

**CC&Rs**

**Mckenzie Park Home Owners Association**

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DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
MCKENZIE PARK

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151-130203251-201

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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR MCKENZIE PARK**

This Declaration of Covenants, Conditions and Restrictions for McKenzie Park (this "Declaration"), made as of the date hereinafter set forth by **MCKDEV, LLC**, a Texas limited liability company (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of (i) that certain tract of land consisting of 15.18 acres, more or less, as more particularly described on Exhibit "A-1" attached hereto and (ii) that certain tract of land consisting of 14.51 acres, more or less, as more particularly described on Exhibit "A-2" attached hereto (collectively, the "Declarant Land");

WHEREAS, Declarant sold and conveyed to D.R. Horton-Texas, Ltd., a Texas limited partnership ("Horton") and Horton is the owner of (i) that certain tract of land consisting of 19.47 acres, more or less, as more particularly described on Exhibit "B-1" attached hereto and (ii) that certain tract of land consisting of 20.23 acres, more or less, as more particularly described on Exhibit "B-2" attached hereto (collectively, the "Horton Land");

WHEREAS, Declarant sold and conveyed to Tres Lago Development, LLC, a Texas limited liability company ("Tres Lago") and Tres Lago is the owner of that certain tract of land consisting of 34.783 acres, more or less, as more particularly described on Exhibit "C" attached hereto (the "Tres Lago Land");

WHEREAS, the land described on Exhibits "A-1" and "A-2", Exhibits "B-1" and "B-2", and Exhibit "C" is all or part of the community being developed as the McKenzie Park project;

WHEREAS, in connection with the development of the McKenzie Park project, it is anticipated that Declarant will sell and convey the Declarant Land to Horton;

WHEREAS, it is the desire of the Declarant to provide a common plan as to the use, permissible construction, and common amenities of such subdivision and, to this end to subject the Lots (hereinafter defined) in the McKenzie Park project to the covenants, conditions and restrictions hereinafter set forth for the benefit of all present and future owners thereof;

NOW, THEREFORE, Declarant hereby declares that the Lots in the McKenzie Park subdivision and in any other property hereafter annexed into the jurisdiction of the Association (as hereinafter defined) in accordance with the provisions hereof and made subject to this Declaration, if any, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with said Lots and shall be binding upon all parties having any right, title or interest in said Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1. "Architectural Review Committee" or "ARC" refers to the committee created by Section 2 of Article II of this Declaration which has the power to adopt the Builder Guidelines and

Landscaping Guidelines and the right to approve plans and specifications for construction of proposed improvements on the Lots within the jurisdiction of the Association and the right to approve plans and specifications for the alteration or modification of improvements on the Lots as set forth herein.

SECTION 2. “Association” shall mean and refer to McKenzie Park Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

SECTION 3. “Board” shall mean the Board of Directors of the Association.

SECTION 4. “Builder” shall mean and refer to any person or entity undertaking the construction of a residence on a Lot to be offered for sale.

SECTION 5. “Builder Guidelines” shall mean and refer to written guidelines for the construction of improvements adopted by the ARC, as amended from time to time. The Builder Guidelines may contain provisions applicable to all of the Lots within the jurisdiction of the Association as well as certain provisions which are applicable only to the Lots in a specific platted subdivision or subdivisions.

SECTION 6. “Common Area” shall mean and refer to all properties, real or personal, owned, leased or used by the Association for the common use and enjoyment of the Members (hereinafter defined) of the Association, if any.

SECTION 7. “Declarant” shall mean and refer to MCKDEV, LLC, its successors or assigns, provided that a successor or assign is designated in writing by the Declarant as an assign of all, or part, of its rights under this Declaration.

SECTION 8. “Landscaping Guidelines” shall mean the guidelines as further defined in Section 2 of Article II hereof.

SECTION 9. “Lot” shall mean and refer to any portion of the Properties, whether developed or undeveloped, upon which a residence has been constructed or it is intended to be constructed, excluding reserve tracts, but including lots created by the platting or replatting of a reserve tract. “Lots” shall mean and refer to each Lot and all of them. In the case of a parcel of land planned for residential development which has not been platted into Lots, the parcel shall be deemed to contain the number of Lots designated by the Declarant on the development plan for such parcel of land unless or until a different number of Lots is platted.

SECTION 10. “Member” shall refer to every person or entity which holds a membership in the Association.

SECTION 11. “Neighborhood” shall mean and refer to (i) a portion of the land within the Properties which has been platted as a single subdivision, (ii) a portion of a platted subdivision or two (2) or more platted subdivisions within the Properties which the Declarant, by recorded instrument, designates as a single Neighborhood, or (iii) a portion of a platted subdivision or multiple subdivisions which the Board designates or consolidates into a single Neighborhood as set forth in Section 5 of Article III hereof.

SECTION 12. “Neighborhood Assessments” shall mean assessments levied by the Board for payment of Neighborhood Expenses of a particular Neighborhood.

SECTION 13. “Neighborhood Expenses” shall mean and include the actual and estimated expenses incurred by the Association solely for the benefit of the Owners of the Lots within a particular

Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements.

SECTION 14. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 15. “Properties” shall mean and refer to the real property within the jurisdiction of the Association being (i) the property described on Exhibits “A-1” and “A-2”, Exhibits “B-1” and “B-2” and Exhibit “C” attached hereto and (ii) any additional property hereafter annexed to the jurisdiction of the Association as provided herein.

SECTION 16. “Street” shall refer to any publicly dedicated street, drive, boulevard, road, alley, lane, avenue, or thoroughfare.

SECTION 17. “Supplemental Declaration” shall refer to (i) a separate declaration of covenants, conditions, and restrictions which is imposed on property within the jurisdiction of the Association and which may be enforced by the Association or (ii) an instrument which imposes additional or modified restrictions on a portion of the Properties which may be enforced by the Association.

## ARTICLE II ARCHITECTURAL REVIEW COMMITTEE

SECTION 1. PURPOSE. In order to establish and preserve a harmonious and aesthetically pleasing design for the McKenzie Park project and to protect and promote the value of the Properties, the Lots shall be subject to the restrictions set forth in this Article II. Every grantee of any interest in a Lot by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

SECTION 2. ARCHITECTURAL REVIEW COMMITTEE. There is hereby established the McKenzie Park Architectural Review Committee (sometimes hereinafter called the “ARC”), which shall have exclusive jurisdiction over all original construction on the Lots and over modifications, additions, or alterations made on or to the residences and other improvements on the Lots.

The ARC may (i) adopt such standards or guidelines as it determines for the construction or alteration of improvements on the Lots in the Properties (the “Builder Guidelines”) and for landscaping (the “Landscaping Guidelines”), which guidelines may vary for different portions of the Properties or different platted subdivisions within the Properties, and (ii) establish application and review procedures for plans and specifications. The ARC shall make the Builder Guidelines and Landscaping Guidelines available to Owners and Builders who seek to engage in development of or construction upon a Lot and who shall conduct their operations strictly in accordance therewith. The ARC may establish and charge reasonable fees for its review of plans hereunder.

The ARC shall consist of three (3) members. Until the date on which all Lots within the Properties are developed with residences and sold to homeowners, the Declarant shall have the right to appoint all members of the ARC as well as the right to remove any member at any time. There shall be no surrender of this right prior to that time, except by a written instrument executed by Declarant and recorded in the real property records of Harris County, Texas. Following the expiration of such right, the Board shall have the right to appoint and remove the members of the ARC. The ARC is authorized, but not obligated, to retain the services of consulting architects, landscape architects, urban designers,

engineers, inspectors, and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein.

The Board shall have the right, but not the obligation, at any time after it obtains the right to appoint the members of the ARC, to create a separate committee known as the "Modifications Committee" to perform the obligations of the ARC hereinafter specified with respect to the review of plans for the alteration or modification of the improvements on a Lot after construction of the initial improvements. The Board shall also have the right to abolish such committee at any time. In the event such committee is created it shall consist of three (3) members appointed by the Board and the Board shall have the power to remove a member at any time. In the event a Modifications Committee is created, such committee shall have all of the duties and powers granted to the ARC in this Declaration with respect to the alteration or modification of improvements on a Lot in the Properties unless or until the Board determines there should no longer be two (2) separate committees and abolishes the Modifications Committee, in which event all such duties and powers shall thereafter be restored to the ARC.

SECTION 3. APPROVAL OF PLANS. No construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced or maintained by or on behalf of any Owner with respect to any Lot in the Properties, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface a different color than the one previously approved), unless and until two (2) copies of the plans and specifications and related data (including, if required by the ARC, a survey showing the location of existing trees of six (6) inches in diameter at a height of four (4) feet above ground and other significant vegetation on such Lot) showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the ARC as to the compliance of such plans and specifications with this Declaration, the Builder Guidelines, and the Landscaping Guidelines, including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the ARC, and the other copy shall be returned to the Owner marked "approved," "approved with conditions as noted," or "disapproved." Notwithstanding the foregoing, at Owner's election, Owner may choose to submit only one (1) copy of such plans, specifications, and related data, with the understanding that such documents shall be retained by the ARC and shall not be returned to Owner. The ARC may establish a reasonable fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his improvements, to paint the interior of the improvements on his Lot any color desired, or to repaint or restain the exterior of the improvements on his Lot with the same color which has been previously approved for such improvements. The ARC shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association.

Upon approval of plans and specifications, no further approval under this Article II shall be required with respect thereto, unless such plans and specifications are materially altered or changed. The ARC may disapprove plans and specifications for any reason which is consistent with the objects and purposes of this Declaration as determined by the ARC from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

SECTION 4. LANDSCAPING APPROVAL. To preserve the aesthetic appearance of the Properties, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Lot in the Properties unless and until the plans therefor have been submitted to and

approved in writing by the ARC. In the installation of landscaping and maintenance of his Lot, each Owner shall comply with the Landscaping Guidelines adopted by the ARC from time to time.

SECTION 5. APPROVAL NOT A GUARANTEE OR VARIANCE. The review and approval of plans pursuant to this Article is made on the basis of aesthetic considerations only and no approval of plans and specifications and no publication of the Builder Guidelines and/or the Landscaping Guidelines shall be construed as representing or implying that such plans, specifications, or guidelines will, if followed, result in properly designed improvements. Such approvals and design guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, the ARC, nor any of their respective officers, partners, directors, employees, or members, shall be responsible or liable in damages or otherwise to any person who submits plans for approval by reason of mistake of judgment, negligence or nonfeasance arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. The purpose of such review primarily is to conform the aesthetic appearances of development within the Properties. In addition, the approval of plans pursuant to this Article shall not be deemed to be a variance from the specific restrictions of this Declaration, the Builder Guidelines or the Landscaping Guidelines. All variances must be issued in accordance with the provisions of Section 8 of this Article.

SECTION 6. RIGHT TO INSPECT. Any member of the Board or the ARC and their representatives shall have the right, but not the obligation during reasonable hours to enter upon and inspect any Lot with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the ARC shall determine that such plans and specifications have not been approved or are not being complied with, the ARC shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In addition to any other remedies available to the Association, the Board may record in the appropriate land records a notice of violation naming the violating Owner.

SECTION 7. NO WAIVER OF FUTURE APPROVALS. The approval by the ARC of any plans and specifications for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

SECTION 8. VARIANCES. The ARC may grant variances from compliance with the restrictions of this Declaration and from any of the Builder Guidelines and/or Landscaping Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, or (b) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing, shall not be considered a hardship warranting a variance.

ARTICLE III  
MCKENZIE PARK HOMEOWNERS ASSOCIATION, INC.

SECTION 1. ORGANIZATION. The Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the restrictive covenants contained herein, and architectural control of the Lots in the Properties.

SECTION 2. BOARD OF DIRECTORS. The Association shall act through a Board of Directors (the "Board") consisting of a minimum of three (3) and a maximum of five (5) members. Until the date on which ninety percent (90%) of all Lots within the Properties are developed with residences and sold to homeowners, the Board shall consist of three (3) members and the Declarant shall have the right to appoint the Board or can delegate the right to appoint the Board to the Builders. The Board shall manage the affairs of the Association as specified in this Declaration and the By-Laws of the Association.

SECTION 3. MEMBERSHIP. Every Owner of a Lot in the Properties shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

SECTION 4. VOTING RIGHTS. The Association shall initially have two (2) classes of membership as follows:

Class A. Class A Members shall be all persons or entities who own a Lot in the Properties with the exception of the Declarant. After the Conversion Date (as hereinafter defined), the Declarant shall become a Class A Member with respect to the Lots it owns.

Class B. The Class B Member shall be the Declarant. The Class B membership shall cease and become converted to Class A membership on the Conversion Date.

Except as may otherwise be provided by law, Class A Members shall be entitled to one (1) vote for each Lot owned within the Properties and the Class B Member shall be entitled to fifteen (15) votes for each Lot owned within the Properties. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Members, and the vote for the Lot owned by such Members shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot in which such Members own undivided interests.

SECTION 5. NEIGHBORHOODS. Subject to further provisions herein, the Declarant shall have the right to designate and denominate separate Neighborhoods, from time to time. In addition, upon a petition signed by the Owners of the majority of Lots in a Neighborhood, any Neighborhood may apply to the Board to divide the property comprising the Neighborhood into two (2) or more Neighborhoods or upon a petition signed by the Owners of a majority of the Lots in each of two (2) or more Neighborhoods, to combine such Neighborhoods into a single Neighborhood.

SECTION 6. CONVERSION DATE. The Class B Membership in the Association shall terminate on the date (the "Conversion Date") which is the earlier of:

- i. The date the total number of votes of the Class A Members equals the number of votes of the Class B Member; or

- ii. December 31, 2035 or such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Harris County, Texas.

In the event the Class B membership terminates pursuant to clause (i) above and thereafter additional property is annexed into the jurisdiction of the Association which results in the Declarant owning more than twenty-five percent (25%) of the Lots in the Properties, the Class B membership shall be restored until it again terminates as specified above.

SECTION 7. TERMINATION OF MEMBERSHIP. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot within the Properties, hereby covenants and each Owner of any Lot within the Properties, by acceptance of a deed therefor, whether or not it shall be expressed in the deed or other evidence of the conveyance, is deemed to covenant and agree to pay the Association (i) annual assessments or charges, (ii) special assessments for capital improvements, such assessments or charges to be fixed, established and collected as hereinafter provided, and (iii) Neighborhood Assessments, as applicable. These assessments and charges, together with interest thereon as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which such assessments or charges are made. Each such assessment or charge, together with such interest, late charges, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them. However, successors in title shall nonetheless acquire title to the land subject to the lien securing the assessments and charges.

SECTION 2. PURPOSE OF ANNUAL ASSESSMENTS. The annual assessments levied by the Association shall be used for carrying out the purposes of the Association as stated in its Certificate of Formation, this Declaration and all other restrictive covenants instruments administered by the Association. The judgment of the Board of the Association in determining the functions to be performed by the Association, in determining the amount of annual assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith. Such funds may be used, without limitation, to pay costs incurred with respect to all or any of the following:

- i. Operation, maintenance, repair, and improvement of the Common Area as well as fences, entryways, road esplanades, cul de' sacs, easement areas, and any other applicable facilities within, adjacent to or in the vicinity of the Properties;
- ii. Payment of taxes and premiums for insurance coverage in connection with the Common Area and for directors and officers liability insurance;

- iii. Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Area;
- iv. Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;
- v. Maintaining or replacing any landscaping in the Common Area;
- vi. Designing, purchasing and installing any improvements to the Common Area;
- vii. Mowing and routine maintenance of the Common Area;
- viii. Removing debris from the Common Area;
- ix. Contracting for street lights in the Properties;
- x. Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
- xi. Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
- xii. Employing policemen or watchmen and/or a security service;
- xiii. Contracting for insect and pest control such as mosquito fogging;
- xiv. Carrying out the duties of the Board of Directors of the Association;
- xv. Creation and funding of such reserve funds as the Board of Directors of the Association deems necessary; and
- xvi. Carrying out such purposes of the Association as generally benefit the Members of the Association.

As stated hereinabove, the Association shall not be obligated to perform all of the foregoing functions or any particular function. The judgment of the Board of the Association in establishing annual assessments and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

**SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS.** The annual assessment by the Association for 2013, the initial year of assessment, shall be \$900.00 per Lot (or such lesser amount as may be designated by the Board of Directors). The annual assessment in any year may be increased by the Board of the Association, at its sole discretion, by an amount equal up to a fifteen percent (15%) increase over the assessment for the previous year without a vote of the Members of the Association. The annual assessment in any year may be increased above fifteen percent (15%) of the annual assessment for the previous year only with the approval by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy, at a meeting duly called for this purpose. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

SECTION 4. NEIGHBORHOOD ASSESSMENTS. Neighborhood Assessments shall be levied against the Lots in a particular Neighborhood or Neighborhoods to enable the Association to pay the Neighborhood Expenses which benefit only that Neighborhood or Neighborhoods; provided, however there shall be no Neighborhood Assessments on Lots owned by the Declarant. Neighborhood Expenses may include, without limitation, costs incurred for maintenance and repair of the following items and provision of the following services within a particular Neighborhood or Neighborhoods: private streets, trash and garbage door pick-up service as opposed to curb side service, mailboxes, and operation and maintenance of landscaping, fencing, gates, fountains, lighting and signs and monuments within the particular Neighborhood or Neighborhoods. Unless otherwise mandated by the Board, the Neighborhood Assessment applicable to a particular Neighborhood or Neighborhoods shall be divided by the number of Lots in such Neighborhood or Neighborhoods (exclusive of the Lots owned by the Declarant), and each Owner of a Lot (other than Declarant) contained within the applicable Neighborhood or Neighborhoods shall be assessed an amount equal to the quotient so obtained.

Notwithstanding the foregoing, for purposes hereof, the Tres Lago Land (as described on Exhibit "C" attached hereto) is hereby designated as a Neighborhood and all Lots within the Tres Lago Land shall be subject to an annual Neighborhood Assessment in the amount of \$900.00 per Lot, it being agreed that such Neighborhood Assessment shall be in addition to any other assessments or amounts owed by the Owners of the Lots within the Tres Lago Land. Such amount may be increased or decreased from year to year by the Board.

SECTION 5. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any year, a special assessment against the Lots applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon the Common Area, including fixtures and personal property related thereto; provided, however, any special assessment must be approved by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy at a meeting duly called for this purpose. The Board may establish reasonable due dates for any such special assessments.

SECTION 6. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 above shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast ten percent (10%) of the votes of the Association's membership shall constitute a quorum. If the required quorum is not present or represented, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 7. RATES OF ASSESSMENT AND DEFICIT FUNDING. Both annual and special assessments on all Lots shall be fixed at rates and the Lots in the Properties shall commence to bear their assessment (subject to provisions relating to the Declarant, as stated below); provided, however, Lots owned by a Builder (other than Tres Lago and Horton) shall be assessed at the rate of fifty percent (50%) of the regular assessment otherwise applicable to the Lots. The assessment for an individual Lot, within a calendar year, shall change as the ownership of such Lot passes from the Declarant or Builder, and the assessment for such Lot shall be prorated according to the applicable rate during each type of ownership.

There shall also be no assessments on any portion of the Properties which has not been platted into Lots. Declarant, Tres Lago, and Horton shall not be required to pay any assessment with respect to portions of the Properties owned by Declarant, Tres Lago and/or Horton (as applicable); provided, however, in the event the assessments collected by the Association in any given year are insufficient to

fund the actual out-of-pocket expenses for the operations of the Association, Tres Lago and Horton shall be responsible for funding any such operational deficit of the Association, it being agreed that Tres Lago shall be responsible for 75.6% of any such operational deficit and Horton shall be responsible for 24.4% of any such operational deficit. Notwithstanding the foregoing, the obligation of Tres Lago and Horton to fund any operational deficit for Common Area improvements constructed after the date of this Declaration shall not commence until such time as the Association has accepted such improvements on the applicable Common Area.

Notwithstanding anything in this Section to the contrary, on the date that seventy-five (75%) of all Lots within the Properties are developed with residences and sold to homeowners, the obligation of Tres Lago and Horton to deficit fund the operational expenses of the Association shall terminate and Lots owned by Tres Lago and by Horton shall be assessed at the rate of fifty percent (50%) of the regular assessment otherwise applicable to the Lots.

SECTION 8. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT. The annual assessment provided for herein shall commence as to the applicable Lots in the Properties on the first day of the month following the recordation of a plat of the Properties (or applicable portion thereof) or on such other date as the Board determines. The assessment for such year shall be adjusted according to the number of months remaining in the calendar year and shall be due and payable thirty (30) days after notice of the assessment is sent to every Owner whose Lot is subject to assessment. On or before the 30th day of November in each year, the Board of the Association shall (i) fix the amount of the annual assessment to be levied against each Lot in the next calendar year and (ii) provide written notice of the figure to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer or authorized representative of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES. Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest at the rate of eighteen percent (18%) per annum or such lesser rate as is not in excess of the maximum lawful rate of interest until the date paid. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or to foreclose the lien herein retained against the property. Interest as above specified, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge.

The lien in favor of the Association is created by the recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring a Lot, an Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to Section 51.002 of the Texas Property Code, and any applicable revision(s), amendment(s), or recodifications thereof in effect at the time of the exercise of such power of sale. The Association has the right to foreclose its lien judicially or by nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner to the Association. An Owner may not petition a court to set aside a sale solely because the purchase price at the foreclosure sale was insufficient to fully satisfy the Owner's debt. The Association may bid for and purchase the Lot at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Lot. The

purchaser at any such foreclosure sale shall be entitled to sue for recovery of possession of the Lot by an action of forcible detainer without the necessity of giving any notice to the former owner or owners of the Lot sold at foreclosure. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Lot may avoid foreclosure by paying all amounts due the Association. Foreclosure of a tax lien attaching against a Lot under Chapter 32, Tax Code, shall not discharge the Association's lien under this paragraph for amounts becoming due to the Association after the date of foreclosure of the tax lien. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Area or abandonment of his Lot.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. As herein above provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate to the lien of any purchase money mortgage. Sale or transfer of any Lot shall not affect the lien in favor of the Association provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof.

SECTION 11. EXEMPT PROPERTY. All properties dedicated to, and accepted by, a local public authority and all properties 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 and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

SECTION 12. CAPITALIZATION FEE. Upon each transfer of record title to a Lot, from time to time, by each Owner thereof (commencing on the transfer of record title of a Lot to the initial homebuyer), a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in the amount of one-half (1/2) of the then-current annual assessment. This amount shall be in addition to, not in lieu of, any other assessments required herein and shall not be considered an advance payment of any such assessments. This amount shall be disbursed to the Association for use in covering operating expenses and for a reserve fund for other costs incurred by the Association.

## ARTICLE V COMMON AREA

SECTION 1. OWNER'S RIGHT OF ENJOYMENT. Subject to the provisions herein stated, every Member shall have a right of enjoyment in the Common Area, and such right shall be appurtenant to and shall pass with the title to every Lot, subject the following rights of the Association:

- (a) The Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.
- (b) The Association shall have the right, with the approval by the Owners of two-thirds (2/3rds) of the Lots within the Properties, to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.
- (c) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.

- (d) The Association shall have the right to suspend the voting rights and enjoyment rights of any Members for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days.
- (e) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Area, and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (f) The Association shall have the right, with the approval by the Owners of two-thirds (2/3rds) of the Lots within the Properties, to sell or convey all or any part of the Common Area and the right, without the approval of the Members, to grant or dedicate easements in portions of the Common Area to public or private utility companies.
- (g) The Association shall have the right to enter into agreements pursuant to which individuals who are not Members of the Association are granted the right to use the Common Area and the facilities located thereupon.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his right of enjoyment to the Common Area to the members of his family and to such other persons as may be permitted by the Association. An Owner who has leased the residence on his or her Lot shall be deemed to have assigned the right to use the Common Area to the tenant.

SECTION 3. INSURANCE. The Board may, as an expense of all Members payable from annual assessments, obtain blanket all-risk casualty insurance for all insurable improvements on the Common Area for the full replacement cost thereof, or if blanket all-risk coverage is not reasonably available, an insurance policy providing fire and extended coverage. The Board may also obtain (i) worker's compensation insurance, (ii) directors' and officers' liability coverage, (iii) a fidelity bond or fidelity insurance on persons handling or responsible for the Association's funds, and (iv) a public liability policy covering the Common Area, insuring the Association and its Members for all damages or injury caused by the negligence of the Association.

SECTION 4. DAMAGE AND DESTRUCTION. Immediately after damage or destruction by fire or other casualty of all or any part of the property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and the repair or reconstruction of the damaged or destroyed property, to the extent insurance proceeds are available for such purpose. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition which existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. If insurance proceeds are insufficient to cover a repair or reconstruction, the Board may levy a special assessment to cover the shortfall, subject to the requirements of Section 4 of Article IV above. In the event that insurance proceeds are unavailable to repair or reconstruct the Common Area, the damaged or destroyed property shall be restored to its natural state.

SECTION 5. ANNUAL REVIEW OF POLICIES. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

## ARTICLE VI

## USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot in the Properties is hereby restricted to one (1) single family residence and related outbuildings and improvements, and use for single-family residential purposes exclusively. No garage sale, yard sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot, except that an Owner or occupant may conduct business activities within the single family residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (c) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. The Board is authorized to promulgate rules and regulations to insure that home businesses comply with the above standards and to make factual determinations regarding the impact of a home business on the residential character of the Properties. If, in the judgment of the Board, a home business has a detrimental impact on the residential quality of the Properties or otherwise constitutes a nuisance, it is authorized to require that the Owner cease the home business or alter it to the Board's satisfaction. Notwithstanding anything contained in this Section, the Association may sponsor a community wide garage sale or rummage sale at such location or locations as the Board deems appropriate from time to time. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a single family residence shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or by a Builder with the approval of the Declarant, with respect to the development and sale of the Lots and single family residences in the Properties.

SECTION 2. ANIMALS AND LIVESTOCK. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of a maximum of three (3) dogs, cats or other usual and common household pets (excluding in such maximum number, fish and birds); provided, however, those pets which are permitted to roam free, or which in the sole discretion of the Board, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or occupants within the Properties may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a single family residence be on a leash or otherwise confined in a manner acceptable to the Board. Without prejudice to the Board's right to remove any such household pet, the owner of a pet that has caused damage to property shall be responsible for compensating the owner of the damaged property, but the Association shall have no obligation to enforce such obligation. Animal control authorities shall be permitted to enter the Properties to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.

SECTION 3. NUISANCES. No noxious or offensive trade or activity shall be carried on within the Properties nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Properties.

SECTION 4. STORAGE OF VEHICLES. The term "vehicles", as used herein, shall refer to all motorized vehicles including, without limitation, automobiles, trucks, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, campers, buses, and vans. No vehicle may be parked or left

upon any Lot in the Properties, except in a garage or other area designated by the Board, and in driveways for such temporary periods as may be specified by the Board from time to time. Any vehicle parked or left not in accordance with this section shall be considered a nuisance. No motorized vehicles shall be permitted on pathways or unpaved Common Area except for public safety vehicles and vehicles authorized by the Board. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform repair work on automobiles or other vehicles in driveways or Streets. Additionally, all commercial vehicles, including, but not limited to, utility vehicles and vehicles containing exterior advertisements (excluding governmental vehicles), shall be parked in a garage at all times, except as may be otherwise specified by the Board from time to time.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, after the initial construction of residences by the Builders, outside construction work or noisy interior construction work shall be permitted only between the hours of 6:00 A.M. and 8:00 P.M.

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened by ARC-approved planting or ARC-approved fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

SECTION 7. DISPOSAL OF HAZARDOUS SUBSTANCES. No gasoline, motor oil, paint, paint thinner, pesticide, or other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and regulations shall be disposed of on any Lot nor shall any such material be deposited into a storm sewer, sanitary sewer manhole, drainage channel or detention pond within the Properties, but rather all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental entity with jurisdiction.

SECTION 8. BUILDING MATERIALS. Unless otherwise approved by the applicable Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction of residences by Builders in the Properties, building materials may be placed or stored outside the property lines. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on the Streets.

SECTION 9. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

SECTION 10. RIGHTS OF DECLARANT. Notwithstanding any provisions contained in this Declaration to the contrary, until the Builder(s) have sold all of the residences and Lots within the Properties, it shall be expressly permissible for Declarant and any other Builders approved by Declarant

to maintain and carry on, upon such portion of the Properties as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such Builder's development, construction, and sales activities related to their properties, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Properties; the right to carry on sales and promotional activities in the Properties; the right to place signs in the Common Area and in road rights-of-way within the Properties; and the right to construct and operate business offices, model residences and sales offices.

ARTICLE VII  
ARCHITECTURAL RESTRICTIONS

SECTION 1. TYPE OF RESIDENCE. Only one detached single family residence not more than two (2) stories in height shall be built or permitted on each Lot. Each residence shall contain an address plaque as approved by the ARC. A minimum of fifty percent (50%) of the front exterior wall area of the residence on each Lot (and an overall minimum of twenty percent (20%) of the total exterior wall area of the residence on each Lot), exclusive of doors and windows, shall be brick, brick veneer, stone veneer, concrete or other masonry type construction. For purposes hereof, the product known as "Hardi-plank" shall not count towards such fifty percent (50%) requirement. All structures shall be of new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

There shall be a minimum of three (3) Lots (excluding the Lot(s) in question) between each repeating floor plan for a residence, and in the case of repeating floor plans for residences that also have the same exterior elevation, there shall be a minimum of four (4) Lots in between such floor plans (excluding the Lot(s) in question). This minimum spacing requirement shall also apply to Lots situated across the street from the Lot in question.

SECTION 2. LIVING AREA REQUIREMENTS. The total living area of each single family dwelling (exclusive of open porches, garages, and carports or parking spaces) shall be not less than the amount specified by the Board.

SECTION 3. LOCATION OF RESIDENCE ON LOT. No residence or garage on a Lot shall be located on any Lot nearer to a Street than the minimum building setback lines shown on the plat containing such Lot and no building shall be located on any utility easement. Unless otherwise approved by the ARC, no building shall be located nearer than twenty (20) feet from the front lot line or nearer than five (5) feet to an interior lot line, except permitted accessory building(s) located sixty (60) feet or more from the front lot line may be located within three (3) feet of an interior lot line. Unless otherwise approved by the ARC, no residence, garage or other permitted accessory building shall be located nearer than ten (10) feet from the rear lot line. For the purposes of this section, roof overhangs, steps, patios and driveways shall not be considered as a part of a building. Any accessory building located upon a Lot shall be no larger than one hundred square feet (100 sq. ft.) and shall be no more than eight feet (8') in height.

Subject to the approval by the ARC, an Owner of one or more adjoining Lots or portions thereof may consolidate or resubdivide such Lots or portions into one or more building sites with the privilege of placing or constructing improvements on such resulting building sites, in which case the side setback lines shall be measured from the resulting side property lines rather than from the Lot lines indicated on the plat. Any such resulting building site must have a width at the front building setback line of not less than the minimum width of the Lots in the same block.

SECTION 4. TEMPORARY BUILDINGS. Temporary buildings or structures shall not be permitted on any Lot. However, the Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used by Builders in connection with the construction and sale of residences. With the Declarant's approval, Builders may use garages as sales offices for the time during which such Builders are marketing homes. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be reconverted to a garage or a garage must be added to such residence.

SECTION 5. GARAGES. Each residence shall have an attached garage for a minimum of two (2) automobiles; provided, however, in the event of Lots with a width of 90-feet or greater, each residence thereon shall have an attached garage for a minimum of three (3) automobiles. The Builder shall construct and the Owner shall maintain at his expense the driveway from the Street to the garage on the Lot and the Builder shall repair at his expense any damage to the Street occasioned by connecting the driveway thereto.

SECTION 6. ROOF PITCH; ROOF MATERIAL/ROOF STACKS. The roof pitch of each residence shall have a minimum of seven (7) feet of vertical rise for each twelve (12) feet of horizontal length except that a roof over a porch can have a minimum rise of four (4) feet of vertical rise for each twelve (12) feet of horizontal length. The roofs of all buildings shall be constructed or covered with fiberglass or dimensional shingles of a weathered wood color or other color approved by the Architectural Review Committee with a minimum 20 year manufacturer's guarantee. Any other type of roofing material shall be permitted only at the discretion of the Architectural Review Committee. Unless otherwise approved by the Architectural Review Committee, all roof stacks must be painted to match the roof color.

SECTION 7. FENCES. No fence or wall shall be erected on any Lot nearer to the Street than the minimum building setback from the Street shown on the plat containing such Lot; provided, however, on corner Lots the fence on the side of the Lot may be located on the Lot line up to the point where the side Lot line intersects the setback at the front of the Lot. The erection of chain link fences on any Lot is prohibited. Each Owner shall, at his expense, maintain the wood fence installed by the Builder to enclose the backyard of his Lot. All fencing must be approved by the ARC prior to installation.

SECTION 8. LANDSCAPING. Unless provided otherwise in the Builder Guidelines and/or the Landscaping Guidelines, Builders shall sod and place a minimum of two (2) 30-gallon Live Oak Trees, seven (7) 5-gallon shrubs, and twelve (12) 1-gallon shrubs in the area between the front of the residence and the curb line of the abutting Street prior to the closing of the sale of the residence. Thereafter the Owner of each Lot shall keep his Lot mowed to prevent unsightly appearance. Dead or damaged trees, which might create a hazard to property or persons, shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damage caused by such removal. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil, except that the Declarant may designate fill areas into which materials specified by Declarant may be placed.

All Lots must contain an underground irrigation system in the front yard. Additionally, the back yard of each Lot located adjacent to a Common Area must also contain an underground irrigation system.

SECTION 9. SIGNS. Unless otherwise approved by the Board, no sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any single family residence, fence or other improvement upon such Lot so as to be visible from public view except the following:

(a) **For Sale Signs.** An Owner may erect one (1) sign on his Lot, not exceeding 2' x 3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of such Lot advertising the property for sale.

(b) **Declarant's Signs.** Declarant may erect and maintain a sign or signs deemed reasonable and necessary for the construction, development, operation, promotion, leasing and sale of the Lots.

(c) **Builders' Signs.** Any Builder may utilize one professional sign (of not more than six (6) square feet in size) per Lot for advertising and sales promotion of the residence on such Lot.

(d) **Political Signs.** Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such signs shall not be erected more than thirty (30) days in advance of the election to which they pertain and shall be removed within ten (10) days after such election.

(e) **School Spirit Signs.** Signs containing information about one or more children residing in the single family residence and the school they attend shall be permitted so long as the sign is not more than 36" x 36". There shall be no more than one sign for each child under the age of eighteen (18), residing in the single family residence. Banners are not permitted.

(f) **Security Signs/Stickers.** Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the single family residences shall be permitted so long as the sign is not more than 12" x 12" or the sticker is no more than 4" x 4". There shall be no more than one sign per Lot and stickers on no more than fifty percent (50%) of the windows and one on the front door or front entry area.

No sign permitted by this Section shall be lighted. In addition to any other remedies provided for in this Declaration, the Board of Directors or its duly authorized agent shall have the power to enter upon a Lot to remove any sign which violates this Section provided the violating Owner has been given forty-eight (48) hours written notice by the Board of Directors of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of Assessments.

SECTION 10. TRAFFIC SIGHT AREAS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any corner Lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

SECTION 11. EXTERIOR ANTENNAE. No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by the regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board is empowered to adopt rules governing the types of antennae that are permissible in the Properties and to establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that receipt of an acceptable signal would not be impaired, an antenna permissible pursuant to the rules of the Board may only be installed in

a side or rear yard location, not visible from a Street, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations.

SECTION 12. PLAYGROUND AND SPORTS EQUIPMENT. All playground equipment such as play houses and swing sets shall be situated, concealed and shielded so as not to be visible from any front Street and no such playground equipment shall exceed 10-feet in height. Portable or mounted basketball goals shall be located behind the front property line at all times and shall be maintained in a “like new” condition. When not in use, portable basketball goals shall be stored near the house in an unobtrusive manner, so far as practicable. Basketball goals may also be mounted on the residence or on a pole, as approved by the ARC. If mounted on a pole, the basketball goal shall be located adjacent to the side of the driveway closest to the side property line.

SECTION 13. DECORATIONS AND LIGHTING. No decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any Street, unless such specific items have been approved in writing by the Architectural Review Committee. Customary seasonal decorations for holidays are permitted without approval by the Architectural Review Committee but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any Street unless otherwise approved by the Architectural Review Committee.

SECTION 14. AIR CONDITIONERS. No window or wall type air conditioners shall be permitted in any improvements within the Properties, but the Declarant and Builders may install and use such air conditioners in sales offices and construction offices within the Properties, provided such air conditioners are removed when such facilities cease to be used.

SECTION 15. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are installed on a Lot by an Owner to serve the residence thereon shall be installed underground unless otherwise approved in writing by the Architectural Review Committee.

SECTION 16. ENFORCEMENT OF LOT MAINTENANCE. Each Owner of a Lot shall at all times be obligated to maintain his property and all improvements thereupon (and the area between the boundary lines of adjacent property and adjacent Streets if such area is not otherwise maintained), so as to keep same in a clean, sightly and safe condition and to conform with any specific standards which the Board of Directors may adopt by resolution for the Properties. An Owner’s maintenance obligation shall include, but not be limited to: the maintenance of all visible exterior surfaces of all buildings and other improvements; the prompt removal of all paper, debris, and refuse; the removal and replacement of dead and diseased trees and plantings; the removal of all snow and ice from paved areas; the repair, replacement, cleaning and relamping of all signs and lighting fixtures; the mowing, watering, fertilizing, weeding, replanting and replacing of all approved landscaping; and, during construction, the cleaning of dirt, construction debris and other construction-related refuse from Streets and storm drains and inlets.

In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after five (5) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to

pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Association, or its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

SECTION 17. DAMAGE AND DESTRUCTION OF IMPROVEMENTS. Any buildings or improvements within the Properties which are damaged or partially destroyed by fire, storm or any other means shall be repaired within a reasonable period of time after the occurrence of such damage and the Lot restored to a clean, orderly and attractive condition. Any buildings or improvements which are damaged or destroyed to the extent that repairs are not practicable, shall be demolished and removed within a reasonable period of time not to exceed ninety days from the occurrence of such damage and the Lot restored to a clean and attractive condition.

SECTION 18. COMPLIANCE WITH LAWS. In connection with all construction activities (or any other activities) upon a Lot, the Owner of such Lot shall observe and comply with all applicable safety codes, laws, statutes, regulations, and ordinances, including, without limitation, any and all laws relating to maintaining safe clearances from all electric distribution facilities, natural gas facilities, communication facilities, and all other utility infrastructure. Without limiting the foregoing, each Owner shall comply with O.S.H.A, Chapter 752 of the Texas Health and Safety Code, the National Electric Code, and the National Electrical Safety Code, to the extent applicable. Each Owner shall be responsible for ensuring that its agents, employees, representatives, and contractors comply with the requirements contained herein and neither Declarant, nor Declarant's agents, employees, representative, or contractors shall have any liability or be responsible in any way in the event an Owner (or such Owner's agents, employees, representatives, or contractors) fails to comply with the provisions hereof.

## ARTICLE VIII EASEMENTS

SECTION 1. GENERAL. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the plats or as dedicated by separate instruments. No utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

SECTION 2. EASEMENTS FOR ASSOCIATION. There is hereby granted a general right and easement to the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours.

SECTION 3. MAINTENANCE EASEMENT. There is granted to the Association, its successors and assigns, a five-foot wide construction and maintenance easement adjacent and parallel to each of the rear and side lot lines of all Lots that abut a landscape reserve, perimeter boundary of the Properties or Street where the Declarant has constructed or intends to construct a fence or wall, together with the right of ingress and egress for the purposes, without liability to the Owner for damages arising from the use of the easement, of constructing, repairing, and/or reconstructing the fence or wall. The easement area shall remain unobstructed of any structures or plantings that would prohibit access to the fence or wall for construction and maintenance purposes.

ARTICLE IX  
ENFORCEMENT

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions, and liens contained herein. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE X  
GENERAL PROVISIONS

SECTION 1. TERM. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under until December 31, 2050, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of two-thirds (2/3rds) of the Lots covered by this Declaration has been recorded, agreeing to change or terminate the covenants herein, in whole or in part.

SECTION 2. AMENDMENT.

A. By Declarant. This Declaration may be amended unilaterally at any time and from time to time by the Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; or (d) for any other purpose, provided that the amendment has no material adverse effect upon any right of any Builder or that the Builder or Builders so affected have consented thereto.

B. By Owners. This Declaration may be amended at any time by an instrument approved by the Owners of a majority of the Lots covered by this Declaration and the Declarant, as long as there is a Class B membership in the Association. Any such amendment shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Montgomery County, Texas, with the signatures of the requisite number of the Owners of the Lots and the Declarant, if applicable.

C. Declarant Approval. Notwithstanding anything herein to the contrary, until such time as Declarant (and its affiliates, as applicable) has received all applicable reimbursements from Encanto Real Utility District for costs and expenses incurred by Declarant (and/or its affiliates) with respect to the McKenzie Park project, any amendment to (or modification of) this Declaration shall require the prior approval of Declarant.

SECTION 3. SEVERABILITY. Invalidation of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 4. GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 5. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 6. REPLATTING. The Declarant shall have the right to subdivide any reserve tracts contained within the Properties into single family residential lots, by recorded plat or in any lawful manner. Lots created by the subdivision of a reserve tract shall be subject to these restrictions as if such Lots were originally platted as lots.

SECTION 7. ANNEXATION AND DEANNEXATION.

A. By Declarant. The Declarant shall have the unilateral right, privilege, and option at any time to annex additional property to the jurisdiction of the Association by filing for record a declaration of annexation in respect to the property being annexed which subjects such property to all of the provisions of this Declaration. Any such annexation by the Declarant shall not require approval by the Association or the Members and shall be effective upon the filing for record of such declaration. The rights reserved by Declarant herein to annex additional land shall not and shall not be implied or construed so as to impose any obligation upon a Declarant to annex additional land it owns.

B. By Other Owners. Upon request by an owner of land other than the Declarant, the Association may annex real property to its jurisdiction. Any such annexation shall require the affirmative vote of Members representing two-thirds (2/3rds) of the Association's votes present at a meeting duly called for such purpose and, as long as the Declarant owns any portion of the Properties, the written consent of such Declarant. Annexation of land not owned by a Declarant shall be accomplished by filing of record in the public records of Montgomery County, Texas, an annexation agreement describing the property being annexed. Such annexation agreement shall be signed by the President and the Secretary of the Association, by the owner of the property being annexed, and, as long as a Declarant owns any portion of the Properties, by the Declarant.

C. Effect of Annexation. The Owners of Lots in property annexed into the jurisdiction of the Association shall be entitled to the use and benefit of all Common Area of the Association, provided that the annexed property shall be impressed with and subject to an annual maintenance assessment imposed by the Association on a uniform, per Lot basis with the annual assessment on all other property within the jurisdiction of the Association.

D. Deannexations. Without the approval of any other Owners or Members, the Declarant shall have the unilateral right to deannex and remove any portion of the Properties owned by the Declarant (or any of its affiliates) from the provisions of this Declaration and the jurisdiction of the Association. Such deannexation shall be accomplished by the execution and filing for record an instrument setting forth the land being deannexed.

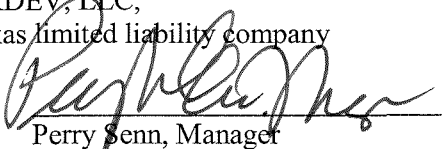
SECTION 8. MERGER; DISSOLUTION. The Association may be merged with another non-profit corporation or dissolved only with (i) the assent given in writing by not less than two-thirds (2/3's) of the Class A Members and (ii) the Declarant, as long as it owns any Lots within the Properties. In the event of a merger of the Association with another non-profit corporation organized for the same purposes, the Association's properties, rights, and obligations may be transferred to the surviving association, or

alternatively, the properties, rights and obligations of the other association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving association shall administer the covenants, conditions and restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

EXECUTED this 17<sup>th</sup> day of July, 2013.

**DECLARANT:**

MCKDEV, LLC,  
a Texas limited liability company

By:   
Perry Senn, Manager

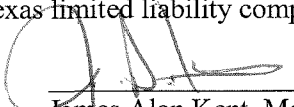
**TO EVIDENCE THEIR CONSENT:**

D.R. HORTON-TEXAS, LTD.,  
a Texas limited partnership

By: D.R. Horton, Inc., a Delaware  
corporation, its Authorized Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

TRES LAGO DEVELOPMENT, LLC,  
a Texas limited liability company

By:   
James Alan Kent, Managing Member

alternatively, the properties, rights and obligations of the other association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving association shall administer the covenants, conditions and restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

EXECUTED this 17 day of July, 2013.

**DECLARANT:**

MCKDEV, LLC,  
a Texas limited liability company

By: \_\_\_\_\_  
Perry Senn, Manager

**TO EVIDENCE THEIR CONSENT:**

D.R. HORTON-TEXAS, LTD.,  
a Texas limited partnership

By: D.R. Horton, Inc., a Delaware  
corporation, its Authorized Agent

By: \_\_\_\_\_  
Name: Randy Schweyh  
Title: Division Preside...

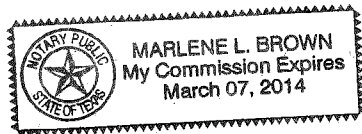
TRES LAGO DEVELOPMENT, LLC,  
a Texas limited liability company

By: \_\_\_\_\_  
James Alan Kent, Managing Member

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this 17<sup>th</sup> day of July, 2013 by Perry Senn, Manager of MCKDEV, LLC, a Texas limited liability company, on behalf of said entity.

[Seal]



Marlene L. Brown  
Notary Public—State of Texas

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2013 by \_\_\_\_\_, \_\_\_\_\_ of D.R. Horton, Inc., a Delaware corporation, which is the authorized agent of D.R. Horton-Texas, Ltd., a Texas limited partnership, on behalf of said limited partnership.

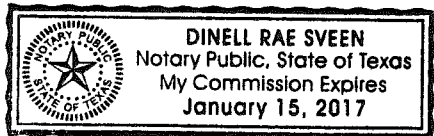
[Seal]

\_\_\_\_\_  
Notary Public—State of Texas

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this 22 day of July, 2013 by James Alan Kent, Managing Member of Tres Lago Development, LLC, a Texas limited liability company, on behalf of said entity.

[Seal]



Dinell Rae Sveen  
Notary Public—State of Texas

THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2013 by Perry Senn, Manager of MCKDEV, LLC, a Texas limited liability company, on behalf of said entity.

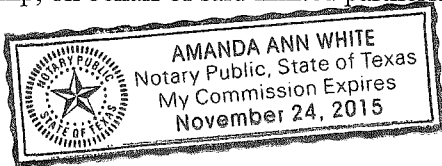
[Seal]

\_\_\_\_\_  
Notary Public—State of Texas

THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me this 25 day of July, 2013 by **Randy Schweyher, Division President** of D.R. Horton, Inc., a Delaware corporation, which is the authorized agent of D.R. Horton-Texas, Ltd., a Texas limited partnership, on behalf of said limited partnership.

[Seal]



*Amanda White*  
\_\_\_\_\_  
Notary Public—State of Texas

THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2013 by James Alan Kent, Managing Member of Tres Lago Development, LLC, a Texas limited liability company, on behalf of said entity.

[Seal]

\_\_\_\_\_  
Notary Public—State of Texas

**LIENHOLDER CONSENT**

The undersigned lienholder hereby consents to the foregoing Declaration of Covenants, Conditions and Restrictions for McKenzie Park and hereby subordinates its liens to the terms and conditions therein.

EXECUTED this 17<sup>th</sup> day of July, 2013.

KPS LAND INVESTMENTS, L.P.  
a Texas limited partnership

By: Canterra Classics, Inc.,  
its general partner

By: Perry Senn, President  
Perry Senn, President

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this 17<sup>th</sup> day of July, 2013 by Perry Senn, President of Canterra Classics, Inc., which is the general partner of KPS Land Investments, L.P., a Texas limited partnership, on behalf of said limited partnership.

[Seal]

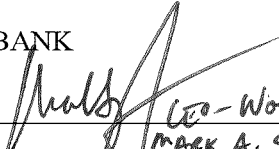
Maureen H Brown  
Notary Public—State of Texas

**LIENHOLDER CONSENT**

The undersigned lienholder hereby consents to the foregoing Declaration of Covenants, Conditions and Restrictions for McKenzie Park and hereby subordinates its liens to the terms and conditions therein.

EXECUTED this 17<sup>th</sup> day of July, 2013.

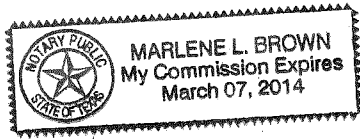
CITIZENS BANK

By:   
Name: MARK A. SOSSAMAN  
Title: CEO - Woodlands Banking Center

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this 17<sup>th</sup> day of July, 2013 by Mark Sossaman, CEO - Woodlands of Citizens Bank, on behalf of said entity.

[Seal]



  
Notary Public—State of Texas

## EXHIBIT "A-1"

**METES AND BOUNDS DESCRIPTION  
15.18 ACRES  
IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189  
HARRIS COUNTY, TEXAS**

A 15.18 ACRE TRACT OF LAND SITUATED IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189, HARRIS COUNTY, TEXAS, BEING OUT OF THE RESIDUE OF A CALLED 42.17 ACRE TRACT (TRACT 1) AND A CALLED 29.57 ACRE TRACT (TRACT 7), DESCRIBED IN DEED TO MCKDEV, LLC, RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20120071463 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY (O.P.R.O.R.P.) AND IN THE CORRECTION DEED RECORDED IN H.C.C.F. NO. 20120236487 O.P.R.O.R.P.; SAID 15.18 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS);

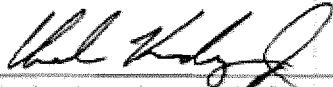
**COMMENCING** at a point in the southeasterly line of a 150 feet wide Harris County Flood Control District (H.C.F.C.D.) easement recorded in Volume 1746, Page 611 of the Harris County Map Records, from which a 3/4-inch iron rod found in the easterly line of a called 4.4257 acre tract described in deed to Cirilo Lopez, recorded in H.C.C.F. No. W975890, O.P.R.O.R.P. bears North 01°53'25" West, 33.81 feet;

**THENCE**, South 01°53'25" East, with the easterly line of said called 4.4257 acre tract, 15.45 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the **POINT OF BEGINNING**;

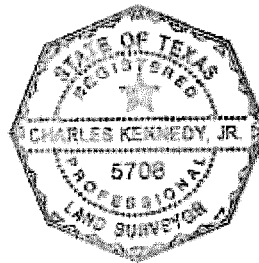
- (1) **THENCE**, North 74°17'18" East, 230.84 feet to a point for corner;
- (2) **THENCE**, North 55°11'25" East, 189.95 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (3) **THENCE**, South 37°53'34" East, 182.76 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (4) **THENCE**, South 23°57'54" East, 114.12 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (5) **THENCE**, South 07°14'31" West, 123.55 feet to a point for corner;
- (6) **THENCE**, South 51°06'56" West, 76.54 feet to a point for corner;
- (7) **THENCE**, South 45°05'29" West, 58.24 feet to a point for corner;
- (8) **THENCE**, South 32°07'44" West, 114.05 feet to a point for corner;
- (9) **THENCE**, South 11°16'43" West, 29.83 feet to a point for corner;
- (10) **THENCE**, South 01°53'25" East, 451.87 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (11) **THENCE**, North 88°06'35" East, 264.62 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (12) **THENCE**, North 76°55'50" East, 72.28 feet to a point for corner;
- (13) **THENCE**, South 74°50'12" East, 138.64 feet to a point for corner;
- (14) **THENCE**, South 28°08'54" East, 151.85 feet to a point for corner;
- (15) **THENCE**, South 11°51'33" East, 33.70 feet to a point for corner;
- (16) **THENCE**, South 26°05'32" West, 155.30 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (17) **THENCE**, South 70°59'35" West, 23.26 feet to a point for corner;

- (18) **THENCE**, South 88°06'35" West, 351.05 feet to a point for corner;
- (19) **THENCE**, North 82°25'06" West, 60.77 feet to a point for corner;
- (20) **THENCE**, South 88°06'35" West, 185.00 feet to a point for corner;
- (21) **THENCE**, North 01°53'25" West, 26.37 feet to a point for corner;
- (22) **THENCE**, South 88°06'35" West, 190.00 feet to a point for corner;
- (23) **THENCE**, North 01°53'25" West, 1182.08 feet to the **POINT OF BEGINNING** and containing 15.18 acres of land. This description accompanies a Land Title Survey, prepared by Edminster, Hinshaw, Russ and Associates, Inc. and dated July 3, 2013.

**EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC.**



Charles Kennedy, Jr., R.P.L.S.  
Texas Registration No. 5708  
10555 Westoffice Drive  
Houston, Texas 77042  
713-784-4500



Date: 07/03/2013  
Job No: 101-030-00  
File No: \\Client\RS\2010\101-020-00\documents\technical\201026804\_M8-P857-2 sec-revised.dwg



## EXHIBIT "A-2"

**METES AND BOUNDS DESCRIPTION  
14.51 ACRES  
IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189  
HARRIS COUNTY, TEXAS**

A 14.51 ACRE TRACT OF LAND SITUATED IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189, HARRIS COUNTY, TEXAS, BEING OUT OF A CALLED 14.58 ACRE TRACT (TRACT 3), DESCRIBED IN DEED TO MCKDEV, LLC, RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20120071463 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY O.P.R.O.R.P. AND IN THE CORRECTION DEED RECORDED IN H.C.C.F. NO. 20120236487 O.P.R.O.R.P.; SAID 14.51 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**BEGINNING** at a 5/8-inch iron rod found for the northwest corner of the Replat of Foxhollow West, a subdivision of record in Volume 311, Page 142 of the Harris County Map Records, being in the southeasterly line of a Harris County Flood Control District (H.C.F.C.D.) drainage channel, recorded in H.C.C.F. No. H269739 O.P.R.O.R.P.;

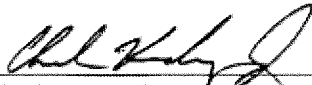
**THENCE**, with the southeasterly line of said H.C.F.C.D. drainage channel the following eight (8) courses and distances:

- (1) North 01°48'43" West, 79.19 feet to a 1/2-inch iron rod with cap stamped "C&C" found for the point of curvature to the right;
- (2) With said curve to the right, having a radius of 170.00 feet, a central angle of 40°15'18", an arc length of 119.44 feet and a chord bearing of North 18°18'56" East, 117.00 feet to the point of tangency from which a found 1/2-inch iron rod with cap stamped "C&C" bears South 16°28' East, 1.2 feet;
- (3) North 38°26'35" East, 42.53 feet to the point of curvature to the left, from which a found 5/8-inch iron rod with cap stamped "C&C" bears South 82°27' East, 3.0 feet;
- (4) With said curve to the left, having a radius of 433.00 feet, a central angle of 41°30'00", an arc length of 313.63 feet and a chord bearing of North 17°41'35" East, 306.82 feet to the point of reverse curvature;
- (5) With said reverse curve to the right, having a radius of 340.00 feet, a central angle of 49°42'13", an arc length of 294.95 feet and a chord bearing of North 21°47'41" East, 285.79 feet to the point of tangency;
- (6) North 46°38'48" East, 129.72 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (7) **THENCE**, South 47°14'13" East, 401.61 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the point of curvature to the right;
- (8) **THENCE**, with said curve to the right, having a radius of 25.00 feet, a central angle of 97°45'51", an arc length of 42.66 feet and a chord bearing of South 01°38'43" West, 37.67 feet to the point of tangency;
- (9) **THENCE**, South 39°28'20" East, 90.00 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (10) **THENCE**, with said non-tangent curve to the right, having a radius of 25.00 feet, a central angle of 97°39'44", an arc length of 42.61 feet and a chord bearing of South 80°38'30" East, 37.64 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the point of compound curvature;
- (11) **THENCE**, with said compound curve to the right, having a radius of 550.00 feet, a central angle of 15°18'50", an arc length of 147.00 feet and a chord bearing of South 24°09'13" East, 146.56 feet to the point of tangency;
- (12) **THENCE**, South 16°29'48" East, 102.19 feet to the point of curvature to the left;

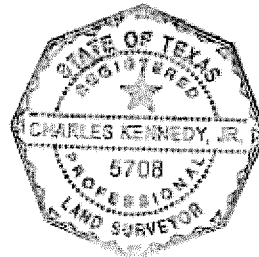
14.51 Acres,  
J. Cooper Survey, A-189

- (13) **THENCE**, with said curve to the left, having a radius of 640.00 feet, a central angle of 75°46'14", an arc length of 846.37 feet and a chord bearing of South 54°22'55" East, 786.03 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set in the northerly line of said Replat of Foxhollow West;
- (14) **THENCE**, South 87°43'58" West, with the northerly line of said Replat of Foxhollow West, 863.31 feet to a point for corner from which a found 5/8-inch iron rod with cap stamped "Cotton Survey" bears South 03°15' East, 0.9 foot;
- (15) **THENCE**, North 02°28'41" West, continuing with the northerly line of said Replat of Foxhollow West, 222.72 feet to a point for corner from which a found 3/4-inch iron rod bears North 17°29' West, 0.2 foot;
- (16) **THENCE**, North 88°23'25" West, continuing with the northerly line of said Replat of Foxhollow West, 598.44 feet to the **POINT OF BEGINNING** and containing 14.51 acres of land. This description accompanies a Land Title Survey, prepared by Edminster, Hinshaw, Russ and Associates, Inc. and dated July 3, 2013.

**EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC.**



Charles Kennedy, Jr., R.P.L.S.  
Texas Registration No. 5708  
10555 Westoffice Drive  
Houston, Texas 77042  
713-784-4500



Date: 07/03/13  
Job No: 105-020-00  
File No: R:\2013\105-020-00\documents\technical\10102000V\_MH-P85T-1 sec.doc



**EXHIBIT "B-1"**  
**METES AND BOUNDS DESCRIPTION**  
**19.47 ACRES (TRACT 1)**  
**IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189**  
**HARRIS COUNTY, TEXAS**

A 19.47 ACRE TRACT OF LAND SITUATED IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189, HARRIS COUNTY, TEXAS, BEING OUT OF A CALLED 42.17 ACRE TRACT (TRACT 1), DESCRIBED IN DEED TO MCKDEV, LLC, RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20120071463 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY (O.P.R.O.R.P.); SAID 19.47 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**COMMENCING** at a 1 inch by 3 inch bar at the northwest corner of said called 42.17 acre tract being in the south line of Five Oak Subdivision (unrecorded);

**THENCE**, South 01°54'20" East, with the west line of said called 42.17 acre tract, 605.93 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the **POINT OF BEGINNING**;

- (1) **THENCE**, North 88°05'40" East, 233.01 feet to a point of curvature to the right;
- (2) **THENCE**, with said curve to the right, having a radius of 650.00 feet, a central angle of 15°08'41", an arc length of 171.81 feet and a chord bearing of South 84°20'00" East, 171.31 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the point of compound curvature;
- (3) **THENCE**, with said compound curve to the right, having a radius of 25.00 feet, a central angle of 96°25'50", an arc length of 42.08 feet and a chord bearing of South 28°32'45" East, 37.28 feet to a point for corner;
- (4) **THENCE**, South 70°19'50" East, 90.00 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (5) **THENCE**, with said non-tangent curve to the right, having a radius of 25.00 feet, a central angle of 96°25'50", an arc length of 42.08 feet and a chord bearing of North 67°53'06" East, 37.28 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the point of compound curvature;
- (6) **THENCE**, with said compound curve to the right, having a radius of 650.00 feet, a central angle of 16°39'47", an arc length of 189.04 feet and a chord bearing of South 55°34'06" East, 188.37 feet to the point of tangency;
- (7) **THENCE**, South 47°14'13" East, 144.06 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner, being in the arc of a non-tangent curve to the right;

- (8) THENCE, with said non-tangent curve to the right, having a radius of 2166.10 feet, a central angle of 03°08'32", an arc length of 118.79 feet and a chord bearing of South 45°04'32" West, 118.78 feet to the point of reverse curvature;
- (9) THENCE, with said reverse curve to the left, having a radius of 500.00 feet, a central angle of 49°42'14", an arc length of 433.75 feet and a chord bearing of South 21°47'41" West, 420.27 feet to the point of reverse curvature;
- (10) THENCE, with said reverse curve to the right, having a radius of 273.00 feet, a central angle of 41°29'58", an arc length of 197.73 feet and a chord bearing of South 17°41'35" West, 193.44 feet to the point of tangency;
- (11) THENCE, South 38°26'49" West, 42.53 feet to the point of curvature to the left;
- (12) THENCE, with said curve to the left, having a radius of 330.00 feet, a central angle of 40°15'18", an arc length of 231.85 feet and a chord bearing of South 18°18'56" West, 227.11 feet to the point of tangency;
- (13) THENCE, South 01°48'45" East, at a distance of 70.23 feet pass a 1/2-inch iron rod found for the northwest corner of that certain called 3.231 acre tract described in deed to Harris County Flood Control District recorded in H.C.C.F. No. F784069, O.P.R.O.R.P., continue a total distance of 186.13 feet to the point of curvature to the right;
- (14) THENCE, with said curve to the right, having a radius of 430.00 feet, a central angle of 51°21'01", an arc length of 385.38 feet and a chord bearing of South 23°51'45" West, 372.61 feet to the point of tangency;
- (15) THENCE, South 49°31'58" West, 220.28 feet to the point of curvature to the right;
- (16) THENCE, with said curve to the right, having a radius of 130.00 feet, a central angle of 16°40'38", an arc length of 37.84 feet and a chord bearing of South 57°52'17" West, 37.71 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (17) THENCE, North 02°08'48" West, 629.07 feet to the northwest corner of said called 3.913 acre tract;
- (18) THENCE, North 01°39'17" West, 584.12 feet to a point for the southeast corner of a called 46.70 acre tract, recorded in H.C.C.F. No. M956373, O.P.R.O.R.P. and the northeast corner of a called 2.50 acre tract recorded in H.C.C.F. No. G337456, O.P.R.O.R.P.;
- (19) THENCE, North 01°39'19" West, 337.45 feet to the southwest corner of said called 22.664 acre tract from which a found axle bears South 58°50' West, 0.3 foot;

THENCE, North 01°54'20" West, 309.98 feet to the POINT OF BEGINNING and containing 19.47 acres of land. This description accompanies a Land Title Survey, prepared by Edminster, Hinshaw, Russ and Associates, Inc. and dated May 7, 2012.

**EXHIBIT "B-2"**

**METES AND BOUNDS DESCRIPTION  
20.23 ACRES (TRACT 2)  
IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189  
HARRIS COUNTY, TEXAS**

A 20.23 ACRE TRACT OF LAND SITUATED IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189, HARRIS COUNTY, TEXAS, BEING OUT OF A CALLED 42.17 ACRE TRACT (TRACT 1) AND A CALLED 29.57 ACRE TRACT (TRACT 7), DESCRIBED IN DEED TO MCKDEV, LLC RECORDED IN HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20120071463 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY (O.P.R.O.R.P.); SAID 20.23 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

**BEGINNING** at a 1 inch by 3 inch bar at the northwest corner of said called 42.17 acre tract being in the south line of Five Oak Subdivision (unrecorded);

- (1) **THENCE**, South 89°55'48" East, with the south line of said Five Oak Subdivision, 1177.93 feet to an axle found in the south line of said Five Oak Subdivision;
- (2) **THENCE**, North 89°46'16" East, continuing with the south line of said Five Oak Subdivision, 99.45 feet to the southeast corner of Lot 134, Five Oaks Subdivision from which a 5/8-inch iron rod was found to bear North 21°51' East, 0.6 foot;
- (3) **THENCE**, North 01°53'25" West, with the east line of said Five Oak Subdivision, 93.70 feet to a point for corner;
- (4) **THENCE**, North 88°06'35" East, 140.00 feet to a point for corner;
- (5) **THENCE**, South 01°53'25" East, 16.37 feet to a point for corner;
- (6) **THENCE**, North 88°06'35" East, 235.00 feet to a point for corner;
- (7) **THENCE**, South 82°25'06" East, 20.67 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (8) **THENCE**, South 01°11'36" East, 81.60 feet to a point for corner;
- (9) **THENCE**, South 26°57'37" East, 108.98 feet to a point in the northerly line of a called 2.457 acre tract described in deed to Harris County Flood Control District (H.C.F.C.D.) recorded in H.C.C.F. No. H035246 O.P.R.O.R.P.;
- (10) **THENCE**, South 54°42'57" West, with the northerly line of said called 2.457 acre H.C.F.C.D. tract, 30.32 feet to a point for corner;
- (11) **THENCE**, North 26°57'37" West, 127.41 feet to a point for corner;

- (12) **THENCE**, South 88°06'35" West, 41.89 feet to a point for corner;
- (13) **THENCE**, South 01°11'36" East, 180.06 feet to a point in the said northerly line of a called 2.457 acre H.C.F.C.D. tract;
- (14) **THENCE**, South 54°42'57" West, with the said northerly line of a called 2.457 acre tract, 63.44 feet to a point for corner;
- (15) **THENCE**, South 39°58'01" West, 315.10 feet to a point in the northwesterly line of a called 2.892 acre H.C.F.C.D. tract recorded in H.C.C.F. No. G999436 O.P.R.O.R.P.;
- (16) **THENCE**, South 68°55'32" West, with the northwesterly line of a called 2.892 acre H.C.F.C.D. tract, 107.69 feet to a point for corner;
- (17) **THENCE**, South 57°44'15" West, 189.70 feet to a point in the northwesterly line of a called 5.503 acre H.C.F.C.D. tract recorded in H.C.C.F. No. H269738 O.P.R.O.R.P.;
- (18) **THENCE**, South 46°44'24" West, with the northwesterly line of a called 5.503 acre H.C.F.C.D. tract, 78.56 feet to the point of curvature to the left;
- (19) **THENCE**, with said curve to the left, having a radius of 2166.10 feet, a central angle of 05°18'01", an arc length of 200.38 feet and a chord bearing of South 44°05'24" West, 200.30 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for corner;
- (20) **THENCE**, North 47°14'13" West, 143.11 feet to the point of curvature to the left;
- (21) **THENCE**, with said curve to the left, having a radius of 750.00 feet, a central angle of 17°54'41", an arc length of 234.46 feet and a chord bearing of North 56°11'33" West, 233.51 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the point of reverse curvature;
- (22) **THENCE**, with said reverse curve to the right, having a radius of 25.00 feet, a central angle of 84°49'04", an arc length of 37.01 feet and a chord bearing of North 22°44'22" West, 33.72 feet to a point for corner;
- (23) **THENCE**, North 70°19'50" West, 90.00 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (24) **THENCE**, with said non-tangent curve to the right, having a radius of 25.00 feet, a central angle of 84°49'04", an arc length of 37.01 feet and a chord bearing of South 62°04'43" West, 33.72 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" set for the point of reverse curvature;
- (25) **THENCE**, with said reverse curve to the left, having a radius of 750.00 feet, a central angle of 16°23'35", an arc length of 214.58 feet and a chord bearing of North 83°42'33" West, 213.85 feet to the point of tangency;
- (26) **THENCE**, South 88°05'40" West, 233.01 feet to a 3/4-inch iron rod with cap stamped "E.H.R.&A.

713-784-4500" set in the west line of said called 22.664 acre tract;

**THENCE**, North 01°54'20" West, with the west line of said called 22.664 acre tract, 505.93 feet to the **POINT OF BEGINNING** and containing 20.23 acres of land. This description accompanies a Land Title Survey, prepared by Edminster, Hinshaw, Russ and Associates, Inc. and dated May 7, 2012.

## EXHIBIT "C"

**METES AND BOUNDS DESCRIPTION  
34.783 ACRES  
IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189  
HARRIS COUNTY, TEXAS**


A 34.783 ACRE TRACT OF LAND SITUATED IN THE JAMES COOPER SURVEY, ABSTRACT NO. 189, HARRIS COUNTY, TEXAS, BEING OUT OF THE FOLLOWING TRACTS DESCRIBED TO MCKDEV, LLC, A CALLED 15.05 ACRES (TRACT 2), A CALLED 16.11 ACRES (TRACT 4), A CALLED 44.59 ACRES (TRACT 5), A CALLED 3.17 ACRES (TRACT 6), A CALLED 5.0000 ACRES (TRACT 8) ALL RECORDED UNDER HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) 20120071463 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY (O.P.R.O.R.P.) AND CORRECTED UNDER H.C.C.F. NO. 20120236487 O.P.R.O.R.P., ALSO BEING OUT OF A CALLED 1.2625 ACRE TRACT DESCRIBED IN DEED TO ENCANTO REAL UTILITY DISTRICT, RECORDED IN H.C.C.F. NO. G424931, O.P.R.O.R.P., OUT OF A CALLED 4.0816 ACRE TRACT DESCRIBED IN DEED TO MCKDEV, LLC, RECORDED IN H.C.C.F. NO. 20120264558 O.P.R.O.R.P., OUT OF A CALLED 16.593 ACRE TRACT DESCRIBED IN DEED TO MCKDEV, LLC, RECORDED IN H.C.C.F. NO. 20120305527 O.P.R.O.R.P., OUT OF A CALLED 3.2897 ACRE TRACT DESCRIBED IN DEED TO MCKDEV, LLC RECORDED IN H.C.C.F. NO. 20120094335 O.P.R.O.R.P. AND BEING OUT OF FOX HOLLOW SEC. ONE EXTENSION, A SUBDIVISION OF RECORD IN FILM CODE NUMBER 392053 OF THE HARRIS COUNTY MAP RECORDS; SAID 34.783 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

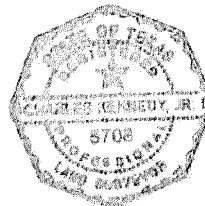
**BEGINNING** at the northwest corner of a called 1.262 acre tract described in deed to Encanto Real Utility District, recorded in H.C.C.F. No. G424931 O.P.R.O.R.P.;

- (1) **THENCE**, South 01°35'04" East, 101.23 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (2) **THENCE**, with said non-tangent curve to the right, having a radius of 540.00 feet, a central angle of 07°42'39", an arc length of 72.67 feet and a chord bearing of North 20°21'07" West, 72.62 feet to the point of tangency;
- (3) **THENCE**, North 16°29'48" West, 102.19 feet to the point of curvature to the left;
- (4) **THENCE**, with said curve to the left, having a radius of 650.00 feet, a central angle of 17°01'25", an arc length of 193.13 feet and a chord bearing of North 25°00'30" West, 192.42 feet to the point of reverse curvature;
- (5) **THENCE**, with said reverse curve to the right, having a radius of 25.00 feet, a central angle of 84°02'51", an arc length of 36.67 feet and a chord bearing of North 08°30'13" East, 33.47 feet to a point for corner;
- (6) **THENCE**, North 39°28'22" West, 90.00 feet to a point for corner;
- (7) **THENCE**, North 50°31'38" East, 44.21 feet to the point of curvature to the right;
- (8) **THENCE**, with said curve to the right, having a radius of 300.00 feet, a central angle of 21°04'11", an arc length of 110.32 feet and a chord bearing of North 61°03'44" East, 109.70 feet to the point of tangency;
- (9) **THENCE**, North 71°35'49" East, 13.42 feet to a point for corner;
- (10) **THENCE**, North 28°01'18" West, 144.17 feet to a point for corner;
- (11) **THENCE**, North 64°37'54" East, 97.57 feet to a point for corner;
- (12) **THENCE**, North 71°31'22" East, 98.76 feet to a point for corner;
- (13) **THENCE**, North 82°00'20" East, 99.23 feet to a point for corner;
- (14) **THENCE**, South 88°27'51" East, 99.29 feet to a point for corner;
- (15) **THENCE**, South 78°05'32" East, 91.54 feet to a point for corner;
- (16) **THENCE**, South 71°03'27" East, 155.42 feet to a point for corner;
- (17) **THENCE**, North 88°03'47" East, 80.00 feet to a point for corner;
- (18) **THENCE**, North 47°42'34" East, 60.15 feet to a point for corner;
- (19) **THENCE**, North 88°03'47" East, 44.16 feet to a point for corner;
- (20) **THENCE**, North 01°56'13" West, 15.20 feet to the point of curvature to the right;

- (21) THENCE, with said curve to the right, having a radius of 425.00 feet, a central angle of 14°05'52", an arc length of 104.57 feet and a chord bearing of North 05°06'43" East, 104.31 feet to a point for corner;
- (22) THENCE, North 78°01'53" West, 72.67 feet to a point for corner;
- (23) THENCE, North 15°46'11" West, 69.44 feet to a point for corner;
- (24) THENCE, North 49°15'24" West, 46.46 feet to a point for corner;
- (25) THENCE, North 82°07'32" West, 27.50 feet to a point for corner;
- (26) THENCE, North 68°07'57" West, 131.71 feet to a point for corner;
- (27) THENCE, North 34°05'36" West, 380.79 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (28) THENCE, with said non-tangent curve to the right, having a radius of 416.79 feet, a central angle of 09°23'00", an arc length of 68.26 feet and a chord bearing of North 59°06'05" East, 68.18 feet to a point for corner;
- (29) THENCE, North 67°47'01" East, 177.46 feet to a point for corner;
- (30) THENCE, North 87°53'41" East, 498.36 feet to a point for corner;
- (31) THENCE, North 60°09'50" East, 196.34 feet to a point for corner;
- (32) THENCE, South 85°35'41" East, 213.49 feet to a point for corner;
- (33) THENCE, South 53°00'16" East, 163.92 feet to a point for corner;
- (34) THENCE, South 18°43'37" East, 33.65 feet to a point for corner;
- (35) THENCE, South 01°25'56" West, 30.84 feet to a point for corner;
- (36) THENCE, South 26°38'28" West, 14.45 feet to a point for corner;
- (37) THENCE, South 74°36'03" West, 126.11 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (38) THENCE, with said non-tangent curve to the right, having a radius of 50.00 feet, a central angle of 37°30'58", an arc length of 32.74 feet and a chord bearing of South 03°19'26" West, 32.36 feet to a point for corner;
- (39) THENCE, South 66°49'54" East, 54.32 feet to a point for corner;
- (40) THENCE, South 31°04'40" East, 88.74 feet to a point for corner;
- (41) THENCE, South 07°21'39" West, 61.59 feet to a point for corner;
- (42) THENCE, South 64°48'53" West, 82.35 feet to a point for corner;
- (43) THENCE, South 86°44'37" West, 113.07 feet to a point for corner;
- (44) THENCE, South 56°05'26" West, 100.12 feet to a point for corner;
- (45) THENCE, South 56°11'46" West, 91.65 feet to a point for corner;
- (46) THENCE, South 49°43'56" West, 90.10 feet to a point for corner;
- (47) THENCE, South 44°57'36" West, 41.14 feet to a point for corner;
- (48) THENCE, South 37°47'47" West, 40.00 feet to a point for corner;
- (49) THENCE, South 21°52'59" West, 70.66 feet to a point for corner;
- (50) THENCE, South 05°59'41" West, 40.91 feet to a point for corner;
- (51) THENCE, South 01°56'13" East, 25.81 feet to a point for corner;

- (52) THENCE, South 43°03'47" West, 21.21 feet to a point for corner;
- (53) THENCE, South 88°03'47" West, 160.00 feet to a point for corner;
- (54) THENCE, South 01°56'13" East, 20.00 feet to a point for corner;
- (55) THENCE, North 88°03'47" East, 160.00 feet to a point for corner;
- (56) THENCE, South 46°56'13" East, 21.21 feet to a point for corner;
- (57) THENCE, South 01°56'13" East, 465.00 feet to a point for corner;
- (58) THENCE, South 76°55'58" East, 72.77 feet to a point for corner;
- (59) THENCE, South 65°03'32" East, 89.66 feet to a point for corner;
- (60) THENCE, South 27°29'46" East, 109.69 feet to a point for corner;
- (61) THENCE, South 04°57'23" East, 144.87 feet to a point for corner;
- (62) THENCE, South 02°23'06" West, 7.24 feet to a point for corner;
- (63) THENCE, South 89°31'32" West, 180.69 feet to a point for corner, being in the arc of a non-tangent curve to the right;
- (64) THENCE, with said non-tangent curve, to the right having a radius of 50.00 feet, a central angle of 13°54'12", an arc length of 12.13 feet and a chord bearing of South 06°28'29" West, 12.10 feet to a point for corner;
- (65) THENCE, South 76°34'25" East, 184.75 feet to a point for corner;
- (66) THENCE, South 02°23'06" West, 137.83 feet to a point for corner;
- (67) THENCE, South 87°34'42" West, 403.78 feet to the point of curvature to the right;
- (68) THENCE, with said curve to the right, having a radius of 1950.00 feet, a central angle of 00°09'16", an arc length of 5.26 feet and a chord bearing of South 87°39'20" West, 5.26 feet to the point of tangency;
- (69) THENCE, South 87°43'58" West, 198.73 feet to the point of curvature to the right;
- (70) THENCE, with said curve to the right, having a radius of 540.00 feet, a central angle of 29°12'00", an arc length of 275.20 feet and a chord bearing of North 77°40'02" West, 272.23 feet to a point for corner;
- (71) THENCE, North 27°16'28" East, 251.96 feet to a point for corner;
- (72) THENCE, North 01°58'26" West, 124.57 feet to a point for corner;
- (73) THENCE, North 60°53'22" West, 125.25 feet to a point for corner;
- (74) THENCE, South 88°33'30" West, 64.64 feet to a point for corner;
- (75) THENCE, South 70°58'23" West, 157.19 feet
- (76) THENCE, North 83°10'40" West, 39.52 feet to the **POINT OF BEGINNING** and containing 34.783 acres of land. This description accompanies a Standard Land Survey, prepared by Edminster, Hinshaw, Russ and Associates, Inc. and dated April 19, 2012. Revised July 11, 2012  
**EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC.**

  
Charles Kennedy, Jr., R.L.S.  
Texas Registration No. 5708  
10555 Westoffice Drive  
Houston, Texas 77042  
713-784-4500



Date: 04/19/2012 [rev. 7-11-12]  
Job No: 101-030-00  
File No: R:\2010\101-030-00\documents\technical\1.0102050V\_M0-F95T-4 sec.doc



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08/01/2013 15:01:49 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
STAN STANART  
COUNTY CLERK  
Fees 196.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in 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 Harris County, Texas.



*Stan Stanart*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

**SECOND AMENDMENT  
TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR MCKENZIE PARK**

This Second Amendment to the Declaration of Covenants, Conditions and Restrictions for McKenzie Park (this "**Amendment**") is made and entered into by **MCKDEV, LLC**, a Texas limited liability company ("**Declarant**") and is joined in by **TRES LAGO DEVELOPMENT, LLC**, a Texas limited liability company ("**Tres Lago**") and **D.R. HORTON-TEXAS, LTD.**, a Texas limited partnership ("**Horton**").

**WITNESSETH:**

WHEREAS, Declarant executed that certain Declaration of Covenants, Conditions and Restrictions for McKenzie Park dated July 17, 2013 as filed under Harris County Clerk's File No. 20130389410 and recorded Film Code No. 047-78-2164, as amended by the First Amendment dated February 24, 2014 as filed under Harris County Clerk's File No. 20140097438 and recorded under Film Code No. 054-70-0271 (collectively, the "**Declaration**");

WHEREAS, Declarant desires to execute this Amendment to the Declaration in accordance with Article X, Section 2 of the Declaration.

NOW, THEREFORE, the undersigned hereby declare as follows:

1. **Annual Assessments.** Article IV, Section 3 of the Declaration is hereby amended and restated as follows:

"**SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS.** Unless a lesser amount is designated by the Board of Directors, the annual assessment by the Association shall be (i) \$900.00 per Lot for all Lots situated within McKenzie Park, Sections 1, 2, and 3, (ii) \$1,600.00 per Lot for all Lots situated within McKenzie Park, Section 4, and (iii) \$900.00 per Lot for any other Lots situated within the Properties subject to the Declaration. The annual assessment in any year may be increased by the Board of the Association, at its sole discretion, by an amount equal up to a fifteen percent (15%) increase over the assessment for the previous year without a vote of the Members of the Association. The annual assessment in any year may be increased above fifteen percent (15%) of the annual assessment for the previous year only with the approval by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy, at a meeting duly called for this purpose. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum."

2. **Neighborhood Assessments.** The second paragraph of Article IV, Section 4 of the Declaration currently stipulates that the Tres Lago Land (as defined therein) is subject to an annual Neighborhood Assessment of \$900.00 per Lot (in addition to any other assessments). The second paragraph of Article IV, Section 4 of the Declaration is hereby deleted in its entirety.

3. **Deficit Funding.** The second paragraph of Article IV, Section 7 of the Declaration (as amended by the First Amendment) is hereby amended and restated as follows:

"There shall also be no assessments on any portion of the Properties which has not been platted into Lots. Declarant, Tres Lago, and Horton shall not be required to pay any

assessment with respect to portions of the Properties owned by Declarant, Tres Lago, and/or Horton (as applicable); provided, however, in the event the assessments collected by the Association in any given year are insufficient to fund the actual out-of-pocket expenses for the operations of the Association, Tres Lago and Horton shall be responsible for funding any such operational deficit of the Association, it being agreed that Tres Lago shall be responsible for 24.4% of any such operational deficit and Horton shall be responsible for 75.6% of any such operational deficit. Notwithstanding the foregoing, the obligation of Tres Lago and Horton to fund any operational deficit for Common Area improvements constructed after the date of this Declaration shall not commence until such time as the Association has accepted such improvements on the applicable Common Area.”

4. Joinder. Tres Lago and Horton as the Owners of a majority of the Lots subject to the Declaration, hereby ratify, approve and consent to the terms and conditions contained herein.

5. Full Force and Effect. Except as expressly amended hereby, the Declaration is not affected hereby and the same is ratified as being in full force and effect.

6. Capitalized Terms. Capitalized terms not expressly defined herein shall have the meaning ascribed to them in the Declaration.

7. Effective Date. The terms and provisions of this Amendment shall commence upon the Effective Date hereof.

[Remainder of page intentionally blank]

EXECUTED the 14<sup>th</sup> day of December, 2015 (the "Effective Date").

**DECLARANT:**

MCKDEV, LLC,  
a Texas limited liability company

By: *Perry Senn*  
Perry Senn, Manager

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this 14<sup>th</sup> day of December, 2015 by Perry Senn, Manager of MCKDEV, LLC, a Texas limited liability company, on behalf of said entity.

[Seal]



*Marlene L. Brown*  
Notary Public—State of Texas

RP-2016-70762

**TO EVIDENCE ITS CONSENT:**

TRES LAGO DEVELOPMENT, LLC,  
a Texas limited liability company

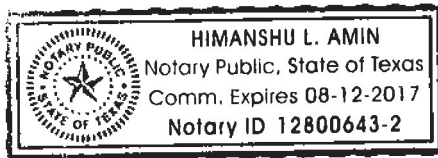
By: \_\_\_\_\_

James Alan Kent,  
Managing Member

THE STATE OF TEXAS     §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me this 5<sup>th</sup> day of JANUARY, 2016 by James Alan Kent, Managing Member of Tres Lago Development, LLC, a Texas limited liability company, on behalf of said entity.

[Seal]



\_\_\_\_\_  
Notary Public—State of Texas

8/12/17

**TO EVIDENCE ITS CONSENT:**

D.R. HORTON-TEXAS, LTD.,  
a Texas limited partnership

By: D.R. Horton, Inc., a Delaware  
corporation, its Authorized Agent

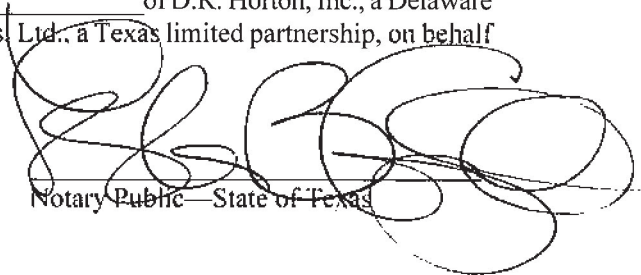
By:   
Name: **Randy Schweyher**  
Title: **Division President**

THE STATE OF TEXAS       §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me this 21 day of December 2015 by  
Randy Schweyher, Division President  
of D.R. Horton, Inc., a Delaware  
corporation, which is the authorized agent of D.R. Horton-Texas, Ltd., a Texas limited partnership, on behalf  
of said limited partnership.

[Seal]



  
Notary Public — State of Texas

RP-2016-70762

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# Pages 6  
02/22/2016 10:53 AM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
STAN STANART  
COUNTY CLERK  
Fees \$32.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in 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 Harris County, Texas.



*Stan Stanart*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2016-70762

AMEND

K

Great American Title Courtesy deed

**FIRST AMENDMENT TO THE  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR MCKENZIE PARK**

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

**THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MCKENZIE PARK** (this "First Amendment") is made to be effective of the 24<sup>th</sup> day of February, 2014, by and among MCKDEV, LLC, a Texas limited liability company ("Declarant"), D.R. HORTON - TEXAS, LTD., a Texas limited liability company ("Horton"), and TRES LAGO DEVELOPMENT, LLC, a Texas limited liability company ("Tres Lago").

**WITNESSETH:**

**WHEREAS**, Declarant recorded the Declaration of Covenants, Conditions and Restrictions for McKenzie Park on August 1, 2013, as Document Number 20130389410 of the Official Public Records of Harris County, Texas (the "Declaration");

1EE

**WHEREAS**, pursuant to Article X, Section 2 of the Declaration, the Declaration may be amended by Declarant and the Owners of a majority of the Lots; and

**WHEREAS**, as of the date hereof, Horton and Tres Lago own a majority of the Lots;

**NOW, THEREFORE**, the Declaration is amended as follows:

1. Recitals; Defined Terms. The foregoing recitals are true and correct and are hereby incorporated into this First Amendment for all purposes. Any capitalized term used in this First Amendment and not defined herein shall have the meaning assigned to such term in the Declaration.
2. Scriviner's Error. The reference to Montgomery County, Texas in the second sentence of Article X, Section 2, Paragraph B, is hereby revised to be Harris County, Texas.
3. Deficit Funding. The second paragraph of Article IV, Section 7 of the Declaration is hereby deleted in its entirety and replaced with the following:

"There shall also be no assessments on any portion of the Properties which has not been platted into Lots. Declarant, Tres Lago, and Horton shall not be required to pay any assessment with respect to portions of the Properties owned by Declarant, Tres Lago and/or Horton (as applicable); provided, however, in the event the assessments collected by the Association in any given year are insufficient to fund the actual out-of-pocket expenses for the operations of the Association, Tres Lago and Horton shall be responsible for funding any such

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ER 054 - 70 - 0272

operational deficit of the Association, it being agreed that Tres Lago shall be responsible for 24.4% of any such operational deficit and Horton shall be responsible for 75.6% of any such operational deficit; provided, however, Tres Lago shall be responsible for 100% of any such operational deficit that pertains solely to Neighborhood Expenses for the Tres Lago Land. Notwithstanding the foregoing, the obligation of Tres Lago and Horton to fund any operational deficit related to the recreational facility (which is a portion of the Common Area) shall not commence until such time as the Association has accepted the recreational facility. However, the obligation of Tres Lago and Horton to fund any operational deficit related to any other portion of the Common Area (including, but not limited to, ponds, perimeter walls, columns, fencing, landscaping, park facilities, and the like) shall commence immediately upon the completion of such portions of the Common Area (it being acknowledged that such other portions of the Common Area are not subject to formal acceptance by the Association)."

4. Effect of Amendment. Except as amended by this First Amendment, the Declaration shall remain in full force and effect.

**EXECUTED** to be effective as of the date first shown above.

**DECLARANT:** (4)

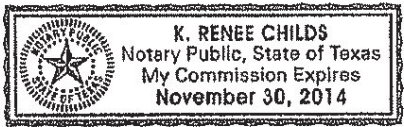
**MCKDEV, LLC,** 10R  
a Texas limited liability company

By: *Perry R. Senn*  
Perry R. Senn, Manager

THE STATE OF TEXAS §  
  §  
COUNTY OF Harris §

This instrument was acknowledged before me on February 27, 2014, by Perry R. Senn, the Manager of MCKDEV, LLC, a Texas limited liability company, on behalf of said company.

*K. Renee Childs*  
Notary Public, State of Texas  
[Seal]



ER 054 - 70 - 0273

**HORTON:**

**D.R. HORTON – TEXAS, LTD.,**  
a Texas limited partnership

**10R**

By: D.R. HORTON, INC.,  
a Delaware corporation,  
its authorized agent

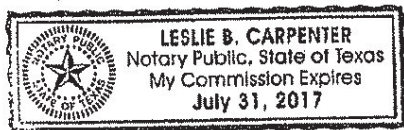
By: *Andrew Hendricks*

Name: **Andrew Hendricks**  
**Asst. Vice President**

Title: \_\_\_\_\_

THE STATE OF TEXAS       §  
  §  
COUNTY OF MONTGOMERY.   §

This instrument was acknowledged before me on March 7, 2014, by Andrew Hendricks, Asst. Vice President of D.R. HORTON, INC., a Delaware corporation, authorized agent of D.R. HORTON – TEXAS, LTD., a Texas limited partnership, on behalf of said limited partnership.




*[Signature]*  
Notary Public, State of Texas  
[Seal]

TRES LAGO:

2OR

TRES LAGO DEVELOPMENT, LLC,  
a Texas limited liability company

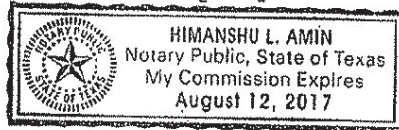
By:   
James Alan Kent, Managing Member

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

This instrument was acknowledged before me on FEB 26<sup>th</sup>, 2014, by James Alan Kent, the Managing Member of TRES LAGO DEVELOPMENT, LLC, a Texas limited liability company, on behalf of said company.



Notary Public, State of Texas  
[Seal] 8/12/17



ER 054 - 70 - 0274

ER 054 - 70 - 0275

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# Pages 5  
03/11/2014 11:32:16 AM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
STAN STANART  
COUNTY CLERK  
Fees 28.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically  
and any blackouts, additions or changes were present  
at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or  
use of the described real property because of color or  
race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in  
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 Harris County, Texas.



*Stan Stanart*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

**MCKENZIE PARK SUBDIVISION**  
**AMENDMENT TO THE DECLARATION REGARDING CAPITALIZATION FEES**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

WHEREAS McKenzie Park Homeowners Association, Inc., (hereinafter the "Association"), a Texas nonprofit corporation, is the governing entity for McKenzie Park, Sections 1-4, additions in Harris County, Texas, according to the maps or plats thereof, recorded in the Map Records of Harris County, Texas, under Clerk's File Nos. 20130417075, 20150058169, 20150134724, and 20140055882, respectively, along with any replats thereto, and any other property annexed into the jurisdiction of the Association (hereinafter the "Subdivision"); and,

WHEREAS the Subdivision is Governed by the Declaration of Covenants, Conditions, and Restrictions for McKenzie Park, recorded in the Real Property Records of Harris County, Texas, under Clerk's File No. 20130389410, along with any amendments and supplements thereto (hereinafter the "Declaration"); and,

WHEREAS the Declaration gives MCKDEV, LLC, a Texas limited liability company (hereinafter the "Declarant") special rights and privileges for so long as Class B Membership exists within the Subdivision; and,

WHEREAS Class B Membership still exists within the Subdivision; and,

WHEREAS Article X, Section 2(A) of the Declaration states so long as Class B Membership exists within the Subdivision, the Declarant may amend the Declaration unilaterally and at any time for any purpose, except that such amendment cannot have a material adverse effect upon any right of any person or entity undertaking the construction of a residence on a Lot to be offered for sale at the time of the amendment; and,

WHEREAS the Association's property owners wish the Declarant to increase the capitalization fee for the benefit of all the Association's property owners and so as to better serve the Association's purposes;

NOW THEREFORE, pursuant to the foregoing, and as evidenced by the certification hereto, the Declaration is hereby amended as follows:

**Article IV, Section 12, which read:**

SECTION 12. CAPITALIZATION FEE. Upon each transfer of record title to a Lot, from time to time, by each Owner thereof (commencing on the transfer of record title of a Lot to the initial homebuyer), a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in the amount of one half (1/2) of the then-current annual assessment. This amount shall be in addition to, not in lieu of, any other assessments required herein and shall not be considered an advance payment of any such assessments. This amount

RP-2019-321956

shall be disbursed to the Association for use in covering operating expenses and for a reserve fund for other costs incurred by the Association.

**is hereby amended to read and shall now read:**

SECTION 12. CAPITALIZATION FEE. Upon each transfer of record title to a Lot, from time to time, by each Owner thereof (commencing on the transfer of record title of a Lot to the initial homebuyer), a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in the full amount of the then-current annual assessment. This amount shall be in addition to, not in lieu of, any other assessments required herein and shall not be considered an advance payment of any such assessments. This amount shall be disbursed to the Association for use in covering operating expenses and for a reserve fund for other costs incurred by the Association.

**CERTIFICATION**

"I, the undersigned, being an authorized agent of MCKDEV, LLC, the Declarant herein, hereby certify that the foregoing Amendment is approved, as the act and deed of the Declarant."

By: *[Signature]*

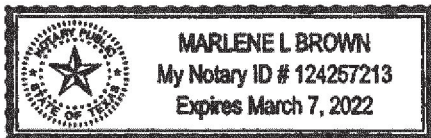
Print Name: *Perry Lewis*

Title: *Pres.*

STATE OF TEXAS                   §  
  §  
COUNTY OF HARRIS           §

BEFORE ME, the undersigned authority, on this 21<sup>st</sup> day of July, 2019, personally appeared the person whose name is subscribed to the foregoing instrument and acknowledged to me that they signed it with the authority and for the purposes expressed therein.

*[Signature]*  
Notary Public, State of Texas



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RP-2019-321956  
# Pages 3  
07/25/2019 12:47 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
DIANE TRAUTMAN  
COUNTY CLERK  
Fees \$20.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in 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 Harris County, Texas.



*Diane Trautman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2019-321956

**AMENDMENT TO THE DECLARATION OF MCKENZIE PARK  
INCREASING BUILDER ASSESSMENT RATE**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

WHEREAS McKenzie Park Homeowners Association, Inc., (hereinafter the "Association") a Texas nonprofit corporation, is the governing entity for McKenzie Park, Sections 1-4, additions in Harris County, Texas, according to the maps or plats thereof, recorded in the Map Records of Harris County, Texas, under Clerk's File Nos. 20130417075, 20150058169, 20150134724, and 20140055882, respectively, along with any amendments, supplements, and replats thereto, and any other property that may come into the jurisdiction of the Association (together, hereinafter the "Subdivision"); and,

WHEREAS the Association and the Subdivision are subject to the Declaration of Covenants, Conditions and Restrictions for McKenzie Park, recorded in the Real Property Records of Harris County, Texas, under Clerk's File No. 20130389410, along with any amendments and supplements thereto (hereinafter the "Declaration"); and,

WHEREAS the Declaration was made and set forth by MCKDEV, LLC, a Texas limited liability company (hereinafter the "Declarant"); and,

WHEREAS Article X, Section 2(A)(d) of the Declaration states that the Declarant may amend the Declaration unilaterally, at any time, for any purpose, so long as any person or entity undertaking the construction of a residence on a Lot to be offered for sale at the time of the amendment has consented to the amendment; and,

WHEREAS the Association's members and the Declaration wish to amend the Declaration so as to improve the Association's finances and thereby forward the Association's purpose of ensuring the well-being of the Subdivision; and,

WHEREAS all persons or entities undertaking the construction of a residence on a Lot to be offered for sale as of the date of this amendment have consented to this amendment;

NOW THEREFORE, pursuant to the foregoing, and as evidenced by the Certification hereto, the Declarant hereby amends the Declaration as follows:

**Article IV, Section 7, which previously read:**

SECTION 7. RATES OF ASSESSMENT AND DEFICIT FUNDING. Both annual and special assessments on all Lots shall be fixed at rates and the Lots in the Properties shall commence to bear their assessment (subject to provisions relating to the Declarant, as stated below); provided, however, Lots owned by a Builder (other than Tres Lago and Horton) shall be assessed at the rate of fifty percent (50%) of the regular assessment otherwise applicable to the Lots. The assessment for an individual Lot, within a calendar year, shall change as the ownership of such Lot passes from the Declarant or

RP-2019-405516

Builder, and the assessment for such Lot shall be prorated according to the applicable rate during each type of ownership.

There shall also be no assessments on any portion of the Properties which has not been platted into Lots. Declarant, Tres Lago, and Horton shall not be required to pay any assessment with respect to portions of the Properties owned by Declarant, Tres Lago and/or Horton (as applicable); provided, however, in the event the assessments collected by the Association in any given year are insufficient to fund the actual out-of-pocket expenses for the operations of the Association, Tres Lago and Horton shall be responsible for funding any such operational deficit of the Association, it being agreed that Tres Lago shall be responsible for 75.6% of any such operational deficit and Horton shall be responsible for 24.4% of any such operational deficit. Notwithstanding the foregoing, the obligation of Tres Lago and Horton to fund any operational deficit for Common Area improvements constructed after the date of this Declaration shall not commence until such time as the Association has accepted such improvements on the applicable Common Area.

Notwithstanding anything in this Section to the contrary, on the date that seventy-five (75%) of all Lots within the Properties are developed with residences and sold to homeowners, the obligation of Tres Lago and Horton to deficit fund the operational expenses of the Association shall terminate and Lots owned by Tres Lago and by Horton shall be assessed at the rate of fifty percent (50%) of the regular assessment otherwise applicable to the Lots.

**is amended to read and shall now read:**

SECTION 7. RATES OF ASSESSMENT AND DEFICIT FUNDING. Both annual and special assessments on all Lots shall be fixed at rates and the Lots in the Properties shall commence to bear their assessment (subject to provisions relating to the Declarant, as stated below). All Lots, except as provided below, shall pay the same rate of annual and special assessment. In the event ownership of any Lot passes from the Declarant to any subsequent person or entity, then the assessment for that calendar year shall be prorated for the remainder of the calendar year.

There shall also be no assessments on any portion of the Properties which has not been platted into Lots. Declarant, Tres Lago, and Horton shall not be required to pay any assessment with respect to portions of the Properties owned by Declarant, Tres Lago and/or Horton (as applicable); provided, however, in the event the assessments collected by the Association in any given year are insufficient to fund the actual out-of-pocket expenses for the operations of the Association, Tres Lago and Horton shall be responsible for funding any such operational deficit of the Association, it being agreed that Tres Lago shall be responsible for 75.6% of any such operational deficit and Horton shall be responsible for 24.4% of any such operational deficit. Notwithstanding the foregoing, the obligation of Tres Lago and Horton to fund any operational deficit for Common Area improvements constructed after the date of this Declaration shall not commence until such time as the Association has accepted such improvements on the applicable Common Area.

Notwithstanding anything in this Section to the contrary, on the date that seventy-five (75%) of all Lots within the Properties are developed with residences and sold to homeowners, the obligation of Tres Lago and Horton to deficit fund the operational

expenses of the Association shall terminate and Lots owned by Tres Lago and by Horton shall be assessed at the full rate.

**CERTIFICATION**

"I, the undersigned, being the authorized representative of MCKDEV, LLC, Declarant, hereby certify that the foregoing Amendment was approved by the Declarant, and that the foregoing Amendment was approved by all persons and/or entities undertaking the construction of a residence on a Lot to be offered for sale."

By: Robert Relick

Print Name: ROBERT RELICK

Title: President

STATE OF TEXAS           §  
  §  
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on the day personally appeared the person whose name is subscribed to the foregoing document and being by me first duly sworn, declared that they are the person who signed the foregoing document in his representative capacity, as the act and deed of MCKDEV, LLC, and that the statements contained therein are true and correct.

Given under my hand and seal of office this the 12<sup>th</sup> day of September, 2019.

CMORENO  
Notary Public, State of Texas



RP-2019-405516

RP-2019-405516  
# Pages 4  
09/12/2019 01:23 PM  
e-Filed & e-Recorded in the  
Official Public Records of  
HARRIS COUNTY  
DIANE TRAUTMAN  
COUNTY CLERK  
Fees \$24.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in 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 Harris County, Texas.



*Diane Trautman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS

RP-2019-405516