

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

(Unplated Tracts)

STATE OF TEXAS

COUNTY OF BURLESON

This Declaration of Covenants, Conditions, Easements, and Restrictions (the “**Declaration**”) is executed effective as of the date indicated below by **2008 FM 908 157, LLC**, a Texas limited liability company (“**Declarant**”).

RECITALS:

WHEREAS Declarant is the owner of that certain land in Burleson County, Texas, described in **Exhibit "A"** attached hereto and made a part hereof for all purposes, hereinafter (the “**Property**”); and.

WHEREAS, Declarant desires to create and carry out a uniform plan for the development and sale of the Property for the benefit of the present and future owners of the Property, and to convey the Property subject to certain protective covenants, conditions easements and restrictions hereinafter set forth; and

NOW, THEREFORE, it is hereby declared that (i) all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions, easements, and restrictions which are for the purpose of protecting the desirability of the Property, and which shall run with the land and be binding on all parties having any right, title, or interest in or to the Property or any part thereof, including their heirs, successors, and assigns, and shall inure to the benefit of each such party; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set forth or referred to in said contract or deed.

ARTICLE 1. GENERAL RESTRICTIONS

All of the Property and any right, title or interest therein shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions.

1.1 Limitation on Use.

- a) All Tracts may be used only for (i) residential purposes or (ii) commercial purposes, provided that use for any commercial purpose shall be subject to the following limitations:
 - i. Hazardous materials or chemicals will not be regularly used or stored on the Tract;
 - ii. any equipment or materials must be screened from view from any neighboring Tract;
 - iii. any structure is setback a minimum of fifteen (15’) from a neighboring Tract;
 - iv. Noise volume may not exceed may not exceed 85 decibels; and

- v. After sundown, business may only be conducted indoors or screened from view (except for agricultural purposes);

1.2 Minimum Building Setbacks and Public Utility Easements.

- a) Building setbacks shall be fifty-five feet (55') along all portions of a tract with frontage on FM 908, and fifteen feet (15') on all other sides of a Tract.
- b) Public Utility Easements shall exist as follows:
 - i. For those portions of a Tract with frontage on County Road 908, a 15' Public Utility Easement shall run parallel with the property line, starting at a depth of 40' and extending to a depth of 55', from the property line.
 - ii. For all other portions of a Tract, a 15' Public Utility Easement shall run parallel to the property line extending to a depth of 15' from the property line
 - iii. No structures other than fencing and public utilities may be placed within the Public Utility Easement.
- a) Boundary line fences, cross fences, gates and structures relating to gate entrances shall be excluded from the definition of structure as used herein. Structures that existed on the Property prior to the filing and recordation of this Declaration shall be grandfathered and exempted from these requirements.

1.3 Dwellings. All dwellings placed on the Property shall be site-built homes, condominium, modular homes, or manufactured homes.

- a) Modular or manufactured homes are subject to the following minimum standards:
 - i. A "Double Wide" unit or larger. No "Single Wide" units are permitted;
 - ii. Not less than twelve hundred (1,200) square feet;
 - iii. Must be less than three (3) years old when installed on the Property.
 - iv. Must be permanently attached (not personal property);
 - v. The home must have underpinning or skirting entirely around the bottom of the dwelling, that is constructed of masonry, brick, or concrete board;
 - vi. In good condition; and
 - vii. Is well-maintained at all times.
 - viii. Modular or manufactured houses may not be stored on any Tract at any time unless they are in the process of being attached.
- b) Notwithstanding the foregoing, a Tract owner may relocate or reconstruct a building of historical quality and integrity (e.g., a log cabin) to be used as a dwelling or accessory building.

1.4 Number of Dwellings per Acre. A minimum of five (5) acres shall be required for each permanent dwelling.

1.5 Temporary Structures. No tent, shack, or other temporary building shall be placed on the Property as a permanent dwelling, except for temporary structures needed to store tools and equipment during actual construction or for recreational use.

1.6 Unfinished Structures. No dwelling or other structure shall remain unfinished for more than

fifteen (15) months after construction has begun.

1.7 Rubbish, Trash and Debris.

- a) No trash containers, metals, bulk materials, scrap, refuse, trash or debris shall be kept, stored or allowed to accumulate on any portion of the Property within the minimum setback areas established in Paragraph 1.02 above. For all other areas, such items may be kept, stored or allowed to accumulate only if appropriately screened from view from public or common roads and adjacent Tracts. No odors shall be permitted to arise therefrom so as to render any portion of the Property unsanitary, offensive, or detrimental to any other portion of the Property or to its occupants. The Property shall not be used as a dumping ground for rubbish. No Tract owner shall permit any condition to exist on any Tract that will induce, breed or harbor plant disease or noxious insects.

1.8 Vehicles and Trailers Parking.

- a) No trucks, automobiles, trailers, graders, stock trailers, horse trailers, boats, tractors, construction machinery, wagons, motorcycles, motor scooters, all-terrain vehicles, or landscaping equipment (collectively, "Vehicles") shall be parked or stored on any Tract at any time within the minimum setback areas established in Paragraph 1.02 above, except when in actual use. No repair or maintenance work shall be done on any Vehicles (other than minor emergency repairs) except in areas screened from view.

1.9 Swine and Ratites.

- a) No swine or ratites (ostriches, emus and the like) may be kept, stored, or raised upon any Tract or any portion of the Property.

1.10 Other Animals. Owners may keep:

- a) Horses, cows, goats, or sheep;
- b) Common domesticated pets, such as dogs or cats, confined to a fenced yard or within the Dwelling, though no commercial breeding or kennel operations are permitted; and
- c) A maximum number of thirty (30) chickens, which may be kept for personal, but not commercial use. In no event shall any roosters be kept on the Tract.
- d) No wild animals are permitted.

1.11 Individual Sewage Disposal Systems. No individual sewage disposal system shall be permitted unless the system is designed, located, constructed and maintained in accordance with all state, federal, and local laws, including any promulgated by Burleson County. In addition, no dwelling shall be occupied until connected to an on-site waste water system that has been approved and permitted by Burleson County. Individual sewage disposal systems must additionally comply with the minimum setback requirements outlined herein.

1.12 Repair of Buildings. All improvements upon any of the Property shall at all times be kept in good condition and repair, adequately painted, and otherwise maintained by the Owner thereof.

1.13 Subdivision of a Tract. Following the first sale of a tract by the Declarant, no Tract may be further subdivided without the approval of the owners of the Property that collectively own sixty percent (60%) of the total acreage of the Property.

1.14 Maintenance. Each Owner must keep the Tract, all landscaping, the dwelling, and all structures in a neat, well-maintained, and attractive condition.

1.15 Additional Prohibited Activities. Additional prohibited activities are:

- a) any illegal activity;
- b) any nuisance or noxious or offensive activity;
- c) any storage of-
 - i. building materials except during the construction or renovation of a dwelling or a structure;
 - ii. unsightly objects unless completely shielded by a structure;
- d) any exploration for or extraction of minerals;
- e) the display of any sign except-
 - i. one not more than five square feet, advertising the Tract for sale or rent or advertising a garage or yard sale, or
 - ii. political signage not prohibited by law; or
 - iii. a commercial sign.
- f) the operation of:
 - i. junkyards - two or more vehicles in disrepair placed on any Tract for more than two weeks shall constitute a junkyard unless said vehicles are kept in a garage.
 - ii. repair yards,
 - iii. wrecking yards,
 - iv. sludge farms, or
 - v. kennel operations of any kind.

ARTICLE 2. MISCELLANEOUS

2.1 Term. This Declaration shall run until December 31, 2039. After December 31, 2039, this Declaration shall be automatically extended for successive periods of ten (10) years each, unless amended or terminated as provided below.

2.2 Termination. This Declaration may be terminated only by a written instrument executed by owners of the Property that collectively own seventy five percent (75%) of the total acreage of the Property.

2.3 Amendment. This Declaration may be amended by a written instrument executed by owners of the Property that collectively own sixty percent (60%) of the total acreage of the Property, provided, however, that so long as Declarant owns any portion of the Property, Declarant may amend this Declaration at any time. Any such amendment shall be effective upon recordation in the County Property Records of an instrument executed and acknowledged by Declarant and/or the requisite number of owners and setting forth the amendment.

2.4 Severability. The provisions of this Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision shall not affect the validity or enforceability of any other provision or portion thereof.

2.5 Enforcement. The Declarant and each Owner of a portion of the Property shall have the right to enforce any and all provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision. Failure to enforce any covenant or

restriction shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. All waivers must be in writing and signed by the party to be bound.

2.6 Effect on Declarant. The reservation by Declarant of this right of enforcement shall not create a duty or obligation of any kind to enforce the same, and Declarant shall not be subject to any claim, demand, or cause of action from any Tract owner by virtue of not enforcing any restrictions herein contained.

2.7 Attorney's Fees. If any controversy, claim or dispute arises relating to this instrument, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

2.8 Fines. Each Owner and occupant of a Tract agrees to comply with this Declaration and agrees that failure to comply may subject him to damages or injunctive relief.

2.9 No Waiver. Failure by an Owner to enforce this Declaration is not a waiver.

2.10 Presuit Mediation. Prior to initiating litigation, any Tract owner or Declarant must first send notice of its claim or complaint and list of remedies requested to the Tract owner who is allegedly in breach of these covenants within ninety (90) days of the alleged action underlying the claim or complaint. All parties must then submit to mediation in good faith, bearing fifty percent (50%) of the mediation expenses. Failure to serve timely written notice or to mediate in good faith shall serve as a waiver of any rights to pursue litigation.

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Signature Page to Follow

IN WITNESS WHEREOF, Declarant has executed this Declaration to be effective as of November _____, 2020.

DECLARANT:

2008 FM 908 157, LLC, a Texas limited liability company

BY: S3B512, LLC, a Texas limited liability company, its Manager

By: _____

Scott Ewell, Manager

THE STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____, 2020, by Scott Ewell, Manager of S3B512, LLC, the Manager of 2008 FM 908 157, LLC.

Notary Public in and for

The State of _____

EXHIBIT A

155.19 ACRES

These notes describe that certain tract of land located in the J. WALKER SURVEY, A-245, situated in Burleson County, Texas; subject tract being all of a called "29.86 Acres" conveyed in a Warranty Deed (with Vendors Lien) from Roy Jestus Alford, Jr. to Trent Alford dated 12-9-2014 as recorded in Volume 983, Page 109, Official Records of Burleson County (ORBC) and all of the residue of a called "120 Acres" (Farm-to-Market Road No. 908 was conveyed from same) as conveyed in a General warranty deed from Roy Jestus Alford, Jr. to Trent Alford dated 02-19-2013 as recorded in Volume 890, Page 179, ORBC, being surveyed on the ground under the direct supervision of Bruce Lane Bryan, Registered Professional Land Surveyor No. 4249, during the month of August, 2020 and being more fully described as follows:

BEGINNING at a found ½" iron rod in the South right-of-way line of said Farm-to-Market Road No. 908, same being the Northeast corner of said "29.86 Acres", same being the Northwest corner of a called "65.007 Acres" as conveyed to Russell Woolverton from Dolores Woolverton in a General warranty Gift Deed dated 11-21-2008 as recorded in Volume 765, Page 75, ORBC (*North = 10,186,629.87 feet, East = 3,370,162.67 feet*); for reference, a found ½" iron rod at the Northeast corner of said "65.007 Acres" bears North 68° 49' 10" East a distance of 1787.22 feet;

THENCE with the common line of said "29.86 Acres" and "65.007 Acres", generally along a wire fence, the following calls:

- South 20° 38' 07" East 1052.72 feet to a found "T"-post,
- South 19° 59' 47" East 266.55 feet to a found "T"-post and
- South 21° 26' 29" East 611.14 feet to a found ½" iron rod at the base of a cross-tie fence corner post, same being the Southeast corner of said "29.86 Acres" and the Southwest corner of said "65.007 Acres" in the upper North line of a called "354.241 Acres" conveyed in a General Warranty deed from The Estate of W. W. Coffield, Deceased, acting by its duly authorized independent executor, Robert L. Ellet to David H. Nichols, et ux, D. Kay Nichols dated 05-16-1996 as recorded in Volume 466, Page 302, DRBC;

THENCE South 68° 33' 50" West with the South line of said "29.86 Acres" and partially with said upper North line of "354.241 Acres", passing a high game fence corner post at an exterior corner of same at 302.72 feet, and continuing with said South line of said "29.86 Acres" a total distance of 673.36 feet to a found ½" iron rod (5345) at the Southwest corner of same, being in the apparent East line of aforementioned "120 Acres"; a ½" iron rod found at the Northwest corner of said "29.86 Acres" in the aforementioned South right-of-way line of said Farm-to-Market Road No. 908 bearing North 20° 45' 12" West a distance of 1952.75 feet;

THENCE South 20° 45' 12" East with the non-fenced East line of said "120 Acres" a distance of 450.87 feet to a ½" iron rod set (capped "BTS") in the lower North line of aforementioned "354.241 Acres" in or near a wire fence; found a 5/8" iron rod at an interior corner of same for reference bearing North 75° 07' 11" East a distance of 261.28 feet;

THENCE South 75° 07' 11" West with the occupied South line of said "120 Acres" and said lower north line of said "354.241 Acres", generally along a fence, a distance of 16.15 feet to a ½" iron rod set (capped "BTS") at the lower Northwest corner of said "354.241 Acres", same being the Northeast corner of a called "43.84 Acres" conveyed in a Warranty Deed (with Vendors Lien) from Dennis R. Willard, et ux Jeannie Willard to Kevin Kaufman, et ux Kathy Kaufman dated 11-22-2019 and recorded in Instrument no. 2019-7345 of the Official Records of Burleson County (ORBC);

THENCE with the occupied South line of said "120 Acres", same being the north line of said "43.84 Acres", generally along a wire fence, as follows:

- South 69° 11' 38" West 506.94 feet to a ½" iron rod found (capped "6410"),
- South 67° 54' 07" West 294.39 feet to a found ½" iron rod (6410) and
- South 67° 47' 54" West 1607.60 feet to a ½" iron rod set (capped "BTS") at the Southwest corner of said "120 Acres" (near fence corner), same being the Southeast corner of a called "5 Acres" conveyed in a Warranty Deed (with Vendors Lien) from Thomas Doss to Adela C. Dominguez dated 02-01-2020 and found in Instrument no. 2020-777, ORBC; found a ½" iron rod (6410) at the Northwest corner of said "43.84 Acres" bearing South 67° 47' 54" West a distance of 339.69 feet, same being located in the East line of Burleson County Road no. 305;

THENCE North 13° 15' 40" West with the common line of said "120 Acres" and said "5 Acres", passing a found ½" iron rod (5345) at the Northeast corner of said "5 Acres" at 1170.05 feet, same being the Southeast corner of another called "5 Acres" conveyed in a Warranty Deed (with Vendors Lien) from Thomas Doss to Adela C. Dominguez dated 09-12-2017 and found in Instrument no. 2018-2590, ORBC, and continuing with the common line of said "120 Acres" and lastly mentioned "5 Acres", passing a found ½" iron rod at the Northeast corner of lastly mentioned "5 Acres" at 1951.71 feet, same being the Southeast corner of a called "5.00 Acres" conveyed to Cotton Condall as recorded in Volume 1067, Page 382, ORBC and continuing with the common line of said "120 Acres" and said Condall "5 Acres" a total distance of 2444.02 feet to a ½" iron rod set (capped "BTS") at the Northeast corner of said Condall "5 Acres", same being the Northwest corner of subject tract, in the aforementioned South right-of-way line of said Farm-to-Market Road No. 908; found a ½" iron rod (5345) for reference bearing South 13° 15' 40" East a distance of 9.49 feet;

THENCE with the South right-of-way line of said Farm-to-Market Road No. 908, same being the North line of subject tract, as follows:

- North 68° 41' 06" East 71.36 feet to a found Texas Department of Transportation type I concrete marker (engineer's station 449+00)
- North 62° 27' 45" East 99.97 feet to a found Texas Department of Transportation type I concrete marker (engineer's station 450+00)
- North 68° 49' 15" East 1700.01 feet to a found Texas Department of Transportation type I concrete marker (unknown station)
- North 68° 48' 26" East 599.19 feet to a found Texas Department of Transportation type I concrete marker (engineer's station 473+00)
- North 74° 18' 27" East 201.94 feet to a found Texas Department of Transportation type I concrete marker (engineer's station 476+00) and

North 68° 58' 34" East a distance of 106.48 feet to the **PLACE OF BEGINNING** containing according to the dimensions herein stated an area of 155.19 Acres of Land.