Builders and contractors are required to clean streets immediately after aggregate finished sidewalks and driveways have been washed.

Section 27. Exterior Lighting. Exterior light fixtures shall be provided at the front door of each residence; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Properties or any streets, of any Lot until the same has been approved by the Committee. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the Architectural Control Committee.)

Section 28. Enforcement. In the event of default on the part of the Owner or occupant of any Lot in observing any or all of the requirements herein set forth, such default continuing after ten (10) days' written notice thereof, the Declarant or the Association may, without liability to the Owner or occupant, in trespass, or otherwise, enter upon said Lot cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay

such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's and continuing contractual lien shall be retained by Declarant at the time of conveyance of each Lot in favor of Declarant or the Association, but inferior to a purchase money lien or mortgage. Such vendor's and continuing contractual lien shall be applicable and effective whether mentioned specifically or omitted in each conveyance of a Lot by Declarant.

## ARTICLE X MORTGAGEE PROTECTION; MANAGEMENT AGREEMENTS; RESERVE FUNDS; LEASES

**Section 1. Notice to first Mortgagees.** Upon written request to the Association at the address of the Association's registered agent filed with the Secretary of State for the State of Texas, all holders of first mortgage liens on Lots, hereinafter called "First Mortgagees", shall be entitled to:

- (a) inspect the books and records of the Association during normal business hours at a time mutually convenient to Declarant and First Mortgagee;
- (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year;
- (c) receive written notice of all meetings of the Association and designate a representative to attend all such meetings;
- (d) upon request, receive notice of any default in the performance by the First Mortgagee's mortgagor of any obligation under this Declaration, the By-Laws or Articles of Incorporation of the Association which is not cured within sixty (60) days;
- (e) receive notice of any abandonment or termination of the development;
- (f) receive notice of any material amendment to this Declaration, or to the By-Laws or Articles of Incorporation of the Association; and
- (g) receive notice of any decision to terminate professional management and assume self-management.

**Section 2. Alienation of Common Areas.** Except as to the Association's right to grant easements for utilities and similar or related purposes, the Common Areas may not be abandoned, partitioned, subdivided, sold, alienated, released, transferred, hypothecated, or otherwise encumbered without the approval of a two-thirds (2/3) majority of all First Mortgagees (based upon one vote for each mortgage held.)



Section 3. Changes in Assessment Procedures. Any changes in the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner, other than the procedures described herein, shall be approved by a two-thirds (2/3) majority of the First Mortgagees (based upon one vote for each mortgage held.)

Section 4. Mortgagee-Required Approval. Unless all of the First Mortgagees who have notified the Association pursuant to Section 1 of this Article, have given their prior written approval, the Association shall not be entitled to:

- (a) fail to maintain fire and extended coverage on insurable improvements in Common Areas, if any, on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost); and
- (b) use hazard insurance proceeds for losses to any improvements in Common Areas, if any, for other than the repair, replacement or reconstruction of such improvements.

Section 5. Reimbursement to Mortgagees for Payment of Taxes or Insurance Premiums. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas and may pay overdue premiums of hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for improvements in the Common Areas, if any, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 6. Insurance on Condemnation Proceeds: Notice. No provision of this Declaration or of the By-Laws or Articles of Incorporation of the Association shall be construed as giving an Owner or other party priority over any rights of a First Mortgagee pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas. An institutional holder of a first mortgage shall be entitled to receive timely written notice of substantial damage to or a taking of the Common Areas.

Section 7. Management Agreements. Any management agreement will be terminable by the Association without payment of a termination fee with cause upon thirty (30) days written notice, or without cause by either party on ninety (90) days written notice. The term of any such agreement may not exceed one (1) year, renewable by agreement of the parties, for successive one year periods.

Section 8. Reserve Fund. Association budgets shall include an adequate reserve fund for maintenance repairs and replacement of those elements of the Common Areas that must be replaced on a periodic basis and will be payable in regular installments as part of the common assessment.

Section 9. Leases. Any lease agreement between an Owner and a lessee shall be subject in all respects to the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association whether or not reference is made to the Declaration, By-Laws and Articles of Incorporation in the lease.

ARTICLE XI  
GENERAL PROVISIONS

**Section 1. Enforcement.** The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect.

**Section 3. Duration; Amendment.** The provisions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from this date, after which time they shall be automatically extended for successive periods of ten (10) years.

This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and thereafter by an instrument signed by a sufficient number of Owners representing not less than fifty percent (50%) of the votes. In addition, any amendment hereto (i) to change the method of determining the obligations, assessments, dues or charges which may be levied against an Owner, or (ii) to change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the maintenance of Common Areas, or (iii) to use hazard insurance proceeds for losses to the improvements in Common Open Areas, if any, for other than the repair, replacement or reconstruction of such improvements shall require the additional approval of two-thirds (2/3) majority of the First Mortgagees (based upon one vote for each mortgage owned).

(a) Any amendment hereto affecting any of the following shall require the additional approval of fifty-one percent (51%) of the First Mortgagees (based upon one vote for each mortgage owned):

- (1) voting;
- (2) reserves for maintenance of the Property;
- (3) insurance or fidelity bonds;
- (4) rights to use of the Common Areas;
- (5) responsibility for maintenance of the Common Areas, including the COMMON AREA ROADWAYS;
- (6) addition to or withdrawal of a portion of Common Areas;

- (7) Sale of Common Areas to permit subdivision into Lots;
- (8) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey a Lot; and
- (9) any provisions which are for the express benefit of First Mortgagees, or eligible insurers or guarantors of first mortgages on Lots.

All amendments shall be recorded in the Official Public Records of Real Property of Kerr County, Texas.

Deeds of conveyance of Lots or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the respective grantees.

(b) The Declarant reserves the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying stay ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veteran's Administration, or Federal Housing Administration, provided that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein.

Section 4. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 5. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 6. Good Faith Lender's Clause. Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot which liens may be enforced in due course, subject to the terms of this Declaration.

Section 7. Mergers. Upon a merger or consolidation of the Association with another association as provided its Articles of Incorporation, its properties, assets, rights and obligations may

be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

Section 8. Annexation.

(a) Additional land or lands may be annexed to the Property with the consent of two-thirds (2/3) of each class of Members, and the approval of the owner(s) of the land to be annexed.

(b) Notwithstanding anything contained in Subparagraph (a) above, or any other provision herein, Declarant shall have the right, without the consent of any other Owners or any First Mortgagee, to bring within the scheme of the Declaration, in one (1) or more future stages, sections or additions, those additional lands or portions thereof as described in Exhibit "D" attached hereto, made a part hereof and incorporated herein for all purposes, within ten (10) years of the date of recording of this instrument, further, any land annexed to the Property and subject to this Declaration may be acquired (by gift, purchase, or otherwise) and/or designated as Common Areas by the Association without the consent of any Owners or any First Mortgagee. Nothing in this Declaration shall be construed to represent that Declarant, or its successors or assigns, are under any obligation to add or annex additional lands to those subject to this Declaration.

(c) Any such additions shall be developed in a manner similar to the development of the Property in accordance with a general plan of development under which the architectural standards prevailing within the Property will be continued in such annexed lands, the dwellings to be constructed on Lots within such annexed lands will be similar to the residential dwellings constructed on the Property, and the Lots within the annexed lands will become subject to assessment in the same manner as then prevailing for the Property. All the provisions of this Declaration shall apply to the lands being annexed with the same force and effect as if said lands were originally included in the Property subject to this Declaration.

(d) The additions authorized under this Section shall be made by filing of record: (a) Supplementary Declaration(s) of Covenants, Conditions and Restrictions with respect to the additional lands which shall (1) extend the scheme of the covenants and restrictions of this Declaration to such lands and (2) provide, if applicable, that the proportionate ownership interests in the Common Areas of the Owners by virtue of Association membership immediately prior to the filing of such Supplementary Declaration shall be equal to the number of Lots owned by such Owner divided by the total number of Lots and within the lands then subject to this Declaration after such annexation; and (b) a deed from Declarant to the Association which shall convey to the Association all of the area within such additions (except for the Lots therein) as Common Areas for the benefit and use of the Owners, with reservation of Declarant's rights set forth herein.

EXECUTED effective the 12<sup>TH</sup> day of APRIL, 1999.

AARON WHITBY PROPERTIES, L.L.C.

By: Hoyt Whitbee  
Hoyt Whitbee, Managing Member

STATE OF TEXAS

COUNTY OF KERR



The foregoing instrument was acknowledged before me on the 12 day of April, 1999, by HOYT WHIDBEE, Managing Member of AARON WHITBY PROPERTIES, L.L.C., a Texas Limited Liability Company, on behalf of said company.

Barbetten D. Talley  
Notary Public, State of Texas

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law. THE STATE OF TEXAS } COUNTY OF KERR }

I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

RECORD Real Property  
VOL 1006 PG 53  
RECORDING DATE

APR 14 1999



Janet Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS



Janet Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS

FILED BY AND RETURN TO:

KERR COUNTY ABSTRACT & TITLE CO.  
303 Earl Garrett Street  
Kerrville, Texas 78028

## Exhibit "A"

FIELD NOTES DESCRIPTION FOR 112.85 ACRES OF LAND OUT  
OF THE AARON WHITBY PROPERTIES LAND ALONG STATE  
HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 1.66 acres, more or less, out of various  
Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
678	W.S. Fessenden	147	0.01
679	James Watson	369	106.11
1351	W.M. Watson	718	6.73

part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May and recorded in Volume 952 at Page 58 of the Real Property of Kerr County, Texas; and being more particularly described by the metes and bounds as follows:

BEGINNING at fence cornerpost at the intersection of the east line of said 885.93 acre tract and north right-of-way line of State Highway No. 39 for the southeast corner of the herein described tract; which point bears: 286.51 ft. N.22°06'33"W. and 102.62 ft. N.10°34'35"W. From the southeast corner of 885.93 acre tract; and, approximately, 101 ft. North and 19 ft. West from the southeast corner of said Survey No. 679;

THENCE, upon, over and across said 885.93 acre tract with the said north right-of-way line of State Highway No. 39: S.84°04'38"W., 997.99 ft. to a ½" iron stake found at an angle in the right-of-way; and S.67°52'49"W., at 73.67 ft. passing a ½" iron stake found for a reentrant corner of 885.93 acre tract, then continuing along the south line of 885.93 acre tract for a total distance of 366.67 ft. to a ½" iron stake set for the southerly southwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: S.34°35'03"W., 592.77 ft. to a ½" iron stake set for a reentrant corner of the herein described tract; and S.76°56'04"W., 50.00 ft. to a fence cornerpost marked with a found 5/8" iron stake for a reentrant corner of 885.93 acre tract;

THENCE, along or near a fence with the said south line of 885.93 acre tract: S.76°56'04"W., 1171.63 ft. to a ½" iron stake found near a fence cornerpost for the southwest corner of the herein described tract, a southerly corner of 885.93 acre tract; N.21°58'53"W., 486.65 ft. to a found ½" iron stake; N.00°04'14"W., 907.51 ft. to a found ½" iron stake; and N.13°10'20"W., 68.67 ft. to a ½" iron stake set for the northwest corner of the herein described tract;

THENCE, upon, over and across said 885.93 acre tract: N.89°55'24"E., 75.56 ft. to a ½" iron stake for the reentrant corner of the herein described tract; N.00°04'36"W., 150.03 ft. to a ½" iron stake set for a northerly corner of the herein described tract; the herein described tract; N.79°21'53"E.,

Page 2 - 112.85 acres in Kerr County, Texas

208.04 ft. to a ½" iron stake set for a northerly corner of the herein described tract; S.07°29'02"E.,  
210.01 ft. to a ½" iron stake set for a reentrant corner of the herein described tract; N.80°08'59"E.,  
406.91 ft. to a ½" iron stake set for a reentrant corner of the herein described tract; N.09°51'01"W.,  
350.00 ft. to a ½" iron stake set for a northerly corner of the herein described tract; N.87°26'18"E.,  
1868.24 ft. to a ½" iron stake set for a northerly corner of the herein described tract; S.09°27'30"E.,  
361.19 ft. to a ½" iron stake set for a reentrant corner of the herein described tract; and  
N.41°29'14"E., 250.00 ft. to a fence anglepost found in the said east line of 885.93 acre tract for the  
northeast corner of the herein described tract;

THENCE, along or near a fence with the said east line of 885.93 acre tract S.10°34'35"E., 1735.06  
ft. to the PLACE OF BEGINNING.

## Exhibit "B"

FIELD NOTES DESCRIPTION FOR 10.29 ACRES OF LAND OUT  
OF THE AARON WHITBY PROPERTIES LAND ALONG STATE  
HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 10.29 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
679	James Watson	369	9.42
1351	W.M. Watson	718	0.87

part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of may, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fence cornerpost at the intersection of the east line of said 885.93 acre tract and north right-of-way line of State Highway No. 39 for the southeast corner of the herein described tract; which point bears: 286.51 ft. N.22°06'33"W. and 102.62 ft. N.10°34'35"W. from the southeast corner of 885.93 acre tract; and, approximately, 101 ft. North and 19 ft. West from the southeast corner of said Survey No. 679;

THENCE, upon, over and across said 885.93 acre tract with the said north right-of-way line of State Highway No. 39, S.89°04'38"W., 345.00 ft. to a ½" iron stake set for the southwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract, all calls to set ½" iron stakes: N.27°23'35"E., 148.21 ft.; N.08°17'40"W., 164.88 ft. to a ½" iron stake set at the beginning of a 119°30' curve to the right; 77.33 ft. along the arc of said curve to the right subtended by a 92°24' central angle and 47.95 ft. radius (long chord: N.37°54'16"E., 69.22 ft.) to a ½" iron stake set at its end, the beginning of a 54°14' curve to the left; 174.61 ft. along the arc of said curve to the left subtended by a 94°41' central angle and 105.67 ft. radius (long chord: N.36°45'47"E., 155.41 ft.) to a ½" iron stake set at its end; N.10°34'35"W., 372.66 ft.; N.89°35'12"W., 220.35 ft.; S.85°13'08"W., 159.09 ft.; N.84°30'06"W., 220.99 ft.; N.87°23'52"W., 427.60 ft.; S.74°40'16"W., 50.62 ft.; S.59°53'51"W., 134.61 ft.; S.03°45'43"E., 107.78 ft.; S.09°24'10"E., 326.71 ft.; S.01°36'52"W., 78.01 ft. to a ½" iron stake set at the beginning of a 114°36' curve to the right; 249.80 ft. along the arc of said curve to the right subtended by a 286°16' central angle and 50.00 ft. radius (long chord: N.88°23'08"W., 60.00 ft.) to a ½" iron stake set at its end; N.01°36'52"E., 72.23 ft.; N.09°24'10"W., 323.88 ft.; N.03°45'43"W., 81.03 ft.; S.59°53'51"W., 198.22 ft.; S.65°30'56"W., 174.40 ft.; S.73°18'39"W., 439.35 ft.; N.84°58'16"W., 100.61 ft.; N.70°32'03"W., 105.56 ft.; N.37°20'13"W., 146.80 ft.; N.23°48'55"W., 207.64 ft.; S.87°01'55"W., 76.02 ft.; N.84°00'01"W., 127.69 ft. to a ½" iron stake set at the beginning of a 114°36' curve to the right; 249.80 ft. along the arc of said curve to the right subtended by a 286°16'



Page 2 - 10.29 acres in Kerr County, Texas

central angle and 50.00 ft. radius (long chord: N.05°59'59"E., 60.00 ft.) to a ½" iron stake set at its end; S.84°00'01"E., 122.98 ft.; N.87°01'55"E., 62.67 ft. to a ½" iron stake set at the beginning of a 114°36' curve to the right; 217.43 ft. along the arc of said curve to the right subtended by a 249°09' central angle and 50.00 ft. radius (long chord: S.58°23'30"E., 82.34 ft.) to a ½" iron stake set at its end; S.23°48'55"E., 191.88 ft.; S.37°20'13"E., 121.80 ft.; S.70°32'03"E., 80.08 ft.; S.84°58'16"E., 81.50 ft.; N.73°18'39"E., 423.76 ft.; N.65°30'56"E., 167.37 ft.; N.59°53'51"E., 370.06 ft.; N.31°21'04"W., 311.99 ft.; N.05°19'59"E., 126.25 ft.; N.58°10'15"E., 159.40 ft.; N.37°15'58"W., 56.69 ft.; N.79°06'29"W., 175.22 ft.; N.75°15'49"W., 145.85 ft.; S.78°07'38"W., 182.67 ft.; N.72°38'01"W., 97.32 ft. to a ½" iron stake set at the beginning of a 114°36' curve to the right; 249.80 ft. along the arc of said curve to the right subtended by a 286°16' central angle and 50.00 ft. radius (long chord: N.17°21'59"E., 60.00 ft.) to a ½" iron stake set at its end; S.72°38'01"E., 81.67 ft.; N.78°07'38"E., 181.21 ft.; S.79°06'29"E., 196.14 ft.; S.37°15'58"E., 80.45 ft.; N.48°44'11"E., 179.52 ft.; N.43°56'56"E., 128.59 ft.; N.20°20'22"E., 305.71 ft.; N.86°52'50"E., 65.41 ft.; S.20°20'22"W., 344.29 ft.; S.43°56'56"W., 143.63 ft.; S.48°44'11"W., 216.67 ft.; S.58°10'15"W., 165.06 ft.; S.05°19'59"W., 76.55 ft.; S.31°21'04"E., 300.16 ft.; N.74°40'16"E., 41.38 ft.; S.87°23'52"E., 438.58 ft.; S.84°30'06"E., 217.11 ft.; N.85°13'08"E., 156.42 ft.; S.89°35'12"E., 272.54 ft.; S.10°34'35"E., 488.42 ft.; S.18°40'34"W., 128.62 ft.; S.08°17'40"E., 144.09 ft.; and S.43°13'12"E., 164.23 ft. to the PLACE OF BEGINNING.

## Exhibit "C"

FIELD NOTES DESCRIPTION FOR 4.58 ACRES OF LAND OUT  
OF THE AARON WHITBY PROPERTIES LAND ALONG STATE  
HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 4.58 acres, more or less, out of various Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
679	James Watson	369	1.60
1351	W.M. Watson	718	2.98

part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May and recorded in Volume 952 at Page 58 of the Real Property of Kerr County, Texas; and being more particularly described by the metes and bounds as follows:

BEGINNING at a fence anglepost in the east line of said 885.93 acre tract for the north corner of the herein described tract; which point bears: 286.51 ft. N.22°06'33"W. and 1837.68 ft. N.10°34'35"W. from the southeast corner of 885.93 acre tract; and, approximately 1806 ft. North and 337 ft. West from the southeast corner of said Survey No. 679;

THENCE, along or near a fence with the said east line of 885.93 acre tract S.10°34'35"E., 662.35 ft. to a ½" iron stake set for the southeast corner of the herein described tract;

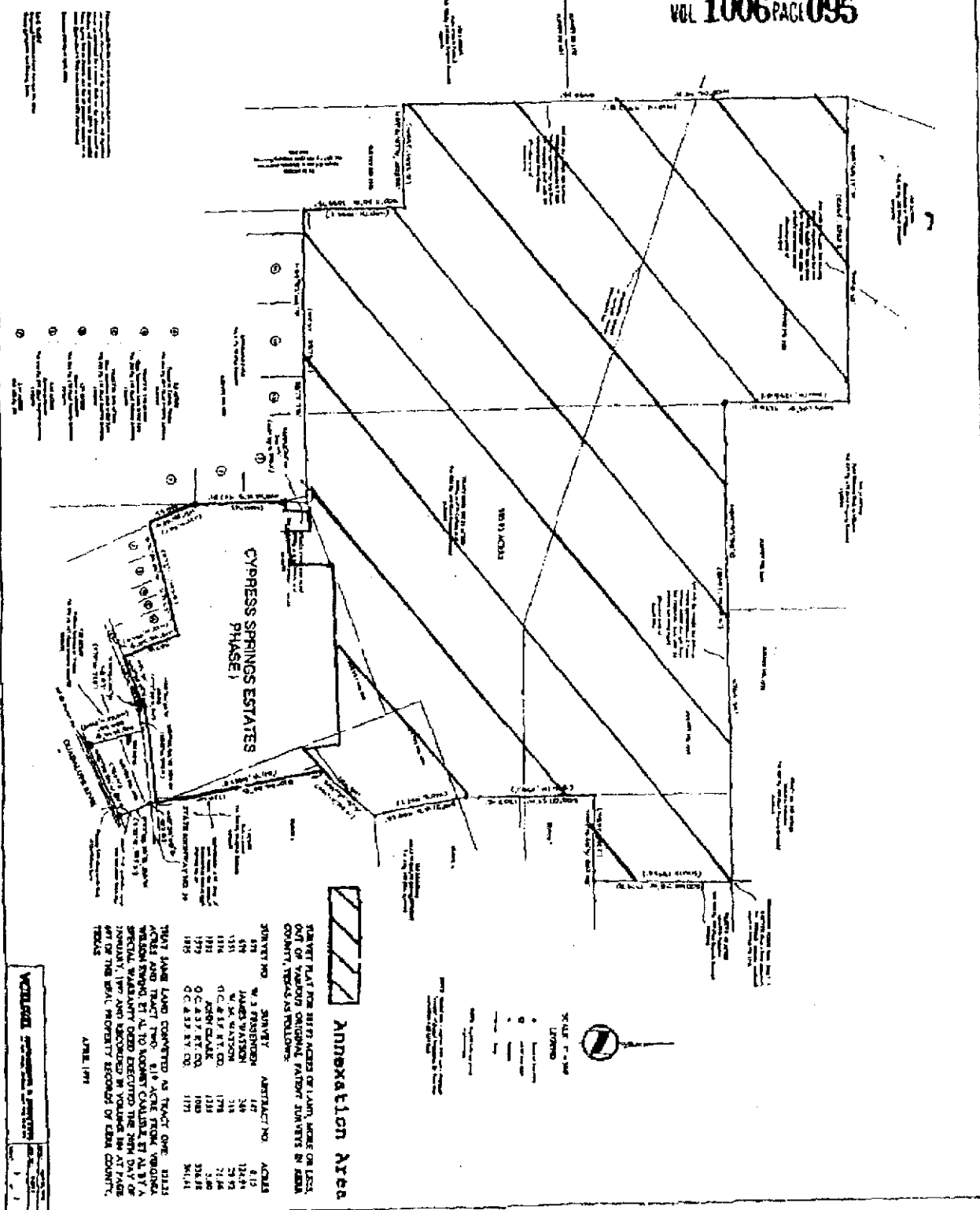
THENCE, upon, over and across said 885.93 acre tract S.86°29'32"W., 558.76 ft. to an unmarked point in a lake for the southwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: N.28°30'42"E., 566.75 ft. to a set ¼" iron stake; and N.41°29'14"E., 250.00 ft. to the PLACE OF BEGINNING; Including the Right to a sixty (60) ft. wide access easement described as follows:

Beginning at a point in the south line of the herein described 4.58 acre tract, 20.15 ft. S.86°29'32"W. from its southeast corner for the northeast corner of the herein described easement;

Thence, upon, over and across said 885.93 acre tract: S.10°34'35"E., 192.28 ft. to a ½" iron stake set for the southeast corner of the herein described easement; N.89°35'12"W., 61.12 ft. to a ½" iron stake set for the southwest corner of the herein described easement; and N.10°34'35"W., 188.07 ft. to a ½" iron stake set in the said south line of the herein described 4.58 acre tract for the northwest corner of the herein described easement;

Thence, continuing upon, over and across said 885.93 acre tract with the south line of the herein described 4.58 acre tract N.86°29'32"E., 60.46 ft. to the Place of Beginning, encumbering 0.26 acre of land, more or less, within these metes and bounds.



## Exhibit "E"

FIELD NOTES DESCRIPTION FOR A DRAINAGE EASEMENT UPON,  
OVER AND ACROSS THE AARON WHITBY PROPERTIES LAND  
ALONG STATE HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain or parcel of land containing 1.76 acres, more or less, comprising approximately 1.60 acres out of James Watson Survey No. 679, Abstract No. 369 and 0.16 acre out of W.M. Watson Survey No. 1351, Abstract No. 718, both surveys in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron stake set for the southwest corner of the herein described tract; which point bears: 1244.83 ft. North and 1052.81 ft. West from the southeast corner of said 885.93 acre tract; and, approximately 979 ft. North and 945 ft. West from the southeast corner of said Survey No. 679;

THENCE, upon, over and across said 885.93 acre tract, all calls to set ½" iron stake: N.37°41'02"E., 164.97 ft.; N.32°23'59"E., 134.40 ft.; and N.30°27'05"E., 515.26 ft. to a ½" iron stake set for the northwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract S.09°27'30"E., 49.09 ft. to a ½" iron stake set for a reentrant corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract N.41°29'14"E., 110.00 ft. to a ½" iron stake set for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: S.30°27'05"W., 250.00 ft. to a ½" iron stake; S.18°11'40"W., 377.73 ft. to a set ½" iron stake; and S.23°37'39"W., 176.78 ft. to a ½" iron stake set for the southeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: N.84°30'06"W., 100.00 ft. to a set ½" iron stake; and N.87°23'52"W., 100.00 ft. to the PLACE OF BEGINNING.

## Exhibit "F"

FIELD NOTES DESCRIPTION FOR A DRAINAGE EASEMENT UPON,  
OVER AND ACROSS THE AARON WHITBY PROPERTIES LAND  
ALONG STATE HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain or parcel of land containing 2.69 acres, more or less, out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron stake found in the north right-of-way line of State Highway No. 39 for the southwest corner of the herein described tract; which point bears: 263.34 ft. North and 1119.33 ft. West from the southeast corner of said 885.93 acre tract; and approximately 2 ft. South and 1012 ft. West from the southeast corner of said Survey No. 679;

THENCE, upon, over and across said 885.93 acre tract, all calls to set ½" iron stakes: N.25°52'53"E., 279.22 ft.; N.07°36'12"E., 195.69 ft.; N.08°58'56"E., 187.92 ft.; N.26°26'51"W., 158.78 ft.; and N.26°51'23"W., 168.26 ft. to a ½" iron stake set for the northwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: S.87°23'52"E., 131.94 ft. to a set ½" iron stake; and S.84°30'06"E., 68.09 ft. to a ½" iron stake set for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract, all calls to set ½" iron stakes: S.22°47'23"E., 193.93 ft.; S.11°07'40"W., 184.87 ft.; S.15°09'39"W., 197.02 ft.; S.03°56'38"W., 181.88 ft.; and S.07°43'40"W., 161.17 ft. to a ½" iron stake set in the said north right-of-way line of State Highway No. 39 for the southeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract along said north right-of-way line of State Highway No. 39, S.84°04'38"W., 184.68 ft. to the PLACE OF BEGINNING.

**DESCRIPTION FOR A TWENTY FT. WIDE DRAINAGE  
EASEMENT UPON, OVER AND ACROSS THE AARON WHITBY  
PROPERTIES LAND ALONG STATE HIGHWAY NO. 39 IN KERR  
COUNTY, TEXAS**

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas, part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; the centerline of 20 ft. wide strip more particularly described as follows:

**BEGINNING** at a 1/4" iron stake set for the north terminus of the herein described easement; which point bears: 523.26 ft. North and 1533.84 ft. West from the southeast corner of said 885.93 acre tract; and, approximately, 258 ft. North and 1426 ft. West from the southeast corner of said Survey No. 679;

**THENCE**, upon, over and across said 885.93 acre tract: S. 12°23'36"W., 222.48 ft. to a set 1/2" iron stake; S. 39°41'12"E., 162.57 ft. to a set 60 "d" nail; N. 78°47'57"E., 186.11 ft. to a set 60 "d" nail; N. 83°40'06"E., 42.45 ft. to a set 60 "d" nail; N. 69°18'52"E., 146.78 ft. to a set 60 "d" nail; and N. 84°04'38"E., 89.02 ft. to a 60 "d" nail set for the southeast terminus of the herein described easement, encumbering land ten (10) ft. each side of the herein described centerline.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

Dated this 23<sup>rd</sup> day of March, 1999

*Lee C. Voelkel*

Lee C. Voelkel

Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas

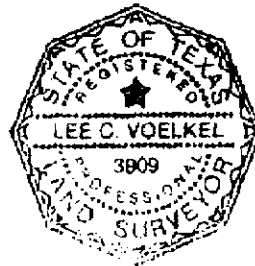


EXHIBIT "G"  
PAGE 1 OF 1

DESCRIPTION FOR A TWENTY FT. WIDE DRAINAGE  
EASEMENT UPON, OVER AND ACROSS THE AARON WHITBY  
PROPERTIES LAND ALONG STATE HIGHWAY NO. 39 IN KERR  
COUNTY, TEXAS

VOL 1006 PAGE 099

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; the centerline of 20 ft. wide strip more particularly described as follows:

BEGINNING at a 1/4" iron stake set for the northwest terminus of the herein described easement; which point bears: 867.23 ft. North and 2092.60 ft. West from the southeast corner of said 885.93 acre tract; and, approximately, 601 ft. North and 1985 ft. West from the southeast corner of said Survey No. 679.

THENCE, upon, over and across said 885.93 acre tract S.26°46'19"E., 323.80 ft. to a 1/4" iron stake set in the south line of 885.93 acre tract for the southeast terminus of the herein described easement, encumbering land ten (10) ft. each side of the herein described centerline.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

Dated this 23<sup>rd</sup> day of March, 1999

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas

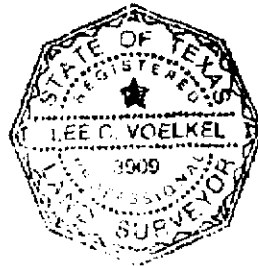


EXHIBIT " H "   
PAGE 1 OF 1



**DESCRIPTION FOR A TWENTY FT. WIDE DRAINAGE  
EASEMENT UPON, OVER AND ACROSS THE AARON WHITBY  
PROPERTIES LAND ALONG STATE HIGHWAY NO. 39 IN KERR  
COUNTY, TEXAS**

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; the centerline of 20 ft. wide strip more particularly described as follows:

**BEGINNING** at a 1/4" iron stake set for the northwest terminus of the herein described easement; which point bears: 1774.82 ft. North and 1319.01 ft. West from the southeast corner of said 885.93 acre tract; and, approximately, 1509 ft. North and 1211 ft. West from the southeast corner of said Survey No. 679;

**THENCE**, upon, over and across said 885.93 acre tract S. 56°55'54"E., 523.97 ft. to a 1/4" iron stake set for the southeast terminus of the herein described easement, encumbering land ten (10) ft. each side of the herein described centerline.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

Dated this 23<sup>rd</sup> day of March, 1999

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas

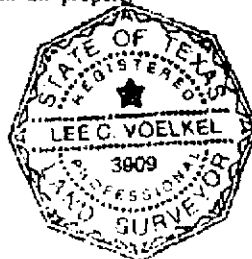
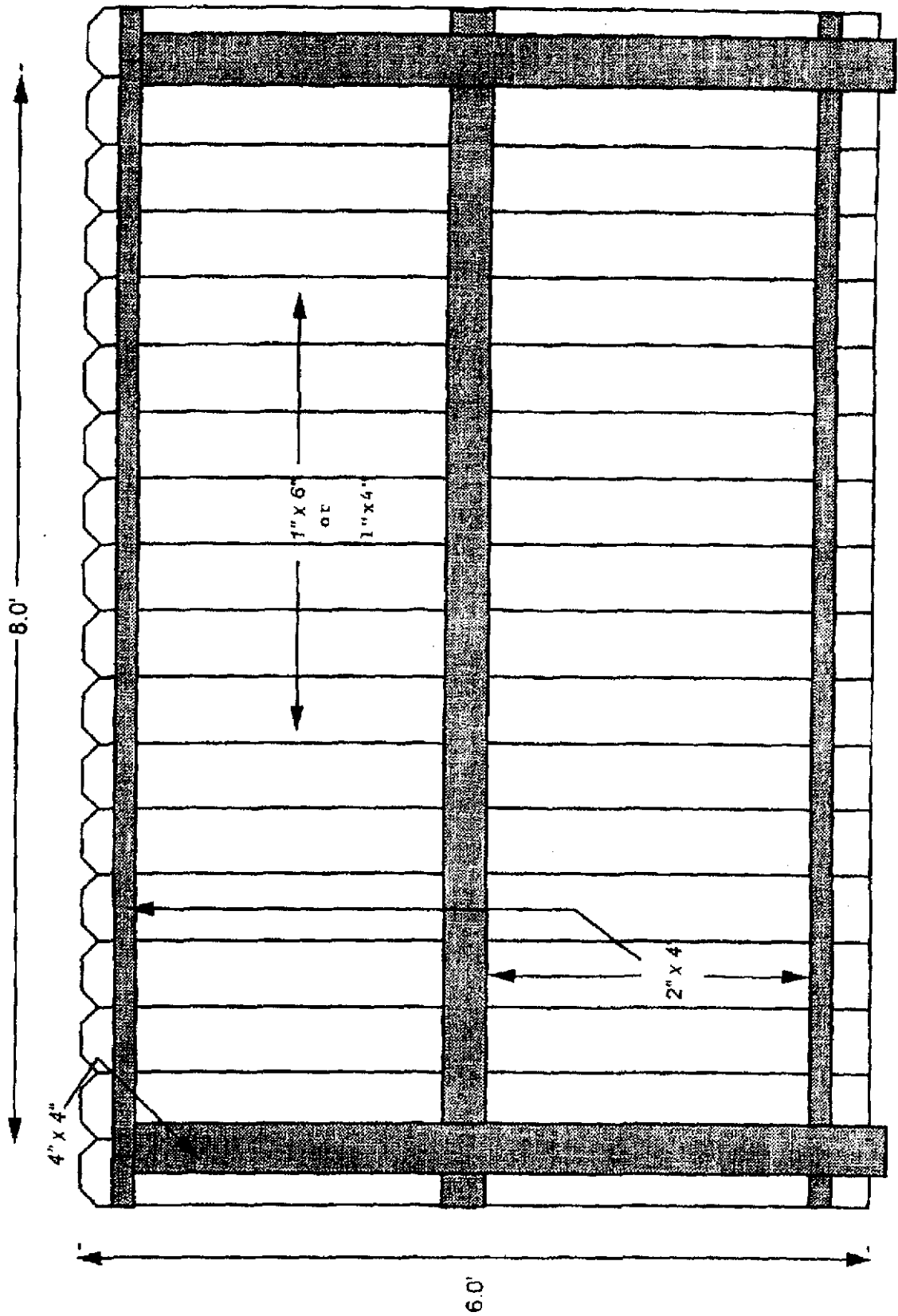


EXHIBIT " I "  
PAGE 1 OF 1

EXHIBIT "J"  
PAGE 1 OF 1

Elevation From Inside of Lot



RECORDER'S NOTE  
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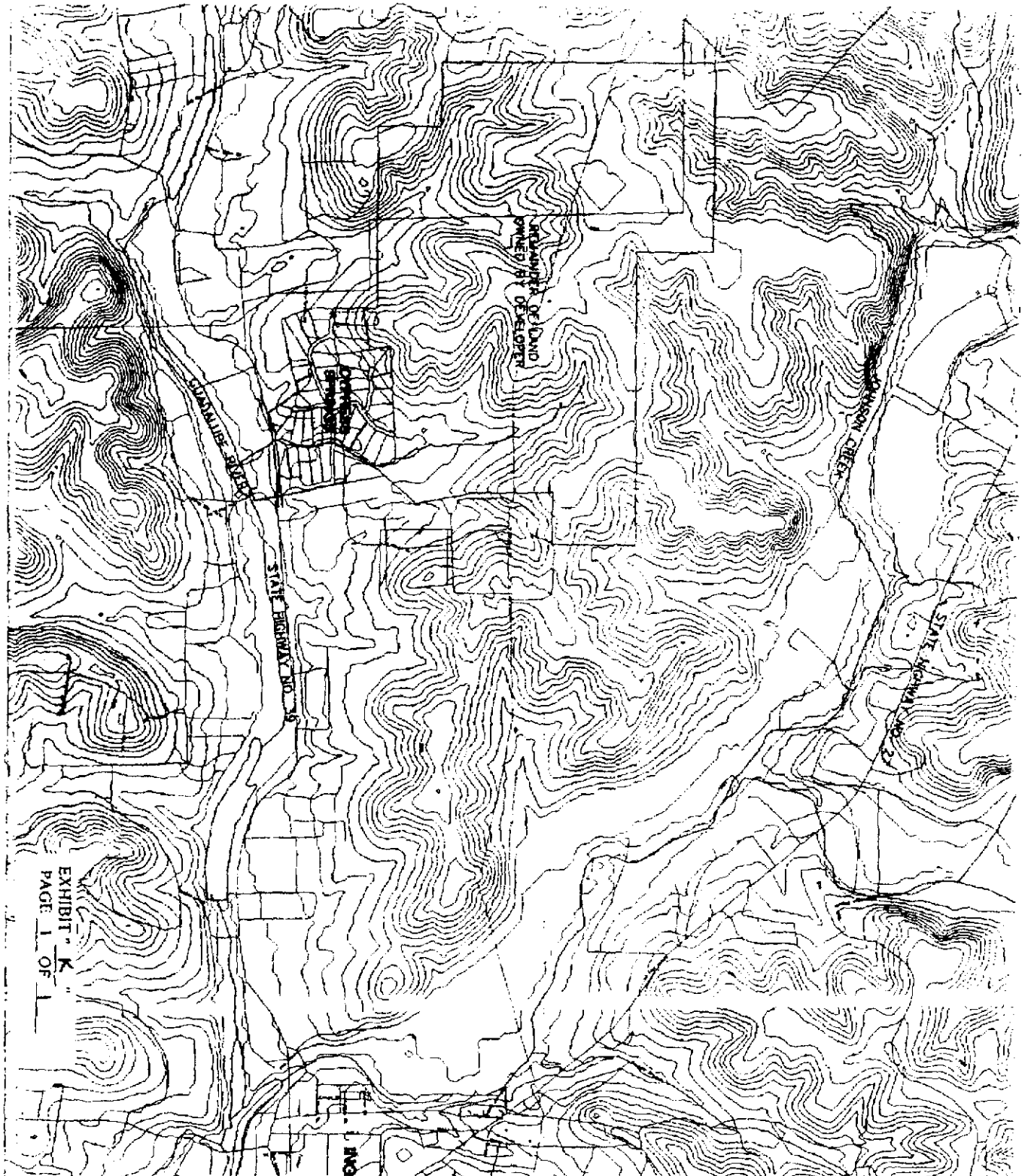


EXHIBIT "K"  
PAGE 1 OF 1

AMENDMENTS TO THE  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE ONE  
A SUBDIVISION IN KERR COUNTY, TEXAS

1. WHEREAS, Declarant is the owner of certain property in Kerr County, Texas, that has been platted and subdivided into a subdivision known as CYPRESS SPRINGS ESTATES, Phase One according to the plat thereof recorded in Volume 7, Page 12 of the Plat Records of Kerr County, Texas; and
2. WHEREAS, by instrument captioned "Declaration of Covenants, Conditions and Restrictions of Cypress Springs Estates, Phase One, a Subdivision in Kerr County, Texas," recorded in Volume 1006, Pages 053 - 102, of the Real Property Records of Kerr County, Texas, AARON WHITBY PROPERTIES, L.L.C., as Declarant, established use restrictions applicable to Cypress Springs Estates, Phase One and to additional land that may be annexed from time to time to the jurisdiction of the Declaration. All terms as defined in the Declaration have the same meanings in this Amendment; and
3. WHEREAS, pursuant to Article XI., Section 3 (b), of the Declaration, Declarant reserved the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend the Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying stay ambiguities or conflicts therein and the Development Period is still in effect due to Declarant's ownership of one or more lots within said subdivision; and
4. WHEREAS, pursuant to Article XI., Section 3 (a), of the Declaration, the Declaration may be amended during the first twenty-five (25) year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and Declarant currently holds more than two-thirds (2/3) of the votes in the Association;
5. NOW THEREFORE, the following provisions of the Declaration are hereby amended as follows:
  - (a) Article IX., Section 1, is hereby amended to read as follows:

Subject to Sections 2 and 13 of this Article, each Lot shall be used only for single family residence purposes. No building shall be erected, altered or permitted to remain on any Lot other than one single-family detached residential dwelling not to exceed three (3) stories in height, and a private garage for not less than two (2) nor more than three (3) cars, and not to exceed one story in height-unless specifically approved by the Architectural Control Committee, and a bona fide servants'

quarters or guest house, which structure shall not exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined in this Declaration or that may appear on any recorded plat or replat approved by Declarant or its assignee.

- (b) Article IX., Section 4, is hereby amended to read as follows:

Seventy-five percent (75%) of the exterior materials of the main residential structure and the garage, whether attached or detached, shall be stucco or stone. The remaining twenty-five percent (25%) of the exterior materials shall be masonry, stone, stucco, wood or brick. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive this restriction, if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood. Wall materials used on all Lots shall be restricted to those types and colors approved by the Architectural Control Committee. No single family construction, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by Declarant or a Builder during the completion and sale of all construction of this subdivision.

- (c) Article IX., Section 5, paragraph 1 is hereby amended to read as follows:

No building shall be located on any Lot or nearer to the front line than seventy-five (75) feet, nor nearer to the side street line than fifteen (15) feet. No building shall be located on any Lot nearer than fifteen (15) feet to any side nor seventy-five (75) feet rear lot line. Building setbacks from interior side lot lines shall be subject to the following provisions:

- (d) Article IX., Section 15, paragraph (a) is hereby amended to read as follows:

The foregoing notwithstanding, fencing on the Lots listed below shall conform to the details shown in Exhibit "J" attached hereto, made a part hereof and incorporated herein for all purposes, and shall be composed of wood, cedar planks, notwithstanding, wrought iron may be used only as approved by the Architectural Control Committee:

Lots 2-45, CYPRESS SPRINGS ESTATES, PHASE 1.

- (e) Article IX., Section 15, paragraph (b) is hereby amended to read as follows:

The foregoing notwithstanding, fencing on the Lots listed below shall conform to the details shown in Exhibit "J" attached hereto, made a part hereof and incorporated herein for all purposes, and shall be composed of wood, cedar planks, **notwithstanding, wrought iron may be used only as approved by the Architectural Control Committee**, with the exception that fencing constructed along the drainage control device easement shall be wrought iron, with a maximum height of **six (6)** feet, and approved by the Architectural Control Committee for design:

Lots 2-11, 40-45, CYPRESS SPRINGS ESTATES, PHASE 1.

- (f) Article IX., Section 15, paragraph (c) is hereby amended to read as follows:

The foregoing notwithstanding, fencing on the Lots listed below shall conform to the details shown in Exhibit "J" attached hereto, made a part hereof and incorporated herein for all purposes, and shall be composed of one inch by six inch (1" X 6"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks, **notwithstanding, wrought iron may be used only as approved by the Architectural Control Committee**:

Lots 2, 12-13, 15-19, 21-22, CYPRESS SPRINGS ESTATES, PHASE 1.

- (g) Article IX., Section 16, paragraph (a) is hereby amended to read as follows:

All landscaping designs for the front yard area shall be approved by the Architectural Control Committee prior to construction or alteration. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the front of a residence to the side Lot lines. Installation of all landscaping shall be installed within ninety (90) days of first occupancy in accordance with the landscape plan approved by the Architectural Control Committee. **Installation of any landscaping after ninety (90) days from first occupancy is solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI. of the Declaration.** Statues, statuary fountains, multiple tier planters, concrete and other lawn furniture are prohibited in front and side yards. Placement of any decorative items in front or side yards is subject to ACC approval.

- (h) Article IX., Section 25, is hereby amended to read as follows:

Roofing materials may include composition shingles having a minimum **warranty of thirty (30) years**, slate, clay or concrete tiles; or they may be metal, painted a color approved by the Architectural Control Committee, using standing or battened seams. Composition shingle roofs shall be comparable in color to weather wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type roofing material shall be permitted only at the sole discretion of the Declarant, the Architectural Control Committee or its assigns upon written request.

- (i) Article IX., Section 26 (a)(1), is hereby amended to read as follows:

Driveways on each residential Lot and visible from a street must be constructed of broom finished concrete, pebble finish concrete, brick pavers, or **pink crushed granite with curbs**, provided, **asphalt driveways with curbs may be permitted solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI. of the Declaration.**

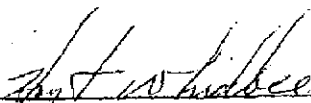
- (j) Article IX., Section 26 (c), is hereby amended to read as follows:

Loose gravel driveways, **excluding pink crushed granite with curbs**, are specifically prohibited forward of the front building line. Builders and contractors are required to clean streets immediately after aggregate finished sidewalks and driveways have been washed.

6. Declarant states that this Amendment does not change the vested property rights of any Owner within the jurisdiction of the Declaration.

EXECUTED effective the 7<sup>TH</sup> day of FEBRUARY, 2000.

AARON WHITBY PROPERTIES, L.L.C.

By:   
Hoyt Whidbee, Managing Member

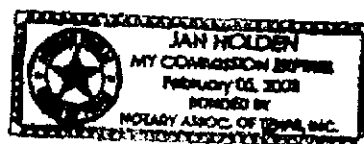
STATE OF TEXAS

VOL. 1050 PAGE 052

COUNTY OF KERR

The foregoing instrument was acknowledged before me on the 7th day of February, 2000, by HOYT WHIDBEE, Managing Member of AARON WHITBY PROPERTIES, L.L.C., a Texas Limited Liability Company, on behalf of said company.

Jan Holden  
Notary Public, State of Texas



RECORD Real Property  
VOL. 1050 PG. 48  
RECORDING DATE

FEB 08 2000



Janett Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

FEB 08 2000



Janett Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS

FILED FOR RECORD

at 1:41 o'clock P. M.

FEB 07 2000

JANINETT PIEPER

Clerk County Court, Kerr County, Texas  
Jodee Baker Deputy

RECORDER'S NOTE

AT TIME OF RECORDATION INSTRUMENT FOUND TO BE INADEQUATE FOR BEST PHOTOGRAPHIC REPRODUCTION DUE TO DEPTH & DARKNESS OF PRINT, COLOR OF PRINT OR INK, BACKGROUND OF PAPER, ILLEGIBILITY, CARBON OR PHOTO COPY, ETC.

AMENDMENTS TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF CYPRESS SPRINGS ESTATES, PHASE ONE - A SUBDIVISION IN KERR COUNTY, TEXAS

Filed By & Return to:  
Jay Whidbee  
P.O. Box 592  
Kerrville Tx  
78029

PAGE 5 OF 5



04376

VOL. 1068 PAGE 0146

**AMENDMENT AND CONVEYANCE FOR CYPRESS SPRINGS ESTATES**

THIS AMENDMENT AND CONVEYANCE (this "Amendment") is made on June 2, 2000, by the undersigned.

**RECITALS:**

A. Pursuant to the terms of that certain Declaration of Covenants, Conditions and Restrictions recorded in Volume 1006, Page 053, Real Property Records, Kerr County, Texas (the "Declaration"), certain covenants and restrictions were created against that certain property (the "Property") known as Cypress Springs Estates, Phase One, a subdivision of Kerr County, Texas, according to the plat thereof recorded in Volume 7, Page 12, Plat Records of Kerr County, Texas.

B. The undersigned desire to amend certain provisions of the Declaration and complete related matters by executing and recording this Amendment which has been approved by vote of the percentage of Owners, First Mortgagees and Declarant, as defined and provided in the Declaration and as required by the Declaration.

C. With respect to land adjoining the Property the undersigned are concurrently executing and creating a certain easement under the Easement of even date ("Easement") and certain restrictions under the Declaration of Covenants, Conditions, and Restrictions, of even date ("Restrictions").

NOW, THEREFORE, the Declaration is amended as provided herein and is hereby amended to provide for and permit the following and the undersigned hereby ratify, confirm, join in and complete the following:

1. The creation, conveyance, assignment, transfer, grant and establishment of the Easement as set forth in the Easement; which Easement is on, over and across the Common Area Roadways as defined in the Declaration and which Easement is for use of subdivision roads by adjoining tracts of land without annexation into the Subdivision referenced herein and in the Declaration and with sharing road maintenance expense as provided in the Easement.
2. The Declaration is amended to provide that non-residential use of Lots within the Property may be used for the purpose of creating a road easement thereon, including without limitation as provided in the Easement.
3. The Declaration is amended to provide that Lot 1 in the Property and the Common Area Detention Pond in the Property shall not be common Areas under the Declaration but shall be residential lots under the Declaration and that the tract of land described in Annex "II", attached hereto and made a part hereof for all purposes shall be a Common Area under the Declaration to be used as a recreational facility.
4. The Common Areas, the Common Area Roadways under and as defined in the

13

Declaration and herein (as modified hereby) and the park tract described in Exhibit "A", attached hereto and made a part hereof for all purposes, are hereby transferred and conveyed to Cypress Springs Estates Property Owners Association subject to the terms and provisions of the Easement, the Declaration and this Amendment. TO HAVE AND TO HOLD same unto said Association forever, and the parties hereto agree to execute and deliver such documents as may be reasonable and necessary to complete such conveyance.

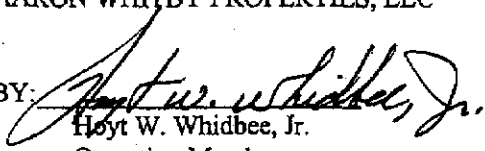
5. Subject to the rights, provisions and terms of the Easement and the Restrictions, the rights and obligations of Declarant under the Declaration are hereby assigned to Cypress Springs Estates, Ltd., who hereby assumes the duties and obligations of the Declarant under the Declaration and who hereby assumes and agrees to perform all of the terms, covenants and conditions of the Declarant under the Declaration on the part therein required to be performed. Aaron Whitby Properties, LLC is hereby released from any further obligation and liability as Declarant.
6. Aaron Whitby Properties, LLC will, at its cost and expense, continue to pursue and obtain reasonable and necessary permit(s) for the dams now located on the Property.
7. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
8. The parties hereto agree, upon the request of any party hereto, to execute and deliver all such documents and instruments, and to do and complete all such acts and things, as may be reasonable and necessary to carry out, complete and consummate each and all of the matters set forth hereinabove including without limitation applications for permits, documents for permits, platting, and replatting.

Except as amended hereby and by prior amendments, the terms of the Declaration shall remain unchanged and shall be deemed to be in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed as of the date first written above by the undersigned by vote at a meeting duly called and held after due notice of the Owners present in person or by proxy/power of attorney at such meeting.

AARON WHITBY PROPERTIES, LLC

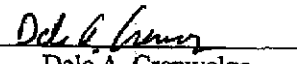
BY:

  
Hoyt W. Whidbee, Jr.  
Operating Member

CYPRESS SPRINGS ESTATES, LTD.

BY: DAC, LLC

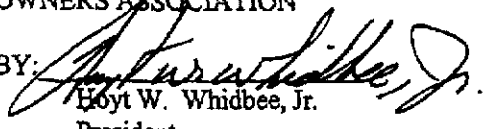
By:

  
Dale A. Crenwelge,  
Manager

CYPRESS SPRINGS ESTATES PROPERTY  
OWNERS ASSOCIATION

VOL. 1068 PAGE 0148

BY:

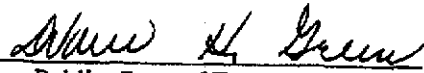
  
Hoyt W. Whidbee, Jr.  
President

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me this 2 day of June, 2000, by HOYT W. WHIDBEE, JR., Operating Member of AARON WHITBY PROPERTIES, LLC, a limited liability company on behalf of said company.



  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me this 2 day of June, 2000, by DALE A. CRENWELGE, Manager of DAC, LLC, General Partner of CYPRESS SPRINGS ESTATES, LTD., a limited partnership, on behalf of said partnership, in the capacity therein stated.



  
Notary Public, State of Texas

THE STATE OF TEXAS §

VOL. 1068 PAGE 0149

COUNTY OF KERR §

This instrument was acknowledged before me this 2 day of June, 2000, by HOYT W. WHIDBEE, JR., President of CYPRESS SPRINGS ESTATES PROPERTY OWNERS ASSOCIATION, on behalf of said association.



Diane H. Green  
Notary Public, State of Texas

Alron Whitley Properties, LLC  
P.O. Box 592  
Kerrville, Texas 78028

Return to:  
Cypress Springs Estates  
P.O. Box 717  
Comfort, Texas 78013

Provisions herein, which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

JUN 05 2000



Jannett Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS

FILED FOR RECORD  
at 4:24 o'clock P.M.

JUN - 2 2000

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
[Signature] Deputy

FILED BY: KERR COUNTY  
ABSTRACT & TITLE CO.

RECORD Real Property  
VOL. 1068 PG. 146  
RECORDING DATE

JUN 05 2000



Jannett Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS

FIELD NOTES DESCRIPTION FOR 2.01 ACRES OF LAND OUT OF THE  
AARON WHITBY PROPERTIES LAND BETWEEN STATE HWY. NO. 39  
AND THE GUADALUPE RIVER IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 2.01 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
679	James Watson	369	0.72
1933	John Clark	1255	1.29

part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20th day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fence cornerpost in the south right-of-way line of State Highway No. 39 for the northwest corner of the herein described tract, a reentrant corner of said 885.93 acre tract and the northeast corner of a certain 4.23 acre tract conveyed from Dayton H. Walkup, Executor to Dayton H. Walkup by a Special Warranty Deed dated February 1, 1993 and recorded in Volume 676 at Page 637 of the Real Property Records of Kerr County, Texas; which point bears, approximately 43 ft. N.10°35'W. and 781 ft. S.84°05'W. from the east common corner of Survey Nos. 679 and 1933;

THENCE, upon, over and across said 885.93 acre tract with the south right-of-way line of State Highway No. 39, N.84°04'56"E., 181.20 ft. to a ½" iron stake found for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: S.08°21'44"W., 138.76 ft. to a ½" iron stake found in the approximate center of a draw; S.34°29'02"E., with the approximate center of said draw, 222.20 ft. to a found ½" iron stake; S.60°30'47"W., continuing with the approximate center of draw 90.60 ft. to a found ½" iron stake; and S.57°04'59"E., continuing with the approximate center of draw 195.65 ft. to an unmarked point where said draw intersects the north bank of the Guadalupe River and south line of 885.93 acre tract for the southeast corner of the herein described tract;

THENCE, with the said north bank of the Guadalupe River and south line of 885.93 acre tract S.66°35'54"W., 239.91 ft. to a 92" diameter Cypress tree marked with a found ½" iron stake for the southwest corner of the herein described tract and 885.93 acre tract, the southeast corner of said 4.23 acre tract;

THENCE, with the common line between said 885.93 and 4.23 acre tracts N.15°24'44"W., 568.40 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown (Bearing basis = True north based on GPS observations).

Dated this 9<sup>th</sup> day of December, 1999

*Lee C. Voelkel*  
Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas

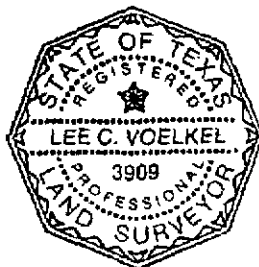


EXHIBIT "A"

RECORDERS NOTE  
AT TIME OF RECORDATION INSTRUMENT FOUND  
TO BE INADEQUATE FOR BEST PHOTOGRAPHIC  
REPRODUCTION DUE TO DEPTH & DARKNESS OF  
PRINT, COLOR OF PRINT OR INK, BACKGROUND OF  
PAPER, ILLUMINITY, CARBON OR PHOTO COPY, ETC.

FIELD NOTES DESCRIPTION FOR 2.01 ACRES OF LAND OUT OF THE  
AARON WHITBY PROPERTIES LAND BETWEEN STATE HWY. NO. 39  
AND THE GUADALUPE RIVER IN KERR COUNTY, TEXAS

VOL. 1068 PAGE 0151

Being all of a certain tract or parcel of land containing 2.01 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
679	James Watson	369	0.72
1933	John Clark	1255	1.29

part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20th day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fence cornerpost in the south right-of-way line of State Highway No. 39 for the northwest corner of the herein described tract, a reentrant corner of said 885.93 acre tract and the northeast corner of a certain 4.23 acre tract conveyed from Dayton H. Walkup, Executor to Dayton H. Walkup by a Special Warranty Deed dated February 1, 1993 and recorded in Volume 676 at Page 637 of the Real Property Records of Kerr County, Texas; which point bears, approximately 43 ft. N.10°35'W. and 781 ft. S.84°05'W. from the east common corner of Survey Nos. 679 and 1933;

THENCE, upon, over and across said 885.93 acre tract with the south right-of-way line of State Highway No. 39, N.84°04'56"E., 181.20 ft. to a 1/4" iron stake found for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: S.08°21'44"W., 138.76 ft. to a 1/4" iron stake found in the approximate center of a draw; S.34°29'02"E., with the approximate center of said draw, 222.20 ft. to a found 1/4" iron stake; S.60°30'47"W., continuing with the approximate center of draw 90.60 ft. to a found 1/4" iron stake; and S.57°04'59"E., continuing with the approximate center of draw 195.65 ft. to an unmarked point where said draw intersects the north bank of the Guadalupe River and south line of 885.93 acre tract for the southeast corner of the herein described tract;

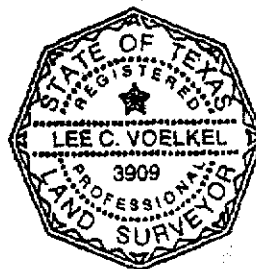
THENCE, with the said north bank of the Guadalupe River and south line of 885.93 acre tract S.66°35'54"W., 239.91 ft. to a 92" diameter Cypress tree marked with a found 1/4" iron stake for the southwest corner of the herein described tract and 885.93 acre tract, the southeast corner of said 4.23 acre tract;

THENCE, with the common line between said 885.93 and 4.23 acre tracts N.15°24'44"W., 568.40 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown (Bearing basis = True north, based on GPS observations).

Dated this 9<sup>th</sup> day of December, 1999

  
Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



Annex "II"

06905

**DECLARATION OF SUPPLEMENTAL  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE,  
A SUBDIVISION IN KERR COUNTY, TEXAS**

**FILED BY: KERR COUNTY  
ABSTRACT & TITLE CO.**

73-511

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**SUPPLEMENTAL DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE,  
A SUBDIVISION OF KERR COUNTY, TEXAS**

THIS DECLARATION is made on the date hereinafter set forth by Cypress Springs Estates, Ltd., a Texas Limited Partnership, hereinafter referred to as "Declarant";

**W I T N E S S E T H:**

WHEREAS, Declarant is the owner of certain property in Kerr County, Texas, that has been platted and subdivided into a subdivision known as CYPRESS SPRINGS ESTATES, Phase Two, Section One, according to the plat thereof recorded in Volume 7, Page 172-173, of the Plat Records of Kerr County, Texas.

Declarant desires to develop certain land, being all of CYPRESS SPRINGS ESTATES, Phase Two, Section One, save and except the COMMON AREAS and COMMON AREA ROADWAYS as a residential subdivision and subject it to this declaration and to provide and adopt a uniform plan of development, including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control, and preserve the values and amenities of this land for the development, improvement, sale, use, and enjoyment of the Property as a residential subdivision for the benefit of this land and each owner of any part of this land. The land subject to this Declaration is referred to as the "Property." Declarant further desires to annex the Property described herein to the subdivision known as CYPRESS SPRINGS ESTATES, Phase One, a subdivision in Kerr County, Texas, as shown on a plat of said subdivision filed for record in Volume 7, Page 12 of the Plat Records of Kerr County, Texas, pursuant to the provisions of Article XI, Section 8(b) of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

The Property shall include the following Lots and Common Areas:

CYPRESS SPRINGS ESTATES PHASE TWO, SECTION ONE



LOTS:

Lots 48-92, CYPRESS SPRINGS ESTATES, Phase Two, Section One, a subdivision containing 148.68 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No. 678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres; and Survey No. 1575 of the G.C. and S.F. Ry. Co. Survey, Abstract No. 1083, 112.42 acres;

COMMON AREAS:

COMMON AREAS:

Being a 1.10 acre tract and a 4.24 acres tract located on Springlakes Parkway, CYPRESS SPRINGS ESTATES, Phase Two, Section One, in Kerr County, Texas.

COMMON AREA ROADWAYS:

Being all roadways in CYPRESS SPRINGS ESTATES, Phase Two, Section One, in Kerr County, Texas.

All Common Areas subject to this Declaration are, however, specifically excepted from Article IX, Restrictions of Use and Article V, Covenant for Maintenance Assessment.

It has been deemed desirable, for the efficient preservation of values and amenities in the Property, to create an Association to which shall be delegated and assigned the powers of administering and enforcing the provisions of this Declaration including levying, collecting, and disbursing the assessments.

To exercise these functions, the CYPRESS SPRINGS ESTATES PROPERTY OWNERS ASSOCIATION, Inc., (hereinafter referred to as the "Association") a non-profit corporation created under the laws of the State of Texas, has been incorporated. The directors of the Association established By-laws by which the Association shall be governed.

Declarant declares that the Property shall be developed, improved, sold, used, and enjoyed in accordance with and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions of this Declaration, all of which are adopted for and placed upon the Property; shall run with the Property and be binding on all parties who now or hereafter have or claim any right, title, or interest in the Property or any part of the Property, and on the heirs, executors, administrators, successors, and assigns of such parties, regardless of the source of or the manner in which any such right, title, or interest is or may be acquired and shall inure to the benefit of each owner of any part of the Property. Declarant further declares that the Property is annexed as an addition to CYPRESS SPRINGS ESTATES Phase One, as shown on a plat of said subdivision filed for record in Volume 7, Page 12 of the Plat Records of Kerr County, Texas. Declarant further declares that all of the provisions of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, and the amendments to such declarations recorded in Volume, 150, Page 48, and Volume 1068, Page 146 of the Real Property Records of Kerr County, Texas, shall apply to the Property subject to this Declaration with the same force and effect as if said lands were originally included in Phase One, as specifically modified herein.

#### ARTICLE I DEFINITIONS

Section 1. "Architectural Control Committee" (ACC or "Committee") shall mean and refer to the Committee created in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, subject to the provisions herein, by Declarant.

Section 2. "Association" shall mean and refer to Cypress Springs Estates Property Owners Association, Inc., a non-profit corporation incorporated under the laws of the State of Texas, and its successors and assigns as described in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

Section 3. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Cypress Springs Estates Property Owners Association, Inc., the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

Section 4. "Builder" shall mean and refer to a department of Declarant or any other entity to which Declarant conveys or transfers lots within the Subdivision for the purpose of constructing homes or other permitted structures thereon.

Section 5. "Committee" see "Architectural Control Committee.

Section 6. "Common Areas" and Common Facilities shall mean and refer to all real property leased, owned, or maintained by the Association for use and benefit of the Members of the Association. The Common Area to be conveyed to the Association shall include the COMMON AREAS and COMMON AREA ROADWAYS, provided, however, Declarant reserves the right to further restrict the permitted improvements and uses of said areas beyond the restrictions on use set forth herein. Ownership of the Common Area will be transferred to the Association, free of lien, by Declarant prior to the sale of the last Lot in the Subdivision, provided, however, that Declarant reserves the right to use the Common Areas for Declarant, its successors or assigns, or Builders for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property and/or annexed areas have been sold. Nothing herein shall be construed as requiring Declarant to construct improvements upon the common facilities.

Section 7. "Common Maintenance Area" may mean and refer to the Common Areas and all, if any, entrance monuments, perimeter walls, drainage facilities, trails, playground, and detention ponds, esplanade and right-of-way landscaping and other areas deemed appropriate by the Board of Directors of the Association to be maintained by the Association for the preservation, protection, and enhancement of the property values of the Subdivision and/or the general health, safety, welfare or benefit of the Owners.

Section 8. "Conveyance" shall mean and refer to conveyance of a fee simple title to the surface estate of a Lot from one Owner to another.

Section 9. "Declarant" shall mean and refer to CYPRESS SPRINGS ESTATES, Ltd., a Texas Limited Partnership, and 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.

Section 10. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions and any amendments, annexations and supplements hereto made in accordance with the terms hereof and filed of record in the Real Property Records of Kerr County, Texas.

Section 11. "Development Period" shall mean and refer to that period of time in which Declarant is the owner of any Lot, whether in Phase One or any additional annexed areas.

Section 12. "Drainage Control Device" shall mean and refer to those referred to herein as "artificial pond(s)".

Section 13. "Improvement" shall mean every structure on the Properties and all appurtenances thereto of every type and kind, including but not limited to, buildings, outbuildings, storage sheds or buildings, guest quarters, gazebos, patios, driveways, walkways and paved areas, tennis courts, fountains, large barbeque units, green houses, barns, basements, and large visible decorative items, swimming pools, garages, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 14. "Living Unit" shall mean and refer to a single-family residence and its attached or detached garage situated on a Lot.

Section 15. "Lot" shall mean and refer to any of the plots of land numbered Lots 48 - 92, CYPRESS SPRINGS ESTATES, Phase Two, Section One, as shown on the Subdivision Plat.

Section 16. "Master Plan" shall mean that certain preliminary plan of development for the Project area, as depicted on Exhibit "K" of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ES-

TATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, and fully incorporated herein by reference, the original of which plan is maintained at Declarant's offices. The Master Plan is not binding on Declarant and may be amended by Declarant from time to time.

Section 17. "Member" shall mean and refer to those Owners entitled to membership as provided in the Articles of Incorporation of the Association.

Section 18. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the Properties given to secure the payment of a debt.

Section 19. "Mortgagee" shall mean the holder or holders of any Mortgage or Mortgages, or any other interest held as security for the performance of an obligation.

Section 20. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the surface estate in any Lot, or portion of a Lot, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall also include the record owners of the fee simple title to the surface estate in any lot in CYPRESS SPRINGS ESTATES Phase One, as the term "Owner" is defined in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

Section 21. "Plans and Specifications" shall mean any and all documents designed to guide the construction, alteration or erection of any improvement.

Section 22. "Property" shall mean and refer to CYPRESS SPRINGS ESTATES, Phase Two, Section One, a subdivision of Kerr County, Texas, save and except COMMON AREAS/ROADS, and any additions thereto as may hereafter be brought within the Jurisdiction of the Association.

Section 23. "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a living unit.

Section 24. "Subdivision" shall mean and refer to the Property, as defined herein.

Section 25. "Subdivision Plat" shall mean and refer to the map or plat of CYPRESS SPRINGS ESTATES, Phase Two, Section One, filed for record in Volume 7, Page 172-173, of the Plat Records of Kerr County, Texas, and any amendments thereof upon filing of same for record in the Real Property Records of Kerr County, Texas.

Section 26. "Transfer" shall mean and refer to the transfer of the surface estate of a Lot, from one legal entity to any department thereof or to another legal entity whether or not the owner of record changes.

ARTICLE II  
RESERVATION, EXCEPTIONS, DEDICATIONS  
AND CONDEMNATION

Section 1. Incorporation of Plat. The subdivision plat of CYPRESS SPRINGS ESTATES, Phase Two, Section One, dedicates for use as such subject to the limitations set forth therein, certain streets and easements shown thereon, and such subdivision plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on the subdivision plat, to the extent they apply to the Property, being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of Declarant, conveying each Lot within the Property.

Section 2. Reservation of Minerals. The Property, and any future land made subject to this Declaration, are hereby subjected to the following reservation and exception: All oil, gas and other minerals in, on and under the hereinabove described property are hereby excepted or reserved by Declarant.

Section 3. Condemnation. If all or any part of the Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all owners and to all First Mortgagees

(as defined in Article X hereof) known to the Association to have an interest in any Lot. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article V hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as follows. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined such damages or awards shall be paid to the Association. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible, the Common Areas so taken or damaged. In the event it is determined that such Common Area should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners. If it is determined that the Common Areas should not be replaced, the Association shall pay the funds received as damages to the account of each Owner and First Mortgagee, if any, as their interests may appear.

### ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easements Of Enjoyment. Every Lot Owner of CYPRESS SPRINGS ESTATES, Phase One, and CYPRESS SPRINGS ESTATES Phase Two, Section One, who resides on a lot in either subdivision, shall have a right to an easement of enjoyment in and to the Common Areas of either subdivision which shall be appurtenant to and shall pass with the title to every lot of either subdivision subject to the following provisions:

- (a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;
- (b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or improvement or store any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess the cost of such removal against the Owner responsible;
- (c) the right of Declarant (and its sales agents and representatives) to the nonexclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarant hereby reserves; provided, however, that such use shall not continue for a period of more than ten (10) years after conveyance of the Common Areas within the Property to the Association; provided further, that no such use by Declarant or its sales agents or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;
- (d) the right of the Association to limit the number of guests of Owners utilizing the recreational facilities and Improvements owned by the Association and provided upon Common Areas;
- (e) the right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees pertaining to the use of any recreational facilities owned by the Association; and
- (f) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any recreational facility of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and to suspend such rights for a



period not to exceed sixty (60) days for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its By-Laws or at law or in equity on account of any such default or infraction.

Section 2. Delegation of Use. Owners subject to an easement of enjoyment in and to the Common Areas may delegate, in accordance with the By-Laws, their right to or enjoyment of the Common Areas to members of their families, tenants or contract purchasers who reside in Owner's residential dwelling.

Section 3. Waiver of Use. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas thereof or by abandonment of Owner's Lot.

Section 4. Proportionate Ownership. The proportionate ownership interests in the Common Areas of the owners of CYPRESS SPRINGS ESTATES Phase One by virtue of Association membership immediately prior to the filing of this Supplemental Declaration shall be equal to the number of lots owned by such owner divided by the total number of lots and within the land then subject to this Declaration after this annexation.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each person or entity who is a record Owner of any of the Property which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

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

Class A. Class A members shall be all Owners with the exception of the Declarant (except as hereinafter provided) 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 of such Lot, shall be exercised as the persons among themselves determine, but in no event shall more than one vote be cast with respect to each Lot owned.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned.

Class B membership shall cease and be converted to Class A membership on the earlier of the following dates:

- (a) the date on which the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) January 1, 2007.

#### ARTICLE V 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 the 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:

- (a) annual assessments or charges; and
- (b) special assessments which are to be established and collected as hereinafter provided.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment

became due. Personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purposes of Assessment. The assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the members of the Association and for the improvement and maintenance of the Common Areas including the improvements and landscaping thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot, to an Owner, the maximum annual assessment shall be FOUR HUNDRED TWENTY AND NO/100 DOLLARS (\$420.00) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by the percentage change by which the Consumer Price Index for the immediately preceding calendar year exceeds such Index for the calendar year prior thereto or by fifteen percent (15.00%), whichever is greater. As used herein, the "Consumer Price Index" shall mean the year end Consumer Price Index for All-Urban Consumers, published by the U.S. Department of Labor (or a generally accepted replacement should such index no longer be published).
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment may be increased above the rates specified in this Section 3, paragraph by a vote of two-thirds (2/3) members duly called entitled to vote in person or by proxy, at a meeting called for this purpose.

Section 4. Special Assessments for Capital 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 for necessary purposes of the Association, such as the construction, reconstruction, repair or replacement of a capital improvement in the Common Areas, including fixtures and

personal property related thereto, or for counsel fees or the fees of other retained experts provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members entitled to vote in person or by proxy, at a meeting duly called for this purpose.

Section 5. Rate of Assessment. All Lots within the Property shall commence to bear their applicable assessments simultaneously, and improved Lots owned by the Declarant are not exempt from assessment. Lots which are owned by or transferred to a Builder or which are occupied by residents and improved Lots owned by Declarant shall each be subject to an annual assessment as determined by the Board of Directors pursuant to the terms of this Declaration. Unimproved Lots which are owned by Declarant shall be assessed at the rate of one-fourth (1/4) of the annual assessment; however, said assessments shall be made only in the event and then only to the extent that assessments from Lots owned by members other than Declarant are not sufficient to meet the operating budget of the Association. As used herein, the term "Improved Lot" shall mean a Lot on which a residential dwelling has been constructed and is ready for occupancy as evidenced by the issuance of a Certificate of Occupancy by the County of Kerr, Texas. A Lot assessment shall be assessed against a builder, instead of Declarant when a Lot is made available for improvement by said Builder and there is written confirmation, reservation, or conveyance of said Lot by Declarant in favor of Builder. As used in this Section 5, the term "Declarant" shall be construed to mean only Cypress Springs Estates, Ltd., and its successors and assigns, acting in their capacity as land developers; and a Lot owned, reserved, or held by a home building division or any commercial construction division of Declarant shall be subject to full assessment as provided herein.

If there is a deficit in the annual operating budget of the Association for a given calendar year, after assessment of Declarant's unimproved Lots and funds are not available to the Association from prior year budget surpluses, then Declarant shall contribute the funds necessary to cover the deficit. Declarant's obligation to fund these budget deficits as described hereinabove shall terminate on the date that Class B membership ceases, as described herein.

Section 6. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner or a transfer of any Lot owned by Declarant to a Builder. The first annual as-

assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified Lot have been paid.

Section 7. 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 lesser of the maximum lawful rate or twelve percent (12.00%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot.

Section 8. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall not extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. However, said assessments are subject to the rights of the first mortgage holder to recover all sums due said mortgagee. No sale or transfer shall relieve such Lot from liability of any assessments which thereafter become due or from the lien thereof.

Section 9. Exempt Properties. Any portion of the Property dedicated to and accepted by a local public authority, or owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to residential dwelling use shall be exempt from said assessments.

## ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Architectural Approval. The overall plan for the development of the various areas and sections which make up the Subdivision contemplates centralization of architectural control to enhance, insure and pro-

tect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, Declarant hereby reserves and retains the right of architectural control to itself or its assignee as hereinafter provided. The Architectural Control Committee established in Article VI of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, shall have full authority to approve or disapprove plans, specifications, and plot plans submitted or to designate a representative with like authority. Declarant retains the exclusive right to review and approve or disapprove all plans and specifications for original construction on the Property.

It is accordingly covenanted and agreed that no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration to such structure or the color thereof (including, without limitation, site landscaping visible from any part of the Property and grading plans, patio covers, and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. In the event said Committee, or its designated representative, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been received by it, approval will not be required, and this Article will be deemed to have been fully complied with. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot, or the Owner's authorized agent. The Architectural Control Committee shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans. The requirement of this Article is in addition to any approvals or permits required by any appropriate governmental approval of plans as complying with the applicable Minimum Construction Standards adopted and promulgated from time to time for the Property by Declarant or its assigns, shall be only for such purposes and shall not serve as approval for any other purpose.

Declarant hereby reserves and retains the right, at its option, to assign its rights hereinabove set forth to an Architectural Control Committee ap-

pointed by the Association. In the event Declarant elects to assign such rights of approval, such assignment shall be evidenced by an instrument in writing and acknowledged by the proper officers of Declarant and placed of record in the appropriate records of the County Clerk of Kerr County, Texas.

Section 2. No Liability. Neither Declarant, the Association, its Board of Directors, nor the Architectural Control Committee or the members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of a Lot, affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Committee for approval agrees by submission of such plans and specifications, and every Owner agrees, that no action or suit for damage will be brought against Declarant, the Association, its Board of Directors, the Architectural Control Committee, or any of the members thereof.

Section 3. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of issuance of a building permit by municipal or other governmental authority for any improvement, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of this Article VI unless actual notice of such noncompliance or noncompletion, executed by the Architectural Control Committee, or its designated representative, shall appear of record in the office of the County Clerk and be Recorded in Kerr County, Texas, or unless legal proceedings shall have been instituted to enforce compliance or completion.

Section 4. Rules and Regulations. The Architectural Control Committee may from time to time, in its sole discretion, adopt, promulgate, amend and repeal rules and regulations interpreting and implementing the procedures of this Article VI.

Section 5. Variances. The Architectural Control Committee, by the vote or written consent of a majority of the Members thereof, may allow reasonable variances as to any of the covenants, conditions or restrictions, contained in this Declaration under the jurisdiction of such committee pursuant to this Article VI, on such terms and conditions as it shall require; provided,

however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property.

ARTICLE VII  
DUTIES AND MANAGEMENT OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- (a) Own, maintain and otherwise manage all Common Areas and all facilities, improvements, and landscaping thereon, and all other property acquired by the Association, including the Common Area Detention Pond.
- (b) Pay any real and personal property taxes and other charges assessed against the Common Areas.
- (c) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric services and refuse collection.
- (d) Grant easements where necessary for utilities and sewer facilities over the Common Areas to serve the Common Areas and the Property in general.
- (e) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members.
- (f) Have the authority to contract with a management company for the performance of maintenance and repair and for conducting other activities on behalf of the Association, provided that such contract shall be limited to a duration of one (1) year, except with the approval of a majority of the Members entitled to vote. Any such management agreement shall provide that it will be terminable by the Association without a termination fee for



cause upon thirty (30) days written notice or without cause by either party upon ninety (90) days written notice.

- (g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.
- (h) Have a duty to landscape and maintain the landscaping upon the Common Areas and the duty to maintain the perimeter walls or fences located at entrances to the Property, Common Areas, and fencing and walls located on portions of Lots described herein:
  - i. The duty to maintain fencing or walls extends to any such structures located on the boundary lines of the perimeter of the subdivision, the entrance fencing and the entry and exit gates and structures.
- (i) Have a duty to maintain the COMMON AREA ROADWAYS located throughout the subdivision and as set-out herein.

#### ARTICLE VIII UTILITY BILL, TAXES AND INSURANCE

##### Section 1. Obligation of Owners.

- (a) Each Owner shall have separate electric, gas and water meters and shall directly pay for all gas, water, sanitary sewer service, telephone service, security systems, cable television and other utilities used or consumed by Owner.
- (b) Each Owner may directly render for taxation Owner's Lot, and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot.

##### Section 2. Obligation of the Association.

- (a) The Association shall pay, as a common expense of all Owners, for all water, gas, electricity and other utilities used in connec-

tion with the enjoyment and operation of the Common Areas or any part thereof.

- (b) The Association may render for taxation and as part of the common expenses of all owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto.
- (c) The Association shall have the authority to obtain and continue in effect, as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Areas, and the contents thereof, and the Association against risks of loss or damaged by fire and other hazards as are covered under standard extended coverage provisions in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the Common Areas.
- (d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association, as hereinabove provided, shall be paid as a common expense of all Owners and shall be paid out of the assessments.

#### ARTICLE IX RESTRICTIONS OF USE

Section 1. Single Family Residential Construction. Subject to Sections 2 and 13 of this Article, each Lot shall be used only for single family residence purposes. No building shall be erected, altered or permitted to remain on any Lot other than one single-family detached residential dwelling not to exceed three (3) stories in height, and a private garage for not less than two (2) nor more than three (3) cars and not to exceed one story in height, unless specifically approved by the Architectural Control Committee, and a bona fide servants' quarters or guest house, which structure shall not

exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined in this Declaration or that may appear on any recorded plat or replat approved by Declarant or its assignee.

Section 2. Prohibition of Offensive or Commercial Use. No activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot, or which shall degrade property values or distract from the aesthetic beauty of the Property, shall be conducted thereon. No repair work, dismantling, or assembling of boats, motor vehicles or other machinery shall be done in any driveway or adjoining street. No part of the Property shall ever be used, or caused to be used, or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes. Notwithstanding the above, Declarant, its successors or assigns, or Builders may use the Property for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property have been sold.

Section 3. Minimum Square Footage. The living area of the main residential structure for a Lot exclusive of porches, garage and servants' quarters shall not be less than 2,100 square feet for a one-story and shall not be less than 2,400 square feet for a two-story.

Section 4. Building Materials. Seventy-five percent (75%) of the exterior materials of the main residential structure and the garage, whether attached or detached, shall be stucco or stone. The remaining twenty-five percent (25%) of the exterior materials shall be masonry, stone, stucco, wood or brick. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive this restriction, if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood. Wall materials used on all Lots shall be restricted to those types and colors approved by the Architectural Control Committee. No single family construction, private garage or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by Declarant or

a Builder during the completion and sale of all construction of this subdivision.

Section 5. Location of Improvements Upon the Lots. No building shall be located on any Lot or nearer to the front line than fifty (50) feet, nor nearer to the side street line than fifteen (15) feet. No building shall be located on any Lot nearer than fifteen (15) feet to any side nor seventy-five (75) feet to the rear lot line. Building setbacks from interior side lot lines shall be subject to the following provisions:

Subject to the provisions of Article VI, Sections 1 and 5 and Section 6 of this Article, no building on Lots shall be located nearer than fifteen (15) feet to an interior side lot line. No detached type garages shall be allowed on the following listed Lots and garages must be an integral part of the volume of the house so as to avoid screening artificial pond views from adjacent Lots:

Lots 48 - 50, 83, 84, CYPRESS SPRINGS ESTATES, Phase Two, Section One.

Garages located fifteen (15) feet or more from the front lot line on all other Lots may be a minimum distance of fifteen (15) feet from an interior lot line. For the purpose of this provision, eaves, steps, box-type windows and unroofed ground-level terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any improvement of a Lot to encroach within fifteen (15) feet of the side or rear lot line or upon another Lot.

Access to corner lot garages directly from side streets is prohibited unless specifically approved by Declarant or its assignee.

Section 6. Deviations. Declarant, at its sole discretion, is hereby permitted to approve deviations in these restrictions on building area, location of improvements on the Lots and building materials in instances where in its judgment, such deviation will not adversely affect the development of the property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions.

Section 7. Composite Building Sites. Any Owner of one or more adjoining Lots, or (or portions thereof) may consolidate such Lots or portions

into one (1) building site, with the privilege of placing or constructing improvements on such resulting site, in which event setback lines shall be measured from the resulting side property lines rather than from the lots lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of lots in the same block of CYPRESS SPRINGS ESTATES, Phase Two, Section One. Any revision of Lot sizes may be made only with written approval of Declarant.

Section 8. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plat, and no structure shall be erected on any of such easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or contractors to shrubbery, trees, flowers or improvements located on the land covered by such easements.

Section 9. Universal Easement. The owner of each Lot within the Property is hereby declared to have a universal easement, and the same is hereby granted to Declarant, over all adjoining for the purpose of accommodating any encroachment due to engineers errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. In addition, each Lot within the Property is hereby declared to have an easement for overhanging roofs and eaves as originally constructed over each adjoining Lot for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recondition of this Declaration and shall be appurtenant to the Lot being served and shall pass with each conveyance of said Lot. Said Universal Easement will continue so long as completed dwellings or dwellings under construction remain on any Lot. In the event Lots upon which no construction of any type has commenced, are reclassified, the provisions hereof shall no longer apply thereto.

Section 10. Electrical Distribution Service. An electric distribution system will be installed in the Property, in a service area that will embrace all of the lots which are platted in the Property. The Owner of each lot containing a single dwelling unit, shall, at its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes. The point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter.

Declarant has, either by designation on the plat or by separate instrument, granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each Owner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner and developer thereof, shall at its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter or such electric company for each dwelling unit involved. For so long as this service is maintained in the Property, the electric service to each dwelling unit shall be underground, uniform in character, and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the electric distribution system in the Property at no COST to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the lots are being developed for residential dwelling units, including homes, all of which are designated to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes.)

Easements for the underground service may be crossed by driveways and walkways provided the Lot Owner makes prior arrangements with the

utility company furnishing any utility service occupying the easement and provides and installs the necessary conduit of approved type and size under such driveway or walkways prior to construction thereof.

Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios or other pavings, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways or walkways providing conduit has been installed as outlined above) of the Lot Owner located on the land covered by such easements.

Section 11. Audio and Video Communication Service. In the event that audio and video communication services and facilities are made available to any Lot by means of an underground coaxial cable system, there is hereby reserved to the company furnishing such services and facilities a two (2) foot wide easement along and centered on the underground wire or cable when and as installed by the company furnishing the service from and at a right angle to the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed, upon the Lot and in a direct line from the nearest utility easement to the point of connection.

Section 12. Temporary Structures and Out Buildings. No structures of a temporary character, nor any recreational vehicle, mobile home, trailer, basement, tent, shack, garage, barn, playhouse or other outbuilding shall be constructed, erected, altered, placed or permitted to remain on any Lot, at any time as a residence. Outbuildings or structures, whether temporary or permanent, used for accessory, playhouse, storage, or other purposes shall be limited to eight feet in height and one hundred (100) square feet in area and must be approved in accordance with Article VI, Section 1 of this Declaration. Temporary structures may be used as sales offices or as construction offices and for other related purposes by Declarant or Builders during the construction and sales period. Such structures shall be inconspicuous and slightly and shall be removed at completion and sale of all construction of this subdivision.

No temporary structures or outbuildings shall be allowed on the last thirty-five (35) feet toward the rear drainage, as shown on the Subdivision Plat, of the following listed Lots:

Lots 48 - 50, 83, 84, CYPRESS SPRINGS ESTATES, Phase Two, Section One.

Section 13. Animal Husbandry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other common household pets provided they are not kept, bred or maintained for commercial purposes. Provided however, no more than two horses shall be permitted on each of the following Lots:

Lots 80, 90, and 92 CYPRESS SPRINGS ESTATES, Phase Two, Section One.

Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity, including any noxious odors or smells. Animals are not permitted to roam the Property and must be controlled on a leash if they are not on a Lot. Owners are required to immediately clean-up any waste products left by their animal on the Common Areas or any property within the Subdivision which is visible from the street.

Section 14. Walls, Fences and Hedges. All walls, fences, planters and hedges shall be controlled strictly for compliance with this Declaration and architectural standards established by the Declarant or the Architectural Control Committee. Placement of all walls, fences, planters and hedges shall be controlled by the Architectural Control Committee.

- (a) Fencing constructed along the drainage control device easement shall be wrought iron and only as approved by the Architectural Control Committee, with a maximum height of six (6) feet, and approved by the Architectural Control Committee for design:

Lots 48 - 50, 83, 84, CYPRESS SPRINGS ESTATES, Phase Two, Section One.

- (b) Perimeter fencing on all Lots shall be maintained to a fence standard equivalent to original construction and all fencing must be



consistent with this Declaration and architectural standards established by Declarant or the Architectural Control Committee.

- (c) Fences of wire or chain link construction are prohibited, and the design and materials of all fences shall be approved by the Architectural Control Committee prior to construction pursuant to the approval requirements of Article VI, Section 1, of this Declaration.
- (d) All masonry used in a fence or wall on a Lot shall match the primary masonry used on the residence. All masonry columns shall be six and one-half feet (6'6") in height and shall be no further than twenty-five feet (25') apart if visible from any street. All wood, if any used in fencing (including wooden gates for wing walls) shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks. Cedar fencing may be stained, painted, or sealed only with ACC approval. All wrought iron used in fencing shall be painted black. All gates shall be composed of the same material as the fence. No fence shall exceed six feet (6') in height unless specifically approved by the ACC and governing authority. Notwithstanding the above, wrought iron may be used only as approved by the Architectural Control Committee.
- (e) Each Owner shall maintain all fencing placed on his Lot including the reconstruction or replacement of fences which are tilted more than ten (10) degrees from a vertical position and the replacement of broken or cracked wooden pickets.

Section 15. Yards.

- (a) Front Yard. All landscaping designs for the front yard area shall be approved by the Architectural Control Committee prior to construction or alteration. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the

front of a residence to the side Lot lines. Installation of all landscaping and irrigation systems shall be installed within ninety (90) days of first occupancy in accordance with the landscape plan approved by the Architectural Control Committee. Installation of any landscaping after ninety (90) days from first occupancy is solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI., of the Declaration. Statues, statuary fountains, multiple tier planters, concrete and other lawn furniture are prohibited in front and side yards. Placement of any decorative items in front or side yards is subject to ACC approval.

- (b) Back Yard. The Owners or occupants of any Lots as the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view from a street or Common Area shall construct and maintain an inner fence or other improvements as approved by the ACC to adequately screen from view of streets and Common Area any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition.

Section 16. Antennas. No radio or television aerial or antennae or other radio or television related apparatus or equipment shall be placed or maintained on any residence or on any other exterior portion of a Lot except with the prior written approval of the Architectural Control Committee which shall have the authority to disapprove the installation of same. With the prior written consent of the Architectural Control Committee, a satellite disc or dish may be placed on a Lot where not visible from a street or Common Area and where such location does not adversely affect the view from an adjacent Lot.

Section 18. Artificial Vegetation. No artificial vegetation shall be installed or kept in front or side yard areas on any Lot.

Section 19. Athletic Facilities. Tennis-court lighting and fencing shall be allowed only with the approval of the ACC. Basketball goals, or backboards, or any other similar sporting equipment (portable basketball goals)

whether permanent or temporary nature shall not be placed within twenty feet (20') from the front property line of any Lot or the side Lot lines of corner Lots, or within five (5') of any interior side Lot line in the Subdivision without the prior written consent of the ACC. All basketball backboards shall be of a clear, transparent material. The Acc will consider other quality backboard materials. All supporting poles and stanchions shall be painted either black or dark hunter green. All basketball backboards shall be maintained in a playable condition at all times and any damaged structure shall be repaired or removed immediately.

1. All children's play equipment or structures shall be submitted to the ACC for review.
2. Landscaping and fencing requirements may be established by the Committee for the purpose of screening courts in an aesthetically pleasing manner.

Section 20. Visual Obstructions at the Intersections of Public Streets.

No object or thing which obstructs sight lines at elevations, between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

Section 21. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. The following Lots shall have the additional duty to maintain the perimeter portion of any artificial pond which shall lie on their property, as set out in the plat for CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE:

Lots 48 and 82-85

Section 22. Storage of Automobiles, Boats, Trailers Other Vehicles and Equipment. No automobiles, boats, trailers, campers, recreational vehi-

cles, motorcycles, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored permanently or semi-permanently on any Subdivision street right-of-way, front yard area or on driveways. Permanent or semi-permanent storage of such vehicles or items must be completely screened from public view either within the garage or behind a solid fence. For the purposes of these restrictions, the words "semi-permanent" shall be defined as remaining in the same location without movement for forty-eight (48) or more consecutive hours. No eighteen wheel vehicles and other similar large van or flatbed type vehicles may be parked on any public street right-of-way, front yard area or on driveways except to deliver merchandise or other materials to residents or construction sites.

Section 23. Signs, Advertisements and Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely for advertising the house for sale or rent, and except signs used by Declarant or a builder to advertise the Lot during the construction and sales period. No signs shall be permitted on any unimproved Lot. The Declarant and the Association shall have the right to remove any signs, advertisement, billboard or structure which is placed on said Lot in violation of this section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal.

Section 24. Removal of Soil and Trees; Pruning. The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lots. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting by Declarant, the ACC or the Association, given in their sole discretion. No trees shall be pruned during the months of February through May, without obtaining written approval for such pruning from the Declarant, the ACC or the Association, given in their sole discretion.

Section 25. Roofing Material. Roofing materials may include composition shingles having a minimum warranty of thirty (30) years, slate, clay or concrete tiles; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams.

Composition shingle roofs shall be comparable in color to weathered wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type roofing material shall be permitted only at the sole discretion of the Declarant, the Architectural Control Committee or its assigns upon written request.

Section 26. Driveways and Curbs

(a) Driveways

1. Driveways on each residential Lot and visible from a street must be constructed of broom finished concrete, pebble finish concrete, brick pavers, or pink crushed granite with curbs, provided, asphalt driveways with curbs may be permitted solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI., of the Declaration.
2. No more than one curb cut per Lot shall be permitted without approval of the Committee. Except with approval of the Committee, no circular driveway shall be more than twenty feet (20") in width. Driveway locations shall be only as approved by the Committee.
3. Driveways which have more than six inches (6") of exposed concrete foundation sides shall have masonry veneer applied or be fully parged. Landscaping may be required depending on the amount of exposure.
4. The driveway leading directly to the garage shall in all cases, and regardless of the house being on the topographically low or high side of the street, be constructed in a manner consistent with the following guidelines:
  - (1) The elevation of the driveway surface at a point ten (10) linear feet from the curb line shall be at least nine inches (9") higher than the pavement grade at gutter line.

- (2) For Lots on the topographically low side of the street, and in addition to the above, the driveway shall be constructed with a protective swale in front of the garage to prevent runoff water from entering into the house and/or garage. Also, the driveway shall not have the effect of "trapping"

(b) Curbs

1. The header curb adjacent to the asphalt must be concrete and scored with the same scoring pattern as the curb.
2. Any Portion of curbing which is damaged, whether during construction or afterwards, shall be repaired as soon as practicable at the sole and exclusive expense of and by the Owner of the Lot appurtenant to such damaged curb.

(c) General

Loose gravel driveways, excluding pink crushed granite with curbs, are specifically prohibited forward of the front building line. Builders and contractors are required to clean street immediately after aggregate finished sidewalks and driveways have been washed.

Section 27. Exterior Lighting. Exterior light fixtures shall be provided at the front door of each residence; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Properties or any streets, or any Lot until the same has been approved by the Committee. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the Architectural Control Committee.)

Section 28. Enforcement. In the event of default on the part of the Owner or occupancy of any Lot in observing any or all of the requirements herein set forth, such default continuing after ten (10) days' written notice thereof, the Declarant or the Association may, without liability to the Owner

of occupancy, in trespass, or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's and continuing contractual lien shall be retained by Declarant at the time of conveyance of each Lot in favor of Declarant or the Association, but inferior to a purchase money lien or mortgage. Such vendor's and continuing contractual lien shall be applicable and effective whether mentioned specifically or omitted in each conveyance of a Lot by Declarant.

ARTICLE X  
MORTGAGEE PROTECTION; MANAGEMENT AGREEMENTS;  
RESERVE FUNDS; LEASES

Section 1. Notice to first Mortgagees. Upon written request to the Association at the address of the Association's registered agent filed with the Secretary of State for the State of Texas, all holders of first mortgage liens on Lots, hereinafter called "First Mortgagees," shall be entitled to:

- (a) inspect the books and records of the Association during normal business hours at a time mutually convenient to Declarant and First Mortgagee;
- (b) upon request, receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year;
- (c) upon request, receive written notice of all meetings of the Association and designate a representative to attend all such meetings;
- (d) upon request, receive notice of any default in the performance by the First Mortgagee's mortgagor of any obligation under this Declaration, the By-Laws or Articles of Incorporation of the Association which is not cured within sixty (60) days;

- (e) upon request, receive notice of any abandonment or termination of the development;
- (f) upon request, receive notice of any material amendment to this Declaration, or to the By-Laws or Articles of Incorporation of the Association; and,
- (g) upon request, receive notice of any decision to terminate professional management and assume self-management.

Section 2. Alienation of Common Areas. Except as to the Association's right to grant easements for utilities and similar or related purposes, the Common Areas may not be abandoned, partitioned, subdivided, sold, alienated, released, transferred, hypothecated, or otherwise encumbered.

Section 3. Management Agreements. Any management agreement will be terminable by the Association without payment of a termination fee with cause upon thirty (30) days written notice, or without cause by either party on ninety (90) days written notice. The term of any such agreement may not exceed one (1) year, renewable by agreement of the parties, for successive one year periods.

Section 4. Reserve Fund. Association budgets shall include an adequate reserve fund for maintenance repairs and replacement of those elements of the Common Areas that must be replaced on a periodic basis and will be payable in regular installments as part of the common assessment.

Section 5. Leases. Any lease agreement between an Owner and a lessee shall be subject in all respects to the provisions of this Declaration, the By-Laws and Articles of Incorporation of the Association whether or not reference is made to the Declarations, By-Laws and Articles of Incorporation in the lease.

## ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement. The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter im-



posed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect.

Section 3. Duration; Amendment. The provisions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from this date, after which time they shall be automatically extended for successive periods of ten (10) years.

This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and thereafter by an instrument signed by a sufficient number of Owners representing not less than fifty percent (50%) of the votes. In addition, any amendment hereto (i) to change the method of determining the obligations, assessments, dues or charges which may be levied against an Owner, or (ii) to change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the maintenance of Common Areas, or (iii) to use hazard insurance proceeds for losses to the improvements in Common Open Areas, if any, for other than the repair, replacement or reconstruction of such improvements shall require the additional approval of two-thirds (2/3) majority of the First Mortgagees (based upon one vote for each mortgage owned).

All amendments shall be recorded in the Official Public Records of Real Property of Kerr County, Texas.

Deeds of conveyance of Lots or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the respective grantees.

The Declarant reserves the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying any

ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veteran's Administration, or Federal Housing Administration, or to change any provision herein for the betterment of the subdivision, provided that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein.

Section 4. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 5. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 6. Good Faith Lender's Clause. Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot which liens may be enforced in due course, subject to the terms of this Declaration.

Section 7. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

EXECUTED effective the 31 day of July 2002.

CYPRESS SPRINGS ESTATES, LTD.

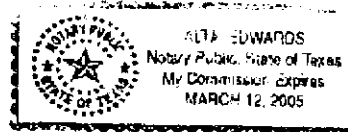
By: Dale A. Crenwelge  
DALE A. CRENWELGE, General Partner

STATE OF TEXAS

COUNTY OF KERR

The foregoing instrument was acknowledged before me on the 5<sup>th</sup>  
day of August, 2002, by Dale A. Crenwelge, General Partner of Cypress  
Springs Estates, Ltd., on behalf of said company.

Alta Edwards  
Notary Public, State of Texas



After recording, return to:  
Dale A. Crenwelge  
P.O. Box 717  
Comfort, Tx 78013

21328

FILED FOR RECORD  
at 4:03 o'clock ..... P.M.

AUG - 6 2002

JANNETT PIEPER  
Kerr County Court, Kerr County, Texas  
Cynthia M. Pieper Deputy

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law THE STATE OF TEXAS )  
COUNTY OF KERR )  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

AUG 07 2002



*Janet Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

RECORD *Real Property*  
VOL. *1207* PG. *270*  
RECORDING DATE

AUG 07 2002



*Janet Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

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VOL. 1265 PAGE 0874

04231

AGREEMENT

WHEREAS:

1. ARTICLE XI (GENERAL PROVISIONS), Section 3, (DURATION; AMENDMENT), subsection (b) of the Declarations of Covenants, Conditions, and Restrictions of Cypress Springs Estates, Phase One ("declaration"), recorded in Volume 1006, Page 053, Real Property Records of Kerr County, Texas; provides on page 34 that the declarant (Aaron Whitby Properties, L.L.C.) reserves the right to amend the declaration or the by-laws (bylaws of Cypress Springs Estates Property Owners Association, Inc.) in a certain manner for certain purposes, and further provides "that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein".
2. In a document entitled Amendment and Conveyance for Cypress Springs Estates, recorded in Volume 1068, Page 0146, Real Property Records of Kerr County, Texas, the rights and obligations of declarant (Aaron Whitby Properties, L.L.C.) were assigned to and assumed by Cypress Springs Estates, Ltd.
3. ARTICLE XI (GENERAL PROVISIONS), Section 3 (DURATION; AMENDMENT), fifth paragraph of the Declaration of Supplemental Covenants, Conditions, and Restrictions of Cypress Springs Estates, Phase Two, Section One ("supplement"), recorded in Volume 1207, Page 0270, Real Property Records of Kerr County, Texas; provides on pages 35 and 36 that the declarant (Cypress Springs Estates, Ltd.) reserves the right to amend the supplement or the by-laws (bylaws of Cypress Springs Estates Property Owners Association, Inc.) in a certain manner and for certain purposes, and further provides "that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein".
4. The time of vesting of the "vested property rights" of an owner is not defined in the declaration or the supplement.

NOW THEREFORE, in consideration of the sum of \$10.00 in hand paid to Cypress Springs Estates, Ltd., the receipt and sufficiency of which is hereby acknowledged, Cypress Springs Estates, Ltd. does hereby declare as follows:

1. Cypress Springs Estates, Ltd., is now the declarant with regard to both the declaration and the supplement.
2. The time of vesting of the "vested property rights" of an owner occurs upon the recording of a deed into such owner.

Executed on April 28, 2003.

65

VOL. 1265 PAGE 0875

CYPRESS SPRINGS ESTATES, LTD., by  
DAC, L.L.C., General Partner

By: *DALE A. CRENWELGE*  
DALE A. CRENWELGE, Manager of  
DAC, L.L.C., a Texas limited liability  
company

STATE OF TEXAS

COUNTY OF KERR

This instrument was acknowledged before me on *April 28*, 2003, by DALE  
A. CRENWELGE, manager of DAC, L.L.C., a Texas limited liability company, general partner of  
Cypress Springs Estates, Ltd., a Texas limited partnership, on behalf of said partnership.



*Alta Edwards*

Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

Notary's Printed Name

*After recording,*  
RETURN TO:

Cypress Springs Estates, Ltd.  
P. O. Box 855  
Hunt, Texas 78024

FILED FOR RECORD  
at *4:07* o'clock *P* M  
MAY - 2 2003

JANNETT PIERER  
Kerr County Clerk  
*Jannett Pierer*

FILED BY: KERR COUNTY  
ABSTRACT & TITLE CO.

*22263*

VOL. 1265 PAGE 0876

RECORD Real Property  
VOL. 1265 PG 874  
RECORDING DATE

MAY 05 2003



*Janet Rippe*  
COUNTY CLERK, KERR COUNTY, TEXAS

Provisions herein which restrict the sale, rental or lease of the described property because of color or race is invalid and unenforceable under Federal Law THE STATE OF TEXAS }  
COUNTY OF KERR  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by this and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

MAY 05 2003



*Janet Rippe*  
COUNTY CLERK, KERR COUNTY, TEXAS

ASSIGNMENT

THIS ASSIGNMENT is executed and entered into by AARON WHITBY PROPERTIES, LLC, a limited liability company, and its successors HOYT W. WHIDBEE, JR. and KATHLEEN H. WHIDBEE (hereinafter collectively called "Assignor") to TJF RANCH, INC., a Texas corporation (hereinafter called "Assignee").

## WITNESSETH:

WHEREAS, Assignor is a party to that certain Amendment and Conveyance for Cypress Springs Estates, dated June 2, 2000, and recorded in Volume 1068, Page 146, Real Property Records, Kerr County, Texas ("Amendment"); and

WHEREAS, Assignor desires to assign and transfer to Assignee all of the rights, privileges, easements and benefits of Assignor in, to and under the Amendment.

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby ASSIGN, TRANSFER, SET OVER, CONVEY and DELIVER unto Assignee, Assignee's successors and assigns, all of the rights, powers, privileges, benefits, easements and interests of Assignor in, to and under the Amendment.

This Assignment shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns.

EXECUTED this the 14<sup>th</sup> day of October, 2003.

ASSIGNOR:

AARON WHITBY PROPERTIES, LLC,  
a limited liability company

BY: [Signature]  
Hoyt W. Whidbee, Jr., Operating Member

[Signature]  
HOYT W. WHIDBEE, JR.

[Signature]  
KATHLEEN H. WHIDBEE

FILED FOR RECORD

OCT 17 2003

JANNEY PIEPER

Clerk County Court, Kerr County, Texas

Filed By Return to:  
Wallace and Jackson  
826 Main St.  
Kerrville TX 78028

5-5-5-1



JANNEY PIEPER  
COUNTY CLERK, KERR COUNTY, TEXAS



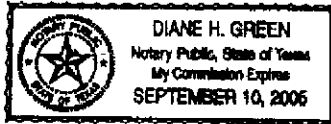
JANNEY PIEPER  
COUNTY CLERK, KERR COUNTY, TEXAS



THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on October 14, 2003, by HOYT W. WHIDBEE, JR., Operating Member of AARON WHITBY PROPERTIES, LLC, a limited liability company, on behalf of said company.



*Diane H. Green*  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on October 14, 2003, by HOYT W. WHIDBEE, JR., and KATHLEEN H. WHIDBEE.



*Diane H. Green*  
Notary Public, State of Texas

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Real Property of Kerr County, Texas on

OCT 20 2003



*Janet Lipser*  
COUNTY CLERK, KERR COUNTY, TEXAS

RECORD *Real Property*  
VOL. 1308 PG 169  
RECORDING DATE

OCT 20 2003



*Janet Lipser*  
COUNTY CLERK, KERR COUNTY, TEXAS

CONVEYANCE OF DECLARANT'S RIGHTS FOR CYPRESS SPRINGS ESTATES,  
PHASE I AND CYPRESS SPRINGS ESTATES, PHASE 2, SECTION ONE

This Conveyance (hereinafter "conveyance") is made on February 1, 2006 by the undersigned.

*Recitals*

A. Pursuant to the terms of that certain Declaration of Covenants, Conditions and Restrictions recorded at Volume 1006, Page 053, Real Property Records, Kerr County, Texas, and amendments thereto, (the "Declaration"), certain covenants and conditions were created against that certain property known as Cypress Springs Estates, Phase I, a subdivision of Kerr County, Texas, according to plat thereof recorded at Volume 7, Page 12, Plat Records of Kerr County, Texas ("Cypress Springs Estates, Phase I").

B. Pursuant to the terms of that certain Declaration of Supplemental Covenants, Conditions and Restrictions of Cypress Springs Estates, Phase 2, Section One, recorded in Volume 1207, Page 270, Real Property Records, Kerr County, Texas (the "Supplemental Declaration"), certain covenants and restrictions were created against that certain property known as Cypress Springs Estates, Phase 2, Section One, a subdivision of Kerr County, Texas, according to the plat thereof recorded in Volume 7, Page 172-173 of the Plat Records of Kerr County, Texas, (hereinafter "Cypress Springs Estates, Phase 2, Section One").

C. Pursuant to Article I, Section 10, of the Declaration and pursuant to Article I, Section 9, of the Supplemental Declaration, the Declarant, as is therein defined, may assign its rights and obligations in writing to a third party who consents in writing to assume the duties and obligations of the Declarant.

26439a  
FILED BY: KERR COUNTY  
ABSTRACT & TITLE CO.

21

D. Aaron Whitby Properties, LLC did assign to Cypress Springs Estates, Ltd. all of its rights and obligations of Declarant under the Declaration by instrument dated June 2, 2000 and recorded at Volume 1068, Page 146 of the Real Property Records of Kerr County, Texas.

E. Cypress Springs Estates, Ltd. is the Declarant under the Supplemental Declaration.

F. With the respect to land adjoining Cypress Springs Estates, Phase 2, Section One, the undersigned are concurrently executing and creating a certain easement under the Easement of even date ("Easement"), which will be appurtenant to the adjoining tract.

NOW THEREFORE, for and in consideration of TEN AND NO/100 (\$10.00) DOLLARS, and other good and valuable consideration, the parties agree and covenant as follows:

1. Cypress Springs Estates, Ltd. shall cause the creation, conveyance, assignment, transfer, grant and establishment of the Easement as set forth in the Easement; which Easement is on, over or across the Common Area Roadways as defined in the Supplemental Declaration and which Easement is for use of subdivision roads by the adjoining tract without annexation into Cypress Springs Estates, Phase 2, Section One, Subdivision and with sharing road maintenance expense as provided in the Easement.

2. Subject to the rights, provisions and terms of the Easement and the Declaration, the rights and obligations of Declarant, Cypress Springs Estates, Ltd., under the Declaration are hereby assigned to Hebbronville Ranch Properties, Ltd., who hereby assume the duties and obligations of the Declarant under the Declaration and hereby assumes and agrees to perform all of the terms, covenants and conditions of the Declarant under the Declaration on the part therein

required to be performed. Cypress Springs Estates, Ltd. is hereby released from any further obligation and liability as Declarant.

3. Subject to the rights, provisions and terms of the Easement and the Supplemental Declaration, the rights and obligations of Declarant, Cypress Springs Estates, Ltd., under the Supplemental Declaration are hereby assigned to Hebbbronville Ranch Properties, Ltd., who hereby assume the duties and obligations of the Declarant under the Supplemental Declaration and hereby assumes and agrees to perform all of the terms, covenants and conditions of the Declarant under the Supplemental Declaration on the part therein required to be performed. Cypress Springs Estates, Ltd. is hereby released from any further obligation and liability as Declarant.

4. All the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

5. The parties hereto agree, upon the request of any party hereto, to execute and deliver all such documents and instruments, and to do and complete all such acts and things, as may be reasonable and necessary to carry out, complete and consummate each and all the matters set forth hereinabove including without limitation applications for permits, documents for permits, platting, and replatting.

6. In witness whereof, this Conveyance is executed as of the date first written above by the undersigned.

CYPRESS SPRINGS ESTATES, LTD., a Texas  
Limited Partnership

By: DAC, LLC, a Texas Limited Liability  
Company, General Partner

By: *Dale A. Crenwelge*  
DALE A. CRENWELGE, Manager and  
Member

HEBBRONVILLE RANCH PROPERTIES,  
LTD.

By: HEBBRONVILLE RANCH  
PROPERTIES ONE, LLC

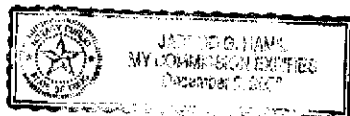
By: *Mark Dizdar*  
MARK DIZDAR, Manager and  
Member

By: *Kash Morrow*  
KASH MORROW, Manager and  
Member

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on this the 1 day of  
February, 2006, by DALE A. CRENWELGE, Manager and Member of DAC,  
LLC, General Partner of CYPRESS SPRINGS ESTATES, LTD., a Texas Limited Partnership,  
on behalf of said partnership.

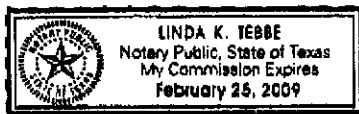


*Justin D. Hanks*  
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF Hidalgo §

This instrument was acknowledged before me on this the 3rd day of Feb, 2006, by MARK DIZDAR, Manager and Member of HEBBRONVILLE RANCH PROPERTIES, ONE, LLC, General Partner of HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, on behalf of said partnership.

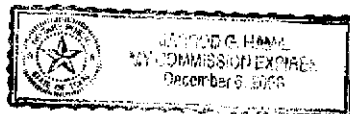


*[Signature]*  
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on this the 6 day of February, 2006, by KASH MORROW, Manager and Member of HEBBRONVILLE RANCH PROPERTIES, ONE, LLC, General Partner of HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, on behalf of said partnership.



*[Signature]*  
Notary Public, State of Texas

RETURN TO:  
Hebbronville Ranch Properties, Ltd.  
709 1/2 Water Street  
Kerrville, Texas 78028

GF No. 26439

FILED FOR RECORD  
at 3:56 o'clock P.M

FEB 08 2006

FILED BY: KERR COUNTY  
ABSTRACT & TITLE CO.

JANNETT PIEPER  
*[Signature]* Deputy  
Kerr County Court, Kerr County, Texas

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

FEB 09 2006



*Jannett Pieper*

COUNTY CLERK, KERR COUNTY, TEXAS

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07442

VOL. 1542 PAGE 0230

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at 3:53 o'clock.....P.....M

AUG 01 2006

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
*J. Pieper* Deputy

**DECLARATION OF SUPPLEMENTAL**  
  
**COVENANTS, CONDITIONS AND RESTRICTIONS OF**  
  
**VISTAS ESCONDIDAS de**  
**CYPRESS SPRINGS ESTATES,**  
  
**A SUBDIVISION IN KERR COUNTY, TEXAS**

RETURN TO:  
Hebbronville Ranch Properties, Ltd.  
709 1/2 Water Street  
Kerrville, Texas 78028

**FILED BY: KERR COUNTY**  
**ABSTRACT & TITLE CO.**

LF 27340

#141



**SUPPLEMENTAL DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
VISTAS ESCONDIDAS de  
CYPRESS SPRINGS ESTATES,  
A SUBDIVISION OF KERR COUNTY, TEXAS**

THIS DECLARATION is made on the date hereinafter set forth by Hebronville Ranch Properties, Ltd., a Texas Limited Partnership, hereinafter referred to as "Declarant";

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in Kerr County, Texas, that has been platted and subdivided into a subdivision known as VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, according to the plat thereof recorded in Volume 7, Pages 363, of the Plat Records of Kerr County, Texas.

Declarant desires to develop certain land, being all of VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, save and except the COMMON AREAS and COMMON AREA ROADWAYS as a residential subdivision and subject it to this declaration and to provide and adopt a uniform plan of development, including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control, and preserve the values and amenities of this land for the development, improvement, sale, use, and enjoyment of the Property as a residential subdivision for the benefit of this land and each owner of any part of this land. The land subject to this Declaration is referred to as the "Property." Declarant further desires to annex the Property described herein to the subdivision known as CYPRESS SPRINGS ESTATES, Phase One, a subdivision in Kerr County, Texas, as shown on a plat of said subdivision filed for record in Volume 7, Page 12 of the Plat Records of Kerr County, Texas, pursuant to the provisions of Article XI, Section 8(b) of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas; and to the subdivision known as CYPRESS SPRINGS ESTATES, Phase Two, a subdivision in Kerr County, Texas, as shown on a plat of said subdivision filed for record in Volume 7, Pages 172-173 of the Plat Records of Kerr County, Texas.

The Property shall include the following Lots and Common Areas:

LOTS:

Lots 93-153, VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, a subdivision situated in Kerr County, Texas as shown, designated, and delineated on the plat recorded in Vol. 7, pages 363, Plat Records of Kerr County, Texas;

COMMON AREAS:

COMMON AREAS:

Being Park 1, Park 2, and Park 3, as shown, designated and delineated on the Plat of VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, in Kerr County, Texas.

COMMON AREA ROADWAYS:

Being all roadways in VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, in Kerr County, Texas.

All Common Areas subject to this Declaration are, however, specifically excepted from Article IX, Restrictions of Use and Article V, Covenant for Maintenance Assessment.

It has been deemed desirable, for the efficient preservation of values and amenities in the Property, to create an Association to which shall be delegated and assigned the powers of administering and enforcing the provisions of this Declaration including levying, collecting, and disbursing the assessments.

To exercise these functions, the CYPRESS SPRINGS ESTATES PROPERTY OWNERS ASSOCIATION, Inc., (hereinafter referred to as the "Association") a non-profit corporation created under the laws of the State of Texas, has been incorporated. The directors of the Association established By-laws by which the Association shall be governed.

Declarant declares that the Property shall be developed, improved, sold, used, and enjoyed in accordance with and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations,

and restrictions of this Declaration, all of which are adopted for and placed upon the Property; shall run with the Property and be binding on all parties who now or hereafter have or claim any right, title, or interest in the Property or any part of the Property, and on the heirs, executors, administrators, successors, and assigns of such parties, regardless of the source of or the manner in which any such right, title, or interest is or may be acquired and shall inure to the benefit of each owner of any part of the Property. Declarant further declares that the Property is annexed as an addition to CYPRESS SPRINGS ESTATES Phase One, as shown on a plat of said subdivision filed for record in Volume 7, Page 12 of the Plat Records of Kerr County, Texas; and to CYPRESS SPRINGS ESTATES Phase Two, as shown on a plat of said subdivision filed for record in Volume 7, Pages 172-173 of the Plat Records of Kerr County, Texas. Declarant further declares that all of the provisions of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, and the amendments to such declarations recorded in Volume 1050, Page 48, and Volume 1068, Page 146 of the Real Property Records of Kerr County, Texas, shall apply to the Property subject to this Declaration with the same force and effect as if said lands were originally included in Phase One, as specifically modified herein, and that all of the provisions of the Supplemental Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase Two, as recorded in Volume 1207, Page 270 of the Real Property Records of Kerr County, Texas, shall apply to the Property subject to this Declaration with the same force and effect as if said lands were originally included in Phase Two, as specifically modified herein.

## ARTICLE I DEFINITIONS

Section 1. "Architectural Control Committee" (ACC or "Committee") shall mean and refer to the Committee created in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, subject to the provisions herein, by Declarant.

Section 2. "Association" shall mean and refer to Cypress Springs Estates Property Owners Association, Inc., a non-profit corporation incorporated under the laws of the State of Texas, and its successors and assigns as described in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas.

Section 3. "Board of Directors" and "Board" shall mean and refer to the duly elected Board of Directors of the Cypress Springs Estates Property Owners Association, Inc., the election and procedures of which shall be as set forth in the Articles of Incorporation and By-Laws of the Association.

Section 4. "Builder" shall mean and refer to a department of Declarant or any other entity to which Declarant conveys or transfers lots within the Subdivision for the purpose of constructing homes or other permitted structures thereon.

Section 5. "Committee" see "Architectural Control Committee."

Section 6. "Common Areas" and Common Facilities shall mean and refer to all real property leased, owned, or maintained by the Association for use and benefit of the Members of the Association. The Common Area to be conveyed to the Association shall include the COMMON AREAS and COMMON AREA ROADWAYS, provided, however, Declarant reserves the right to further restrict the permitted improvements and uses of said areas beyond the restrictions on use set forth herein. Ownership of the Common Area will be transferred to the Association, free of lien, by Declarant prior to the sale of the last Lot in the Subdivision, provided, however, that Declarant reserves the right to use the Common Areas for Declarant, its successors or assigns, or Builders for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property and/or annexed areas have been sold. Nothing herein shall be construed as requiring Declarant to construct improvements upon the common facilities.

Section 7. "Common Maintenance Area" may mean and refer to the Common Areas and all, if any, entrance monuments, perimeter walls, drainage facilities, trails, playground, and detention ponds, esplanade and right-of-way landscaping and other areas deemed appropriate by the Board of Directors of the Association to be maintained by the Association for the preservation, protection, and enhancement of the property values of the Subdivision and/or the general health, safety, welfare or benefit of the Owners.

Section 8. "Conveyance" shall mean and refer to conveyance of a fee simple title to the surface estate of a Lot from one Owner to another.

Section 9. "Declarant" shall mean and refer to HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, and 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.

Section 10. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions and any amendments, annexations and supplements hereto made in accordance with the terms hereof and filed of record in the Real Property Records of Kerr County, Texas.

Section 11. "Development Period" shall mean and refer to that period of time in which Declarant is the owner of any Lot, whether in Phase One or any additional annexed areas.

Section 12. "Improvement" shall mean every structure on the Properties and all appurtenances thereto of every type and kind, including but not limited to, buildings, outbuildings, storage sheds or buildings, guest quarters, gazebos, patios, driveways, walkways and paved areas, tennis courts, fountains, large barbeque units, green houses, barns, basements, and large visible decorative items, swimming pools, garages, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 13. "Living Unit" shall mean and refer to a single-family residence and its attached or detached garage situated on a Lot.

Section 14. "Lot" shall mean and refer to any of the plots of land numbered Lots 93-153, VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, as shown on the Subdivision Plat.

Section 15. "Master Plan" shall mean that certain preliminary plan of development for the Project area, as depicted on Exhibit "K" of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, and fully incorporated herein by reference, the original of which plan is maintained at Declarant's offices. The Master Plan is not binding on Declarant and may be amended by Declarant from time to time.

Section 16. "Member" shall mean and refer to those Owners entitled to membership as provided in the Articles of Incorporation of the Association.

Section 17. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the Properties given to secure the payment of a debt.

Section 18. "Mortgagee" shall mean the holder or holders of any Mortgage or Mortgages, or any other interest held as security for the performance of an obligation.

Section 19. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the surface estate in any Lot, or portion of a Lot, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall also include the record owners of the fee simple title to the surface estate in any lot in CYPRESS SPRINGS ESTATES Phase One, as the term "Owner" is defined in the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas; and shall also include the record owners of the fee simple title to the surface estate in any lot in CYPRESS SPRINGS ESTATES Phase Two, as the term "Owner" is defined in the Supplemental Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase Two, as recorded in Volume 1207, Page 270 of the Real Property Records of Kerr County, Texas.

Section 20. "Plans and Specifications" shall mean any and all documents designed to guide the construction, alteration or erection of any Improvement.

Section 21. "Property" shall mean and refer to VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, a subdivision of Kerr County, Texas, save and except COMMON AREAS/ROADS, and any additions thereto as may hereafter be brought within the Jurisdiction of the Association.

Section 22. "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a living unit.

Section 23. "Subdivision" shall mean and refer to the Property, as defined herein.

Section 24. "Subdivision Plat" shall mean and refer to the map or plat of VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, filed for record in Volume 7, Pages 363, of the Plat Records of Kerr County, Texas, and any amendments thereof upon filing of same for record in the Real Property Records of Kerr County, Texas.

Section 25. "Transfer" shall mean and refer to the transfer of the surface estate of a Lot, from one legal entity to any department thereof or to another legal entity whether or not the owner of record changes.

## ARTICLE II RESERVATION, EXCEPTIONS, DEDICATIONS AND CONDEMNATION

Section 1. Incorporation of Plat. The subdivision plat of VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, dedicates for use as such subject to the limitations set forth therein, certain streets and easements shown thereon, and such subdivision plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on the subdivision plat, to the extent they apply to the Property, being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of Declarant, conveying each Lot within the Property.

Section 2. Reservation of Minerals. The Property, and any future land made subject to this Declaration, are hereby subjected to the following reservation and exception: All oil, gas and other minerals in, on and under the hereinabove described property are hereby excepted or reserved by Declarant.

Section 3. Condemnation. If all or any part of the Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give timely written notice of the existence of such proceedings to all owners and to all First Mortgagees (as defined in Article X hereof) known to the Association to have an interest in any Lot. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article V hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Associa-

tion in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association, and such damages or awards shall be applied as follows. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined such damages or awards shall be paid to the Association. The Association, if it deems advisable, may call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible, the Common Areas so taken or damaged. In the event it is determined that such Common Area should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners. If it is determined that the Common Areas should not be replaced, the Association shall pay the funds received as damages to the account of each Owner and First Mortgagee, if any, as their interests may appear.

### ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easements Of Enjoyment. Every Lot Owner of CYPRESS SPRINGS ESTATES, Phase One, CYPRESS SPRINGS ESTATES Phase Two, Section One, and VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES who resides on a lot in one of the subdivisions, shall have a right to an easement of enjoyment in and to the Common Areas of any of the subdivisions which shall be appurtenant to and shall pass with the title to every lot of any of the subdivisions subject to the following provisions:

- (a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;



- (b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or improvement or store any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess the cost of such removal against the Owner responsible;
- (c) the right of Declarant (and its sales agents and representatives) to the nonexclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarant hereby reserves; provided, however, that such use shall not continue for a period of more than ten (10) years after conveyance of the Common Areas within the Property to the Association; provided further, that no such use by Declarant or its sales agenda or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;
- (d) the right of the Association to limit the number of guests of Owners utilizing the recreational facilities and Improvements owned by the Association and provided upon Common Areas;
- (e) the right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees pertaining to the use of any recreational facilities owned by the Association; and
- (f) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any recreational facility of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and to suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its By-Laws or at law or in equity on account of any such default or infraction.

Section 2. Delegation of Use. Owners subject to an easement of enjoyment in and to the Common Areas may delegate, in accordance with the By-Laws, their

right to or enjoyment of the Common Areas to members of their families, tenants or contract purchasers who reside in Owner's residential dwelling.

Section 3. Waiver of Use. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas thereof or by abandonment of Owner's Lot.

Section 4. Proportionate Ownership. The proportionate ownership interests in the Common Areas of the owners of CYPRESS SPRINGS ESTATES Phase One and CYPRESS SPRINGS ESTATES Phase Two, Section One, by virtue of Association membership immediately prior to the filing of this Supplemental Declaration shall be equal to the number of lots owned by such owner divided by the total number of lots and within the land then subject to this Declaration after this annexation.

#### ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each person or entity who is a record Owner of any of the Property which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association.

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

Class A. Class A members shall be all Owners with the exception of the Declarant (except as hereinafter provided) 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 of such Lot, shall be exercised as the persons among themselves determine, but in no event shall more than one vote be cast with respect to each Lot owned.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned.

Class B membership shall cease and be converted to Class A membership on the earlier of the following dates:

- (a) the date on which the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) January 1, 2011.

ARTICLE V  
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 the 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:

- (a) annual assessments or charges; and
- (b) special assessments which are to be established and collected as hereinafter provided.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. Personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purposes of Assessment. The assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the members of the Association and for the improvement and maintenance of the Common Areas including the improvements and landscaping thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot, to an Owner, the maximum annual assessment shall be SIX HUNDRED AND NO/100 DOLLARS (\$600.00) per Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by the percentage change by which the Consumer Price Index for the immediately preceding calendar year exceeds such Index for the calendar year prior thereto or by fifteen percent (15.00%), whichever is greater. As used herein, the "Consumer Price Index" shall mean the year end Consumer Price Index for All-Urban Consumers, published by the U.S. Department of Labor (or a generally accepted replacement should such index no longer be published).
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment may be increased above the rates specified in this Section 3, paragraph by a vote of two-thirds (2/3) members duly called entitled to vote in person or by proxy, at a meeting called for this purpose.

Section 4. Special Assessments for Capital 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 for necessary purposes of the Association, such as the construction, reconstruction, repair or replacement of a capital improvement in the Common Areas, including fixtures and personal property related thereto, or for counsel fees or the fees of other retained experts provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members entitled to vote in person or by proxy, at a meeting duly called for this purpose.

Section 5. Rate of Assessment. All Lots within the Property shall commence to bear their applicable assessments simultaneously, and improved Lots owned by the Declarant are not exempt from assessment. Lots which are owned by or transferred to a Builder or which are occupied by residents and improved Lots owned by Declarant shall each be subject to an annual assessment as determined by the Board of Directors pursuant to the terms of this Declaration. Unimproved Lots which are owned by Declarant shall be assessed at the rate of one-fourth (1/4) of the annual assessment; however, said assessments shall be made only in the event and then only to the extent that assessments from Lots owned by members other than Declarant are not sufficient to meet the operating budget of the Association. As used herein, the term "Improved Lot" shall mean a Lot on which a

residential dwelling has been constructed and is ready for occupancy as evidenced by the issuance of a Certificate of Occupancy by the County of Kerr, Texas. A Lot assessment shall be assessed against a builder, instead of Declarant when a Lot is made available for improvement by said Builder and there is written confirmation, reservation, or conveyance of said Lot by Declarant in favor of Builder. As used in this Section 5, the term "Declarant" shall be construed to mean only Hebbbronville Ranch Properties, Ltd., and its successors and assigns, acting in their capacity as land developers; and a Lot owned, reserved, or held by a home building division or any commercial construction division of Declarant shall be subject to full assessment as provided herein.

If there is a deficit in the annual operating budget of the Association for a given calendar year, after assessment of Declarant's unimproved Lots and funds are not available to the Association from prior year budget surpluses, then Declarant shall contribute the funds necessary to cover the deficit. Declarant's obligation to fund these budget deficits as described hereinabove shall terminate on the date that Class B membership ceases, as described herein.

Section 6. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of a Lot to an Owner or a transfer of any Lot owned by Declarant to a Builder. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified Lot have been paid.

Section 7. 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 lesser of the maximum lawful rate or twelve percent (12.00%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot.

Section 8. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall

- not extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. However, said assessments are subject to the rights of the first mortgage holder to recover all sums due said mortgagee. No sale or transfer shall relieve such Lot from liability of any assessments which thereafter become due or from the lien thereof.

**Section 9. Exempt Properties.** Any portion of the Property dedicated to and accepted by a local public authority, or owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments created herein. However, no land or improvements devoted to residential dwelling use shall be exempt from said assessments.

## ARTICLE VI ARCHITECTURAL CONTROL

**Section 1. Architectural Approval.** The overall plan for the development of the various areas and sections which make up the Subdivision contemplates centralization of architectural control to enhance, insure and protect the attractiveness, beauty and desirability of the area as a whole while at the same time permitting compatible distinctiveness of individual developments within the area. For this purpose, Declarant hereby reserves and retains the right of architectural control to itself or its assignee as hereinafter provided. The Architectural Control Committee established in Article VI of the Declaration of Covenants, Conditions and Restrictions of CYPRESS SPRINGS ESTATES, Phase One, as recorded in Volume 1006, Page 53 of the Real Property Records of Kerr County, Texas, shall have full authority to approve or disapprove plans, specifications, and plot plans submitted or to designate a representative with like authority. Declarant retains the exclusive right to review and approve or disapprove all plans and specifications for original construction on the Property.

It is accordingly covenanted and agreed that no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration to such structure or the color thereof (including, without limitation, site landscaping visible from any part of the Property and grading plans, patio covers, and trellises, plans for off-street parking of vehicles and utility layout), be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. In the event said Committee, or its designated representative,

fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been received by it, approval will not be required, and this Article will be deemed to have been fully complied with. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot, or the Owner's authorized agent. The Architectural Control Committee shall have the right to require any Owner to remove or alter any structure which has not received approval or is built other than in accordance with the approved plans. The requirement of this Article is in addition to any approvals or permits required by any appropriate governmental approval of plans as complying with the applicable Minimum Construction Standards adopted and promulgated from time to time for the Property by Declarant or its assigns, shall be only for such purposes and shall not serve as approval for any other purpose.

Declarant hereby reserves and retains the right, at its option, to assign its rights hereinabove set forth to an Architectural Control Committee appointed by the Association. In the event Declarant elects to assign such rights of approval, such assignment shall be evidenced by an instrument in writing and acknowledged by the proper officers of Declarant and placed of record in the appropriate records of the County Clerk of Kerr County, Texas.

Section 2. No Liability. Neither Declarant, the Association, its Board of Directors, nor the Architectural Control Committee or the members thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of a Lot, affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Committee for approval agrees by submission of such plans and specifications, and every Owner agrees, that no action or suit for damage will be brought against Declarant, the Association, its Board of Directors, the Architectural Control Committee, or any of the members thereof.

Section 3. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of one (1) year from the date of issuance of a building permit by municipal or other governmental authority for any improvement, said improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of this Article VI unless actual notice of such noncompliance or non-completion, executed by the Architectural Control Committee, or its designated representative, shall appear of record in the office of the County Clerk and be Re-

corded in Kerr County, Texas, or unless legal proceedings shall have been instituted to enforce compliance or completion.

**Section 4. Rules and Regulations.** The Architectural Control Committee may from time to time, in its sole discretion, adopt, promulgate, amend and repeal rules and regulations interpreting and implementing the procedures of this Article VI.

**Section 5. Variances.** The Architectural Control Committee, by the vote or written consent of a majority of the Members thereof, may allow reasonable variances as to any of the covenants, conditions or restrictions, contained in this Declaration under the jurisdiction of such committee pursuant to this Article VI, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property.

## ARTICLE VII DUTIES AND MANAGEMENT OF THE ASSOCIATION

**Section 1. Duties and Powers.** In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

- (a) Own, maintain and otherwise manage all Common Areas and all facilities, improvements, and landscaping thereon, and all other property acquired by the Association, including the Common Area Detention Pond.
- (b) Pay any real and personal property taxes and other charges assessed against the Common Areas.
- (c) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas and electric services and refuse collection.
- (d) Grant easements where necessary for utilities and sewer facilities over the Common Areas to serve the Common Areas and the Property in general.
- (e) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering



the purposes of and protecting the interests of the Association and its members.

- (f) Have the authority to contract with a management company for the performance of maintenance and repair and for conducting other activities on behalf of the Association, provided that such contract shall be limited to a duration of one (1) year, except with the approval of a majority of the Members entitled to vote. Any such management agreement shall provide that it will be terminable by the Association without a termination fee for cause upon thirty (30) days written notice or without cause by either party upon ninety (90) days written notice.
- (g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.
- (h) Have a duty to landscape and maintain the landscaping upon the Common Areas and the duty to maintain the perimeter walls or fences located at entrances to the Property, Common Areas, and fencing and walls located on portions of Lots described herein:
  - i. The duty to maintain fencing or walls extends to any such structures located on the boundary lines of the perimeter of the subdivision, the entrance fencing and the entry and exit gates and structures.
- (i) Have a duty to maintain the COMMON AREA ROADWAYS located throughout the subdivision and as set-out herein.

#### ARTICLE VIII UTILITY BILL, TAXES AND INSURANCE

##### Section 1. Obligation of Owners.

- (a) Each Owner shall have separate electric, gas and water meters and shall directly pay for all gas, water, sanitary sewer service, telephone service, security systems, cable television and other utilities used or consumed by Owner.

- (b) Each Owner may directly render for taxation Owner's Lot, and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot.

Section 2. Obligation of the Association.

- (a) The Association shall pay, as a common expense of all Owners, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Areas or any part thereof.
- (b) The Association may render for taxation and as part of the common expenses of all owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto.
- (c) The Association shall have the authority to obtain and continue in effect, as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures and facilities in the Common Areas, and the contents thereof, and the Association against risks of loss or damaged by fire and other hazards as are covered under standard extended coverage provisions in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable. The Association shall also have the authority to obtain comprehensive public liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors, agents and employees and each Owner (if coverage for Owners is available) from and against liability in connection with the Common Areas.
- (d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Association, as hereinabove provided, shall be paid as a common expense of all Owners and shall be paid out of the assessments.

ARTICLE IX  
RESTRICTIONS OF USE

Section 1. Single Family Residential Construction. Subject to Sections 2 and 13 of this Article, each Lot shall be used only for single family residence pur-

poses. No building shall be erected, altered or permitted to remain on any Lot other than one single-family detached residential dwelling not to exceed three (3) stories in height, and a private garage for not less than two (2) nor more than three (3) cars and not to exceed one story in height, unless specifically approved by the Architectural Control Committee, and a bona fide servants' quarters or guest house, which structure shall not exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined in this Declaration or that may appear on any recorded plat or replat approved by Declarant or its assignee.

Section 2. Prohibition of Offensive or Commercial Use. No activity which may become an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot, or which shall degrade property values or distract from the aesthetic beauty of the Property, shall be conducted thereon. No repair work, dismantling, or assembling of boats, motor vehicles or other machinery shall be done in any driveway or adjoining street. No part of the Property shall ever be used, or caused to be used, or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purposes. Notwithstanding the above, Declarant, its successors or assigns, or Builders may use the Property for model homes display and sales offices during the Development Period, during construction or until all new homes on the Property have been sold.

Section 3. Minimum Square Footage. The living area of the main residential structure for a Lot exclusive of porches, garage and servants' quarters shall not be less than 2,500 square feet for a one-story and shall not be less than 2,800 square feet for a two-story.

Section 4. Building Materials. Seventy-five percent (75%) of the exterior materials of the main residential structure and the garage, whether attached or detached, shall be stucco or stone. The remaining twenty-five percent (25%) of the exterior materials shall be masonry, stone, stucco, wood or brick. Notwithstanding the foregoing, the Architectural Control Committee is empowered to waive this restriction, if, in its sole discretion, such waiver is advisable in order to accommodate a unique or advanced building concept, design or material, and the resulting structure will not detract from the general appearance of the neighborhood. Wall materials used on all Lots shall be restricted to those types and colors approved by the Architectural Control Committee. No single family construction, private garage or any other structure located on the Property shall be permitted to have a heating or

cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by Declarant or a Builder during the completion and sale of all construction of this subdivision.

Section 5. Location of Improvements Upon the Lots. No building shall be located on any Lot or nearer to the front line than twenty (20) feet, nor nearer to the side street line than fifteen (15) feet. No building shall be located on any Lot nearer than fifteen (15) feet to any side nor seventy-five (75) feet to the rear lot line.

For the purpose of this provision, eaves, steps, box-type windows and unroofed ground-level terraces shall not be considered as part of a building, provided, however, that this shall not be construed to permit any improvement of a Lot to encroach within fifteen (15) feet of the side or rear lot line or upon another Lot.

Access to corner lot garages directly from side streets is prohibited unless specifically approved by Declarant or its assignee.

Section 6. Deviations. Declarant, at its sole discretion, is hereby permitted to approve deviations in these restrictions on building area, location of improvements on the Lots and building materials in instances where in its judgment, such deviation will not adversely affect the development of the property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions.

Section 7. Composite Building Sites. Any Owner of one or more adjoining Lots, or (or portions thereof) may consolidate such Lots or portions into one (1) building site, with the privilege of placing or constructing improvements on such resulting site, in which event setback lines shall be measured from the resulting side property lines rather than from the lots lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of lots in the same block of VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, Phase Three, Section One. Any revision of Lot sizes may be made only with written approval of Declarant.

Section 8. Utility Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plat, and no structure shall be erected on any of such easements. Neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their as-

signs, their agents, employees or contractors to shrubbery, trees, flowers or improvements located on the land covered by such easements.

**Section 9. Universal Easement.** The owner of each Lot within the Property is hereby declared to have a universal easement, and the same is hereby granted to Declarant, over all adjoining lots for the purpose of accommodating any encroachment due to engineer's errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of said encroachment, settling or shifting; provided, however, that in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of said encroachments so long as they shall exist. In addition, each Lot within the Property is hereby declared to have an easement for overhanging roofs and eaves as originally constructed over each adjoining Lot for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recondition of this Declaration and shall be appurtenant to the Lot being served and shall pass with each conveyance of said Lot. Said Universal Easement will continue so long as completed dwellings or dwellings under construction remain on any Lot. In the event Lots upon which no construction of any type has commenced, are reclassified, the provisions hereof shall no longer apply thereto.

**Section 10. Electrical Distribution Service.** An electric distribution system will be installed in the Property, in a service area that will embrace all of the lots which are platted in the Property. The Owner of each lot containing a single dwelling unit, shall, at its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes. The point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter.

Declarant has, either by designation on the plat or by separate instrument, granted necessary easements to the electric company providing for the installation,

maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each Owner's owned and installed service wires. In addition, the Owner of each Lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner and developer thereof, shall at its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter or such electric company for each dwelling unit involved. For so long as this service is maintained in the Property, the electric service to each dwelling unit shall be underground, uniform in character, and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

Easements for the underground service may be crossed by driveways and walkways provided the Lot Owner makes prior arrangements with the utility company furnishing any utility service occupying the easement and provides and installs the necessary conduit of approved type and size under such driveway or walkways prior to construction thereof.

Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios or other pavings, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways or walkways providing conduit has been installed as outlined above) of the Lot Owner located on the land covered by such easements.

Section 11. Audio and Video Communication Service. In the event that audio and video communication services and facilities are made available to any Lot by means of an underground coaxial cable system, there is hereby reserved to the company furnishing such services and facilities a two (2) foot wide easement along and centered on the underground wire or cable when and as installed by the company furnishing the service from and at a right angle to the utility easement nearest to the point of connection on the permanent improvement or structure constructed, or to be constructed, upon the Lot and in a direct line from the nearest utility easement to the point of connection.

Section 12. Temporary Structures and Out Buildings. No structures of a temporary character, nor any recreational vehicle, mobile home, trailer, basement,

dance with Article VI, Section 1 of this Declaration. Temporary structures may be used as sales offices or as construction offices and for other related purposes by Declarant or Builders during the construction and sales period. Such structures shall be inconspicuous and sightly and shall be removed at completion and sale of all construction of this subdivision.

**Section 13. Animal Husbandry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other common household pets provided they are not kept, bred or maintained for commercial purposes.

Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity, including any noxious odors or smells. Animals are not permitted to roam the Property and must be controlled on a leash if they are not on a Lot. Owners are required to immediately clean-up any waste products left by their animal on the Common Areas or any property within the Subdivision which is visible from the street.

**Section 14. Walls, Fences and Hedges.** All walls, fences, planters and hedges shall be controlled strictly for compliance with this Declaration and architectural standards established by the Declarant or the Architectural Control Committee. Placement of all walls, fences, planters and hedges shall be controlled by the Architectural Control Committee.

- (a) Perimeter fencing on all Lots shall be maintained to a fence standard equivalent to original construction and all fencing must be consistent with this Declaration and architectural standards established by Declarant or the Architectural Control Committee.
- (b) Fences of wire or chain link construction are prohibited, and the design and materials of all fences shall be approved by the Architectural Control Committee prior to construction pursuant to the approval requirements of Article VI, Section 1, of this Declaration.

- (c) All masonry used in a fence or wall on a Lot shall match the primary masonry used on the residence. All masonry columns shall be six and one-half feet (6'6") in height and shall be no further than twenty-five feet (25') apart if visible from any street. All wood, if any used in fencing (including wooden gates for wing walls) shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks. Cedar fencing may be stained, painted, or sealed only with ACC approval. All wrought iron used in fencing shall be painted black. All gates shall be composed of the same material as the fence. No fence shall exceed six feet (6') in height unless specifically approved by the ACC and governing authority. Notwithstanding the above, wrought iron may be used only as approved by the Architectural Control Committee.
- (d) Each Owner shall maintain all fencing placed on his Lot including the reconstruction or replacement of fences which are tilted more than ten (10) degrees from a vertical position and the replacement of broken or cracked wooden pickets.

#### Section 15. Yards.

- (a) Front Yard. All landscaping designs for the front yard area shall be approved by the Architectural Control Committee prior to construction or alteration. No more than ten percent (10%) in area of the front yard area of any Lot, excluding driveways and sidewalks, may be covered by rock or material other than dirt and vegetation except for such driveways and sidewalks as have been approved by the Architectural Control Committee. The "front yard area" shall be defined as that area of a Lot situated between the front Lot line and a line extending from the front of a residence to the side Lot lines. Installation of all landscaping and irrigation systems shall be installed within ninety (90) days of first occupancy in accordance with the landscape plan approved by the Architectural Control Committee. Installation of any landscaping after ninety (90) days from first occupancy is solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI., of the Declaration. Statues, statuary fountains, multiple tier planters, concrete and other lawn furniture are prohibited in front and side yards. Placement of any decorative items in front or side yards is subject to ACC approval.



- (b) **Back Yard.** The Owners or occupants of any Lots as the intersection of streets or adjacent to parks, playgrounds or other facilities where the rear yard or portion of the Lot is visible to public view from a street or Common Area shall construct and maintain an inner fence or other improvements as approved by the ACC to adequately screen from view of streets and Common Area any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition.

**Section 16. Antennas.** No radio or television aerial or antennae or other radio or television related apparatus or equipment shall be placed or maintained on any residence or on any other exterior portion of a Lot except with the prior written approval of the Architectural Control Committee which shall have the authority to disapprove the installation of same. With the prior written consent of the Architectural Control Committee, a satellite disc or dish may be placed on a Lot where not visible from a street or Common Area and where such location does not adversely affect the view from an adjacent Lot.

**Section 18. Artificial Vegetation.** No artificial vegetation shall be installed or kept in front or side yard areas on any Lot.

**Section 19. Athletic Facilities.** Tennis-court lighting and fencing shall be allowed only with the approval of the ACC. Basketball goals, or backboards, or any other similar sporting equipment (portable basketball goals) whether permanent or temporary nature shall not be placed within twenty feet (20') from the front property line of any Lot or the side Lot lines of corner Lots, or within five (5') of any interior side Lot line in the Subdivision without the prior written consent of the ACC. All basketball backboards shall be of a clear, transparent material. The ACC will consider other quality backboard materials. All supporting poles and stanchions shall be painted either black or dark hunter green. All basketball backboards shall be maintained in a playable condition at all times and any damaged structure shall be repaired or removed immediately.

1. All children's play equipment or structures shall be submitted to the ACC for review.

2. Landscaping and fencing requirements may be established by the Committee for the purpose of screening courts in an aesthetically pleasing manner.

Section 20. Visual Obstructions at the Intersections of Public Streets. No object or thing which obstructs sight lines at elevations, between two (2) and six (6) feet above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five (25) feet from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

Section 21. Lot Maintenance. All Lots shall be kept at all times in a sanitary, healthful and attractive condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and neatly maintained and shall in no event use any Lot for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish.

Section 22. Storage of Automobiles, Boats, Trailers Other Vehicles and Equipment. No automobiles, boats, trailers, campers, recreational vehicles, motorcycles, buses, inoperative vehicles of any kind, camp rigs off truck, or boat rigging shall be parked or stored permanently or semi-permanently on any Subdivision street right-of-way, front yard area or on driveways. Permanent or semi-permanent storage of such vehicles or items must be completely screened from public view either within the garage or behind a solid fence. For the purposes of these restrictions, the words "semi-permanent" shall be defined as remaining in the same location without movement for forty-eight (48) or more consecutive hours. No eighteen wheel vehicles and other similar large van or flatbed type vehicles may be parked on any public street right-of-way, front yard area or on driveways except to deliver merchandise or other materials to residents or construction sites.

Section 23. Signs, Advertisements and Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely for advertising a house for sale or rent, and except signs used by Declarant or a builder to advertise the Lot during the construction and sales period. The Declarant and the Association shall have the right to remove any signs, advertisement, billboard or structure which is placed on said Lot in violation of this section and in so doing shall not be subject to any

liability for trespass or other tort in connection therewith or arising from such removal.

**Section 24. Removal of Soil and Trees; Pruning.** The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lots. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting by Declarant, the ACC or the Association, given in their sole discretion. No trees shall be pruned during the months of February through May, without obtaining written approval for such pruning from the Declarant, the ACC or the Association, given in their sole discretion.

**Section 25. Roofing Material.** Roofing materials may include composition shingles having a minimum warranty of thirty (30) years, slate, clay or concrete tiles; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams. Composition shingle roofs shall be comparable in color to weathered wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type roofing material shall be permitted only at the sole discretion of the Declarant, the Architectural Control Committee or its assigns upon written request.

**Section 26. Driveways and Curbs**

(a) **Driveways**

1. Driveways on each residential Lot and visible from a street must be constructed of broom finished concrete, pebble finish concrete, brick pavers, or pink crushed granite with curbs, provided, asphalt driveways with curbs may be permitted solely at the discretion of the Architectural Control Committee and subject to approval prior to installation pursuant to Article VI., of the Declaration.
2. No more than one curb cut per Lot shall be permitted without approval of the Committee. Except with approval of the Committee, no circular driveway shall be more than twenty feet (20") in width. Driveway locations shall be only as approved by the Committee.

3. Driveways which have more than six inches (6") of exposed concrete foundation sides shall have masonry veneer applied or be fully parged. Landscaping may be required depending on the amount of exposure.
4. The driveway leading directly to the garage shall in all cases, and regardless of the house being on the topographically low or high side of the street, be constructed in a manner consistent with the following guidelines:
  - (1) The elevation of the driveway surface at a point ten (10) linear feet from the curb line shall be at least nine inches (9") higher than the pavement grade at gutter line.
  - (2) For Lots on the topographically low side of the street, and in addition to the above, the driveway shall be constructed with a protective swale in front of the garage to prevent runoff water from entering into the house and/or garage. Also, the driveway shall not have the effect of "trapping"

(b) Curbs

1. The header curb adjacent to the asphalt must be concrete and scored with the same scoring pattern as the curb.
2. Any Portion of curbing which is damaged, whether during construction or afterwards, shall be repaired as soon as practicable at the sole and exclusive expense of and by the Owner of the Lot appurtenant to such damaged curb.

(c) General

Loose gravel driveways, excluding pink crushed granite with curbs, are specifically prohibited forward of the front building line. Builders and contractors are required to clean street immediately after aggregate finished sidewalks and driveways have been washed.

**Section 27. Exterior Lighting.** Exterior light fixtures shall be provided at the front door of each residence; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Properties or any streets, or any Lot until the same has been approved by the Committee. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (reasonable security or landscape, or tennis court lighting is permitted with the approval of the Architectural Control Committee.)

**Section 28. Enforcement.** In the event of default on the part of the Owner or occupancy of any Lot in observing any or all of the requirements herein set forth, such default continuing after ten (10) days' written notice thereof, the Declarant or the Association may, without liability to the Owner of occupancy, in trespass, or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. To secure the payment of such charges in the event of nonpayment by the Owner, a vendor's and continuing contractual lien shall be retained by Declarant at the time of conveyance of each Lot in favor of Declarant or the Association, but inferior to a purchase money lien or mortgage. Such vendor's and continuing contractual lien shall be applicable and effective whether mentioned specifically or omitted in each conveyance of a Lot by Declarant.

#### ARTICLE X MORTGAGEE PROTECTION; MANAGEMENT AGREEMENTS; RESERVE FUNDS; LEASES

**Section 1. Notice to first Mortgagees.** Upon written request to the Association at the address of the Association's registered agent filed with the Secretary of State for the State of Texas, all holders of first mortgage liens on Lots, hereinafter called "First Mortgagees," shall be entitled to:

- (a) inspect the books and records of the Association during normal business hours at a time mutually convenient to Declarant and First Mortgagee;

- (b) upon request, receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year;
- (c) upon request, receive written notice of all meetings of the Association and designate a representative to attend all such meetings;
- (d) upon request, receive notice of any default in the performance by the First Mortgagee's mortgagor of any obligation under this Declaration, the By-Laws or Articles of Incorporation of the Association which is not cured within sixty (60) days;
- (e) upon request, receive notice of any abandonment or termination of the development;
- (f) upon request, receive notice of any material amendment to this Declaration, or to the By-Laws or Articles of Incorporation of the Association; and,
- (g) upon request, receive notice of any decision to terminate professional management and assume self-management.

**Section 2. Alienation of Common Areas.** Except as to the Association's right to grant easements for utilities and similar or related purposes, the Common Areas may not be abandoned, partitioned, subdivided, sold, alienated, released, transferred, hypothecated, or otherwise encumbered.

**Section 3. Management Agreements.** Any management agreement will be terminable by the Association without payment of a termination fee with cause upon thirty (30) days written notice, or without cause by either party on ninety (90) days written notice. The term of any such agreement may not exceed one (1) year, renewable by agreement of the parties, for successive one year periods.

**Section 4. Reserve Fund.** Association budgets shall include an adequate reserve fund for maintenance repairs and replacement of those elements of the Common Areas that must be replaced on a periodic basis and will be payable in regular installments as part of the common assessment.

**Section 5. Leases.** Any lease agreement between an Owner and a lessee shall be subject in all respects to the provisions of this Declaration, the By-Laws

and Articles of Incorporation of the Association whether or not reference is made to the Declarations, By-Laws and Articles of Incorporation in the lease.

## ARTICLE XI GENERAL PROVISIONS

**Section 1. Enforcement.** The Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants, conditions or restrictions shall not affect any other provision, which shall remain in full force and effect.

**Section 3. Duration; Amendment.** The provisions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from this date, after which time they shall be automatically extended for successive periods of ten (10) years.

This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by a sufficient number of Owners representing not less than two-thirds (2/3) of the votes in the Association, and thereafter by an instrument signed by a sufficient number of Owners representing not less than fifty percent (50%) of the votes. In addition, any amendment hereto (i) to change the method of determining the obligations, assessments, dues or charges which may be levied against an Owner, or (ii) to change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the maintenance of Common Areas, or (iii) to use hazard insurance proceeds for losses to the improvements in Common Open Areas, if any, for other than the repair, replacement or reconstruction of such improvements shall require the additional approval of two-thirds (2/3) majority of the First Mortgagees (based upon one vote for each mortgage owned).

All amendments shall be recorded in the Official Public Records of Real Property of Kerr County, Texas.

Deeds of conveyance of Lots or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such refer-

ence is made, each and all of such restrictive covenants shall be valid and binding upon the respective grantees.

The Declarant reserves the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veteran's Administration, or Federal Housing Administration, or to change any provision herein for the betterment of the subdivision, provided that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein.

**Section 4. Books and Records.** The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

**Section 5. Notices.** Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

**Section 6. Good Faith Lender's Clause.** Any violation of these covenants, conditions or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot which liens may be enforced in due course, subject to the terms of this Declaration.

**Section 7. Mergers.** Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions



and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

(EXECUTION PAGE FOLLOWS)

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

AUG 02 2006



*Janet Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

EXECUTED effective the 31<sup>st</sup> day of July 2006.

HEBBRONVILLE RANCH PROPERTIES, LTD.

By: HEBBRONVILLE RANCH PROPERTIES ONE, LLC  
General Partner

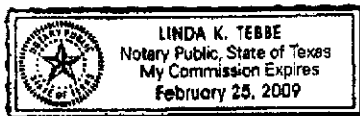
By: [Signature]  
KASH MORROW, Manager and Member

By: [Signature]  
MARK DIZDAR, Manager and Member

STATE OF TEXAS

COUNTY OF Hidalgo

The foregoing instrument was acknowledged before me on the 31<sup>st</sup> day of July, 2006, by KASH MORROW, Manager and Member of HEBBRONVILLE RANCH PROPERTIES ONE, LLC, General Partner of HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, on behalf of said partnership.

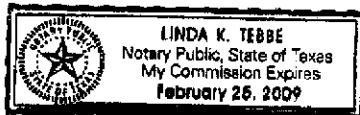


[Signature]  
Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF Hidalgo

The foregoing instrument was acknowledged before me on the 31<sup>st</sup> day of July, 2006, by MARK DIZDAR, Manager and Member of HEBBRONVILLE RANCH PROPERTIES ONE, LLC, General Partner of HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, on behalf of said partnership.



[Signature]  
Notary Public, State of Texas

11814

AMENDMENTS TO AND CLARIFICATIONS OF THE  
DECLARATION OF AND SUPPLEMENTAL DECLARATIONS OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF CYPRESS SPRINGS ESTATES,  
PHASE ONE, AND PHASE TWO, SECTION ONE, AND VISTAS ESCONDIDAS  
de CYPRESS SPRINGS ESTATES, SUBDIVISIONS IN KERR COUNTY, TEXAS,  
AND THE BY-LAWS OF CYPRESS SPRINGS ESTATES  
PROPERTY OWNERS ASSOCIATIONS, INC.

WHEREAS, the Declarant, Hebbbronville Ranch Properties, Ltd., is the successor to the rights of Declarant of the Declaration of Covenants, Conditions and Restrictions of Cypress Springs Estates, Phase One, filed for record in Volume 1006, Page 53 of the Official Public Records of Real Property of Kerr County, Texas, (herein called Phase One Restrictions), and the successor Declarant of the Declaration of Supplemental Covenants, Conditions and Restrictions of Cypress Springs Estates, Phase Two, Section One, filed for record in Volume 1207, Page 270 of the Official Public Records of Real Property of Kerr County, Texas, (herein called Phase Two Restrictions), and was the Declarant of the Declaration of Supplemental Covenants, Conditions and Restrictions of Vistas Escondidas de Cypress Springs Estates, filed for record in Volume 1542, Page 230 of the Official Public Records of Kerr County, Texas, (herein called Vistas Escondidas Restrictions); and

WHEREAS, all three (3) sets of Covenants, Conditions and Restrictions described above contain "Article XI GENERAL PROVISIONS, Section 3, Duration; Amendment" the fifth (5<sup>th</sup>) paragraph of which states the following: " The Declarant reserves the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein..." and

WHEREAS, all three (3) sets of Covenants, Conditions and Restrictions described above define in Article I, Section 11 Development Period as "'Development Period" shall mean and refer that period of time in which Declarant is the owner of any Lot, whether in Phase One or any additional annexed areas;" and

WHEREAS, By-Laws as used in all three (3) sets of the of said Covenants, Conditions and Restrictions mean and/or shall mean the By-Laws of the Cypress Springs Estates Property Owners Association, Inc; and

WHEREAS, the Declarant owns more than one (1) lot in each of the three (3) phases or sections of Cypress Springs Estates therefore the Development Period clearly still continues, and Declarant is aware that certain errors, ambiguities, and conflicts exist in the said Covenants, Conditions and Restriction and the administering thereof; and

175-6

WHEREAS, the Declarant has determined that it is in the best interests of all of the property owners owning lots in any of the phases and/or sections of Cypress Springs Estates that the following amendments and clarifications be made in accordance with Article XI of each of the said Covenants, Conditions and Restrictions;

NOW THEREFORE, the Phase One Restrictions, the Phase Two Restrictions, and the Vistas Escondidas Restrictions are hereby amended and/or clarified as follows:

1. ARTICLE IV, MEMBERSHIP AND VOTING RIGHTS, in each of the said Covenants, Conditions and Restrictions is amended to read as follows:

Section 1. Membership. Each person or entity who is a record Owner of any of the Lots within Phase One, Phase Two, Section One, and Vista Escondidas of Cypress Springs Estates is a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Lot in the said subdivisions. Ownership of a Lot constitutes one membership, and the ownership of more than one Lot shall entitle the owner of multiple lots to as many memberships as he/she/it owns. The terms Member and Owner shall be synonymous of each other, and shall also include the type of membership set out below within the meaning of the terms Owner and/or Member. Nothing herein shall entitle the holder of a mere security interest to membership.

- (a) There shall be two types of memberships. Class A members shall be all Owners with the exception of Declarant and/or its successor(s). Class A members shall be entitled to one vote on all Association matters. In the event that a Lot is owned by more than one person or entity each shall be entitled to the privileges of membership, except that only one vote may be cast for each Lot. Class B membership shall be exclusively for the Declarant, and as such Class B member the Declarant shall be entitled to three (3) votes for each Lot owned by the Declarant.
- (b) Any place in the said Covenants, Conditions and Restrictions, and in the By-Laws the term Owner is used that term shall include both Class A and Class B members and shall, for the purposes of any number or percentage used in conjunction with the term owner, mean the number of votes assigned to the type of Lot ownership, that is Class A or Class B.
- (c) Class B type membership shall end at the end of the Development Period, and thereafter all memberships shall be Class A.

2. ARTICLE I, DEFINITIONS, in each of the said Covenants, Conditions and Restrictions, and the By-Laws the Sections set out below shall be replaced and amended to read as follows:

Sections 18 and 21 of the Phase One Restriction, and Sections 17 and Section 20 of the Phase Two Restrictions, and Sections 16 and 19 of the Vistas Escondidas Restrictions, and paragraphs (o) and (p) of the By-Laws respectively shall be

replaced and in their stead amended to read without regard to the Section number and/or letter originally assigned to such sections or paragraphs as follows:

"Member" and "Owner" shall be synonymous terms and shall mean the record holder of any Lot within the three Phases and/or Sections of Cypress Springs Estates. Within such definition there shall be included the type of Membership and/or Ownership as defined in Article IV of each of the Covenants, Conditions and Restricts known as Phase One Restrictions, Phase Two Restrictions, and Vistas Escondidas Restrictions. For the purpose of determining numbers or percentages of members and/or owners under any of the terms of the various sets of Restrictions or of the By-Laws type or class of Owner/Member shall be considered for determining such number and/or percentage.

3. ARTICLE XI, in each of the said Covenants, Conditions and Restrictions and the By-Laws shall be respectively amended as follows:

In the Phase One Restrictions the following shall be added as Section 9, and in the Phase Two and Vistas Escondidas Restrictions the following shall be added as Section 8, and in the By-Laws a second (2<sup>nd</sup>) paragraph shall be added to-wit:

Section 9 (8) Extraordinary Owner/Members meetings, During the Development Period the Declarant may, when the Declarant determines that it is in the best interests of the Owner/Members, call a meeting of the Owner/Members of the Association for any purpose. The call of such meeting shall be in writing and sent to the address of the Lot owned by the Owner/Member or to such other address that the Owner/Member has furnished to the Declarant. The said notice shall give at least five (5) days notice of the date, time, place, and purpose of such meeting. Voting at such meeting shall be by Owner/Member class, that is one (1) vote for Class A Owner/Members and three (3) votes for Class B Owner/Members.

4. Declarant states that this Amendment does not change the vested rights of any Owner/Member within the jurisdiction of the Declaration.

EXECUTED and effective this 8 day of December, 2006.


HEBBRONVILLE RANCH PROPERTIES, LTD

By: HEBBRONVILLE RANCH PROPERTIES ONE, LLC  
General Partner

By:   
KASH MORROW, Manager and Member

STATE OF TEXAS  
COUNTY OF KERR

The foregoing instrument was acknowledged before me on the 24 day of December, 2006, by KASH MORROW, Manager and Member of HEBBRONVILLE RANCH PROPERTIES ONE, LLC, General Partner of HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, on behalf of the said partnership.

  
NOTARY PUBLIC

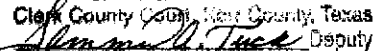


Return To:

Vernon Harrison, Attorney ✓  
610 Hwy 39, Ste. D  
Ingram, TX 78025

FILED FOR RECORD  
at 10:15 o'clock... P.M.

DEC 08 2006

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
 Deputy

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

DEC 11 2006



  
COUNTY CLERK, KERR COUNTY, TEXAS

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

## CONTRACT FOR IMPROVEMENTS

With Transfer of Lien

This Contract for Improvements is made on April 17, 2007 between GERALD I. TESCHENDORF and wife, RUTH A. TESCHENDORF ( Owner ) and McDERMOTT BUILDERS ( Contractor ) and provides for a transfer of lien to SAN ANTONIO FEDERAL CREDIT UNION ( Lender ).

1. **Construction of Improvement.** Contractor agrees to furnish and pay for all labor and materials needed to construct the following improvements on or before February 1, 2008 ("Completion Date") in a good and workmanlike manner according to the drawings and specifications agreed upon by Owner and Contractor and approved by Lender:  
A single-family residence and related improvements and facilities to be constructed on the Real Property described below.
2. **Description of Property.** The improvements shall be constructed upon the following property (Property):  
All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Lot 118, Vistas Escondidas de Cypress Springs Estates, a subdivision of Kerr County, Texas, according to the plat of said subdivision recorded in Volume 7, Page 363, Plat Records of Kerr County, Texas.
3. **Contract Sum (Construction Price plus Lot Advance, if any).** Owner agrees to pay, or cause to be paid:
  - (a) to Contractor, for the construction of the improvements, the sum of \$499,668.96 (Construction Price), all or a portion of which is to be advanced by Lender for the benefit of Owner;
  - (b) the sum of \$61,050.00 (Lot Advance) to be advanced by Lender for all or a portion of the payment of the Lot;
  - (c) for a total Contract Sum of \$560,718.96
4. **Note Payable to Lender.** In consideration of the agreement by Lender to advance all or a portion of the amount stated in paragraph 3(a) above to Contractor, Owner has executed and delivered to Lender a Note in the sum of \$560,718.00.
5. **Lien to Secure Note.** To secure the payment of the Construction Price to be advanced to Contractor by Lender at the request of Owner, as evidenced by the above referenced Note, and the interest payable to Lender, Owner gives and grants to Contractor, and Contractor transfers and assigns to Lender, a lien as provided by the constitution and laws of the State of Texas on the Property, together with all the improvements now or later constructed on the Property, and all easements, rights, and appurtenances, all of which shall be deemed to be and remain a part of the Property covered by this Contract. The Note shall also be secured by a Deed of Trust executed by Owner that will renew and extend the lien created by this Contract.
6. **Transfer of Lien.** Contractor transfers and assigns to Lender, and to Lender's successors and assigns, with recourse against Contractor, all of Contractor's lien under this Contract to secure the amount to be advanced under the Note payable to Lender for the Construction Price and Lender is subrogated to all the rights and equities of Contractor under this transferred lien.
7. **Completion by Contractor, But Not Lender.** Contractor shall be obligated to complete all work in accordance with the Contract, but Lender shall not be responsible for the completion of the improvements and shall not in any manner be considered a guarantor of performance by Contractor. Contractor agrees to indemnify and hold Lender harmless against all claims for completion of the improvements.
8. **Partial Lien.** In the event the improvements are not completed by Contractor according to the drawings and specifications, and for whatever reason it is determined that Lender does not have a lien to the extent of the full amount of the contract price, then Lender shall have a valid lien for the contract price, less the amount reasonably necessary to complete the improvements according to the drawings and specifications, or in such event Lender, at its option, shall have the right to complete the improvements, and the lien shall be valid for the contract price.
9. **Alterations and Extras.** No alterations shall be made in the work shown or described by the drawings and specifications, nor shall any extra work or materials be charged or paid for, unless a separate estimate for such extra work is submitted in writing by Contractor to Owner and agreed to in writing by them before the extra work is started. The additional amount to be paid for all extra work and materials so agreed to and furnished shall be a part of the indebtedness secured by the lien created by this Contract. Lender, at its option and subject to the execution of such additional loan documents as it might require, may advance all or part of such additional amount. If Lender elects not to advance such additional amount, Owner shall pay Contractor in cash upon completion of such extra work and Contractor shall have a lien on the Property for the payment of such amount, which lien Contractor agrees shall be subordinate to the lien retained and transferred to Lender in this Contract. All extra work done or material furnished without such agreement shall be considered as performed under the original Contract and no extra pay shall be demanded or allowed.
10. **Receipts and Releases.** Upon request Contractor shall furnish Owner or Lender proper receipts and releases from any and all subcontractors, workmen, and suppliers, so that no liens may be filed upon the Property except the express lien created by this Contract.
11. **Additional Documents.** In addition to this Contract for Improvements, this transaction shall be evidenced by the following Additional Documents:
  - a. Note from Owner to Lender, described in paragraph 4.

- b. Deed of Trust from Owner to Lender, described in paragraph 5.
  - c. Construction Loan Agreement Between Owner, Lender and Contractor.
  - d. Notice of Invalidity of Oral Agreements.
  - e. All other documents executed in connection with this transaction.
12. No Work Commenced. This Contract is executed, acknowledged and delivered before any labor has been performed and before any material has been furnished for the construction of the improvements.
13. IMPORTANT NOTICE:

YOU AND YOUR CONTRACTOR ARE RESPONSIBLE FOR MEETING THE TERMS AND CONDITIONS OF THIS CONTRACT. IF YOU SIGN THIS CONTRACT AND YOU FAIL TO MEET THE TERMS AND CONDITIONS OF THIS CONTRACT, YOU MAY LOSE YOUR LEGAL OWNERSHIP RIGHTS IN YOUR HOME. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.

Borrower: GERALD I. TESCHENDORF

Contractor: McDERMOTT BUILDERS

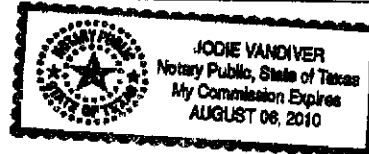
By: Gerald I. TeschendorfBy: [Signature]

Borrower: RUTH A. TESCHENDORF

Contractor:

By: Ruth A. Teschendorf

By: \_\_\_\_\_

THE STATE OF TEXAS  
COUNTY OF KERR

(Acknowledgment)

This instrument was acknowledged before me on the 20<sup>th</sup> day of April, 2007.

by GERALD I. TESCHENDORF.

[Signature]  
Notary Public, State of Texas

Jodie Vandiver  
Notary's Name (printed)

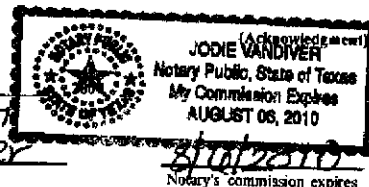
8/6/2010  
Notary's commission expires

THE STATE OF TEXAS  
COUNTY OF KERRThis instrument was acknowledged before me on the 20<sup>th</sup> day of April, 2007.

by RUTH A. TESCHENDORF.

[Signature]  
Notary Public, State of Texas

Jodie Vandiver  
Notary's Name (printed)



8/6/2010  
Notary's commission expires

THE STATE OF TEXAS  
COUNTY OF KERR

(Acknowledgment)

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

by \_\_\_\_\_

Notary Public, State of Texas

Notary's Name (printed)

Notary's commission expires



THE STATE OF TEXAS  
COUNTY OF KERR

(Acknowledgment)

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
by \_\_\_\_\_.

Notary Public, State of Texas

Notary's Name (printed)

Notary's commission expires

THE STATE OF TEXAS  
COUNTY OF KERR

(Corporate Acknowledgment)

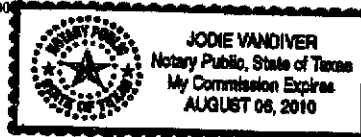
This instrument was acknowledged before me on the 20<sup>th</sup> day of April, 2007,  
by David McDermott  
of McDERMOTT BUILDERS

a \_\_\_\_\_ corporation on behalf of said corporation.

Notary Public, State of Texas

Notary's Name (printed)

Notary's commission expires



AFTER RECORDING RETURN TO:

SAN ANTONIO FEDERAL CREDIT UNION  
6061 I.H. 10 West/P.O. Box 1336  
San Antonio, TX 78295

PREPARED IN THE LAW OFFICE OF:

MORTON W. BAIRD II  
242 W. Sunset, Suite 201  
San Antonio, Texas 78209

FILED FOR RECORD  
at 3:51 o'clock P.M.

APR 20 2007

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
Phyllis Shimp Deputy

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

APR 20 2007



Jannett Pieper  
COUNTY CLERK, KERR COUNTY, TEXAS

005345

VOL 1611 PAGE 015

**AMENDED AND RESTATED  
DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CYPRESS SPRINGS ESTATES  
PHASE ONE, PHASE TWO SECTION ONE  
AND  
VISTAS ESCONDIDAS DE CYPRESS SPRINGS ESTATES  
A SUBDIVISION IN KERR COUNTY, TEXAS**

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.  
THE STATE OF TEXAS }  
COUNTY OF KERR }  
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

JUN 18 2007



*Jannett Pieper*  
COUNTY CLERK, KERR COUNTY, TEXAS

FILED FOR RECORD  
at 11:20 o'clock...A.....M

JUN 15 2007

JANNETT PIEPER  
Clerk County Court, Kerr County, Texas  
*Jannett Pieper* Deputy

213-5-5-1

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OF CYPRESS SPRINGS ESTATES  
A SUBDIVISION IN KERR COUNTY, TEXAS**

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**EXHIBIT LIST**

- A. Common Area Detention Pond
- B. Drainage Control Device
- C. Drainage Control Device
- D. Drainage Easement
- E. Drainage Easement
- F. Drainage Easement

**AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CYPRESS SPRINGS ESTATES  
PHASE I, PHASE II SECTION ONE  
AND  
VISTAS ESCONDIDAS DE CYPRESS SPRINGS ESTATES  
A SUBDIVISION OF KERR COUNTY, TEXAS**

Note: This instrument amends, restates and supercedes and replaces any such prior recorded Declarations and/or Amendments.

**THIS DECLARATION** is made effective as of the 1<sup>st</sup> day of June 2007, by Hebbbronville Ranch Properties, Ltd., a Texas Limited Partnership, (hereinafter referred to as "Declarant").

**WHEREAS**, Declarant is the owner of this real property in Kerr County, Texas, that has been platted and subdivided into a subdivision known as Cypress Springs Estates as follows:

- a. Phase One, according to the plat thereof recorded in Volume 7, Page 12 of the Real Property Records of Kerr County, Texas.
- b. Phase Two Section One, according to the plat thereof recorded in Volume 7, Pages 172-173 of the plat records of Kerr County, Texas.
- c. Vistas Escondidas de Cypress Springs Estates, according to the plat thereof recorded in Volume 7, Page 363 of the plat records of Kerr County, Texas.

**WHEREAS**, Declarant desires to create on the Properties a residential community with residential lots, trails for recreation, and other common improvements for the benefit of the community; and

**WHEREAS**, Declarant desires to provide for, among other matters, the preservation of the values and amenities in the community and for the maintenance of common improvements; and, to this end, Declarant desires to subject the property, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each and every owner of any part thereof; and

**WHEREAS**, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an owners' association to which would be delegated and assigned the powers of (i) owning, maintaining and administering the common properties and facilities, (ii) administering and enforcing the covenants and restrictions contained herein, and (iii) collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, Declarant has caused a non-profit corporation to be incorporated under the laws of the State of Texas for the purpose of effecting the intents and objectives herein set forth.

**NOW, THEREFORE**, Declarant declares that the Properties, hereafter be made pursuant to Article II hereof, shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

## **ARTICLE I DEFINITIONS**

The following words when used in this Declaration (unless the context shall otherwise prohibit) shall have the following meanings:

Section 1. "Architectural Control Committee" shall mean and refer to the architectural control committee described in Article IX hereof.

Section 2. "Articles of Incorporation" shall mean and refer to the articles of incorporation of the Association as may be amended from time to time.

Section 3. "Association" shall mean and refer to Cypress Springs Estates Property Owners Association, Inc., a Texas non-profit corporation, which will have the power duty and responsibility of maintaining and administering the Common Properties, and collecting and disbursing the assessments and charges hereinafter prescribed, and will have the right to administer and enforce this Declaration of Covenants, Conditions and Restrictions.



Section 4. "Board" or "Board of Directors" shall mean and refer to the board of directors of the Association.

Section 5. "Builder" shall mean and refer any entity to which Declarant conveys or transfers lots within the Subdivision for the purpose of constructing homes or other permitted structures thereon.

Section 6. "Common Areas" shall mean and refer to all real property leased, owned, or maintained by the Association for use and benefit of the Members of the Association. The Common Areas to be conveyed to the Association shall include the COMMON AREAS, COMMON AREA DETENTION POND and COMMON AREA ROADWAYS, provided, however, Declarant reserves the right to further restrict the permitted improvements and uses of said areas beyond the restrictions on use set forth herein. Ownership of the Common Areas will be transferred to the Association, free of lien, by Declarant prior to the sale of the last Lot. Nothing herein shall be construed as requiring Declarant to construct improvements upon the common areas.

Section 7. "Common Maintenance Area" shall mean and refer to the Common Areas, Detention Ponds, Common Area Roadways and all, entrance monuments, perimeter walls, drainage facilities, parks, trails, playgrounds, esplanade and right-of-way landscaping and other areas deemed appropriate by the Board of Directors of the Association to be maintained by the Association for the preservation, protection, and enhancement of the property values of the Subdivision and/or the general health, safety, welfare or benefit of the Owners.

Section 8. "Conveyance" shall mean and refer to conveyance of a fee simple title to the surface estate of a Lot from one Owner to another.

Section 9. "Declarant" shall mean and refer to HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, and 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.

Section 10. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions hereto made in accordance with the terms hereof and filed of record in the Real Property Records of Kerr County, Texas.

Section 11. "Detention Pond" shall mean and refer to those easements as set out in Exhibit "A" attached hereto.

Section 12. "Development Period" shall mean and refer to that period of time in which Declarant is the owner of any Lot.

Section 13. "Drainage Control Device" shall mean and refer to those devices and easements as set-out in Exhibits "B, C, D, E and F" attached hereto.

Section 14. "Front Yard Area" shall mean and refer to that area of a lot situated between the front lot line and a line extending from the front of a residence to the side lot lines.

Section 15. "Improvement" shall mean every structure on the Property and all appurtenances thereto of every type and kind, including but not limited to, buildings, outbuildings, storage sheds, guest quarters, gazebos, patios, driveways, walkways, paved areas, tennis courts, fountains, large barbeque units, green houses, barns, basements, swimming pools, garages, screening walls, retaining walls, stairs, decks, poles, air conditioning equipment, water softener equipment, pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 16. "Improved Lot" shall mean and refer to a lot which a living unit has been constructed and completed for occupancy and/or when the living unit is occupied, which ever occurs first.

Section 17. "Living Unit" shall mean and refer to a single-family residence and its attached or detached garage situated on a Lot.

Section 18. "Lot" shall mean and refer to any of the plots of land numbered 2-47, 48-92, CYPRESS SPRINGS ESTATES, and 93-153, VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, as shown on the Subdivision Plat.

Section 19. "Master Plan" shall mean that certain plan of development for the Project area, the original of which plan is maintained at Declarant's offices. The Master Plan is not binding on Declarant and may be amended by Declarant from time to time.

Section 20. "Mortgage" shall mean any mortgage or deed of trust covering any portion of the Properties given to secure the payment of a debt.

Section 21. "Mortgagee" shall mean the holder or holders of any Mortgage or Mortgages, or any other interest held as security for the performance of an obligation.

Section 22. "Owner/Member" shall be synonymous terms and shall mean the record holder of any Lot within Cypress Springs Estates.

Section 23. "Plans and Specifications" shall mean any and all documents designed to guide the construction, alteration or erection of any Improvement.

Section 24. "Property" shall mean and refer to CYPRESS SPRINGS ESTATES, PHASE ONE, PHASE TWO SECTION ONE AND VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, a subdivision of Kerr County, Texas, subject to this Declaration.

Section 25. "Single Family" shall mean and refer to a group related by blood, adoption, or marriage or a number of unrelated house mates equal to the number of bedrooms in a living unit.

Section 26. "Subdivision" shall mean and refer to the Property, as defined herein.

Section 27. "Subdivision Plat" shall mean and refer to the maps or plats of CYPRESS SPRINGS ESTATES, PHASE ONE filed for record in Volume 7, Page 12; PHASE TWO SECTION ONE filed and recorded in Volume 7, Pages 172-173, and VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, filed for record in Volume 7, Page 363, of the Plat Records of Kerr County, Texas, and any amendments thereof upon filing of same for record in the Real Property Records of Kerr County, Texas.

Section 28. "Transfer" shall mean and refer to the transfer of the surface estate of a Lot, from one legal entity to any department thereof or to another legal entity whether or not the owner of record changes.

## ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Incorporation of Plat. The subdivision plat of CYPRESS SPRINGS ESTATES PHASE ONE, PHASE TWO SECTION ONE, AND VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, dedicates for use as such subject to the limitations set forth therein, certain streets and easements shown thereon, and such subdivision plat further establishes certain dedications, limitations, reservations and restrictions applicable to the Property. All dedications, limitations, restrictions and reservations shown on the subdivision plat, to the extent they apply to the Property, being adopted in each contract, deed and conveyance executed or to be executed by or on behalf of Declarant, conveying each Lot within the Property.

The Property shall include the following:

**PHASE ONE:** According to the Plat thereof recorded in Volume 7, Page 12 of the Real Property Records of Kerr County, Texas

### LOTS

Lots 2-47, CYPRESS SPRINGS ESTATES, PHASE ONE, a subdivision containing 112.85 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No. 678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; and Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres (Exhibit A).

### COMMON AREAS

**COMMON AREAS** – Lot 1, CYPRESS SPRINGS ESTATES, PHASE ONE, a subdivision containing 112.85 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No. 678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; and Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres and more commonly known as 101 Cypress Estates Parkway, Ingram, Kerr County, Texas (Exhibit A).

**COMMON AREA ROADWAYS** – Being all of a certain tract or parcel of land containing 10.29 acres, more or less, out of Original Patent Surveys in Kerr County,

Texas as follows: Survey No. 679, James Watson Survey, Abstract No. 369, 9.42 acres and Survey No. 1351, W.M. Watson Survey, Abstract No. 718, 0.87 acres, part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County and as named on the plat as follows: CYPRESS ESTATES PARKWAY, OAK HAMPTON TRAIL, CRANBROOK COURT AND GLEN LAKES COURT (Exhibit B).

COMMON AREA DETENTION POND – Being all of a certain tract or parcel of land containing 4.58 acres, more or less, out of various Original Patent Surveys in Kerr County, Texas as follows: Survey No. 679, James Watson Survey, Abstract No. 369, 1.60 acres and Survey No. 1351, W.M. Watson Survey, Abstract No. 718, 2.98 acres, part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May and recorded in Volume 952 at Page 58 of the Real Property of Kerr County, Texas (Exhibit C).

**PHASE TWO, SECTION ONE:** According to the Plat thereof recorded in Volume 7, Pages 172-173 of the Plat Records of Kerr County Texas.

#### LOTS

Lots 48-92, CYPRESS SPRINGS ESTATES, Phase Two, Section One, a subdivision containing 148.68 acres, more or less, out of original patent surveys in Kerr County, Texas, as follows: Survey No. 678 of the W.S. Fessenden Survey, Abstract No. 147, 1.01 acres; Survey No. 679 of the James Watson Survey, Abstract No. 369, 106.11 acres; Survey No. 1351 of the W.M. Watson Survey, Abstract No. 718, 6.73 acres; and Survey No. 1575 of the G.C. And S.F. Ry. Co. Survey, Abstract No. 1083, 112.42 acres;

#### COMMON AREAS

COMMON AREAS – Being a 1.10 acre tract and a 4.24 acres tract located on Spring Lakes Parkway, CYPRESS SPRINGS ESTATES, Phase Two, Section One, in Kerr County, Texas.

COMMON AREA ROADWAYS – Being all roadways in CYPRESS SPRINGS ESTATES, Phase Two, Section One, in Kerr County, Texas.

**VISTAS ESCONDIDAS DE CYPRESS SPRINGS ESTATES:** According to the Plat thereof recorded in Volume 7, Page 363 of the Plat Records of Kerr County, Texas.

**LOTS**

Lots 93-153, VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES, a subdivision situated in Kerr County, Texas as shown, designated, and delineated on the plat recorded in Volume 7, Page 363, Plat Records of Kerr County, Texas.

**COMMON AREAS**

COMMON AREAS – Being Park 1, Park 2, and Park 3, as shown, designated and delineated on the Plat of Vistas Escondidas de Cypress Springs Estates, in Kerr County, Texas.

COMMON AREA ROADWAYS – Being all roadways in Vistas Escondidas de Cypress Springs Estates, in Kerr County, Texas.

All Common Areas subject to this Declaration are, however, specifically excepted from Article VIII, Use of Properties and Lots, and Article V, Covenant for Maintenance Assessment.

It has been deemed desirable, for the efficient preservation of values and amenities in the Property, to create an Association to which shall be delegated and assigned the powers of administering and enforcing the provisions of this Declaration including levying, collecting, and disbursing the assessments.

To exercise these functions, the CYPRESS SPRINGS ESTATES PROPERTY OWNERS ASSOCIATION, Inc., (hereinafter referred to as the "Association") a non-profit corporation created under the laws of the State of Texas, has been incorporated. The directors of the Association established By-Laws by which the Association shall be governed.

### ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Lot Owner of CYPRESS SPRINGS ESTATES, Phase One, CYPRESS SPRINGS ESTATES Phase Two Section One, and VISTAS ESCONDIDAS de CYPRESS SPRINGS ESTATES shall have a right to an easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every lot subject to the following provisions:

- (a) the right of the Association to grant or dedicate easements in, on, under or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property or any part thereof;
- (b) the right of the Association to prevent an Owner from planting, placing, fixing, installing or constructing any vegetation, hedge, tree, shrub, fence, wall, structure or improvement or store any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess the cost of such removal against the Owner responsible;
- (c) the right of Declarant (and its sales agents and representatives) to the nonexclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots within the Property, which right Declarant hereby reserves; provided, however, that such use shall not continue for a period of more than ten (10) years after conveyance of the Common Areas within the Property to the Association; provided further, that no such use by Declarant or its sales agenda or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;
- (d) The right of the Association to limit the number of guests of Owners utilizing the recreational facilities and Improvements owned by the Association and provided upon Common Areas;

- (e) the right of the Association to establish uniform rules and regulations pertaining to the use of any Common Area owned by the Association; and
- (f) the right of the Association to suspend the voting rights of an Owner and the Owner's right to use any common area of the Association during the period the Owner is in default in excess of thirty (30) days in the payment of any maintenance charge assessment against a Lot and to suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration, its By-Laws, at law or in equity on account of any such default or infraction.

Section 2. Delegation of Use. Owners subject to an easement of enjoyment in and to the Common Areas may delegate, in accordance with the By-Laws, their right to enjoyment of the Common Areas to members of their families, tenants or contract purchasers who reside in Owner's residential dwelling.

Section 3. Waiver of Use. No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas thereof or by abandonment of Owner's Lot.

## ARTICLE IV MEMBERSHIP

Section 1. Membership. Each person or entity who is a record Owner of any of the Lots within Cypress Springs Estates is a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Lot in the said subdivision. Ownership of a Lot constitutes one membership, and the ownership of more than one Lot shall entitle the owner of multiple lots to as many memberships as he/she/it owns. The terms Member and Owner shall be synonymous of each other, and shall also include the type of membership set out below within the meaning of the terms Owner and/or Member. Nothing herein shall entitle the holder of a mere security interest to membership.



- (a) There shall be two types of memberships. Class A members shall be all Owners with the exception of Declarant and/or its successor(s). Class A members shall be entitled to one vote on all Association matters. In the event that a Lot is owned by more than one person or entity each shall be entitled to the privileges of membership, except that only one vote may be cast for each Lot. Class B membership shall be exclusively for the Declarant, and as such Class B member the Declarant shall be entitled to three (3) votes for each Lot owned by the Declarant.
- (b) Any place in the said Covenants, Conditions and Restrictions, and in the By-Laws the term Owner is used, that term shall include both Class A and Class B members and shall, for the purposes of any number or percentage used in conjunction with the term owner, mean the number of votes assigned to the type of Lot ownership, that is Class A or Class B.
- (c) Class B type membership shall end at the end of the Development Period, and thereafter all memberships shall be Class A.

**Section 2. Quorum, Notice and Voting Requirements.**

- (a) Subject to the provisions of Paragraph (b) of this Section, any action taken at a meeting of the Members shall require the assent of the majority of all of the votes of those who are voting in person or by proxy, regardless of class, at a meeting duly called, written notice of which shall be given to all Members non less than ten (10) days nor more than fifty (50) days in advance.
- (b) The quorum required for any action referred to in Paragraph (a) of this Section shall be as follows:

The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, a two-thirds  $\frac{2}{3}$  majority of the votes of all Members, regardless of class, shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the By-Laws or this Declaration. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirement herein set forth, and the required quorum at such second meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting; provided, however, that no such second meeting shall be held more than sixty (60) days following the first meeting.

**ARTICLE V**  
**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 the 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:

- (a) annual assessments or charges; and
- (b) special assessments which are to be established and collected as hereinafter provided.

The regular and special assessments, together with interest, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, penalty, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. Personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purposes of Assessment. The Assessments levied by the Association shall be used exclusively for (i) the purpose of promoting the recreation, comfort, health, safety and welfare of the Members and/or the residents of the Properties; (ii) maintaining the Common Properties; (iii) enhancing the quality of life in the Properties and the value of the Properties; (iv) improving and maintaining the Common Properties, improvements and facilities devoted to or directly related to the use and enjoyment of the Common Properties, including, but not limited to, the payment of taxes on the Common Properties and insurance in connection therewith and the repair, replacement and additions thereto; (v) paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Properties; (vi) carrying out the powers and duties of the Board of Directors of the Association as set forth in this Declaration and the By-Laws of the Association, including carrying insurance; (vii) carrying out the purposes of the Association as stated in its Articles of Incorporation; (viii) carrying out the powers and duties relating to the Architectural Control Committee, after Declarant has delegated or assigned such powers and duties to the Association; and (ix) paying legal fees and other costs associated with enforcement of the Covenants and Restrictions.

Section 3. Annual Maintenance Assessments.

(a) The Board of Directors shall determine the amount of the annual maintenance assessments for each year, which assessments may include a reserve fund for working capital and for maintenance, repairs and replacements of the Common Properties Improvements and/or facilities.

(b) Subject to the provisions of Section 3 hereof, the rate of annual maintenance assessments may be increased by the Board. The Board may, after consideration of current maintenance, operational and other costs and the future needs of the Association, fix the annual maintenance assessments for any year at a lesser amount than that of the previous year.

(c) An increase in the rate of the annual maintenance assessments as authorized by Section 3 (b) hereof in excess of ten percent (10%) of the preceding year's annual maintenance assessments must be approved by two-thirds (2/3) Members, duly called entitled to vote in person or by Proxy at a meeting called for this purpose.

(d) When the annual maintenance assessment is computed for Lots, all or a portion of such annual maintenance assessment shall be payable to the Association by the Member according to the status of the Lot owned by such Member as follows:

- (i) As to a Lot owned by a Class A Member, the full annual maintenance assessment shall be payable.
- (ii) As to a Lot owned by a Class B Member/ Declarant, one-quarter (1/4) of the annual maintenance assessment shall be assessed. However, said assessments shall be made only in the event and then only to the extent that assessments from Lots owned by Class A Members are not sufficient to meet the operating budget of the Association. If there is a deficit in the annual operating budget of the Association for a given calendar year, after assessment of Declarant's unimproved Lots and funds are not available to the Association from prior year budget surpluses, then Declarant shall contribute the funds necessary to cover the deficit. Declarant's obligation to fund these budget deficits as described hereinabove shall terminate with the Development Period.

- (iii) A Lot assessment shall be assessed against a builder, instead of Declarant when a Lot is made available for improvement to said Builder and there is written confirmation, reservation, or conveyance of said Lot by Declarant in favor of Builder.

(e) Notwithstanding anything herein contained to the contrary, prior to January 1, 2007, the maximum annual maintenance assessment chargeable against any Lot for which a full assessment is payable shall not exceed \$480 per year.

(f) The Board of Directors may provide that annual maintenance assessments shall be paid annually on a calendar year basis. Not later than thirty (30) days prior to the beginning of each calendar year of the Association, the Board shall (i) estimate the total common expenses to be incurred by the Association for the forthcoming fiscal year, (ii) determine, in a manner consistent with the terms and provisions of this Declaration, the amount of the annual maintenance assessments to be paid by each Member, and (iii) establish the date of commencement of the annual maintenance assessments. Written notice of the annual maintenance assessments to be paid by each Member and the date of commencement thereof shall be sent to every Member, but only to one (1) joint Owner. Each Member shall thereafter pay to the Association his annual maintenance assessment in such manner as determined by the Board of Directors.

(g) The annual maintenance assessments shall include reasonable amounts, as determined by the Board, collected as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Properties. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be deposited in a separate bank account to be held in trust for the purposes for which they were collected and are to be segregated from and not commingled with any other funds of the Association. Assessments collected as reserves shall not be considered to be advance payments of regular annual maintenance assessments.

#### Section 4. Special Care Assessments and Special Individual Assessments.

(a) In addition to the annual maintenance assessments authorized in Section 3 hereof, the Board of Directors of the Association may levy in any calendar assessment year a special capital assessment for the purpose of (i) defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Properties or Common Properties, including the necessary fixtures and personal property related thereto (ii) maintaining portions of the Common Properties and improvements thereon, or (iii) carrying out other purposes of the Association; provided,

however, that any such special capital assessment levied by the Association shall have the approval of two-thirds (2/3) Members duly called to vote in person or by Proxy at a meeting duly called for this purpose. Any special capital assessment levied by the Association shall be paid by the Members directly to the Association on such date or dates as determined by the Board of Directors. All such amounts collected by the Association may only be used for the purposes set forth in this Section and shall be deposited by the Board of Directors in a separate bank account to be held in trust for such purpose. These funds shall not be commingled with any other funds of the Association.

(b) The Board of Directors of the Association may levy special individual assessments against one or more Owners for (i) reimbursement to the Association of the costs for repairs to the Properties or Common Properties and improvements thereto occasioned by the willful or negligent acts of such Owner or Owners and not ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against an Owner or Owners relative to such Owner's failure to comply with the terms and provisions of this Declaration the By-Laws of the Association or any rules or regulation promulgated hereunder. Any special individual assessment levied by the Association shall be paid by the Owner or Owners directly to the Association. All amounts collected by the Association as special individual assessments under this Section shall belong to and remain with the Association.

Section 5. Uniform Rate of Annual Maintenance Assessments and Special Capital Assessments. Both annual maintenance assessments and special capital assessments (excepting therefrom special individual assessments) must be fixed at a uniform rate for all Lots, and be payable as set forth herein.

Section 6. Date of Commencement of Assessments; Due Dates; No offsets. The annual maintenance assessments provided for herein shall commence on the date fixed by the Board of Directors of the Association to be the date of commencement and, except as hereinafter provided, shall be payable annually. The first annual maintenance assessment shall be made for the balance of the calendar year in which it is levied. The amount of the annual maintenance assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual maintenance assessment provided for in Section 3 hereof as the remaining number of months in that year bears to twelve; provided, however, that if the date of commencement falls on other than the first day of a month, the annual maintenance assessment for such month shall be prorated by the number of days remaining in the month. The due date or dates, if to be paid in installments, of any

special capital assessment or special individual assessment under Section 4 hereof shall be fixed in the respective resolution authorizing such assessments. All assessments shall be payable in the amount specified by the Association and no offsets against such amount shall be permitted for any reason.

Section 7. Duties of the Board of Directors with Respect to Assessments.

(a) The Board of Directors of the Association shall fix the date of commencement and the amount of the annual maintenance assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of all assessments shall be delivered or mailed to every Owner subject thereto. Such notice shall be sent to each Owner at the last address provided by each Owner, in writing, to the Association.

(c) The omission of the Board of Directors to fix the assessments within the time period set forth above for any year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

Section 8. Non-Payment of Assessment.

(a) Delinquency – Any Assessment, or installment thereof, which is not paid in full when due shall be delinquent on the day following the due date (herein, "delinquency date") as specified in the notice of such Assessment. The Association shall have the right to reject partial payment of an Assessment and demand full payment thereof. If any Assessment or part thereof is not paid within ten (10) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from and after the delinquency date until paid at a rate equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum lawful rate.

(b) Lien – The unpaid amount of any Assessment not paid by the delinquency date shall, together with the interest thereon as provided in Section 8 (a) hereof and the cost of collection thereof, including reasonable attorneys' fees, become a continuing lien

and charge on the Lot of the non-paying Owner, which shall bind such Lot in the hands of the Owner, and his heirs, executors, administrators, devisees, personal representatives, successors and assigns. The lien shall be superior to all other liens and charges against the Lot, except only for tax liens and the lien of any bona fide first mortgage or first deed of trust now or hereafter placed upon such Lot. A subsequent sale or assignment of the Lot shall not relieve the Owner from liability for any Assessment made prior to the date of sale or assignment and thereafter becoming due nor from the lien of any such Assessment. The Board shall have the power to subordinate the lien securing the payment of any Assessment rendered by the Association to any other lien. Such power shall be entirely discretionary with the Board. As hereinbefore stated, the personal obligation of the Owner incurred at the time of such Assessment to pay such Assessment shall remain the personal obligation of such Owner and shall not pass to such Owner's successors in title unless expressly assumed by them in writing. Liens for unpaid Assessments shall not be affected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may exempt himself from liability for such Assessments or waive or otherwise escape liability for the Assessments by non-use of the Common Properties or abandonment of his lot. To evidence any lien, the Association shall prepare a written notice of lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot covered by such lien. Such notice shall be executed by one of the officers of the Association and shall be recorded in the Office of the County Clerk.

(c) Remedies – The lien securing the payment of the Assessments shall attach to the Lot belonging to such non-paying Owner with the priority set forth in this Section. Subsequent to the recording of a notice of the Lien, the Association may institute an action at law against the Owner or Owners personally obligated to pay the Assessment and/or for the foreclosure of the aforesaid lien. In any foreclosure proceeding the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association. In the event an action at law is instituted against the Owner or Owners personally obligated to pay the Assessment there shall be added to the amount of any such Assessment:

- (i) the interest provided in this Section,
- (ii) the costs of preparing and filing the complaint in such action,
- (iii) the reasonable attorneys' fees incurred in connection with such action, and any other costs of collection;
- (iv) any other costs of collection;

and in the event a judgment is obtained, such judgment shall include interest on the Assessment as provided in this Section and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

Each Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents or trustees the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid liens by all methods available for the enforcement of such liens, including non-judicial foreclosure pursuant to Section 51.002 of the Texas Property Code, and such Owner hereby expressly grants to the Association the private power of sale in connection with said liens. The Association may also suspend the Association membership and voting rights of any Owner who is in default in payment of any Assessment in accordance with this Declaration and/or the By-Laws.

(d) Notice to Mortgagees -- The Association may, and upon the written request of any mortgagee holding a prior lien on any part of the Properties, shall report to said mortgagee any Assessments remaining unpaid for longer than thirty (30) days after the delinquency date of such Assessment.

Section 9. Subordination of the Lien to Mortgagees. The lien securing the payment of the Assessments shall be subordinate and inferior to the lien of any bona fide first lien mortgage or deed of trust now and hereafter recorded against any Lot; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale, whether public or private, of such property pursuant to the terms and conditions of any such mortgage or deed of trust. Such sale shall not relieve the new Owner of such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien securing the payment of any subsequent assessment.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created in Section 3 and Section 4 (a) hereof:

- (a) All properties dedicated and accepted by the local public authority and devoted to public use.
- (b) The Declarant or Associations interest in Common Properties (however, this shall not exempt or reduce the Assessment payable by an Owner of a Lot that is merely encumbered by an easement that is part of the Common Properties).



Section 11. Estoppel Information from Board with Respect to Assessments. The Board shall upon request furnish to any Owner liable for an Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board of Directors of the Association for the issuance of such certificates.

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

Section 1. Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors. The Board of Directors shall be selected in accordance with the Articles of Incorporation and By-Laws of the Association. The Board, for the benefit of the Properties, the Common Properties and the Owners, shall provide and pay for, out of the fund(s) collected by the Association pursuant to Article 3 above, the following:

(a) Care and preservation of the Common Properties and the furnishing and upkeep of any desired personal property for use in the Common Properties. Expenditures for the repair or installation of capital improvements, not included in the annual maintenance budget, may be paid from the reserve fund as specifically provided in Section 6.05 herein.

(b) Care and maintenance of the landscaping, screening walls, fencing and entry features which may be constructed by Declarant on the Common Properties or on private property. Maintenance includes all repair, rebuilding or cleaning deemed necessary by the Board of Directors.

(c) Maintenance of interior/exterior grounds, drives, parkways, private streets and access areas, including care of trees, shrubs and grass, the exact scope of which shall be further specified by the Board from time to time. In particular, the Board shall be empowered to contract with persons or entities who shall be responsible for the maintenance of landscaping, trees, shrubs, grass and like improvements. Maintenance services contracted for by the Board in accordance with this paragraph shall be paid for out of Association funds.

(d) The services of a person or firm to manage and/or provide consultation to the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association.

(e) Legal and accounting services.

(f) A policy or policies of insurance ensuring the Association, its officers and directors against any liability to the public or to the Owners (and/or their invitees or tenants) incident to the operation of the Association, including, without limitation, officers' and directors' liability insurance.

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

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

(i) Any other materials, supplies, insurance or property owned by the Association, furniture, labor, services, maintenance, repairs, alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

(j) To execute all declarations of ownership for tax assessment purposes and to pay all taxes with regard to the Common Properties.

(k) To enter into agreements or contracts with insurance companies, taxing authorities and the holders of mortgage liens on one or more Lots with respect to (i) taxes on the Common Properties and (ii) insurance coverage of the Common Properties, as they relate to the assessment, collection and disbursement process envisioned in this Declaration.

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

(m) To enter into contracts, maintain one or more bank accounts, and generally, to have all the powers necessary or incidental to the operation and management of the Association and the Common Properties, expressly including the power to enter into management and maintenance contracts.

(n) If, as, and when the Board, in its sole discretion, deems necessary it may take action to protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements.

(o) To make reasonable rules and regulations for the operation and use of the Common Properties and to amend them from time to time.

(p) To make available to each Owner, within one hundred twenty (120) days after the end of each year, an audited annual report.

(q) Pursuant to Article VII herein, 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 Members in proportionate amounts to cover the deficiency.

(r) If, as, and when the Board, in its sole discretion, deems necessary, it may take action to enforce the provisions of this Declaration and any rules made hereunder and to enjoin and/or seek damages from any Owner for violation of such provisions or rules.

(s) Have the authority to contract with a management company for the performance of maintenance and repair and for conducting other activities on behalf of the Association, provided that such contract shall be limited to a duration of one (1) year. Any such management agreement shall provide that it will be terminable by the Association without a termination fee for cause upon thirty (30) days written notice or without cause by either party upon ninety (90) days written notice.

Section 2. Board Powers. The Board shall have the exclusive right to contract for all goods, services and insurance, and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein.

Section 3. Liability Limitations. No Member, officer of the Association or member of the Board of Directors of the Association shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of another Member, whether such other Member was acting on behalf of the Association or otherwise. Neither Declarant, the Association, its directors, officers, agents, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same.

Section 4. Reserve Funds. The Board may establish reserve funds, for such purposes as may be determined by the Board, which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and are not net income to the Association. Expenditures from any such fund will be made at the direction of the Board. The reserve fund provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the subdivision, and maintaining the subdivision and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

## ARTICLE VII INSURANCE; REPAIR AND RESTORATION

Section 1. Right to Purchase Insurance. The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, the improvements thereon and appurtenant thereto, for the interest of the Association and of all Members thereof, in such amounts and with such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location and use to the subject property. Such insurance may include, but need not be limited to:

- (a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the insurance carrier.
- (b) Public liability and property damage insurance on a broad form basis.
- (c) Fidelity bond for all directors, officers and employees of the Association having control over the receipt or the disbursement of funds in such penal sums as shall be determined by the Association in accordance with its By-Laws.
- (d) Officers and directors liability insurance.

**Section 2. Insurance Proceeds.** Proceeds of insurance shall be disbursed by the insurance carrier to the Association or contractors designated by the Association as the Board of Directors may direct. The Association shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties.

**Section 3. Insufficient Proceeds.** If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided for in Article V of this Declaration to cover the deficiency. If the insurance proceeds are insufficient to repair or replace any loss or damage for which an Owner is bound hereunder, such Owner shall, as such Owner's undivided responsibility, pay any excess costs of repair or replacement.

**Section 4. Mortgagee Protection.** There may be attached to all policies of insurance against loss or damage by fire and other hazards, a mortgagee's or lender's loss payable clause; provided, however, that amounts payable under such clause to the mortgagee may be paid to the Association to hold for the payment of costs of repair or replacement, subject to the provisions of Section 2 hereof. The Association shall be responsible to hold said monies or to collect additional monies if the proceeds are insufficient to pay for the cost of all repairs or replacements and shall ensure that all mechanics', materialmen's and similar liens which may result from said repairs or replacements are satisfied.

**Section 5. Destruction of Improvements on Individual Lots.** In the event of destruction (total or partial) to the improvements on any individual Lot due to fire or any other cause each Owner covenants and agrees to clear and remove any and all debris resulting from such damage within two (2) months after the date that the damage occurs and to complete all necessary repairs or reconstruction of the damaged improvements within one (1) year after the date that the damage occurs.

**ARTICLE VIII**  
**USE OF PROPERTIES AND LOTS; PROTECTIVE COVENANTS**

Section 1. Residential Purposes. Each Lot (including land and improvements) shall be used and occupied for single family residential purposes only. No Owner or other occupant shall use or occupy such Owner's Lot, or permit the same or any part thereof to be used or occupied, for any purpose other than as a private single family detached residence for the Owner or such Owner's tenant and their families and domestic servants employed on the premises. As used herein the term "single family residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of any Lot for a duplex, duplex apartment, garage apartment, or other apartment use, commercial or professional uses.

Section 2. Minimum Lot Area. No Lot shall be resubdivided; provided, however, that Declarant shall have and reserves the right, at any time, or from time to time, upon the joinder and consent of the appropriate county and/or municipal authorities, and with the joinder and consent of the directly affected Owners, to file a replat of the Plat to effect a reconfiguration of any Lots then owned by Declarant.

Section 3. Minimum Floor Space. All floor areas referenced below are for air-conditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling. Each dwelling constructed on any Lot in the subdivision shall contain a minimum of two thousand four hundred (2,400) square feet. If a dwelling has more than one story, then the dwelling shall contain a minimum one thousand eight hundred (1,800) square feet on the first floor.

Section 4. Combining Lots. Any person owning two or more adjoining Lots may replat such Lots into a single building location for the purpose of constructing one (1) residential structure thereon (the plans and specifications therefor being approved as set forth in this Declaration) and such other improvements as are permitted herein; provided, however, any such replat must comply with the rules, ordinances and regulations of any governmental authority having jurisdiction over the Properties. In the event of any such replat, the replatted Lots shall be deemed to be a single Lot for purposes of applying the provisions of this Declaration. Any such replat shall give consideration to easements as shown and provided for on the Plat and any required abandonment or relocation of any such easements shall require the prior written approval of the Association as well as the prior written approval of any utility company having the right to the use of such easements. Combining of portions of Lots into a single building site is prohibited. Any revision of Lot sizes may be made only with Architectural Control Committee written approval.

**Section 5. Setback Requirements and Building Location.** All front, side and rear setbacks must be approved by the Architectural Control Committee, and must meet the following requirements – 50 feet Front and Rear – 20 feet any Side. The location of the main residence on each Lot and the facing of the main elevation with respect to the street shall be subject to the written approval of the Architectural Control Committee. No building or improvement of any type shall be erected on any Lot nearer to the property lines indicated by the minimum building setback line of 50 feet Front and Rear or 20 feet any Side.

**Section 6. Height.** No building or improvement on any Lot shall exceed more than three (3) stories in height, the maximum height allowed.

**Section 7. Driveways.** Each Lot must be accessible to the adjoining street by a driveway suitable for such purposes and approved in writing as to design, materials and location by the Architectural Control Committee before the residential improvement is constructed.

**Section 8. Access.** No driveways or roadways may be constructed on any Lot to provide access to any adjoining Lot except as expressly provided on the Plat, or otherwise approved in writing by the Architectural Control Committee.

**Section 9. Drainage.** Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a lot has been substantially completed, the Lot will be graded so that surface water will flow to streets, alleys, drainage easements, or Common Properties, and in conformity with the general drainage plans for the subdivision. No dams shall be constructed nor any other alteration or change be made in the course or flow of any waterway or drainage course crossing or abutting any Lot, without the prior written consent of the Architectural Control Committee.

**Section 10. Erosion Control.** During the construction of improvements on the Lots and prior to the landscaping of such Lots, measures will be taken to prevent excessive erosion of Lots, causing silt to be deposited in streets.

**Section 11. Utilities.** Each residence situated on a Lot shall be connected to the water and electrical lines as soon as practicable after same are available at the Lot line. One or more portable toilets as determined by the Architectural Control Committee will be required during building construction. The installation and use of any propane,

butane, LP Gas or other gas taken, bottle or cylinder of any type (except portable gas grills), shall require the prior written approval of the Architectural Control Committee, and the Architectural Control Committee requires that such tank, bottle or cylinder be installed underground. Any control boxes, valves, connections, utility risers or refilling or fueling devices shall be completely landscaped with shrubbery so as to obscure their visibility from the streets.

**Section 12. Construction Requirements.**

- (a) The exterior surface of all residential dwellings shall be constructed of glass, brick, brick veneer, stone, stone veneer, stucco, or other materials approved by the Architectural Control Committee. It is specifically required that the exterior wall area of each residence located with the Property shall not have less than seventy-five percent (75%) stone or stucco construction.
- (b) Roofing materials may include composition shingles (having a minimum warranty of thirty (30) years) slate, clay or concrete tiles; or they may be metal, left natural or painted a color approved by the Architectural Control Committee, using standing or battened seams. Composition shingle roofs shall be comparable in color to weathered wood shingles and comparable in surface textural appearance to wood shingles. Colors for slate, clay, metal or concrete tile roofs shall be approved in writing individually by the Architectural Control Committee. Any other type roofing material shall be permitted only at the sole discretion of the Architectural Control Committee upon written request.
- (c) No above ground-level swimming pools shall be installed on any Lot.
- (d) All exterior construction of the primary residential structure, garage, porches, and any other appurtenances or appendages of every kind and character on any Lot and all interior construction (including, but not limited to, all electrical outlets in place and functional, all plumbing fixtures installed and operational, all cabinet work, all interior walls, ceilings, and doors shall be completed and covered by paint, wallpaper, paneling, or the like, and all floors covered by wood, carpet, tile or other similar floor covering) shall be completed not later than one (1) year following the commencement of construction. For the purposed hereof, the term "commencement of construction" shall be deemed to mean the date on which the foundation forms are set.



- (e) The header curb adjacent to the asphalt must be concrete and scored with the same scoring pattern as the curb. Any portion of curbing which is damaged, whether during construction or afterwards, shall be repaired as soon as practicable at the sole and exclusive expense of and by the Owner of the Lot appurtenant to such damaged curb.

Section 13. Garages. Each residential dwelling erected on any Lot shall provide garage space of a minimum of two (2) conventional automobiles. No garage shall face a residential street or any of the Common Properties unless approved in writing by the Architectural Control Committee. Porte caches must be approved in writing by the Architectural Control Committee. Detached type garages shall be allowed on the following listed Lots but garages must be an integral part of the volume of the house so as to avoid screening views from adjacent Lots:

CYPRESS SPRINGS ESTATES – PHASE ONE

Lots 2-6    Lots 7-11    Lots 40-47

CYPRESS SPRINGS ESTATES – PHASE TWO, SECTION ONE

Lots 48-50    Lots 81-88

Section 14. Accessory Buildings. Accessory buildings (including, without limitation, servants quarters, storage rooms, barns, and sheds) must be approved in writing by the Architectural Control Committee. Any accessory building should be constructed to compliment and be compatible with the main dwelling and the character of the community. Accessory buildings shall be a minimum of eight (8) feet in height and one hundred and ninety two (192) square feet in area equal to twelve by sixteen (12x16) in size, and can only be constructed at the time of or following the construction of the main residential dwelling.

Section 15. Landscaping and Sprinkler System. Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, shall be subject to the written approval of the Architectural Control Committee. Weather permitting, the front of each Lot shall be fully landscaped within ninety (90) days after the occupancy of the constructed residence thereon. Each Lot Owner shall be responsible for maintaining his own landscaping in a healthy condition.

Section 16. Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot without the prior written approval of the Architectural Control Committee and the design of location and materials used in the construction of fences shall be subject to

the prior written approval of the Architectural Control Committee. No wire type fence shall be erected on any Lot. All service and sanitation facilities, clothes lines, wood piles, tool sheds and air conditioning equipment must be enclosed within fences, walls and/or landscaping so as not to be visible from residential streets. Fencing shall be constructed in accordance with the following:

- (a) Fencing constructed along the drainage control device for the following lots shall be black wrought iron and only as approved by the Architectural Control Committee, with a maximum height of six (6) feet and approved by the Architectural Control Committee for design:

**CYPRESS SPRINGS ESTATES – PHASE ONE**

Lots 2-11    Lots 40-47

**CYPRESS SPRINGS ESTATES – PHASE TWO, SECTION ONE**

Lots 48-50    Lots 81-88

Section 17. Trash Receptacles and Collection. Each Lot Owner shall make appropriate arrangements for collection and removal of garbage and trash on a regular basis. If the Owner fails to make such provisions, the Association may do so and assess the costs thereof to the Owner. Each and every Owner shall observe and comply with any and all regulations or requirements promulgated by the City, and/or the Association, in connection with the storage and removal of trash and garbage. All Lots shall at all times be kept in a healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage, or waste matter shall be kept in adequate containers and screened from view. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without unreasonable delay, until completion of the improvements, after which the materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

Section 18. Exterior Lighting. No exterior light, including landscape lighting, shall be installed or maintained on any Lot without the prior written approval of the Architectural Control Committee. Further, and notwithstanding such prior written approval, upon being given notice by the Architectural Control Committee that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or shield the same in such a way that it is no longer objectionable.

Section 19. Window Coolers. No window or wall type air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residential dwelling or any accessory building.

Section 20. Antennas Restrictions. No radio or television aerial wires or antennas shall be maintained on the outside of any building nor shall any free standing antennas of any style be permitted. All radio or television aerial wires or antennas must be built within the main structure and must not be visible from outside of such structure. The location of all satellite dishes (including mini-dishes) shall be subject to the prior written approval of the Architectural Control Committee. In general, no mini-dish satellite should be plainly visible, and must be screened so that they are not visible from public streets, Common Properties or adjoining Lots.

Section 21. Temporary Structures and Vehicles. No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent, shack, barn or any other structure or building, other than the residence to be built thereon, shall be placed on any Lot, either temporarily or permanently, and no residence, house, garage or other structure appurtenant thereto shall be moved upon any Lot from another location, except for a sale, pre-sale or construction trailer; provided, however, that Declarant reserves the exclusive right to erect, place and maintain, and to permit buildings to erect, place and maintain such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements on the Properties. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to use a residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operations on the Properties, but in no event shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of his last residence on the Properties. Any truck, car, bus, boat, boat trailer, trailer, mobile home, campmobile, recreational vehicle, camper or any vehicle other than conventional automobile shall be stored, placed or parked screened and concealed from view from adjoining Lots, Common Properties, and streets, unless approved in writing by the Architectural Control Committee. Recreational equipment or structures (for example, play houses, tree houses, swing sets, trampolines, batting cages, etc.) should be screened and concealed from view from adjoining Lots, Common Properties, and streets, and must be approved in writing by the Architectural Control Committee.

Section 22. Parking. On-street parking is restricted to approved deliveries, pick-up or short-time guests and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Board of Directors. Parking in driveways is permitted.

Section 23. Signs, Advertisements and Billboards. No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of a Lot except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely for advertising a house for sale and except signs used by Declarant or a builder to advertise the Lot during the construction and sales period. No sign shall be permitted on any unimproved Lot.

Section 24. Removal of Soil and Trees – Pruning. The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lots. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting from the ACC. No trees shall be pruned during the months of February through May, without obtaining written approval for such pruning from the ACC.

Section 25. Drilling and Mining Operations. No oil drilling, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 26. Offensive Activities; Animals and Livestock. No noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Owners. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential Lot, except that, subject to the requirements of applicable laws, (a) dogs, cats, fish, birds or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes; (b) no more than two (2) horses may be kept on each of the following Lots (these Lots are unique because of their large size and/or location adjacent to the open space:

CYPRESS SPRINGS ESTATES, PHASE TWO, SECTION ONE  
Lot 80 and Lot 92

Section 27. Duty of Maintenance.

- (a) Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to the following:
1. Prompt removal of all litter, trash, refuse and waste;
  2. Lawn mowing on a regular basis;
  3. Tree and shrub pruning;
  4. Watering landscaped areas;
  5. Keeping exterior lighting and maintenance facilities in working order;
  6. Keeping lawn and garden areas alive, free of weeds, and attractive;
  7. Keeping parking areas, driveways, curbs and roads in good repair;
  8. Complying with all government health and police requirements;
  9. Repair of exterior damages to improvements;
  10. Cleaning of landscaped areas lying between street curbs and Lot lines, unless such streets or landscaped areas are expressly designated to be Common Properties maintained by the Association; and
  11. Repainting of improvements.
  12. The following Lots shall have the additional duty to maintain the perimeter portion of any artificial pond which shall lie on their property.

## CYPRESS SPRINGS ESTATES – PHASE ONE

Lots 2-11      Lots 40-47

## CYPRESS SPRINGS ESTATES – PHASE TWO SECTION ONE

Lot 48-50      Lots 81-88

- (b) If, in the opinion of the Association, any such Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Association may give such person written notice of such failure and such person must within ten (10) days after receiving such notice, perform the repairs and maintenance or make arrangements with the Association for making the repairs and maintenance required. Should any such person fail to fulfill

this duty and responsibility within such period, then the Association, through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such repair and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person.

- (c) Notwithstanding the provisions of Section 27(b) above, if, at any time, an Owner shall fail to control weeds, grass and/or other unsightly growth, the Association shall have the authority and right to go onto the Lot of such Owner for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a sum up to two (2) times the actual cost to the Association for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. If, at any time, weeds or other unsightly growth on the Lot exceed twelve (12) inches in height, the Association shall have the right and authority to mow and clean the Lot, as aforesaid.
- (d) The Owners and occupants (including lessees) of any Lot on which work is performed pursuant to Sections 27 (b) and (c) above shall, jointly and severally, be liable for the cost of such work (such costs constituting a special individual assessment as specified in Article V Section 4 hereof) and shall promptly reimburse the Association for such cost. If such Owner or occupant shall fail to reimburse the Association within thirty (30) days after receipt of a statement for such work from the Association, then said indebtedness shall be a debt of all said persons, jointly and severally, and shall constitute a lien against that portion of the Properties on which said work was performed. Such lien shall have the same attributes as the lien for assessments and special assessments set forth in this Declaration, and the Association shall have the identical powers and rights in all respects, including but not limited to the right of foreclosure.

Section 28. Maintenance of Common Properties. The Common Properties and all improvements placed or erected on the Common Properties shall be maintained by the Association.

## ARTICLE IX ARCHITECTURAL CONTROL COMMITTEE

Section 1. Architectural Control Committee. The Architectural Control Committee, shall be composed of three (3) or more individuals selected and appointed by the Declarant. At the completion of the Development Period, the Architectural Control Committee shall be composed of such individuals selected by a vote of the Members. The Architectural Control Committee shall use its best efforts to promote and ensure a high level of quality, harmony and conformity throughout the Properties. The Architectural Control Committee shall function as the representative of the Owners for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential development.

A majority of the Architectural Control Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Architectural Control Committee, the remaining members shall have full authority to designate and appoint a successor. No member of the Architectural Control Committee, nor their designated representative, shall be entitled to any compensation for services performed hereunder nor be liable for claims, causes of action or damages (except where occasioned by gross negligence or arbitrary and capricious conduct) arising out of services performed, actions taken, or inactions in connection with any undertaking, responsibility, or activity hereunder or request for action hereunder. At any time, the Declarant may delegate and assign to the Board of Directors, all of the Declarant's power and right to change the membership of the Architectural Control Committee, to withdraw or add powers and duties from or to the Architectural Control Committee, or to restore the powers and duties of the Architectural Control Committee. Such action by the Declarant shall be effective upon recordation of a written instrument properly reflecting same in the Office of the County Clerk.

Section 2. Architectural Approval. No building, structure, fence, wall or improvement of any kind or nature shall be erected, constructed, placed, altered, changed or modified on any Lot until the plot plan showing the location of such building, structure, paving or improvement, construction plans and specifications thereof and landscaping and grading plans therefor have been submitted to and approved in writing by the Architectural Control Committee as to : (i) location with respect to Lot lines, topography, and finished grades elevation, (ii) conformity and harmony of external design, color, texture, type and appearance of exterior surfaces and landscaping with existing structures and existing landscaping, (iii) quality of workmanship and materials,

adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets, and (iv) the other standards set forth within this Declaration. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials or colors of proposed exterior surfaces.

Final plans and specification shall be submitted in duplicate to the Architectural Control Committee for approval or disapproval. At such time as the plans and specifications meet the approval of the Architectural Control Committee, one complete set of plans and specifications will be retained by the Architectural Control Committee and the other complete set of plans will be marked "Approved" and returned to the Owner. If found not to be in compliance with these covenants and Restrictions, one set of such plans and specifications shall be returned marked "Disapproved", accompanied by a reasonable statement of items found not to comply with these Covenants and Restrictions. Any modification or change to the approved set of plans and specifications which materially affects items (i) through (iv) of the preceding paragraph must again be submitted to the Architectural Control Committee for its inspection and approval. The Architectural Control Committee's approval or disapproval as required herein shall be in writing. If the Architectural Control Committee or its designated representative fails to approve or disapprove such plans and specifications within sixty (60) days after they have been submitted, the Architectural Control Committee approval shall be presumed; provided, however, that nothing in this paragraph shall affect in any way the method of seeking or granting variances, as described in Section 3 hereof, nor shall any failure of the Architectural Control Committee to act on a variance request within any particular period of time constitute the granting or approval of any such variance request.

Upon completion of construction, a final as-built survey (with finished grad elevations) will be submitted to the Architectural Control Committee.

The Architectural Control Committee is authorized and empowered to consider and review any and all aspects of dwelling construction, construction of other improvements and location, quality and quantity of landscaping on the Lots, and may disapprove aspects thereof which may, in the reasonable opinion of the Architectural Control Committee, adversely affect the living enjoyment of one or more Owner(s) or the general value of the Properties. Also, the Architectural Control Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Architectural Control Committee. The Architectural Control Committee may, from time to time, publish and



promulgate architectural standard bulletins which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration. Such bulletins shall supplement these Covenants and Restrictions and are incorporated herein by reference. The Architectural Control Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of these Covenants and Restrictions.

Section 3. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install improvements which are in variance from the architectural standards, the Covenants and Restrictions, which are provided in this Declaration or which may be promulgated in the future. In any case, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community; provided, however, in no event shall any such variance reduce required floor area. No member of the Architectural Control Committee shall be liable to any Owner or other person claiming by, through, or on behalf of any Owner, for any claims, causes of action, or damages arising out of the granting or denial of, or other action or failure to act upon, any variance requested by an Owner or any person acting for or on behalf of any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the Covenants and Restrictions, architectural standards provided hereunder against any other Owner. Each such written request must identify and set forth in detail the specific restriction or standard from which a variance is sought and describe in complete detail the exact nature of the variance sought. Any grant of a variance by the Architectural Control Committee must be in writing and must identify in narrative detail both the standards from which a variance is being sought and the specific variance being granted.

Section 4. Nonconforming and Unapproved Improvements. The Association may require any Owner to restore such Owner's improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved improvement) if such improvements were commenced or constructed in violation of this Declaration. In addition, the Association may, but has no obligation to do so, cause such restoration, demolition and removal and levy the amount of the cost thereof as a special individual assessment against the Lot upon which such improvements were commenced or constructed.

**Section 5. No Liability.** Neither Declarant, the Association, the Architectural Control Committee, the Board, nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Control Committee, the Board, or the officers, directors, members, employees or agents of any of them, to recover any such damages and hereby releases and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Plans and specification are not approved for engineering or structural design or adequacy of materials, and by approving such plans and specifications neither the Architectural Control Committee, the members of the Architectural Control Committee, the Declarant nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications.

## ARTICLE X EASEMENTS

**Section 1. Ingress and Egress by the Association.** The Association shall, at all times, have full rights of ingress and egress over and upon each Lot for the maintenance and repair of each Lot and the Common Properties in accordance with the provisions hereof, and for the carrying out by the Association of its functions, duties and obligations hereunder; provided, that any such entry by the Association upon any Lot shall be made with as little inconvenience to the Owner as practical, and any damage caused by the Association's entry, other than damages caused by the Owner, shall be repaired by the Association at the expense of the Association.

**Section 2. General.** The rights and duties of the Owners with respect to sanitary sewer, water, electricity, propane, telephone and cable television lines and drainage facilities shall be governed by the following:

- (a) Wherever (i) sanitary sewer or water service connections, (ii) propane, electricity, telephone or cable television lines, or (iii) drainage facilities are installed within the Properties, which connections, lines or facilities or any portion thereof or upon Lots owned by any party other than the Owner of a Lot served by said connections, lines or facilities, such Owners of Lots served shall have the right and are hereby granted an easement to the full extent necessary therefore, to enter upon the Lots within or upon which said connections, lines or facilities or any portion thereof lie to repair, replace and generally maintain said connections, lines or facilities as and when the same may be necessary.
- (b) Whenever (i) water service connections, (ii) propane, electricity, telephone or cable television lines, or (iii) drainage facilities are installed within the Properties, which connections, lines or facilities serve more than one Lot, the Owner of each Lot served by said connections, lines or facilities shall be entitled to the full use and enjoyment of such portions of said connections, lines or facilities which service such Owner's Lot.

Section 3. Reservation of Easements. The right and power to grant easements over the Lots and Common Properties for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities is reserved to the Declarant until the end of the development period. Thereafter, such right and power shall belong to the Association.

Section 4. Surface Areas of Utility Easements. Easements for installation and maintenance of utilities are reserved as shown and provided for on the plat. Underground electric, water and telephone service shall be available to all Lots in the Subdivision. Easements for the underground service may be crossed by driveways, walkways, patios, brick walls and fences, provided the Declarant or builder makes prior arrangements with the utility companies furnishing electric, water and telephone service and provides and installs any necessary conduit of approved type and size under such driveways, walkways, patios, brick walls or fences prior to construction thereof. Such easements for the underground service shall be kept clear of all other improvements, and neither the grantee nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (other than for damages caused in crossing driveways, walkways, patios, brick walls or fences, providing conduit has been installed as outlined above) of the Owner located on the Lot covered by said easements.

Section 5. Emergency and Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon the Common Properties, including but not limited to private streets, in the performance of their duties; and further, an easement is hereby granted to the Association, its officers, directors, agents, employees and management personnel to enter the Common Properties to render any service.

## ARTICLE XI GENERAL PROVISIONS

Section 1. Duration. The Covenants and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date that this Declaration is recorded in the Office of the County Clerk, after which time these Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Members entitled to cast seventy-five percent (75%) of the votes of the Association, in the aggregate, regardless of class, has been recorded in the Office of the County Clerk, agreeing to abolish or terminate these Covenants and Restrictions; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

Section 2. Amendments. Notwithstanding the terms and provisions of Article XI hereof, this Declaration may be amended, modified and/or changed as follows:

- (a) The Declarant reserves the right during the Development Period, without joinder or consent of any Owner or mortgagee, to amend this Declaration or the By-Laws by an instrument in writing duly signed, acknowledged and filed for record, for the purpose of resolving or clarifying any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to comply with the requirements of Federal Home Loan Mortgage Corporation, Federal National Mortgage Association,

Veteran's Administration, or Federal Housing Administration, or to change any provision herein for the betterment of the subdivision, provided that no such amendment shall change the vested property rights of any Owner.

- (b) In all other situations, this Declaration may be amended or changed upon the express written consent of at least sixty percent (60%) of a quorum of the outstanding votes of all Members of the Association, regardless of class.

Section 3. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these Covenants and Restrictions; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these Covenants and Restrictions by judgment or court order shall in no way affect any other provision of this Declaration or the remainder of these Covenants and Restrictions which shall remain in full force and effect.

Section 5. Books and Records. The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member. The Board of Directors may, by resolution, establish rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Articles of Incorporation and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 6. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 7. Notices to Member/Owner. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the Member or Owner as it appears on the records of the Association at the time of such mailing.

Section 8. Notices to Mortgagees. If a holder of a mortgage on a Lot shall notify the Association of its address and the identity of the Lot and Owner covered by and granting such mortgage, then such holder(s) shall be entitled to receive, written notification from the Association of any default by the respective Owner in the performance of such Owner's obligations as established by this Declaration.

Section 9. Disputes. Matters of dispute or disagreement between Owners with respect to interpretation or application of the provisions of this Declaration or by By-Laws of the Association shall be determined by the Board of Directors, whose determination shall be final and binding upon all Owners.

Section 10. Termination of and Responsibility of Declarant. If Declarant shall convey all of his right, title and interest in and to all of the Properties and/or assign all its rights, benefits and obligations as Declarant hereunder to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall thereby be released from all liability hereunder and relieved of any further duty or obligation hereunder.

EXECUTED effective the 1<sup>st</sup> day of June 2007.

HEBBRONVILLE RANCH PROPERTIES, LTD.

By: HEBBRONVILLE RANCH PROPERTIES ONE, LLC  
General Partner

By: [Signature]  
KASH MORROW, Manager and Member

STATE OF TEXAS

COUNTY OF Kerr

The foregoing instrument was acknowledged before me on the 2<sup>nd</sup> day of June, 2007, by KASH MORROW, Manager and Member of HEBBRONVILLE RANCH PROPERTIES ONE, LLC, General Partner of HEBBRONVILLE RANCH PROPERTIES, LTD., a Texas Limited Partnership, on behalf of said partnership.

Melanie Witt  
Notary Public, State of Texas



## Exhibit A

FIELD NOTES DESCRIPTION FOR 4.58 ACRES OF LAND OUT  
OF THE AARON WHITBY PROPERTIES LAND ALONG STATE  
HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 4.58 acres, more or less, out of various  
Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
679	James Watson	369	1.60
1351	W.M. Watson	718	2.98

part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May and recorded in Volume 952 at Page 58 of the Real Property of Kerr County, Texas; and being more particularly described by the metes and bounds as follows:

BEGINNING at a fence anglepost in the east line of said 885.93 acre tract for the north corner of the herein described tract; which point bears: 286.51 ft. N.22°06'33"W. and 1837.68 ft. N.10°34'35"W. from the southeast corner of 885.93 acre tract; and, approximately 1806 ft. North and 337 ft. West from the southeast corner of said Survey No. 679;

THENCE, along or near a fence with the said east line of 885.93 acre tract S.10°34'35"E., 662.35 ft. to a ½" iron stake set for the southeast corner of the herein described tract;

THENCE, upon, over and across said 885.93 acre tract S.86°29'32"W., 558.76 ft. to an unmarked point in a lake for the southwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: N.28°30'42"E., 566.75 ft. to a set ½" iron stake; and N.41°29'14"E., 250.00 ft. to the PLACE OF BEGINNING; Including the Right to a sixty (60) ft. wide access easement described as follows:

Beginning at a point in the south line of the herein described 4.58 acre tract, 20.15 ft. S.86°29'32"W. from its southeast corner for the northeast corner of the herein described easement;

Thence, upon, over and across said 885.93 acre tract: S.10°34'35"E., 192.28 ft. to a ½" iron stake set for the southeast corner of the herein described easement; N.89°35'12"W., 61.12 ft. to a ½" iron stake set for the southwest corner of the herein described easement; and N.10°34'35"W., 188.07 ft. to a ½" iron stake set in the said south line of the herein described 4.58 acre tract for the northwest corner of the herein described easement;

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EXHIBIT "A"  
PAGE 1 OF 2



Thence, continuing upon, over and across said 885.93 acre tract with the south line of the herein described 4.58 acre tract N.86°29'32"E., 60.46 ft. to the Place of Beginning, encumbering 0.26 acre of land, more or less, within these metes and bounds.

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PAGE 2 OF 2

Exhibit **B**

**FIELD NOTES DESCRIPTION FOR A DRAINAGE EASEMENT UPON,  
OVER AND ACROSS THE AARON WHITBY PROPERTIES LAND  
ALONG STATE HIGHWAY NO. 39 IN KERR COUNTY, TEXAS**

Being all of a certain or parcel of land containing 1.76 acres, more or less, comprising approximately 1.60 acres out of James Watson Survey No. 679, Abstract No. 369 and 0.16 acre out of W.M. Watson Survey No. 1351, Abstract No. 718, both surveys in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

**BEGINNING** at a ½" iron stake set for the southwest corner of the herein described tract; which point bears: 1244.83 ft. North and 1052.81 ft. West from the southeast corner of said 885.93 acre tract; and, approximately 979 ft. North and 945 ft. West from the southeast corner of said Survey No. 679;

**THENCE**, upon, over and across said 885.93 acre tract, all calls to set ½" iron stake: N.37°41'02"E., 164.97 ft.; N.32°23'59"E., 134.40 ft.; and N.30°27'05"E., 515.26 ft. to a ½" iron stake set for the northwest corner of the herein described tract;

**THENCE**, continuing upon, over and across said 885.93 acre tract S.09°27'30"E., 49.09 ft. to a ½" iron stake set for a reentrant corner of the herein described tract;

**THENCE**, continuing upon, over and across said 885.93 acre tract N.41°29'14"E., 110.00 ft. to a ½" iron stake set for the northeast corner of the herein described tract;

**THENCE**, continuing upon, over and across said 885.93 acre tract: S.30°27'05"W., 250.00 ft. to a ½" iron stake; S.18°11'40"W., 377.73 ft. to a set ½" iron stake; and S.23°37'39"W., 176.78 ft. to a ½" iron stake set for the southeast corner of the herein described tract;

**THENCE**, continuing upon, over and across said 885.93 acre tract: N.84°30'06"W., 100.00 ft. to a set ½" iron stake; and N.87°23'52"W., 100.00 ft. to the **PLACE OF BEGINNING**.

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Exhibit C

FIELD NOTES DESCRIPTION FOR A DRAINAGE EASEMENT UPON,  
OVER AND ACROSS THE AARON WHITBY PROPERTIES LAND  
ALONG STATE HIGHWAY NO. 39 IN KERR COUNTY, TEXAS

Being all of a certain or parcel of land containing 2.69 acres, more or less, out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron stake found in the north right-of-way line of State Highway No. 39 for the southwest corner of the herein described tract; which point bears: 263.34 ft. North and 1119.33 ft. West from the southeast corner of said 885.93 acre tract; and approximately 2 ft. South and 1012 ft. West from the southeast corner of said Survey No. 679;

THENCE, upon, over and across said 885.93 acre tract, all calls to set ½" iron stakes: N.25°52'53"E., 279.22 ft.; N.07°36'12"E., 195.69 ft.; N.08°58'56"E., 187.92 ft.; N.26°26'51"W., 158.78 ft.; and N.26°51'23"W., 168.26 ft. to a ½" iron stake set for the northwest corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract: S.87°23'52"E., 131.94 ft. to a set ½" iron stake; and S.84°30'06"E., 68.09 ft. to a ½" iron stake set for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract, all calls to set ½" iron stakes: S.22°47'23"E., 193.93 ft.; S.11°07'40"W., 184.87 ft.; S.15°09'39"W., 197.02 ft.; S.03°56'38"W., 181.88 ft.; and S.07°43'40"W., 161.17 ft. to a ½" iron stake set in the said north right-of-way line of State Highway No. 39 for the southeast corner of the herein described tract;

THENCE, continuing upon, over and across said 885.93 acre tract along said north right-of-way line of State Highway No. 39, S.84°04'38"W., 184.68 ft. to the PLACE OF BEGINNING.

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**DESCRIPTION FOR A TWENTY FT. WIDE DRAINAGE  
EASEMENT UPON, OVER AND ACROSS THE AARON WHITBY  
PROPERTIES LAND ALONG STATE HIGHWAY NO. 39 IN KERR  
COUNTY, TEXAS**

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; the centerline of 20 ft. wide strip more particularly described as follows:

**BEGINNING** at a 1/4" iron stake set for the north terminus of the herein described easement; which point bears: 523.26 ft. North and 1533.84 ft. West from the southeast corner of said 885.93 acre tract; and, approximately, 258 ft. North and 1426 ft. West from the southeast corner of said Survey No. 679;

**THENCE**, upon, over and across said 885.93 acre tract: S.12°23'36"W., 222.48 ft. to a set 1/4" iron stake; S.39°41'12"E., 162.57 ft. to a set 60 "d" nail; N.78°47'57"E., 186.11 ft. to a set 60 "d" nail; N.83°40'06"E., 42.45 ft. to a set 60 "d" nail; N.69°18'52"E., 146.78 ft. to a set 60 "d" nail; and N.84°04'38"E., 89.02 ft. to a 60 "d" nail set for the southeast terminus of the herein described easement, encumbering land ten (10) ft. each side of the herein described centerline.

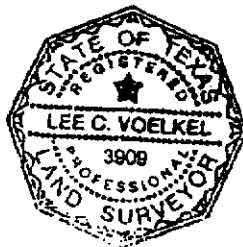
I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

Dated this 23<sup>rd</sup> day of March, 1999

*Lee C. Voelkel*

Lee C. Voelkel

Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



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**DESCRIPTION FOR A TWENTY FT. WIDE DRAINAGE  
EASEMENT UPON, OVER AND ACROSS THE AARON WHITBY  
PROPERTIES LAND ALONG STATE HIGHWAY NO. 39 IN KERR  
COUNTY, TEXAS**

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 952 at Page 58 of the Real Property Records of Kerr County, Texas; the centerline of 20 ft. wide strip more particularly described as follows:

**BEGINNING** at a 1/4" iron stake set for the northwest terminus of the herein described easement; which point bears: 867.23 ft. North and 2092.60 ft. West from the southeast corner of said 885.93 acre tract; and, approximately, 601 ft. North and 1985 ft. West from the southeast corner of said Survey No. 679;

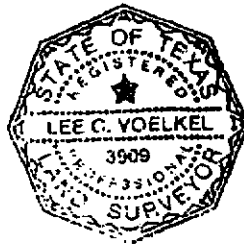
**THENCE**, upon, over and across said 885.93 acre tract S.26°46'19"E., 323.80 ft. to a 1/4" iron stake set in the south line of 885.93 acre tract for the southeast terminus of the herein described easement, encumbering land ten (10) ft. each side of the herein described centerline.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners, and that all property corners are as shown.

Dated this 23<sup>rd</sup> day of March, 1999

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



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**DESCRIPTION FOR A TWENTY FT. WIDE DRAINAGE  
EASEMENT UPON, OVER AND ACROSS THE AARON WHITBY  
PROPERTIES LAND ALONG STATE HIGHWAY NO. 39 IN KERR  
COUNTY, TEXAS**

Being all of a certain twenty (20) ft. wide strip, tract or parcel of land out of James Watson Survey No. 679, Abstract No. 369 in Kerr County, Texas; part of a certain 885.93 acre tract conveyed from Rodney Carlisle, et al to Aaron Whitby Properties LLC by a Warranty Deed executed the 20<sup>th</sup> day of May, 1998 and recorded in Volume 932 at Page 58 of the Real Property Records of Kerr County, Texas; the centerline of 20 ft. wide strip more particularly described as follows:

**BEGINNING** at a 1/4" iron stake set for the northwest terminus of the herein described easement; which point bears: 1774.82 ft. North and 1319.01 ft. West from the southeast corner of said 885.93 acre tract; and, approximately, 1509 ft. North and 1211 ft. West from the southeast corner of said Survey No. 679;

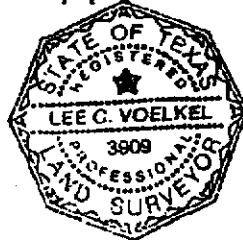
**THENCE**, upon, over and across said 885.93 acre tract S.56°55'54"E., 523.97 ft. to a 1/4" iron stake set for the southeast terminus of the herein described easement, encumbering land ten (10) ft. each side of the herein described centerline.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

Dated this 23<sup>rd</sup> day of March, 1999

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



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