

VG-267-2019-1370030

**Brazos County
Karen McQueen
County Clerk**

Instrument Number: 1370030

Volume : 15520

Real Property Recordings

Recorded On: August 16, 2019 04:16 PM

Number of Pages: 32

" Examined and Charged as Follows: "

Total Recording: \$146.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

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.

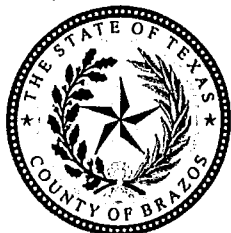
File Information:

Document Number: 1370030
Receipt Number: 20190816000139
Recorded Date/Time: August 16, 2019 04:16 PM
User: Patsy D
Station: CCLERK07

Record and Return To:

WEST, WEBB ALLBRITTON & GENTRY
1515 EMERALD PLAZA

COLLEGE STATION TX 77845



STATE OF TEXAS
COUNTY OF BRAZOS

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Public Records of Brazos County, Texas.

Karen McQueen
County Clerk
Brazos County, TX

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR MIDTOWN TOWN CENTER**

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF BRAZOS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MIDTOWN TOWN CENTER (this "Declaration"), is made on the date hereinafter set forth by COLLEGE STATION TOWN CENTER, INC., a Texas corporation ("Declarant"), for the purpose of evidencing the covenants, conditions and restrictions contained herein.

WITNESSETH:

WHEREAS, Declarant is the owner of that certain 114.388 acres of real property being more specifically described by metes and bounds on Exhibit A attached hereto and made a part hereof for all purposes (the "Property"), said Property when further developed and subdivided to be known as the "Development."

WHEREAS, it is anticipated by Declarant that portions of the Property will be sold or leased to Owners or Occupants for the purpose of developing retail and/or commercial sites.

WHEREAS, it is anticipated that a property owners association (hereinafter defined as the "Association") will be formed to maintain, upkeep and repair Areas of Common Responsibility and to enforce the easements, covenants and restrictions set forth herein.

WHEREAS, unless and until the Association is formed, all privileges, rights and duties ascribed to the Association, or its Members, or any committee of the Association, as set forth herein, shall be the privileges, rights and duties of Declarant, without regard to any voting requirements set forth hereunder.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, occupied, and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property for the above stated purpose. These easements, covenants, restrictions and conditions shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of Declarant and each Owner thereof.

ARTICLE I

ADDITIONAL DEFINITIONS

Section 1.1 Association. "Association" shall mean and refer to an association which may be formed pursuant to Section 2.1 below, its successors and assigns. If no Association has been formed, the rights, powers and duties hereinafter granted to the Association shall be the rights, powers and duties of the Declarant, unless and until the Association is formed.

Section 1.2 Areas of Common Responsibility or Common Areas. "Areas of Common Responsibility" or "Common Areas" shall mean those areas listed below which the Association shall maintain, upkeep and repair:

- (a) Any open spaces or common areas as designated by any Plat.

(b) All landscaping, parking lots, driveways, and other exterior features including the repair and maintenance and replacement of existing landscaping, trees, shrubbery, and foliage, located on the Property, including any Lot.

(c) Any part of the Property which is transferred to the Association by the Declarant, whether by dedication, pursuant to any Plat, by deed, or otherwise.

(d) Any area designated on any Plat, or otherwise, as an easement in favor of a Lot for the purpose of accommodating any encroachment (including without limitation, encroachments of Building roof lines and Building access drives and walkways) of a Building into property adjoining a Lot.

(e) Any area designated on a Plat which is located within the perimeter boundary of a Lot, but on which Building improvements are not constructed.

Section 1.3 Building. Any structure that encloses space used for sheltering any occupancy, including any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions, but excluding exterior eaves, steps, unenclosed walkways (either covered or uncovered) and open porches. The limitation of the areas upon which Buildings may be constructed, placed or located, shall not be interpreted or construed as restricting the construction of fences, open air vehicular parking facilities, curbing, traffic control devices, landscaping, paved streets or driveways, underground utilities, signs, enclosed (but uncovered) rubbish and trash storage areas, open air recreational facilities, open air drainage facilities, or above ground electrical or telecommunication lines, equipment or support poles, provided that such construction is not otherwise prohibited or restricted by this Declaration.

Section 1.4 City. "City" shall mean the City of College Station, Texas.

Section 1.5 County. "County" shall mean Brazos County, Texas

Section 1.6 Declarant. The term "Declarant" shall mean College Station Town Center, Inc., a Texas corporation, and any party to whom it shall expressly assign in writing, its rights, powers, privileges, and prerogatives hereunder.

Section 1.7 Fiber Users. The term "Fiber Users" shall mean each distinguishable Owner and/or tenant of an Owner occupying any portion of a Building on the Owner's Lot.

Section 1.8 Lienholder. "Lienholder" or "Mortgagee" shall mean the holder of a first mortgage lien, either on any Building and/or any Lot.

Section 1.9 Lot. "Lot" or "Lots" shall mean and refer to a portion of the Property designated as a Lot on a Plat excluding streets, alleys, parking lots and driveways and any Areas of Common Responsibility. Where the context requires or indicates, the term Lot shall include the Building and all other improvements which are or will be constructed on the Lot. Notwithstanding the foregoing, a "Lot" shall include any easement shown on a Plat, or otherwise, in favor of a Lot for the purpose of accommodating any encroachment (including without limitation, encroachments of Building roof lines, and Building access drives and walkways) of a Building into property adjoining a Lot; subject, however, to the condition that such easement shall, for all purposes, remain a part of the Areas of Common Responsibility.

Section 1.10 Member. "Member" shall mean and refer to every person or entity who holds membership in the Association which may be created as set forth herein. The Declarant and each Owner shall be a Member in the Association.

Section 1.11 Occupant. Any person or entity from time to time entitled to the use and occupancy of any portion of the Property under an ownership right or lease, sublease, license, concession, or other similar agreement.

Section 1.12 Owner. "Owner" shall mean and refer to the record Owner, other than Declarant, whether one or more persons or entities, of a fee simple title to any Lot and shall include any builder, but shall exclude those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any Lienholder or Mortgagee who acquires fee simple title to any Lot through deed in lieu of foreclosure or through judicial or nonjudicial foreclosure.

Section 1.13 Ownership Unit. An "Ownership Unit" shall be equal to one (1.0) square foot of land (or any proportionate share of a square foot of land) measured out of the Lots shown on a Plat. The calculation of an "Ownership Unit" shall **not** include any easement shown on a Plat, or otherwise, in favor of a Lot for the purpose of accommodating any encroachment (including without limitation, encroachments of Building roof lines and Lot access drives and walkways) of a certain Lot into property adjoining a Lot.

Section 1.14 Permittees. All Occupants and their officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants and concessionaires.

Section 1.15 Plat. A recorded plat of all or any portion of the Property.

Section 1.16 Turnover Date. The date on which 100% of the Property, by square footage, is owned by an Owner other than Declarant, or the date, if earlier, on which Declarant records a declaration in the Official Records of Brazos County, Texas of the cessation of Declarant's rights as the Declarant hereunder.

Section 1.17 Voting Unit. A "Voting Unit" shall be equal to each one thousand dollars (\$1,000) of value attributed to the portion of the Property owned by an Owner as determined by the Rock Prairie Management District No. 2, as rounded.

ARTICLE II

PROPERTY RIGHTS

Section 2.1 Owners Association, Assessment, and Lien. The Declarant shall have the right to form the Association, as a non-profit corporation, for the purpose of enforcing and administering these Declarations. Further, the Association is hereby granted the power and authority to levy and collect Assessments against the land within the Property that the Association, in its sole judgment, deems necessary to be used for the maintenance and improvement of the Areas of Common Responsibility. Unless and until the Association is formed as permitted herein, Declarant may administer these Declarations without regards to the voting requirements set forth herein.

Section 2.2 Maintenance of Areas of Common Responsibility by the Declarant and the Association. Initially, the Declarant will be solely obligated to maintain and improve the Areas of Common Responsibility in a prudent manner in order to enhance the safety, security, and appearance of the Development. Upon the formation of an Association as provided in Section 2.1, the Association will be solely obligated to maintain the Areas of Common Responsibility in a prudent manner in order to enhance and promote the safety, security and overall appearance of the Development. Notwithstanding anything herein to the contrary, within 90 days after the formation of an Association or the recording of this Declaration, whichever is later, or as is otherwise commercially reasonable, the Declarant shall transfer title to the Areas of Common Responsibility, save and except any portion of the Areas of Common Responsibility which are located within the property line boundary of any Lot, to the Association.

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Applicability. The following provisions relating to membership and voting apply to the Association which may be formed pursuant to Section 2.1 and should not be construed to limit the Declarant's ability to act prior to the formation of said Association.

Section 3.2 Membership. Declarant, during the time it owns any portion of the Property, and each person or entity who is a record Owner of a fee or undivided fee interest in any Lot, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Transfer of ownership, either voluntarily or by operation of law, shall terminate such prior Owner's membership in the Association, and membership shall be vested in the transferee; provided, however, that no such transfer shall relieve or release such Owner from any personal obligation with respect to Assessments which have accrued prior to such transfer.

Section 3.3 Voting Rights. Until the Turnover Date, the Declarant shall have the only voting rights of the Association. After the Turnover Date, the Members shall be entitled to one vote for each Voting Unit owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Voting Unit.

Section 3.4 No Cumulative Voting. At all meetings of the Association, there shall be no cumulative voting. Prior to all meetings, the Board of Directors of the Association shall determine the total number of votes outstanding and entitled to vote by the Members.

Section 3.5 Suspension of Voting Rights. In the event that any Member shall have failed, following thirty (30) days written notice from Declarant or the Association, to pay any Assessment when due, in addition to any other remedy set forth in this Declaration, the voting rights of such Member shall be suspended until such time as that Member shall have paid its proportionate share of all Assessments in full. The suspension of a Member's voting rights under this Section 3.5 shall occur notwithstanding the fact that the Member may, in good faith, be contesting the payment of the delinquent Assessment.

Section 3.6 Association Board of Directors. Notwithstanding anything herein to the contrary, until the Turnover Date, Declarant shall appoint the members of the Board of Directors of the Association. After the Turnover Date, the Board of Directors shall be appointed by the Members of the Association.

ARTICLE IV

POWERS OF DECLARANT AND ASSOCIATION

Section 4.1 Generally. In addition to the rights of the Association set forth in other sections of this Declaration, from and after the effective date of the transfer described in Section 2.2 hereof, the Association shall have the duty to enforce the covenants under this Declaration and maintain all Areas of Common Responsibility and shall have the right, power, and authority to do any act which is consistent with or required by the provisions of this Declaration or the Bylaws of the Association, whether the same be expressed or implied, including but not limited to the following:

(a) The power to levy and collect Assessments (as hereinafter defined), of whatever nature for the maintenance, repair or replacement of the Areas of Common Responsibility existing on the Property and for such other purposes as are herein provided;

(b) The power to keep accounting records with respect to the Association's activities;

(c) The power to contract with and employ others for maintenance and repair; and

(d) The power to adopt rules and regulations concerning the operation of the Areas of Common Responsibilities.

Section 4.2 Prior to Formation of the Association. Notwithstanding the foregoing, prior to the effective date of the transfer described in Section 2.2 hereof, the Declarant shall have and be vested with the duties and powers of the Association which are referenced above.

Section 4.3 Power to Add Property. Prior to the Turnover Date, Declarant may, with the consent of the owner of any such property, record an annexation agreement with respect to any other property not already included in the definition of Property provided herein in order to impose this Declaration on such annexed property, and the definition of Property in this Declaration shall be amended to include such annexed property.

ARTICLE V

ASSESSMENTS AND ASSESSMENT LIENS

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association: (i) annual assessments or charges, to be paid monthly as provided for herein or by the rules and regulations of the Association, and (ii) special assessments for capital improvements. Such assessments (collectively, the "**Assessments**") are to be fixed, established and collected as provided herein. Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be secured by a continuing lien which is hereby created and impressed for the benefit of the Association upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest costs and reasonable attorney's fees, shall also constitute a personal obligation of the person or entity who was the record Owner of such Lot at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by such successors; however, the lien upon the Lot shall continue until paid.

Section 5.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the Owners of the Lots, the improvement and maintenance of the Areas of Common Responsibility and any other property owned by the Association, the construction and maintenance of any signs, advertisements or displays located in the Areas of Common Responsibility, the provision of mandatory basic fiber internet service to each potential user located on any given Lot, and the performance and/or exercise of the rights and obligations of the Association arising hereunder. Assessments shall include, but not be limited to, funds to cover actual Association costs (including reasonable reserves) for all taxes, insurance, repair, replacement, maintenance and other activities as may from time to time be authorized by the Association's Board of Directors; legal and accounting fees, and any fees for management services; expenses incurred in complying with any laws, ordinances or governmental requirements applicable to the Association or the Property; reasonable replacement reserves and the cost of other facilities and service activities, including, but not limited to, mowing grass, grounds care, sprinkler system, landscaping, and other charges required or contemplated by this Declaration and/or that which the Board of Directors of the Association shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein.

Section 5.3 Basis and Maximum Amount of Annual Assessments.

(a) Until the Turnover Date, the maximum regular annual Assessment shall be in an amount per Ownership Unit to be determined by the Declarant. At such time that the regular maximum annual Assessment has been determined by the Declarant, the amount of such Assessment shall be recorded in the books and records of the Association.

(b) After the Turnover Date, the maximum regular annual assessment may be increased by an amount up to ten percent (10%) over the preceding year's regular annual assessment solely by the Association's Board of Directors. Any increase over and above 10% of the previous year's regular annual assessment shall be done only by the prior written approval of sixty-six and two-thirds

percent (66-2/3 %) of the outstanding votes (determined pursuant to Section 3.3 hereof) held by the Members at a meeting at which a quorum is present.

(c) Notwithstanding the foregoing, the total maximum Assessment with respect to each Owner shall be increased by the amount of the Assessment which is attributable to the provision of mandatory basic fiber internet service times the number of Fiber Users.

Section 5.4 Special Assessments. In addition to the regular annual Assessment authorized above, the Association may levy, in any assessment year, a special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the costs incurred by the Association pursuant to the provisions of this Declaration, provided that any such Assessment shall have the prior written approval of sixty-six and two-thirds percent (66-2/3 %) of the outstanding votes (determined pursuant to Section 3.3 hereof) held by the Members at a meeting at which a quorum is present. Any special Assessment shall be prorated based on the period of time the Owner owns the Lot during such year.

Section 5.5 Notice and Quorum for any Action Authorized Under Sections 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.3 and 5.4 hereunder shall be given to all Members not less than ten (10) days or more than twenty (20) days in advance of such meeting. At such meeting, the presence of Members or of written proxies entitled to cast sixty percent (60%) of all the votes entitled to be cast by the Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 5.6 Uniform Rate of Assessment. Both the regular annual and special Assessments shall be fixed at a uniform rate for all Ownership Units; provided, however, that the portion of the fixed regular annual Assessments which is attributable to the provision of mandatory basic fiber internet service shall be multiplied by the number of Fiber Users associated with such Owner, and the Assessments charged to such Owner shall be increased by such amount. Regular annual and special Assessments shall commence and be due in accordance with the provisions of Section 5.7 hereof. Each Owner shall pay one hundred percent (100%) of the established Assessment for each Lot (based on the number of Ownership Units and Fiber Users) he or it owns. Until the Turnover Date, Declarant shall be exempt from paying Assessments on any Lot or other Property owned by Declarant.

Section 5.7 Date of Commencement of Annual Assessments; Due Dates.

(a) The obligation to pay regular annual assessments on a monthly basis as provided for herein shall commence when a Lot or any portion of the Property is no longer owned by the Declarant. The Assessments shall then be due on such payment dates as may be established by the Association. Assessments shall be due and payable on a **monthly** basis unless otherwise designated by the Association.

(b) Prior to the Turnover Date, Declarant shall pay any deficiency resulting in the event the cost of maintenance exceeds the amount of the Assessments received from the Owners; provided, however, in such event, Declarant shall not otherwise be required to pay Assessments with respect to portions of the Property owned by Declarant; and further, provided, however, in no event shall Declarant be required to pay an amount which is in excess of one hundred percent (100%) of the established Assessment for the Property it owns. After the Turnover Date, the Declarant (i) shall no longer be responsible for contributing shortfalls outlined in the preceding sentence but rather, (ii) shall commence making regular annual and Special Assessments pursuant to Sections 5.3 and 5.4 hereof calculated on the number of Lots Declarant then owns (based on the number of Ownership Units).

(c) The annual Assessments for the first Assessment year shall be fixed by the Association prior to the sale of the first Lot to an Owner. Except for the first Assessment year, the Association shall fix the amount of the annual Assessment at least thirty days in advance of each Assessment year, which shall be the calendar year; provided, however, that the Association shall have the

right to adjust the regular annual Assessment upon thirty days written notice given to each Owner, as long as any such adjustment does not exceed the maximum adjustment permitted pursuant to this Section 5. Written notice of the regular annual Assessment shall be given as soon as is practicable to every Owner subject thereto. The Association shall, upon demand at any time, furnish a certificate in writing signed by the President, Vice President or the Treasurer of the Association setting forth whether the annual and special Assessments on a specified Lot have been paid and the amount of any delinquency. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(d) No Owner may exempt himself from liability for Assessments by waiver of the use or enjoyment of any portion of the Development or by abandonment of his Lot.

Section 5.8 Effect of Non-Payment of Assessments; Remedies of the Association.

(a) All payments of the Assessments shall be made to the Association at its principal place of business in Brazos County, Texas, or at such other place as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any Owner has any dispute with Declarant, the Association, any other Owner, or any other person or entity regarding any matter to which this Declaration relates or pertains. Payment of the Assessments shall be both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

(b) Any Assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within thirty (30) days after the date of delinquency, the Assessment shall bear interest from the date of delinquency (with no notice required to be given), until paid, at the rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is the lesser. The Association may, at its option, bring an action at law against the Owner personally obligated to pay the same or, upon compliance with the notice provisions hereof, foreclose the lien against the Lot as provided in Subsection 5.8(d) hereof. There shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with the costs of action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or in equity foreclosing such lien against such Owner, and the expenses incurred in connection therewith, including interest, costs and reasonable attorney's fees shall be chargeable to the Owner in default. Under no circumstances, however, shall Declarant or the Association be liable to any Owner or to any other person or entity for failure or inability to enforce any Assessments.

(c) No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the Office of the County Clerk of the County; said notice of claim must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid Assessment at the maximum legal rate, plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association.

(d) Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Property Code of the State of Texas (as it may be amended from time to time), or in any other manner permitted by law. Each Owner, by accepting a deed to a Lot, expressly grants to the Association a power of sale as set forth in said Section 51.002 of the Property Code, in connection with the Assessment lien. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and/or convey the same.

(e) Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association but not to exceed the actual cost of preparing and filing or recording the lien and the

release. The Assessment lien and the right to conduct a foreclosure sale hereunder shall be in addition to, and not in substitution of, all other rights and remedies which the Association and its successors or assigns may have hereunder and by law, including the right of suit to recover a money judgment for unpaid Assessments, as above provided.

Section 5.9 Subordination of Lien to First Mortgages. The lien securing the Assessments provided for herein shall be expressly subordinate to the lien of any purchase money Lienholder on any Lot. The sale or transfer of any Lot shall not affect the Assessment lien. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due, in accordance with the terms herein provided.

Section 5.10 Management Agreements. The Association shall be authorized to enter into management agreements with third parties in connection with the operation and management of the Development and the performance of its obligations hereunder. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be canceled with or without cause and without penalty by either party upon thirty (30) days written notice. Any and all management agreements shall be for a term not to exceed one year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a Development of this type. The Association may, at its discretion, assume self management of the Development.

Section 5.11 Insurance Requirements. The Association shall obtain insurance policies covering the Areas of Common Responsibility and any open spaces and covering all damage or injury caused by the negligence of the Association, any of its employees, officers, directors and/or agents, including, but not limited to, commercial general liability insurance, directors and officers liability insurance, and such other insurance as the Association may from time to time deem necessary or appropriate.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 6.1 Appointment of Members. Upon formation, the Association shall appoint an Architectural Control Committee (the "**Committee**"), which shall consist of three (3) members who shall be natural persons and may be affiliated with Declarant. All matters before the Committee shall be decided by majority vote of its members. After the earlier of five (5) years or the completion of improvements on all available Lots, the Association shall assume all of the rights and powers of the Committee. In the event of the death, incapacity or resignation of a member of the Committee, the successor for such member shall be appointed by the majority of the remaining members of the Committee if before the above date and by the Association if after such date. Until the formation of the Committee, Declarant will review and approve all decisions subject to Committee approval herein.

Section 6.2 Submission of Plans to Architectural Control Committee. No Building, fence, wall, parking area, landscaping, pole, mail box, driveway, fountain, pond, sign, exterior color or shape, or new or modification of a structure shall be commenced, erected or maintained upon any Lot by any Occupant, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to and approved by the Committee. Plans and specification shall be submitted to the Committee at least fourteen (14) days prior to the commencement of any construction or modification. The following shall be submitted for approval: a site plan showing the entire Lot with existing improvements, and floor plan and elevations of all faces of the proposed structure; and a description of all exterior construction materials. A copy of the above described plans and specifications may be retained by the Committee.

Section 6.3 Approval of Plans. The Committee shall review the plans and specifications and notify the Occupant in writing of its approval or disapproval. If the Committee fails to approve or disapprove said plans and specifications within thirty (30) days after the same has been submitted to it, they will be deemed to have been approved by the Committee. Any disapproval shall set forth the elements

disapproved and the reason or reasons therefor. The judgment of the Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive and the Occupant shall promptly correct the plans and specifications (if disapproved) and resubmit them for approval. No construction, alteration, change, or modification shall commence until approval of the Committee is obtained. The Committee may approve any deviation from these covenants and restrictions as the Committee, in its sole and absolute discretion, deems consistent with the purpose hereof. No member of the Committee shall be liable to any Occupant for any claims, causes of action or damages arising out of the denial of any submittal or grant of any deviation to an Occupant. Future requests for deviations submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a deviation to any Occupant shall not constitute a waiver of the Committee's rights to strictly enforce the Declaration and the architectural standards provided herein against any other Occupant. Approval by the Committee of the plans and specifications or its determination that the completed construction or modification has been constructed in accordance with the plans and specifications shall be deemed to be an acknowledgment by the Committee that such are in accordance with this Declaration and such acknowledgment shall be binding against the Owners and Occupants of the Lots and the Property.

Section 6.4 Committee Members' Liability. Neither the Declarant, the Association, the Association's Board of Directors, the Committee nor any employees, officers, directors or members thereof, shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner or Occupant affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors in or omissions from the plans or the site plan submitted to the Committee shall be the responsibility of the Occupant of the Lot to which the improvements relate, and the Committee shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general provisions of this Declaration, City codes, state statutes or the common law, whether the same relate to Lot lines, Building lines, easements or any other issue.

ARTICLE VII

CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

Section 7.1 Business Use. The Property shall be used for any and all business purposes which are not prohibited by the applicable zoning regulations of the City. No Building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) Building per Lot.

Section 7.2 Restrictions on Resubdivision. Without the consent of the Declarant or the Association, no Lot shall be subdivided into smaller Lots.

Section 7.3 Driveways. All driveways shall be surfaced with concrete or similar substance approved by the Committee.

Section 7.4 Uses Specifically Prohibited. No use shall be permitted on the Property which is inconsistent with the operation of a first-class commercial and/or retail shopping center. Without limiting the generality of the foregoing, the following uses shall be specifically prohibited:

(a) Any use, other than from the normal operation of a restaurant, which emits an obnoxious odor, noise or sound which can be heard or smelled outside of any Building on the Property.

(b) No temporary dwelling shop, trailer, tent, shack, barn, underground tank, or mobile home of any kind or any improvement of a temporary character (including greenhouses, gazebos and Buildings for storage) shall be permitted on any Lot except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a specifically permitted Lot during construction of the Building on that Lot. No building material of any kind or character shall be placed or stored upon the Property until construction is ready to commence, and then such material shall be placed totally within the property lines of the Lot upon which the improvements are to be erected, or on a specifically permitted portion of the Area of Common Responsibility.

(c) No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment or vehicles which are not in operational condition may be parked for storage on any part of any Lot or parked on any public street on the Property. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked while in use for the construction, maintenance or repair of a Building in the Development.

(d) No vehicle of any size which transports flammable or explosive cargo may be kept on the Property at any time, except delivery vehicles used in the ordinary course of business of any Occupant.

(e) No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted in or on the Property, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any part of the Property. No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted on the Property.

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept on the Property, save and except for a retail pet store.

(g) No Lot or other area of the Property shall be used as a dumping ground for rubbish or accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers for the storage or other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may only be stored on Lots during construction of the improvements thereon.

(h) No individual water supply system or sewage disposal system shall be permitted on any Lot.

(i) No air-conditioning apparatus shall be installed on the ground in front of a Building. No air-conditioning apparatus shall be attached to any front wall or window of a Building. No evaporative cooler shall be installed on the front wall or window of a Building.

(j) Except with the written permission of the Committee, no antennas, satellite dishes or other equipment for receiving or sending sound or video signals shall be permitted in or on the Property.

(k) No fence, wall, hedge or shrub planting which obstructs sight lines at an elevation between three and six feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within that area that is ten feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a minimum height of six (6) feet above the adjacent ground line.

(l) Within those easements on each Lot as designated on a Plat, no improvement, structure, planting or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation and maintenance of public utilities, or which might alter the direction of flow within drainage channels or which might obstruct or retard the flow of water through drainage channels. The general grading, slope and drainage plan of a Lot as established by the Declarant's approved development plans may not be altered without the approval of the City and/or other appropriate agencies having authority to grant such approval.

(m) No burning of refuse or garbage of any kind shall be permitted anywhere on the Property.

(n) No automobile, truck, trailer, or recreational vehicle sales, leasing, display or body shop repair operation shall be conducted on the Property.

(o) No mortuary or funeral home shall be erected or operated on the Property.

(p) No establishment selling or exhibiting "obscene" material or exhibiting drug-related paraphernalia or which exhibits, either live or by other means, to any degree, nude or partially clothed dancers or wait staff shall be erected or operated on the Property.

(q) No training or educational facility, including but not limited to: beauty schools, barbers, colleges, reading rooms, places of instruction or other operation catering primarily to students or trainees rather than to customers; provided, however, this prohibition shall not be applicable to on-site training by an Occupant incidental to the conduct of its business at the Development.

(r) No gambling facility or operation, including but not limited to: off-track or sports betting parlor; table games such as blackjack or poker; video poker/blackjack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not be applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the Occupant.

(s) No restaurant located on the Property shall derive more than forty percent (40%) of its gross revenue from the sale of alcoholic beverages.

(t) No pawn shop; or "second hand" store;

(u) No assembly hall, distillation operation, game room or amusement park; skating rink; pool hall or billiard parlor; bowling alley; dancehall; saloon, cocktail lounge, nightclub or bar (except incident to a restaurant as permitted herein);

(v) No laundromat; central laundry or dry-cleaning plant (other than on-site service oriented to pickup and delivery by the ultimate consumer [including nominal supporting facilities]);

Section 7.5 Signage. Other than (i) signs or displays constructed and maintained by the Association for use by all Owners and Occupants, (ii) signs attached to the exterior wall of any Building which comply with the then existing City sign ordinance, (iii) monument type street signs as permitted by the then existing City sign ordinance, and (iv) other signs specifically contracted for in a lease between an Occupant and the Declarant, no sign, advertising or display of any kind may be constructed, erected or maintained on the Property. Notwithstanding anything herein to the contrary, all exterior signs, advertisements, or displays must be approved in advance by the Committee.

Section 7.6 Hazardous Materials. No Occupant shall use, or permit the use of Hazardous Materials on, about, under or in its Lot, or the balance of the Property, except in the ordinary course of its usual business operations conducted thereon, and any such use shall at all times be in compliance with all Environmental Laws. Each Occupant agrees to defend, protect, indemnify and hold harmless each other Occupant from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including but not limited to costs of investigation, remedial or removal responses, and reasonable attorneys' fees and costs of suit, arising out of or resulting from any Hazardous Materials used or permitted to be used by any Occupant, whether or not in the ordinary course of business.

For the purpose of this Section 7.6, the term (i) "Hazardous Materials" shall mean and refer to the following: petroleum products and fractions thereof, asbestos, asbestos containing materials, urea formaldehyde, polychlorinated biphenyls, radioactive materials, substances and wastes listed or identified in, or regulated by, any Environmental Law, and (ii) "Environmental Laws" shall mean and refer to the

following: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

Section 7.7 Common Areas. No merchandise, equipment, or services including, but not limited to, vending machines, promotional devices, and similar items shall be displayed, offered for sale or lease, or stored within the Areas of Common Responsibility; provided however, the foregoing prohibition shall not be applicable to:

- (a) the storage of shopping carts;
- (b) the installation of an "ATM" banking facility within an exterior wall of any Building;
- (c) temporary Development promotions, except that no promotional activities will be allowed in the Areas of Common Responsibility without the prior written approval of the Committee; or
- (d) Any recycling center required by law, the location of which shall be subject to the approval of the Committee.

Section 7.8 Minimum Floor Area. The total area of each Building, as measured to the outside of exterior walls, shall be not less than two thousand five hundred (2,500) square feet or the minimum floor area as specified by the City, whichever is greater.

Section 7.9 Building Materials. The total exterior wall area (excluding windows, doors, and gables) of each Building constructed on a Lot shall not be less than seventy-five percent (75%) (but not less than the minimum percentage as established by the City by ordinance or building code requirement) brick, brick veneer, stone, stone veneer, or other masonry material approved by the Committee. Windows, doors, other openings, gables or other areas above the height of the top of standard height first-floor windows are excluded from calculation of total exterior wall area. All roofing shall be approved in advance by the Committee, and shall comply with requirements of the City.

Section 7.10 Setback Requirements. No Building shall be located on any Lot nearer to the front Lot line or nearer to the side Lot line than the minimum setback lines shown on a Plat or as required by the City.

Section 7.11 Waiver Of Setback Requirements. With the written approval of the Committee and subject to plat and zoning restrictions, any Building may be located further back from the front property line of a Lot than provided above, where, in the opinion of the Committee, the proposed location of the Building will enhance the value and appearance of the Lot and will not negatively impact the appearance of adjoining Lots.

Section 7.12 Fences and Walls. All fences and walls shall be constructed of masonry, brick, wood, or other material approved by the Committee. No fence or wall on any Lot shall extend nearer to any street than the front of the Building thereon. Except as otherwise specifically approved by the Committee, all street side yard fencing on corner Lots shall be set no closer to the abutting side street than the side yard setback line as shown on the subdivision Plat. No portion of any fence shall exceed eight (8) feet in height. Any fence or portion thereof that faces a public street shall be constructed so that all structural members and, unless Declarant determines otherwise, support posts will be on the side of the fence away from the street and are not visible from any public right-of-way.

Section 7.13 Sidewalks. All walkways along public right-of-ways shall conform to the minimum property standards of the City.

Section 7.14 Mailboxes. Mailboxes shall be standardized and shall be constructed of a material and design approved by the Committee (unless gang boxes are required by the U.S. Postal Service).

Section 7.15 Windows. Windows, jambs and mullions shall be composed of anodized aluminum or wood. All front elevation windows shall have baked-on painted aluminum divided light windows (no mill finish).

Section 7.16 Landscaping. Each Owner shall provide landscaping and adequate irrigation on its Lot consistent with the plans approved pursuant to Article VI. The Association shall maintain the landscaping as Areas of Common Responsibility associated with each Lot; provided, however, that the Owner shall maintain its irrigation systems on such Lot in good condition, including the immediate resolution of defective sprinkler heads and watering patterns, and shall irrigate as appropriate in light of the climate and seasonal conditions in order to sustain the landscaping on its Lot in a healthy manner. All approved landscaping shall be completed on the Lot within sixty (60) days after any Building is completed, subject to extension for delays caused by inclement weather as reasonably approved by the Association.

Section 7.17 General Maintenance of Lots. Following occupancy of the Building upon any Lot, each Owner shall maintain and care for the Building in good condition and repair and in conformity with the general character and quality of properties in the immediate area, such maintenance and repair to include but not be limited to: (i) the replacement of worn and/or rotted components, (ii) the regular painting of all exterior surface, (iii) the maintenance, repair and replacement of roofs, rain gutters, down spouts, exterior walls, windows, doors, areas and other exterior portions of the Building to maintain an attractive appearance. Upon failure of any Owner to maintain its Building in the manner prescribed herein, the Declarant or the Association, or either of them, at its option and discretion, but without any obligation to do so, but only after **thirty** days written notice to such Owner to comply herewith, may enter upon such Owner's Building and undertake to maintain and care for such Building to the condition required hereunder, and the Owner thereof shall be obligated, when presented with an itemized statement, to reimburse said Declarant and/or the Association for the cost of such work within ten days after presentment of such statement. This provision, however, shall in no manner be construed to create a lien in favor of any party on any Building for the cost or charge of such work or the reimbursement for such work. Notwithstanding anything herein to the contrary, prior to entry into a Building by the Declarant or the Association, the Owner or Occupant of such Building shall be given twenty-four (24) hours notice of such intended entry, and a reasonable opportunity to be present during such entry; and further, unless otherwise consented to by the Owner or Occupant of a Building, the Declarant or the Association may only enter a Building for the purposes described herein during regular business hours.

Section 7.18 Construction of Parking Facilities, Sidewalks, and Driveways. The Declarant shall construct all required parking facilities, sidewalks, and driveways necessary for the occupancy of any Building on or prior to the issuance of a certificate of occupancy for such Building. The Association, the Association's property and property of the Owners shall not be liable nor have liens assessed against their property for the initial cost of required parking facilities, sidewalks, and driveways necessary for the occupancy of any Building.

ARTICLE VIII

EASEMENTS

Section 8.1 Easements. Private non-exclusive easements for ingress, egress, and parking shall be reserved as shown on any Plat, and said ingress, egress, and parking easements shall inure to the benefit of each Lot. The Declarant reserves the right to file an amended plat which specifies the boundaries of the easements for ingress, egress, and parking. Easements for the installation and maintenance of utilities and drainage facilities shall be reserved as shown on any Plat. Easements shall also be reserved for the installation, operation, maintenance, and ownership of utility service lines from the property lines to the Buildings. Declarant reserves the right to make changes in and additions to the above-referenced easements for the purpose of most efficiently and economically installing improvements to the Lots. A plat will be filed to reflect said easements.

Section 8.2 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow as necessary in connection with the development of each Lot and the Property. Each Owner

further covenants not to disturb or displace any trees or other vegetation within the drainage easements, and further covenants not to construct any improvements, temporary or permanent, in any drainage easement, except as approved in writing by Declarant or by the applicable governmental body.

Section 8.03 Traffic Easement. An easement for ingress and egress is hereby created for pedestrian traffic over, through and across sidewalks, paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be constructed and intended for such purposes.

Section 8.4 Association Easement. There is hereby reserved a general right and easement for the benefit of 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 of the Property in the performance of their respective duties. Notwithstanding the foregoing, this Easement reserved for the Association is limited to the exterior portion of any building or other improvement and does not include the interior of any building or other improvement without the advance written consent of the owner; and further, this Easement may be limited by limited access rules and regulations that are imposed on a Lot where such limitations are for purposes of generally protecting the health, safety and security of the occupants of a Lot or the public in general. Except in the event of emergencies, this Easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner or occupant of such property directly affected thereby.

Section 8.5 Surface Area of Easements. Each Owner shall maintain the surface area of all Easements located within its Lot and all improvements located thereon except for such improvements for which a public authority or utility company is responsible. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

Section 8.6 Title to Easements Not Conveyed. Title to any Lot conveyed by Declarant by contract, deed or other conveyance shall not be held or construed in any event to include the title to any roadways or Common Area or any drainage, water, gas, sewer, storm sewer, electrical light, electrical power, telegraph or telephone way, or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto, constructed by or under Declarant or its agents through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Property, and the right to maintain, repair, sell, or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved to Declarant.

Section 8.7 Installations and Maintenance. There is hereby created an easement upon, across, over and under all of the easement areas affecting the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, cable television, telephones, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any improvement.

Section 8.8 Character of Easements. The Easements are appurtenant to and run with the Property, whether or not the Easements are referenced or described in any conveyance of such property, or any portion thereof. The Easements are for the benefit of the Owners and the heirs, successors, and assigns of the Owners who at any time own such real property or any interest therein.

Section 8.9 Duration of Easements. The duration of the Easements created pursuant to this

Declaration is perpetual. Nothing in this Declaration shall change, modify or amend the duration of easements in effect as of the date of the filing of this Declaration nor shall this Declaration change, modify or amend the duration of any easement created by a plat that has been approved by the applicable governmental authority and recorded in the real property records.

Section 8.10 Nonexclusiveness of Easements. The Easements created by this Declaration are nonexclusive, and each of the Owners reserves for itself and its heirs, successors, and assigns the right to use all or part of the Easements created by this Declaration in any manner that is not contrary to or inconsistent with the purposes of the applicable Easement.

Section 8.11 No Public Dedication. With the exception of Easements created for and dedicated to a public purpose, whether created pursuant to this Declaration, a plat or otherwise, establishment of the Easements in this Declaration is not intended to establish any right for the benefit of the public, nor shall the establishment of such Easements in any manner constitute a dedication of a public easement.

Section 8.12 Rights Reserved. Each Owner reserves for that Owner and that Owner's heirs, successors, and assigns the right to continue to use and enjoy the surface of the applicable Lot for all purposes that do not unreasonably interfere with or interrupt the use or enjoyment of the Easements.

Section 8.13 Equitable Rights of Enforcement. The Owners may enforce the Easements created by this Declaration by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the Owners or those benefited by this Declaration; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1 Enforcement. The Declarant or the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or the Bylaws and/or Articles of Incorporation of the Association. The Board of Directors of the Association may assess fines as necessary, in its discretion, in connection with any violation of the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party.

Section 9.2 Severability. If any condition, covenant, or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the final judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant, or restriction, each of which shall remain in full force and effect.

Section 9.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by Declarant, the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of the then Owners of sixty-seven percent (67%) of the Lots agree in writing to terminate or change this Declaration in whole or in part and such writing is recorded in the real property records of the County.

Section 9.4 Amendment. Prior to the Turnover Date, this Declaration may be amended at any time by Declarant by an instrument in writing filed and recorded in the official records of Brazos County, Texas, without the approval of any Owner or mortgagee; provided, however, that (i) in the event that such amendment materially and adversely alters or changes any Owner's right to the use and enjoyment of the Owner's real property within the Property or the Common Areas as set forth in this Declaration or adversely affects the title to any of Owner's real property within the Property, such amendment shall be valid only upon the written consent thereto by all of the then existing Owners affected thereby; or (ii) in the event that such amendment would materially and adversely affect the security, title and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this paragraph shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and mortgagees, if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. After the Turnover Date, this Declaration may be amended or modified upon the express written consent of at least sixty-six and two-thirds percent (66-2/3 %) of the outstanding votes (determined pursuant to Section 3.3 hereof) held by Members at a meeting at which a quorum is present. Notwithstanding the foregoing, Declarant shall have the right to execute and record amendments to this Declaration without the consent or approval of any other party if the sole purpose of the amendment is for the purpose of correcting technical errors or for purposes of clarification. Any and all amendments, if any, shall be recorded in the office of the County Clerk of the County. Each Owner, by acceptance of a deed or other conveyance to real property within the Property agrees to be bound by such amendments as are permitted by this paragraph and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Property (a) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which shall be in conflict therewith, (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to any real property subject to this Declaration, or (c) if such amendment is required by a reputable private insurance company to insure mortgages on the real property or other improvements subject to this Declaration.

Section 9.5 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, in all cases shall be assumed as though fully expressed in each case.

Section 9.6 Remedies. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity, including, without limitation, an action for injunctive relief, it being acknowledged and agreed that a violation of the covenants, conditions and restrictions contained herein could cause irreparable injury to Declarant and/or the other Owners and that the Declarant's and/or the other Owner's remedies at law for any breach of the Owners' obligations contained herein would be inadequate. Enforcement may be commenced by the Association, the Declarant, the City, or any Owner against any person or persons violating or attempting to violate them, and failure by the Association, the Declarant or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The rights created herein are unique and enforceable by specific performance.

Section 9.7 Notices to Member/Owner. Any notice required to be given to any Member and/or Owner under the provisions of this Declaration shall be deemed to have been properly delivered forty-eight (48) hours after deposited in the United States Mail, postage prepaid, certified or registered mail, and addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 9.8 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 9.9 Formation of Association; Inspection of Documents, Books, and Records. As hereinabove set forth in Section 3.1, the Declarant shall have the right to form the Association as a non-profit corporation in accordance with the laws of the State of Texas. Management and governance of

the Association shall be implemented and/or undertaken in accordance with its Articles of Incorporation, in accordance with this Declaration, and in accordance with the Association's Bylaws which shall be adopted by the Association following its formation. The Association shall make available copies of this Declaration, the Bylaws, the Articles of Incorporation, and any rules and regulations governing the Association, as well as the books, records and financial statements of the Association, for inspection by Owners or any Mortgagee during regular business hours or other reasonable times.

Section 9.10 Indemnity. The Association shall indemnify, defend and hold harmless the Declarant, the Association's Board of Directors, the Committee and each director, officer, employee and agent of the Declarant, the Association's Board of Directors and the Committee, from all judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses (including attorneys' fees) incurred by such indemnified person under or in connection with this Declaration or the Property to the fullest extent permitted by applicable law. **SUCH INDEMNITY SHALL INCLUDE INDEMNIFICATION FOR MATTERS ARISING AS A RESULT OF OR IN CONNECTION WITH THE SOLE OR CONCURRENT NEGLIGENCE OF ANY INDEMNIFIED PARTY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.**

Section 9.11 Binding Effect. Each of the conditions, covenants, restrictions, and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Property, it being understood that such conditions, covenants, restrictions, and agreements are not for the benefit of the owner of any land except land in the Development. This Declaration, when executed, shall be filed of record in the real property records of the County so that each and every owner or purchaser of any portion of the Development is on notice of the conditions, covenants, restrictions, and agreements herein contained.

Section 9.12 Recorded Plat; Other Authorities. All dedications, limitations, restrictions and reservations that are shown on a Plat are deemed to be incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by the Declarant conveying the Lots, whether specifically referred to therein or not. If other authorities, such as the City or the County, impose more demanding, expensive, extensive or restrictive requirements than those that are set forth herein (through zoning or otherwise), the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those that are set forth herein shall not supersede or diminish the requirements that are set forth herein.

Section 9.13 Right of Enforcement. The failure by Declarant or the Association to enforce any provision of this Declaration shall in no event subject Declarant or the Association to any claim, liability, cost or expense; it being the express intent of this Declaration to provide Declarant or the Association with the right (such right to be exercised at its sole and absolute discretion), but not the obligation, to enforce the terms of this Declaration for the benefit of any Owner(s) of any Lot(s) in the Development.

Section 9.14 Universal Easements. The Owner of each Lot (including Declarant so long as Declarant is the Owner of any Lot) is hereby granted an easement as shown on a Plat for the purpose of accommodating any encroachment or protrusion due to engineering errors, errors in original construction, surveying, settlement or shifting of any Building, or any other cause. There shall be easements for the maintenance of said encroachment, protrusion, settling or shifting; provided, however, that in no event shall an easement for encroachment or protrusion be created in favor of an Owner or Owners of said encroachment or protrusion if the same occurred due to the willful misconduct of said Owner or Owners. In addition, the Owner of each Lot is hereby granted an easement, as shown on a Plat, for minor encroachments by overhanging roofs and eaves as originally constructed over each adjoining Lot and for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to each affected Lot and shall pass with each conveyance of said Lot.

Section 9.15 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of or interest in the Property to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges, or immunities of any

signatory hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed to be a beneficiary of any of the provisions contained herein.

Section 9.16 Excusable Delays. Whenever performance is required hereunder, the obligee shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if the performance or completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to Property improvements by reason of fire or other casualty, or any cause beyond the reasonable control of such obligee, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

Section 9.17 No Warranty of Enforceability. While the Declarant has no reason to believe that any of the restrictive covenants or other terms or provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants. Any Owner acquiring a Lot in the Development in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant and the Association harmless therefrom. The Declarant shall not be responsible for the acts or omissions of any individual, entity or other Owners.

[Signature Page Follows]

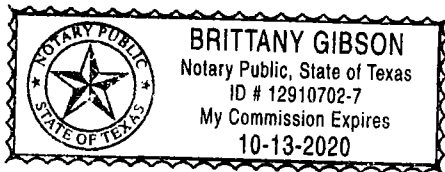
IN WITNESS WHEREOF, Declarant herein, has hereto set its hand this 16th day of August, 2019.

COLLEGE STATION TOWN CENTER, INC.
a Texas corporation

By: [Signature]
Name: James Murr
Title: President

THE STATE OF TEXAS :
:
COUNTY OF BRAZOS :

This instrument was acknowledged before me on the 16 day of August, 2019, by JAMES MURR,
President of College Station Town Center, Inc., a Texas corporation, known to me
to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he
has executed the same for the purposes and consideration therein expressed on behalf of said corporation.



[Signature]
Notary Public, State of Texas

Consent of Owner

The undersigned, being an owner of a portion of the Property, does hereby consent to and approve the inclusion of such property to the Property, as defined in the Declaration, and that such property is hereby made subject to the Declaration.

COLLEGE STATION LAND INVESTMENT, LP
a Texas limited partnership

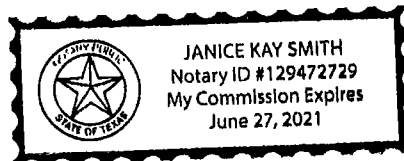
By: Leopold, Inc., its general partner

By: 
John Durham, President

THE STATE OF TEXAS

COUNTY OF BRAZOS

This instrument was acknowledged before me on the 13 day of August, 2019, by John Durham, President of Leopold, Inc., the general partner of College Station Land Investment, LP, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he has executed the same for the purposes and consideration therein expressed on behalf of said limited partnership.




Notary Public, State of Texas

Lienholder's Consent

CROCKETT NATIONAL BANK, being a lienholder on all or a portion of the Property that is affected by the foregoing Declaration of Covenants, Conditions and Restrictions for Midtown Town Center, joins in the execution hereof for the purpose of consenting to the covenants, conditions and restrictions therein contained and subordinating its lien to the said covenants, conditions and restrictions.

EXECUTED this 16 day of August, 2019.

CROCKET NATIONAL BANK

By: [Signature]

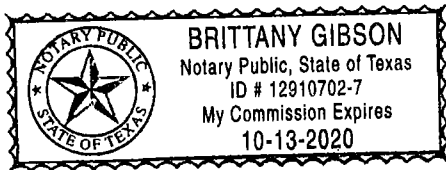
Name Keith Williamson

Title Vice President

STATE OF TEXAS

COUNTY OF BRAZOS

This Declaration of Covenants, Conditions and Restrictions for Midtown Town Center, was acknowledged before me on this the 16 day of August, 2019, by Keith Williamson, the Vice President of CROCKET NATIONAL BANK, on behalf of said entity.



[Signature]
Notary Public, State of Texas

EXHIBIT A

PROPERTY

114.388 acres out of the 231.97 acres described on Exhibit A-1, save and except (i) the 111.679 acres described on Exhibit A-2 and (ii) the 5.903 acres described on Exhibit A-3.

EXHIBIT A-1

METES AND BOUNDS DESCRIPTION
OF A
231.97 ACRE TRACT
THOMAS CARUTHERS LEAGUE, A-9
COLLEGE STATION, BRAZOS COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE THOMAS CARUTHERS LEAGUE, ABSTRACT NO. 9, COLLEGE STATION, BRAZOS COUNTY, TEXAS, SAID TRACT BEING THE REMAINDER OF A CALLED 341.06 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO WILLIS S. RITCHEY RECORDED IN VOLUME 1160, PAGE 777 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS AND THE REMAINDER OF A CALLED 11 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO WILLIS S. RITCHEY RECORDED IN VOLUME 260, PAGE 466 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A ½ INCH IRON ROD SET ON THE SOUTH LINE OF ROCK PRAIRIE ROAD EAST (R.O.W. VARIES) MARKING THE NORTHEAST CORNER OF THE REMAINDER OF A CALLED 10.846 ACRE TRACT OF LAND AS DESCRIBED AS BY A DEED TO JO ANN ATKINS RECORDED IN VOLUME 267, PAGE 483 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, FOR REFERENCE, A ½ INCH IRON ROD FOUND BEARS: S 13° 49' 13" W FOR A DISTANCE OF 1.02 FEET;

THENCE: ALONG THE SOUTH LINE OF ROCK PRAIRIE ROAD EAST FOR THE FOLLOWING CALLS:

S 86° 27' 34" E, AT 300.64 FEET PASS THE COMMON LINE OF SAID REMAINDER OF 341.06 ACRE TRACT AND SAID REMAINDER OF 11 ACRE TRACT (FROM WHICH A ½ INCH IRON ROD FOUND BEARS: S 00° 37' 23" E FOR A DISTANCE OF 1.09 FEET), CONTINUE ON FOR A TOTAL DISTANCE OF 603.26 FEET (DEED CALL: S 86° 27' 34" E - 603.27 FEET) TO A ½ INCH IRON ROD SET (THIS LINE USED FOR BEARING ORIENTATION HONORING THE RIGHT-OF-WAY BEARING AS SHOWN IN THE DEED RECORDED IN VOLUME 10437, PAGE 79 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS). FOR REFERENCE, A ½ INCH IRON ROD FOUND BEARS: S 04° 14' 47" W FOR A DISTANCE OF 1.00 FEET;

S 85° 01' 50" E FOR A DISTANCE OF 1226.55 FEET (DEED CALL: S 85° 02' 05" E - 1226.41 FEET, 10437/65) TO A ½ INCH IRON ROD SET. FOR REFERENCE, A ½ INCH IRON ROD FOUND BEARS: S 05° 17' 18" W FOR A DISTANCE OF 1.00 FEET;

S 84° 23' 35" E FOR A DISTANCE OF 70.89 FEET (DEED CALL: S 84° 23' 02" E - 70.75 FEET, 10437/65) TO A ½ INCH IRON ROD SET ON THE COMMON LINE OF SAID REMAINDER OF 341.06 ACRE TRACT AND SAID REMAINDER OF 11 ACRE TRACT. FOR REFERENCE, A 3/8 INCH IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID REMAINDER OF 11 ACRE TRACT BEARS: S 00° 40' 34" E FOR A DISTANCE OF 268.14 FEET;

N 00° 40' 34" W FOR A DISTANCE OF 1.51 FEET TO A ½ INCH IRON ROD SET;

S 84° 23' 35" E FOR A DISTANCE OF 543.05 FEET (DEED CALL: S 84° 23' 02" E - 543.10 FEET, 10437/79) TO A ½ INCH IRON ROD SET. FOR REFERENCE, A ½ INCH IRON ROD FOUND BEARS: S 06° 46' 24" W FOR A DISTANCE OF 2.50 FEET;

S 82° 03' 38" E FOR A DISTANCE OF 195.36 FEET (DEED CALL: S 82° 02' 02" E - 195.35 FEET, 10437/79) TO A ½ INCH IRON ROD SET ON THE WEST LINE OF LOT 1, ROCK PRAIRIE BAPTIST CHURCH ACCORDING TO THE PLAT RECORDED IN VOLUME 7312, PAGE 207 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. FOR REFERENCE, A ½ INCH IRON ROD FOUND MARKING

THE NORTHWEST CORNER OF SAID LOT 1 BEARS: N 07° 35' 00" E FOR A DISTANCE OF 7.64 FEET;

THENCE: S 07° 58' 42" W ALONG THE WEST LINE OF SAID LOT 1, AT 2.50 FEET PASS A ½ INCH IRON ROD FOUND, CONTINUE ON FOR A TOTAL DISTANCE OF 528.64 FEET (PLAT CALL: S 07° 57' 58" W - 586.27 FEET, 7312/207) TO ½ INCH IRON ROD SET MARKING THE SOUTHWEST CORNER OF SAID LOT 1;

THENCE: S 82° 01' 39" E ALONG THE SOUTH LINE OF SAID LOT 1 FOR A DISTANCE OF 698.85 FEET (PLAT CALL: S 82° 02' 02" E - 699.33 FEET, 7312/207) TO ½ INCH IRON ROD FOUND ON THE WEST LINE OF A CALLED 13.95 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO OLIVER GOEN RECORDED IN VOLUME 10424, PAGE 40 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID IRON ROD FOUND MARKING THE SOUTHEAST CORNER OF SAID LOT 1;

THENCE: S 20° 23' 16" E ALONG THE WEST LINE OF SAID 13.95 ACRE TRACT FOR A DISTANCE OF 112.62 FEET (DEED CALL BEARING: S 17° 23' 00" E, 1160/777) TO A CROSS-TIE FENCE POST FOUND;

THENCE: S 41° 51' 55" W CONTINUING ALONG THE WEST LINE OF SAID 13.95 ACRE TRACT FOR A DISTANCE OF 1390.07 FEET (DEED CALL: S 44° 44' 00" W - 1391.04 FEET, 10424/40) TO 6 INCH FENCE POST FOUND MARKING THE SOUTHWEST CORNER OF SAID 13.95 ACRE TRACT;

THENCE: S 48° 02' 02" E ALONG THE SOUTHWEST LINE OF SAID 13.95 ACRE TRACT FOR A DISTANCE OF 341.48 FEET (DEED CALL: S 48° 05' 26" E - 341.98 FEET, 10424/40) TO ½ INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 13.95 ACRE TRACT AND THE SOUTHWEST CORNER OF A CALLED 19.61 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO ARCHIE P. CLARK AND LINDA L. CLARK RECORDED IN VOLUME 561, PAGE 28 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 48° 17' 01" E ALONG THE SOUTHWEST LINE OF SAID 19.61 ACRE TRACT FOR A DISTANCE OF 250.65 FEET (DEED CALL: S 44° 52' 55" E - 250.66 FEET, 561/28) TO ½ INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 19.61 ACRE TRACT AND THE SOUTHWEST CORNER OF A CALLED 19.69 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO EUGENE BERNARD SAVAGE, III AND GRACE LYNN SAVAGE RECORDED IN VOLUME 7912, PAGE 265 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 48° 35' 09" E ALONG THE SOUTHWEST LINE OF SAID 19.69 ACRE TRACT FOR A DISTANCE OF 437.42 FEET (DEED CALL: S 48° 34' 49" E - 437.68 FEET, 7912/265) TO ½ INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 19.69 ACRE TRACT, THE SOUTHWEST CORNER OF A CALLED 66.32 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 4480, PAGE 135 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS AND THE NORTH CORNER OF A CALLED 100.64 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 6927, PAGE 226 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 77° 55' 55" W ALONG THE NORTHWEST LINE OF SAID 100.64 ACRE TRACT FOR A DISTANCE OF 2980.10 FEET (DEED CALL: S 77° 56' 03" W - 2981.71 FEET, 6927/226) TO 12 INCH FENCE POST FOUND ON THE NORTHEAST LINE OF A CALLED 46.60 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 3310, PAGE 321 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. SAID FENCE POST FOUND MARKING THE WEST CORNER OF SAID 100.64 ACRE TRACT;

THENCE: N 68° 42' 56" W ALONG THE NORTHEAST LINE OF SAID 46.60 ACRE TRACT AND ALONG AN EXISTING FENCE LINE FOR A DISTANCE OF 189.31 FEET TO A 6 INCH CEDAR FENCE POST FOUND MARKING THE NORTH CORNER OF SAID 46.60 ACRE TRACT AND THE EAST CORNER OF A CALLED 10.01 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO M. D. WHEELER, LTD RECORDED IN VOLUME 3007, PAGE 341 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: ALONG THE NORTHEAST LINE OF SAID 10.01 ACRE TRACT AND CONTINUING ALONG SAID FENCE LINE FOR THE FOLLOWING CALLS:

N 56° 54' 36" W FOR A DISTANCE OF 108.66 FEET TO A 3 INCH CEDAR FENCE POST FOUND;

N 47° 58' 11" W FOR A DISTANCE OF 372.04 FEET TO A FENCE POST FOUND;

N 47° 52' 01" W FOR A DISTANCE OF 828.48 FEET TO A FENCE POST FOUND;

N 48° 14' 35" W FOR A DISTANCE OF 163.14 FEET TO A FENCE POST FOUND;

N 47° 03' 10" W FOR A DISTANCE OF 129.80 FEET TO A FENCE POST FOUND;

N 46° 26' 14" W FOR A DISTANCE OF 535.34 FEET TO A 4 INCH FENCE POST FOUND MARKING THE SOUTH CORNER OF A CALLED 25.79 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO BRIAN HOWARD PERRY RECORDED IN VOLUME 10459, PAGE 34 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: ALONG THE SOUTHEAST LINE OF SAID 25.79 ACRE TRACT FOR THE FOLLOWING CALLS:

N 66° 46' 41" E FOR A DISTANCE OF 605.80 FEET (DEED CALL: N 69° 46' 00" E - 600.50 FEET, 1160/77) TO A FENCE POST FOUND;

N 55° 06' 22" E FOR A DISTANCE OF 196.90 FEET (DEED CALL: N 57° 44' 00" E - 195.20 FEET, 1160/777) TO A FENCE POST FOUND;

N 41° 30' 56" E FOR A DISTANCE OF 424.36 FEET (DEED CALL: N 44° 44' 00" E - 423.09 FEET, 1160/777) TO A 1/4 INCH IRON ROD FOUND;

N 05° 17' 42" E FOR A DISTANCE OF 216.35 FEET (DEED CALL: N 08° 04' 00" E - 217.30 FEET, 1160/77) TO A 6 INCH CEDAR FENCE POST FOUND MARKING THE SOUTHWEST CORNER OF SAID REMAINDER OF 10.846 ACRE TRACT;

THENCE: ALONG THE COMMON LINE OF SAID REMAINDER OF 10.846 ACRE TRACT AND SAID REMAINDER OF 341.06 ACRE TRACT FOR THE FOLLOWING CALLS:

S 81° 11' 52" E FOR A DISTANCE OF 256.72 FEET (DEED CALL: S 78° 33' 00" E - 258.20 FEET, 1160/77) TO A 6 INCH FENCE POST FOUND MARKING THE SOUTHEAST CORNER OF SAID REMAINDER OF 10.846 ACRE TRACT;

N 18° 43' 49" E FOR A DISTANCE OF 471.11 FEET (DEED CALL: N 21° 24' 00" E - 467.10 FEET, 1160/777) TO A FENCE POST FOUND;

N 13° 49' 13" E FOR A DISTANCE OF 522.38 FEET (DEED CALL: N 16° 44' 00" E - 586.42 FEET, 1160/777) TO THE POINT OF BEGINNING CONTAINING 231.97 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND FEBRUARY, 2012. SEE PLAT PREPARED FEBRUARY, 2012, FOR MORE DESCRIPTIVE INFORMATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

C:/WORK/MAB/12-041

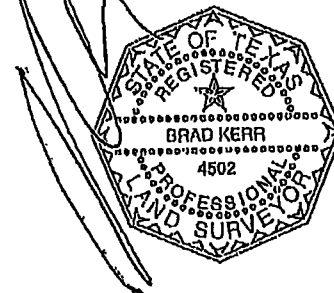


EXHIBIT A-2

111.679 ACRE TRACT

**METES AND BOUNDS DESCRIPTION
OF A
111.679 ACRE TRACT
THOMAS CARUTHERS LEAGUE, A-9
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN THE THOMAS CARUTHERS LEAGUE, ABSTRACT NO. 9, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 231.97 ACRE TRACT AS DESCRIBED BY A DEED TO COLLEGE STATION LAND INVESTMENT, LP RECORDED IN VOLUME 10600, PAGE 156 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 1/2 INCH IRON SET (IN 2012) ON THE SOUTH LINE OF ROCK PRAIRIE ROAD (VARIABLE WIDTH R.O.W.) MARKING THE NORTHWEST CORNER OF SAID 231.97 ACRE TRACT AND THE NORTHEAST CORNER OF THE REMAINDER OF A CALLED 10.846 ACRE TRACT AS DESCRIBED BY A DEED TO JO ANN ATKINS RECORDED IN VOLUME 267, PAGE 483 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS, FOR REFERENCE A 1/2 INCH IRON ROD FOUND BEARS: S 13° 49' 13" W FOR A DISTANCE OF 1.02 FEET;

THENCE: S 86° 27' 34" E ALONG THE SOUTH LINE OF ROCK PRAIRIE ROAD FOR A DISTANCE OF 603.26 FEET TO A 1/2 INCH IRON ROD FOUND MARKING AN ANGLE POINT IN SAID LINE, FOR REFERENCE A 1/2 INCH IRON ROD FOUND BEARS: S 04° 14' 47" W FOR A DISTANCE OF 1.00 FEET;

THENCE: S 85° 01' 50" E CONTINUING ALONG THE SOUTH LINE OF ROCK PRAIRIE ROAD FOR A DISTANCE OF 5.27 FEET TO THE POINT OF BEGINNING OF THIS HEREIN DESCRIBED TRACT;

THENCE: CONTINUING ALONG THE SOUTH LINE OF ROCK PRAIRIE ROAD FOR THE FOLLOWING CALLS:

S 85° 01' 50" E FOR A DISTANCE OF 1221.28 FEET TO A 1/2 INCH IRON ROD SET (IN 2012), FOR REFERENCE A 1/2 INCH IRON ROD FOUND BEARS: S 05° 17' 18" W FOR A DISTANCE OF 1.00 FEET;

S 84° 23' 35" E FOR A DISTANCE OF 70.89 FEET TO A 1/2 INCH IRON ROD SET (IN 2012);

N 00° 40' 34" W FOR A DISTANCE OF 1.51 FEET TO A 1/2 INCH IRON ROD SET (IN 2012);

S 84° 23' 35" E FOR A DISTANCE OF 543.05 FEET TO A 1/2 INCH IRON ROD SET (IN 2012), FOR REFERENCE A 1/2 INCH IRON ROD FOUND BEARS: S 06° 46' 24" W FOR A DISTANCE OF 2.50 FEET;

S 82° 03' 38" E FOR A DISTANCE OF 195.36 FEET TO A 1/2 INCH IRON ROD SET (IN 2012) ON THE WEST LINE OF LOT 1, ROCK PRAIRIE BAPTIST CHURCH, ACCORDING TO THE PLAT RECORDED IN VOLUME 7312, PAGE 207 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, FOR REFERENCE A 1/2 INCH IRON ROD FOUND MARKING THE NORTHWEST CORNER OF SAID LOT 1 BEARS: N 07° 35' 00" E FOR A DISTANCE OF 7.64 FEET AND ANOTHER 1/2 INCH IRON ROD FOUND BEARS: S 07° 58' 42" W FOR A DISTANCE OF 2.50 FEET;

111.679 ACRE TRACT

THENCE: S 07° 58' 42" W ALONG THE COMMON LINE OF SAID 231.97 ACRE TRACT AND SAID LOT 1 FOR A DISTANCE OF 528.64 FEET TO A 1/2 INCH IRON ROD SET (IN 2012) MARKING THE SOUTHWEST CORNER OF SAID LOT 1;

THENCE: S 82° 01' 39" E CONTINUING ALONG THE COMMON LINE OF SAID 231.97 ACRE TRACT AND SAID LOT 1 FOR A DISTANCE OF 698.85 FEET TO A 1/2 INCH IRON ROD FOUND ON THE WESTERLY LINE OF A CALLED 13.95 ACRE TRACT AS DESCRIBED BY A DEED TO OLIVER GOEN RECORDED IN VOLUME 10424, PAGE 40 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, MARKING THE SOUTHEAST CORNER OF SAID LOT 1;

THENCE: ALONG THE COMMON LINE OF SAID 231.97 ACRE TRACT AND SAID 13.95 ACRE TRACT FOR THE FOLLOWING CALLS:

S 20° 23' 16" E FOR A DISTANCE OF 112.62 FEET TO A CROSS-TIE FENCE POST FOUND;

S 41° 51' 55" W FOR A DISTANCE OF 1390.07 FEET TO A 6 INCH FENCE POST FOUND;

S 48° 02' 02" E FOR A DISTANCE OF 341.48 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 13.95 ACRE TRACT AND THE MOST WESTERLY CORNER OF A CALLED 19.61 ACRE TRACT AS DESCRIBED BY A DEED TO ARCHIE P. CLARK AND LINDA L. CLARK RECORDED IN VOLUME 561, PAGE 28 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 48° 17' 01" E ALONG THE COMMON LINE OF SAID 231.97 ACRE TRACT AND SAID 19.61 ACRE TRACT FOR A DISTANCE OF 250.65 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 19.61 ACRE TRACT AND THE WEST CORNER OF A CALLED 19.69 ACRE TRACT AS DESCRIBED BY A DEED TO EUGENE BERNARD SAVAGE, III AND GRACE LYNN SAVAGE RECORDED IN VOLUME 7912, PAGE 265 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 48° 35' 09" E ALONG THE COMMON LINE OF SAID 231.97 ACRE TRACT AND SAID 19.69 ACRE TRACT FOR A DISTANCE OF 437.42 FEET TO A 1/2 INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 19.69 ACRE TRACT AND THE WEST CORNER OF A CALLED 66.32 ACRE TRACT AS DESCRIBED BY A DEED TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 4480, PAGE 135 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, SAID IRON ROD FOUND BEING ON THE NORTHERLY LINE OF A CALLED 100.64 ACRE TRACT AS DESCRIBED BY A DEED TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 6927, PAGE 226 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: S 77° 55' 55" W ALONG THE COMMON LINE OF SAID 231.97 ACRE TRACT AND SAID 100.64 ACRE TRACT FOR A DISTANCE OF 1491.58 FEET TO THE SOUTHWEST CORNER OF THIS HEREIN DESCRIBED TRACT;

THENCE: THROUGH SAID 231.97 ACRE TRACT FOR THE FOLLOWING CALLS:

N 20° 36' 12" W FOR A DISTANCE OF 176.11 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 496.95 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19° 14' 22" FOR AN ARC DISTANCE OF 166.87 FEET (CHORD BEARS: N 78° 18' 35" E - 166.09 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 619.38 FEET:

111.679 ACRE TRACT

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $04^{\circ} 41' 59''$ FOR AN ARC DISTANCE OF 50.81 FEET (CHORD BEARS: S $89^{\circ} 43' 14''$ E – 50.79 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A NON-TANGENT COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 707.92 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $18^{\circ} 37' 59''$ FOR AN ARC DISTANCE OF 230.22 FEET (CHORD BEARS: N $79^{\circ} 45' 24''$ E – 229.21 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 1331.46 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $07^{\circ} 55' 41''$ FOR AN ARC DISTANCE OF 184.24 FEET (CHORD BEARS: N $66^{\circ} 28' 34''$ E – 184.09 FEET) TO THE END OF SAID CURVE;

N $27^{\circ} 29' 17''$ W FOR A DISTANCE OF 30.00 FEET TO THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 1301.46 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $07^{\circ} 55' 41''$ FOR AN ARC DISTANCE OF 180.09 FEET (CHORD BEARS: S $66^{\circ} 28' 34''$ W – 179.94 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 677.92 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $18^{\circ} 33' 22''$ FOR AN ARC DISTANCE OF 219.55 FEET (CHORD BEARS: S $79^{\circ} 43' 05''$ W – 218.59 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A NON-TANGENT COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 649.38 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $04^{\circ} 36' 57''$ FOR AN ARC DISTANCE OF 52.31 FEET (CHORD BEARS: N $89^{\circ} 45' 46''$ W – 52.30 FEET) TO THE END OF SAID CURVE AND THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 526.95 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $19^{\circ} 11' 57''$ FOR AN ARC DISTANCE OF 176.57 FEET (CHORD BEARS: S $78^{\circ} 19' 48''$ W – 175.75 FEET) TO THE END OF SAID CURVE;

N $20^{\circ} 36' 12''$ W FOR A DISTANCE OF 605.45 FEET;

N $17^{\circ} 18' 20''$ E FOR A DISTANCE OF 383.01 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 210.00 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $89^{\circ} 22' 44''$ FOR AN ARC DISTANCE OF 327.59 FEET (CHORD BEARS: N $27^{\circ} 23' 02''$ W – 295.37 FEET) TO THE END OF SAID CURVE;

N $72^{\circ} 04' 24''$ W FOR A DISTANCE OF 125.34 FEET;

N $80^{\circ} 33' 42''$ W FOR A DISTANCE OF 208.59 FEET;

N $42^{\circ} 25' 58''$ W FOR A DISTANCE OF 195.39 FEET TO THE BEGINNING OF A COUNTERCLOCKWISE CURVE HAVING A RADIUS OF 626.50 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $04^{\circ} 30' 42''$ FOR AN ARC DISTANCE OF 49.33 FEET (CHORD BEARS: N $45^{\circ} 18' 41''$ E – 49.32 FEET) TO THE END OF SAID CURVE;

111.679 ACRE TRACT

N 04° 58' 37" E FOR A DISTANCE OF 87.76 FEET;

N 85° 01' 23" W FOR A DISTANCE OF 576.72 FEET;

N 03° 32' 26" E FOR A DISTANCE OF 919.45 FEET;

S 86° 27' 34" E FOR A DISTANCE OF 129.36 FEET;

N 03° 32' 26" E FOR A DISTANCE OF 135.00 FEET;

S 86° 00' 06" E FOR A DISTANCE OF 32.20 FEET;

N 03° 32' 26" E FOR A DISTANCE OF 130.13 FEET TO THE POINT OF BEGINNING CONTAINING 111.679 ACRES OF LAND, MORE OF LESS, AS SURVEYED ON THE GROUND MAY 2015. BEARING SYSTEM SHOWN HEREIN IS BASED ON THE DEED CALL BEARINGS OF SAID 231.97 ACRE TRACT, 10600/156. SEE PLAT PREPARED JULY 2017 FOR MORE DESCRIPTIVE INFORMATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

D:/WORK/MAB/17-460B.MAB

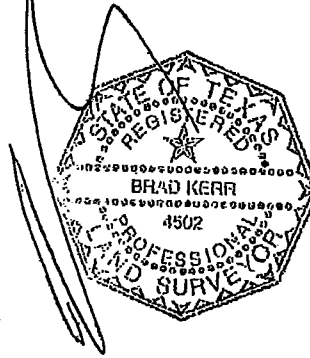


EXHIBIT A-3

Joe Orr, Inc.
A BASELINE CORPORATION CO.
Post Office Box 11979
College Station, TX 77842-1979
(979) 693-2777
TBPLS Firm no. 100544-00

Proposed Right-of-Way Parcel
for Lakeway Drive
College Station Land Investment, LP Tract
Thomas Caruthers league A-9
College Station, Texas
June 18, 2016

All of that certain tract or parcel of land lying and being situated in the Thomas Caruthers league (abstract no. 9) in College Station, Brazos County, Texas, being a part of that 231.97 acre tract conveyed to College Station Land Investment, LP by deed recorded in volume 10600, page 156 of the Official Public Records of Brazos County, Texas, generally 100 feet in width across the southwest portion of the property and being more particularly described as follows:

Beginning at a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at the intersection of the northeast boundary of this proposed right-of-way parcel and the common line of the said 231.97 acre tract and that 100.64 acre tract described in deed to the City of College Station recorded in volume 6927, page 226 of the Official Public Records of Brazos County, Texas, from where a 1/2" iron rod found at the east common corner of the 231.97 acre and 100.64 acre tracts bears N 77° 56' 03" E - 2360.62 feet, and from where City of College Station GPS control monument no. 131 bears S 75° 12' 49" W - 2728.2 feet.

Thence S 77° 56' 03" W - 119.22 feet, along the said common line of the 231.97 acre and 100.64 acre tracts, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at its intersection with the southwest boundary of this proposed right-of-way parcel from where a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set (in 2002) at the west corner of the 100.64 acre tract bears S 77° 56' 03" W - 501.87 feet;

Thence through the said 231.97 acre tract, along said southwest boundary of this proposed right-of-way parcel, being a curve to left with a radius of 950.00 feet, through a central angle of 0° 57' 43", the chord of which bears N 47° 26' 25" W - 15.95 feet, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at its point of tangency;

Thence N 47° 55' 17" W - 1949.79 feet, continuing through the said 231.97 acre tract and along a southwest line of this proposed right-of-way parcel, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at the beginning of a tangent curve to the left with a radius of 625.00 feet;

Thence continuing through the said 231.97 acre tract along said curve, through a central angle of 46° 57' 24", the chord of which bears N 71° 23' 59" W - 498.00 feet, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at its point of tangency;

EXHIBIT A-3

Thence S 85° 07' 19" W – 163.93 feet, continuing through the said 231.97 acre tract and along a south line of this proposed right-of-way parcel, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at intersection with a northwest line of the 231.97 acre tract, also being a southeast line of that 25.79 acre tract described in deed to Brian Howard Perry recorded in volume 10459, page 34 of the Official Public Records of Brazos County, Texas, from where a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set (in 2015) for the southeast corner of the 25.79 acre tract bears S 66° 47' 08" W – 165.69 feet;

Thence N 66° 47' 08" E – 290.36 feet, along the said common line of the 231.97 acre and 25.79 acre tracts, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at its intersection with the north boundary of this proposed right-of-way parcel, from where a 3/4" iron rod found at an angle point in said common property line bears N 66° 47' 08" E – 143.88 feet;

Thence through the said 231.97 acre tract, along said north boundary of this proposed right-of-way parcel, being a curve to right with a radius of 725.00 feet, through a central angle of 38° 05' 42", the chord of which bears S 66° 58' 08" E – 473.21 feet, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at its point of tangency;

Thence S 47° 55' 17" E – 1949.79 feet, continuing through the said 231.97 acre tract and along a northeast line of this proposed 100 ft. wide right-of-way parcel, to a 1/2" iron rod with an orange plastic cap stamped "HP MAYO RPLS 5045" set at the beginning of a tangent curve to the right with a radius of 1050.00 feet;

Thence continuing through the said 231.97 acre tract, along said curve in this proposed right-of-way parcel, through a central angle of 4° 41' 10", the chord of which bears S 45° 34' 42" E – 85.85 feet, to the Point of Beginning and containing 5.903 acres of land more or less.

Bearings are Texas State Plane, Central Zone, NAD83(CORS) datum, based on City of College Station GPS control monument no. 131 and no. 138 (S 52° 46' 54" E).

See exhibit plat prepared with this description, dated June 2016.

