22383

DECLARATION OF RESTRICTIONS
FERN BLUFF SECTION TWO (2)

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON §

This Declaration of Restrictions made this the 23rd day of July, 1986, by BILL MILBURN, INC., a Texas corporation, hereinafter called "Developer".

W I T N E S S E T H:

WHEREAS, Developer is the sole owner of all lots in FERN BLUFF, Section Two (2), a subdivision in Williamson County, Texas, according to the map or plat thereof, recorded in Cabinet H, Slide(s) 283-287, Plat Records of Williamson County, Texas, to which plat and its record reference is here made for all purposes (hereinafter called the "Subdivision"), and desires to encumber the lots in the Subdivision with the covenants, conditions, restrictions, reservations and charges hereinafter set forth, which shall inure to the benefit and pass with the property, each and every parcel or resubdivision thereof, and shall apply to and bind the successors in interest and any other owner thereof:

NOW THEREFORE, Developer, the sole owner in fee simple of the Subdivision, hereby declares that all lots in the Subdivision shall be held, transferred, sold and conveyed, subject to the following covenants, conditions, restrictions, reservations and charges, hereby specifying and agreeing that this Declaration and the provisions hereof shall be and do constitute covenants to run with the land and shall be binding on Developer, its successors and assigns, and all subsequent owners of each lot, and the owners by acceptance of their deeds for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to abide by the terms and conditions of this Declaration.

I.

PROPERTY SUBJECT TO THE DECLARATION

The property which is and shall be held, transferred, sold and conveyed, subject to the covenants, conditions, restrictions, reservations and charges hereinafter set forth is described as follows:

All of the Lots in FERN BLUFF, Section Two (2), a Subdivision in Williamson County, Texas, according to the map or plat of record in Cabinet H, Slide(s) 283-287, Plat Records of Williamson County, Texas.

II.

COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND CHARGES

The property described in Section I hereof is encumbered by the covenants, conditions, restrictions, reservations and charges hereinafter set forth to insure the best and highest use and the most appropriate development and improvements of each lot for residential purposes within said subdivision; to protect owners of lots against improper use of surrounding lots; to preserve

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so far as practicable, the natural beauty of said property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate location; to prevent haphazard and inharmonious improvements of lots; to secure and maintain proper set-backs from streets and adequate free space; and, in general, to provide for development of the highest quality to enhance the value of investments made by owners.

A. Land Use and Building Types. The lots shall be used solely for private single family residential purposes. On each residential lot no building shall be erected, altered, placed or permitted other than a detached, single family dwelling not to exceed two (2) stories in height, with an attached private garage or carport for not more than two (2) cars. No building shall remain uncompleted for more than one (1) year after construction has been commenced.

B. Antennae. No exterior radio, television antenna or aerial, guy wire, or satellite dish antenna shall be erected or maintained without the prior written approval of the Architectural Committee.

C. Architectural Control. No building, wall, fence or any other improvement shall be erected or placed on, nor shall any building, wall fence or any other improvement be altered, modified, added to or removed from any lot until the construction plans and specifications thereof and a plan showing the location of all buildings, walls, fences and other improvements, including, but not limited to driveways and setbacks, have been approved in writing by the Architectural Control Committee, hereinafter called "Committee". Nor shall the topography of the lot be enlarged in any way which will impede, restrict or in any way divert the flow of water without the prior written approval of the Committee. The approval of the Committee shall not be unreasonably or whimsically withheld.

The Committee shall be composed of three (3) members. The original members of the Committee shall be Bill Milburn, Jim Palmer and Barney Reynolds. Each Committee member shall serve at the pleasure of the Developer. In the event of the death, resignation or removal of any member of said Committee, the remaining member or members will have full authority to act until the member or members have been replaced. A decision of a majority of the Committee shall be binding on all members thereof.

The Committee in considering each set of plans and specifications and the plan showing the location of all improvements shall consider, among other things, the quality of design and materials, harmony of the design with existing structures and location with respect to topography and finished grade elevation.

The Committee's approval or disapproval of the plans and specifications and plot plan for the improvements to be erected or placed on a lot, or the plans and specifications for the alteration, modification, addition to or removal of any improvements located on a lot, within thirty (30) days after the same have been submitted to the Committee, then in that event the same shall be deemed approved and this covenant complied with. All plans and

specifications shall be delivered to the Committee not less than thirty (30) days prior to the date construction is to be commenced at its office at 11911 Burnet Road, Austin, Travis County, Texas 78758, or any such other address as it may designate, by certified mail, return receipt requested, or delivered and a written receipt received therefor, and the date received by the Committee shall be considered the date of delivery to the Committee.

Anything herein to the contrary notwithstanding, the Committee is hereby authorized, at its sole discretion, to waive any requirements relating to carports, dwelling size, masonry requirements and fences and such decision shall be binding on all owners of lots encumbered by this Declaration.

D. Dwelling Size. The ground floor area of the main structure of the single story, single-family residence shall be not less than NINE HUNDRED FIFTY (950) square feet, excluding all open and covered porches and garage units. If more than (1) story, the combined area for the first and second floors shall be not less than ONE THOUSAND ONE HUNDRED (1,100) square feet. The Architectural Control Committee may approve a dwelling size containing less square feet, but such approval must be in writing.

E. Easements and Setbacks. Easements reserved and setback requirements are those set forth on the plat of record of the Subdivision on file in the Plat Records of Williamson County, Texas, and other such easements dedicated by separate instrument on file in the Real Property Records of Williamson County, Texas. Within these easements, no structure, planting or other material shall be placed, or permitted to remain, which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water. The easement area of each lot shall not be fenced out of the lot and shall be maintained continuously by the owner of the lot.

F. Fences. No fence, wall or hedge shall be erected, placed or altered on a lot nearer to the front street than the front wall of the house situated on such lot.

G. Garbage and Refuse. No lot shall be used or maintained as a dumping ground for trash, garbage or other waste and the same shall not be kept, except in sanitary containers. Each lot owner shall contract with an independent disposal service to collect all garbage or other waste, if such service is not provided by the City of Austin.

H. Hazardous Activities. No activities may be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces, or in contained barbeque units which are attended and in use for cooking purposes only.

I. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except any owner may keep no more than two (2) dogs, two (2) cats, or two (2) other household pets, provided they are not kept, bred or maintained for any commercial purpose.

J. Maintenance, Alteration or Removal of Improvements. All improvements upon any of the Property shall at all times be kept in good condition and

repair and adequately painted or otherwise maintained by the Owner thereof. The opinion of the Committee as to condition and repair shall be final. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any improvements, or the removal of any improvements within the Property shall be performed only with the prior written approval of the Committee.

K. Masonry. Each dwelling shall have not less than ten per cent (10%) of the exterior walls of masonry construction; provided, however, the Architectural Control Committee may waive this requirement in whole or in part, but any such waiver must be in writing.

L. Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

M. Nuisances. No noxious or offensive activities shall be conducted on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood, or which is opposed to the purpose of these restrictions.

N. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any character shall be permitted upon any lot.

O. Signs. No signs of any kind shall be displayed for public view on any lot, except for the following: One (1) sign of not more than five (5) square feet, advertising the property for sale or rent; signs used by builders to advertise the property for sale; and directional and marketing signs of not more than four (4) feet by eight (8) feet used by the developer and builders for marketing purposes. All merchandising, advertising and sales programing shall be subject to the approval of the Committee.

P. Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.

Q. Temporary Structures. No structure of a temporary character, mobile home, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent. No building may be moved on any lot. No racing vehicle, or any vehicle without a current license plate shall be permitted to remain on any lot or be parked on a street adjoining a lot.

R. Unsightly Articles; Vehicles. No article deemed to be unsightly by the Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters and garden

in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scraps, refuse, or trash of any kind shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

III.

SIDEWALKS

The owner of each lot shall construct, at his cost and expense and prior to his occupancy of the dwelling, sidewalks, if any, as set forth on the recorded subdivision plat.

IV.

TERM

These covenants are to run with the land and shall be binding on all persons claiming under them until January 1, 2011, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless by a vote of a majority of the then owners of the lots encumbered by this Declaration, it is agreed to change said Declaration in whole or in part.

Any such instrument of amendment or termination must be executed and acknowledged by fifty-one percent (51%) of the then owners of lots encumbered by this Declaration and filed of record in the Deed Records of Williamson County, Texas. The instrument of amendment or termination shall be effective to amend or terminate this Declaration at the expiration of the initial year term, if such instrument is filed of record as set forth above during the initial term hereof; or if such instrument is filed of record as set forth above during any ten (10) year period of extension, this Declaration shall be amended or terminated (as the case may be) at the end of such ten (10) year period of extension. Notwithstanding anything contained herein to the contrary, the Developer, its successors or assigns, may amend these covenants at any time, or from time to time, in order to correct any typographical errors or other errors or omissions which, in the discretion of the Developer, its successors or assigns, may require amendment in order to properly reflect the intent hereof. Such amendments to correct typographical or other errors shall be effective on the date that such an amendment is filed on record in the Deed Records of Williamson County, Texas, by the Developer, its successors or assigns. Notwithstanding anything hereinabove, no amendment shall be effective until the approval of any governmental regulatory body which is required shall have been obtained.

V.

EXTERIOR MAINTENANCE

In the event the owner of any lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and exteriors of the buildings and any other improvements erected thereon, all at the expense of the owner.

VI.

ENFORCEMENT

If the owner of any lot, or his heirs, executors, administrators, successors, assigns or tenants shall violate or attempt to violate any of the covenants set forth in this Declaration, it shall be lawful for any person, or persons, owning any lot encumbered by this Declaration, or Developer, to prosecute any proceedings against the person, or persons, violating, or attempting to violate, any such covenants. The failure of the owner or tenant to perform his obligations hereunder would result in irreparable damage to the Developer and other owners of lots in the Subdivision, thus the breach of any provisions of this Declaration may not only give rise to an action for damages at law, but also may be enjoined by an action for specific performance in equity in any court of competent jurisdiction. Such action may be brought against any person, firm or corporation violating, or apparently about to violate, any of these covenants, either before such violation occurs or within a reasonable time thereafter, for an appropriate order or injunction of either a restraining or mandatory nature, or both, and of either a temporary or permanent nature, or both, including, but not limited to, one restraining contruction of any improvements commenced, or about to be commenced, without the prior written approval of the Committee or for the removal of any improvement constructed without the prior written approval of the Committee. In the event enforcement actions are instituted and the party bringing such action is successful in obtaining any relief, then in addition to the remedies specified above, the party or parties against whom such relief was granted shall pay to the enforcing party costs and reasonable attorney's fees in such amount as the court may determine. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

VII.

SEVERANCE

In the event any of the foregoing covenants, conditions, restrictions, reservations or charges is held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, restrictions, reservations or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced.

VIII.

NUMBER AND GENDER

The singular shall be treated as the plural and vice versa, if such treatment is necessary to interpret this Declaration. Likewise, if either the feminine, masculine or neuter gender should be any of the other genders, it shall be so treated.

EXECUTED this the 28 day of July, 1986.

BILL MILBURN, INC.

By: _____
Joseph A. DiQuinzio, Jr.
Vice President

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledge before me on the 28 day of July, 1986, by Joseph A. DiQuinzio, Jr., Vice President of Bill Milburn, Inc., a Texas corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

_____
(Printed/typed name)
My commission expires: _____

ROBERTA M. SPILAR
Notary Public, State of Texas
My Commission Expires 1/28/90

STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Williamson County, Texas, as stamped hereon by me, on

AUG 12 1986

James S. Boyleston
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

FILED FOR RECORD
WILLIAMSON COUNTY, TX.
1986 AUG 11 PM 4:07

James S. Boyleston
COUNTY CLERK

0393D/8-14

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FERN BLUFF (MUNICIPAL UTILITY DISTRICT RESTRICTIONS)

31704

THE STATE OF TEXAS :
: KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON :

THAT WHEREAS, Milburn Investments, Inc., a Texas corporation ("Declarant"), is the owner of the property described on Exhibit "A", attached hereto and incorporated herein by reference for all purposes (the "Property"), which Property is located within the boundaries of the Fern Bluff Municipal Utility District (the "District") and within the extraterritorial jurisdiction of the City of Austin (the "City"); and

WHEREAS, Declarant, the District and the City have entered into that one certain "Agreement Concerning Creation and Operation of Fern Bluff Municipal Utility District" (hereinafter referred to as "Consent Agreement"), pursuant to which Declarant and the City mutually agreed to and provided for the imposition of certain restrictive covenants specified therein upon the Property; and

WHEREAS, Declarant desires to convey the Property subject to the restrictions and covenants required by the Consent Agreement in order to fully comply with the Consent Agreement, and for the benefit of present and future owners of the Property;

NOW, THEREFORE, it is hereby declared that all of the Property shall be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. Declarant hereby adopts and establishes the following declarations, reservations, restrictions, covenants and conditions to apply uniformly to the use, improvement, occupancy and conveyance of all the Property, including the roads, avenues, streets, alleys and waterways therein; and each contract or deed which may be hereafter executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following (regardless of whether or not the same are set out in full or by reference in said contract or deed).

A. All of the Property shall be owned, held, encumbered, leased, occupied and enjoyed subject to the following limitations, covenants and restrictions:

1. The Property shall be developed and maintained in a manner which meets or exceeds the standards for landscaping set out in the City's Landscape Ordinance, as codified in Chapter 13-2A of the 1981 Code of the City of Austin, as amended from time to time.

2. The Property shall be developed and maintained in a manner which meets or exceeds the standards set out in the City's Waterway Development Ordinance, as codified in Divisions 1 and 2, Article IV of Chapter 9-10 of the 1981 Code of the City of Austin, as amended from time to time.

3. The standards for construction and maintenance on the Property shall be in compliance with the City's Building Code, including but not limited to any provisions thereof relating to construction in floodplains (including floodplain modification standards of the Waterway Development Ordinance in effect at the time subdivisions are developed), the City's Plumbing Code, the City's Electrical Code, the City's Mechanical Code and the City's Fire

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WILLIAMSON COUNTY, TX

Protection Code, as they may be amended from time to time. The City Building Inspection Department shall inspect and approve all construction and maintenance for compliance with this subsection.

4. The subdivision of the Property shall require approval of subdivision plats by the City Planning Commission as provided by Art. 974a, V.T.C.S., as amended, and Chapter 13-3 of the 1981 Code of the City of Austin, as amended from time to time.

5. Any use of any portion of the Property for a use or uses other than single family residential or duplex residential shall require site plan approval of such use(s) in accordance with the site plan review procedures and requirements set forth in Section 6100 et. seq., the Compatibility Standards set forth in Sections 4700 et. seq., and the Principal Roadway Area Regulations set forth in Sections 5100 et. seq., of Chapter 13-2(A) (Revised Zoning Regulations) of the City Code of the City of Austin, as such sections may be amended from time to time. Such portion of the Property requiring site plan approval shall be developed and maintained in a manner consistent with the approved site plan.

6. The erection and maintenance of billboards and signs on the Property shall be consistent with the standards of Chapter 13-13 of the 1981 Code of the City of Austin, as amended from time to time.

7. All City reviews, permits, approvals or inspections required by these covenants and restrictions or necessary to evidence compliance herewith shall require the payment to the City of the standard fees charged for said reviews, permits, approvals or inspections, which fees shall not be included as bondable costs. It is specifically understood and agreed that inspection fees for bondable water, sewer and drainage facilities are not addressed in this section and bonding of such fees is not prohibited. Failure to procure the required permits (variances, waivers), reviews, approvals or inspections shall subject Declarant, its successors and assigns to stop orders requiring the cessation of any further construction or related operations until such permits (variances, waivers), reviews, approvals or inspections are acquired and paid for by Declarant, its successors and assigns; the District; or the owner of the portion of the Property in question, as appropriate, or as provided by agreement between the parties or between the parties and other third parties with whom they choose to contract.

B. This Declaration of Covenants, Conditions and Restrictions for Fern Bluff (Municipal Utility District Restrictions) may be modified, amended or terminated only in accordance with the terms and conditions of the Consent Agreement and by the express written authorization of the owners of fifty-one percent (51%) of the Property at the time of such modification, amendment or termination.

C. The restrictions and conditions set forth herein shall apply to the Property in addition to and not in lieu of any other restrictions filed of record which run with the land and inure to the benefit of the Property.

MILBURN INVESTMENTS, INC.,
a Texas corporation

By: _____
Joseph A. DiQuinzio, Jr.
Its: Vice-President

Address: 11911 Burnet Road
Austin, Texas 78758

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

This instrument was acknowledged before me on this the 11th day of August, 1987, by Joseph A. DiQuinzio, Jr., Vice-President of Milburn Investments, Inc., a Texas corporation, on behalf of said corporation.

PATRICIA L. BEARD
Notary Public, State of Texas
My Commission Expires 3-24-89

Patricia L. Beard
Notary Public, State of Texas

Print Name: _____

My Commission Expires: _____

APPROVED AS TO FORM
AND CONTENT:

CITY OF AUSTIN, TEXAS

By: _____
Assistant City Attorney

Approved on August 11, 1987

13-687.55
(8/10/87)

FIELD NOTES FOR 472.156 ACRES

FIELD NOTES describing a 472.156 acre tract or parcel of land out of the William Dugan Survey, Abstract No. 190, situated in Williamson County, Texas, being all of the remainder of that certain 474.5 acre "FOURTH TRACT", conveyed to Charles Needham Avery, Jr., Francis Evelyn Avery, Mary Watt and Helen Louise Phinney by Partition Deed recorded in Volume 305, Page 228, of the Deed Records of said County, being more particularly described by metes and bounds as follows:

BEGINNING at an iron pin set in the fenced south right-of-way line of County Road No. 174 (Brushy Creek Road), being a point in the fenced West line of the Wade E. Sauls Estate found of record in Volume 380, Page 568, of said Deed Records and the most easterly northeast corner of said 474.5 acres, being the most easterly northeast corner and POINT OF BEGINNING of the hereinafter described 472.156 acres;

THENCE along the division line between said Sauls Estate and said 474.5 acres, as found fenced and occupied upon the ground, being an east line hereof, the following two (2) courses:
(1) S19°33'15"E, 2681.49 feet to an iron pin set, being an angle point hereof;
(2) S19° 19'10"E, 1478.05 feet to an iron pin found at a fence corner post at or near the south line of said William Dugan Survey, being the most westerly southwest corner of said Sauls Estates and the southeast corner of said 474.5 acres, being the southeast corner hereof;

THENCE along the south line of said William Dugan Survey, being the North line of a 131.71 acre tract of land conveyed to A.H. Robinson, Jr. et al, by deed recorded in Volume 413, Page 626 of said Deed Records, being the south line of said 474.5 acres as found fenced and occupied upon the ground, the following four (4) courses:
(1) S67°25'40"W, 314.01 feet to an iron pin found at a fence post, being an angle point hereof;
(2) S68°51'40"W, 436.37 feet to an iron pin found at a fence post, being an angle point hereof;
(3) S68°44'50"W, 332.74 feet to an iron pin found at a fence post, being an angle point hereof;
(4) S68°47'10"W, 407.51 feet to an iron pin found at a fence post, being the northeast corner of Lot 1, Block 12, Brushy Creek Subdivision Section Two, as shown on a Plat of Record in Cabinet C, Slides 324-331, of the Plat Records of said County, and the northwest corner of said 131.71 acres, also being the most easterly northeast corner of a Boundary Line Agreement between Eugene Oscar Beck and wife GeNelle Beck and said Charles Needham Avery, Jr., et al, found of record in Volume 648, Page 469 of said Deed Records, being an angle point hereof;

THENCE continue along said Boundary Line Agreement, being the fenced north line of said Section Two, being the south line hereof, the following two (2) courses:
(1) S68°28'40"W, 1928.84 feet to an iron pin found, being an angle point hereof;
(2) S69° 43'40"W, 1144.93 feet to an iron pin found, being an angle point in the north line of Lot 29, Block 12, of said Section Two, being the southwest corner of said 474.5 acres, being the southwest corner hereof;

THENCE continue along said Boundary Line Agreement, being the fenced division line between said 474.5 acres and said Section Two, and the east line of Brushy Creek Subdivision Section One as shown on a Plat of Record in Volume 12, Page 44-49, of said Plat Records, being the west line hereof, N19°00'00"W, 4256.28 feet to an iron pin found at a fence corner post at the intersection point of the east right-of-way line of Great Oaks Drive, a 100.00 foot wide right-of-way, and the south right-of-way line of said County Road No. 174 (Brushy Creek Road), being the most northerly northeast corner of said Brushy Creek Subdivision Section One being a point in the west line hereof;

THENCE continue along said Boundary Line Agreement, being the west line hereof, N19° 00'00"W, 40.00 feet pass an iron pin set in the north margin of said County Road No. 174, and continue a distance of 149.00 feet, in all being a total distance 189.00 feet to a point in the centerline of Brushy Creek, being the south line of Lot 7, Block 6, Great Oaks Subdivision Section II, as shown on a Plat of Record in Volume 10, Pages 31-34, of said Plat Records, also being the northerly limits of said Boundary Line Agreement, being the most westerly northwest corner hereof;

THENCE continue along the west line hereof, the following two (2) courses:
(1) N55°22'20"E, 42.32 feet to an angle point hereof;
(2) N01°17'50"E, 95.70 feet to an iron pin set, being an angle point in the east line of said Lot 7, and the southwest corner of a 2.19 acre tract conveyed to the Williamson County Municipal Utility District No. 2, by deed recorded in Volume 738, Page 555, of said Deed Records, being the most northerly northwest corner hereof;

EXHIBIT A

THENCE along the south line of said 2.19 acres, N76°08'40"E, 61.38 feet pass a nail found in a dead stump at the west limit of a fence, and continue a distance of 240.37 feet, in all being a total distance of 301.75 feet to an iron pin found near a fence post, being the southwest corner of a 5.34 acre tract conveyed to Paul Gifford and wife, Kathy Gifford by deed recorded in Volume 633, Page 270, of said Deed Records and the southeast corner of said 2.19 acres, being an angle point hereof;

THENCE N76°35'00"E, 157.79 feet to a nail found by a fence post, being an angle point in the south line of said 5.34 acres, being an angle point hereof;

THENCE continue along the fenced south line of said 5.34 acres, the following two (2) courses:
(1) N79°18'30"E, 85.85 feet to a 60-D nail set by a cedar tree, being an angle point hereof;
(2) N85°00'00"E, 65.20 feet to an iron pin found near a fence post being the southwest corner of a 4.15 acre tract conveyed to said Paul Gifford, et ux by deed recorded in Volume 672, Page 443 of said Deed Records, and the southeast corner of said 5.34 acres, being an angle point hereof;

THENCE along the south line of said 4.15 acres, the following three (3) courses:
(1) N84°59'00"E, 29.07 feet to a 60-D nail found being an angle point hereof;
(2) N77°17'30"E, 57.68 feet to a 60-D nail found being an angle point hereof;
(3) N72°05'20"E, 140.71 feet to an iron pin found being the southwest corner of a 5.30 acre tract conveyed to Mario G. Obledo and wife Mary Obledo, by deed recorded in Volume 645, Page 922, of said Deed Records, and the southeast corner of said 4.15 acres, being an angle point hereof;

THENCE along the fenced south line of said 5.30 acres, the following two (2) courses:
(1) N73°18'00"E, 166.08 feet to an iron pin found;
(2) N65°15'00"E, 104.90 feet to an iron pin found, being a point in a west line of Tonkowa Village as shown on a Plat of Record in Cabinet C, Slides 319-321, of said Plat Records, and the southeast corner of said 5.30 acres, being an angle point hereof;

THENCE along the west line of said Tonkowa Village, being the west line of an 8.29 acre tract conveyed by said Charles N. Avery, Jr., to Jack Garey by deed recorded in Volume 654, Page 924 of said Deed Records, S19°28'00"E, 96.77 feet to a point in the centerline of said Brushy Creek, being the southwest corner of said 8.29 acres and the southwest corner of said Tonkowa Village, being an angle point hereof;

THENCE down the centerline of said Brushy Creek, being the south line of said Tonkowa Village and the south line of said 8.29 acres, the following eight (8) courses:
(1) N62°39'40"E, 179.76 feet to an angle point hereof;
(2) N48°26'40"E, 224.57 feet to an angle point hereof;
(3) N44°27'50"E, 358.80 feet to an angle point hereof;
(4) N40°32'40"E, 168.36 feet to an angle point hereof;
(5) N41°42'50"E, 342.87 feet to an angle point hereof;
(6) N63°28'50"E, 237.75 feet to an angle point hereof;
(7) N64°45'40"E, 264.69 feet to an angle point hereof;
(8) N74°05'00"E, 218.93 feet to an iron pin set in the west line of a 29.46 acre tract conveyed to Bear Creek Joint Venture by deed recorded in Volume 950, Page 185 of said Deed Records, said point bears S13°08'10"E, 151.62 feet from the most westerly northwest corner of said 29.46 acres, being an angle point hereof;

THENCE along the west line of said 29.46 acres, being the remains of an old fence, the following three (3) courses:
(1) S02°14'10"E, 132.83 feet to an iron pin set at an old fence post, being an angle point hereof;
(2) S12°54'00"E, 51.47 feet to an iron pin set at an old fence post, being an angle point hereof;
(3) S06°30'30"E, 127.58 feet to an iron pin set at an old fence post in the north right-of-way line of said County Road No. 174, being the southwest corner of said 29.46 acres and continue a distance of 44.16 feet, in all being a total distance of 171.74 feet to an iron pin set in the fenced south right-of-way line of said County Road No. 174, being an angle point hereof;

EXHIBIT A

6. N 88°06'21" W, 1370.25 feet to an iron pin found in the south line of Brushy Creek Road, in all, 1489.10 feet to a point in the center of Brushy Creek, for the northwest corner of the herein described tract,

THENCE, with the center of the creek, N 85°02' E, 1031.70 feet and N 73°53'21" E, 368.03 feet to the PLACE OF BEGINNING, containing 77.40 Acres of Land.

SAVE AND EXCEPT the hereafter described real property:

Lots 6, 9, 10 Block G
Lots 17, 19, 21, 23, 27, 28, 29, and 32 Block H,
Fern Bluff Section Two,
A subdivision of record in Cabinet H, Slides 283 - 287,
Plat Records, Williamson County, Texas.

STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Williamson County, Texas, as stamped hereon by me, on

AUG 13 1987

James S. Boyd
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

FILED FOR RECORD
WILLIAMSON COUNTY, TX.
1987 AUG 12 PM 2:25

James S. Boyd
COUNTY CLERK

EXHIBIT A

THENCE along the fenced south right-of-way line of said County Road No. 174, being a north line of said 474.5 acres, being a north line hereof, the following nine (9) courses:
(1) N66°23'40"E, 55.85 feet to an iron pin set, being an angle point hereof;
(2) N68°34'00"E, 188.17 feet to an iron pin set, being an angle point hereof;
(3) N70°01'50"E, 303.24 feet to an iron pin set, being an angle point hereof;
(4) N73°06'50"E, 163.02 feet to an iron pin set, being an angle point hereof;
(5) N75°07'50"E, 245.81 feet to an iron pin set, being an angle point hereof;
(6) N85°43'15"E, 112.87 feet to an iron pin set, being an angle point hereof;
(7) S88°26'00"E, 176.31 feet to an iron pin set, being an angle point hereof;
(8) S86°37'50"E, 246.95 feet to an iron pin set, being an angle point hereof;
(9) S75°31'00"E, 125.94 feet to the POINT OF BEGINNING of the herein described tract of land containing 472.156 acres save and except that certain 2.79 acres contained in said County Road No. 174, for a total area of 469.366 acres contained in this survey.

I, Timothy E. Haynie, A REGISTERED PUBLIC SURVEYOR, do hereby certify that these field notes and attached plat accurately represent the results of an on-the-ground survey made under my direction and supervision on the 16TH day of MAY, 1984. All corners located are as shown. There are no encroachments, conflicts or protrusions apparent on the ground except as shown.

HAYNIE & KALLMAN, INC.

STATE OF TEXAS
TIMOTHY E. HAYNIE
2380
REGISTERED
PUBLIC SURVEYOR

T. E. Haynie
Timothy E. Haynie,
Registered Public Surveyor No. 2380

5-16-84
Date

EXHIBIT A

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE J.H. DILLARD SURVEY, ABSTRACT NO. 179, SITUATED IN WILLIAMSON COUNTY, TEXAS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS BEING THAT CERTAIN 207 ACRE TRACT OF LAND CONVEYED IN A DEED TO FRED C. OLSON, OF RECORD IN VOLUME 320, PAGE 306 OF THE WILLIAMSON COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 145.31 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pin found at the southwest corner of the herein described tract, a point in the south line of the J.H. Dillard Survey, Abstract No. 179 and the southeast corner of a tract described as 330 acres in a deed to Charles N. Avery, recorded in Volume 362, Page 477, Williamson County, Texas Deed Records,

THENCE, with the most westerly fence line of the herein described tract, the following six (6) courses and distances, numbered 1 through 6,

1. N 18°57'45" W, 1607.13 feet to a 60d nail set in a dead 8" cedar tree stump,
2. N 18°55'02" W, 525.86 feet to an iron pin set at the base of an 11" post oak tree,
3. N 18°26'50" W, 167.30 feet to a 60d nail set in the root of an 8" elm tree,
4. N 19°02'13" W, 675.41 feet to a 60d nail set in the root of an 8" oak tree,
5. N 19°04'59" W, 1010.75 feet to a Hilti nail set in the fence line,
6. N 19°01'51" W, 135.56 feet to a point in the center of the south fork of Brushy Creek for the most northwesterly corner of the herein described tract,

THENCE, with the center of the creek N 82°44' E, 863.30 feet and N 47°54' E, 628.75 feet to its confluence with Brushy Creek,

THENCE, with the centerline of Brushy Creek, N 85°02' E, 615.20 feet to a point in the center of the creek and in the south line of a tract described in a deed to Perry Mayfield, recorded in Volume 511, Page 698, Williamson County, Texas Deed Records, for the northeast corner of the herein described tract,

THENCE, leaving said creek, S 08°06'21" E, 118.85 feet to an iron pin found in the south line of Brushy Creek Road, join and follow a fence line, in all 1489.10 feet to an iron pin set at a fence post,

THENCE, following said fence, the following five (5) courses and distances, numbered 1 through 5,

1. S 02°39'16" W, 206.89 feet to a 60d nail set in the base of a 24" cedar tree,
2. S 05°36'46" E, 322.87 feet to a 60d nail set in the base of a 24" live oak tree,
3. S 09°59'29" E, 237.77 feet to an iron pin set at the base of a 18" pecan tree,
4. S 15°29'24" E, 740.61 feet to an iron pin found,
5. N 74°38'58" E, 365.09 feet to an iron pin found in a fence line, being the west line of a tract owned by O.E. Beck, recorded in Volume 475, Page 227, Williamson County, Texas Deed Records,

THENCE, following said fence, the following five (5) courses and distances, numbered 1 through 5,

1. S 15°22'58" E, 416.21 feet to an iron pin found,

EXHIBIT A

2. S 24°53'48" W, 1100.36 feet to an iron pin found,
3. S 24°52'08" W, 79.86 feet to an iron pin found,
4. S 24°50'55" W, 394.34 feet to an iron pin found,
5. S 69°48'24" W, 538.28 feet to the PLACE OF BEGINNING, containing 145.31 Acres of Land.

EXHIBIT A

BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE J.H. DILLARD SURVEY, ABSTRACT NO. 179, SITUATED IN WILLIAMSON COUNTY, TEXAS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS BEING THAT CERTAIN 77.28 ACRE TRACT OF LAND CONVEYED IN A DEED TO MARVIN DAVID OLSON, OF RECORD IN VOLUME 599, PAGE 175 OF THE WILLIAMSON COUNTY, TEXAS DEED RECORDS, SAID TRACT BEING 77.40 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point in the center of Brushy Creek at the northeast corner of the 77.28 acre tract and in the south line of a tract owned by Perry Mayfield of record in Volume 511, Page 698, Williamson County, Texas Deed Records,

THENCE, S 17°07'49" E, 125.44 feet to an iron pin found in the south line of Brushy Creek Road, beside a fence corner post,

THENCE, following the most easterly fence line of the herein described tract, the following seven (7) courses and distances, numbered 1 through 7,

1. S 16°15'27" E, 263.16 feet to a 60d nail set in a 14" elm tree,
2. S 20°22'22" E, 76.20 feet to an iron pipe found,
3. S 27°09'06" E, 50.61 feet to a nail found in an 8" oak tree,
4. S 17°45'46" E, 120.99 feet to an iron pin found,
5. S 19°00'53" E, 600.20 feet to an iron pin found,
6. S 19°17'04" E, 526.93 feet to an iron pin found,
7. S 19°56'10" E, 47.56 feet to a 4" steel post found for a corner of the herein described tract,

THENCE, with a fence line, the following four (4) courses and distances, numbered 1 through 4,

1. S 70°04'28" W, 59.12 feet to an iron pipe found,
2. S 70°15' W, 532.68 feet to a nail set in a 16" post oak tree,
3. S 70°53'23" W, 27.30 feet to an iron pipe found,
4. S 71°15'43" W, 839.45 feet to an iron pin found beside a fence corner post,

THENCE, with a fence line, being the west line of a tract owned by O.E. Beck of record in Volume 475, Page 227, Williamson County, Texas Deed Records, the following three (3) courses and distances, numbered 1 through 3,

1. S 15°20'19" E, 380.17 feet to an iron pin found,
2. S 15°22'51" E, 84.93 feet to an iron pin found,
3. S 15°23'07" E, 621.53 feet to an iron pin found for a corner of the herein described tract,

THENCE, following a fence, the following six (6) courses and distances, numbered 1 through 6,

1. S 74°38'58" W, 365.09 feet to an iron pin found for the southwest corner of the herein described tract,
2. N 15°29'24" W, 740.61 feet to an iron pin set at the base of an 18" pecan tree,
3. N 09°59'29" W, 237.77 feet to a 60d nail set in the base of 24" live oak tree,
4. N 05°36'45" W, 322.87 feet to a 60d nail set in the base of a 24" cedar tree,
5. N 02°39'16" E, 206.89 feet to an iron pin set at a fence post,

EXHIBIT A

6. N 08°06'21" W, 1370.25 feet to an iron pin found in the south line of Brushy Creek Road, in all, 1489.10 feet to a point in the center of Brushy Creek, for the northwest corner of the herein described tract,

THENCE, with the center of the creek, N 85°02' E, 1031.70 feet and N 73°53'21" E, 368.03 feet to the PLACE OF BEGINNING, containing 77.40 Acres of Land.

SAVE AND EXCEPT the hereafter described real property:

Lots 6, 9, 10 Block G
Lots 17, 19, 21, 23, 27, 28, 29, and 32 Block H,
Fern Bluff Section Two,
A subdivision of record in Cabinet H, Slides 283 - 287,
Plat Records, Williamson County, Texas.

STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Williamson County, Texas, as stamped hereon by me, on

AUG 13 1987

James S. Boyd
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

FILED FOR RECORD
WILLIAMSON COUNTY, TX.
1987 AUG 12 PM 2:25

James S. Boyd
COUNTY CLERK

EXHIBIT A

VOL 877 PAGE 354

Producers 88 (T-69)
With 640 Acres Pooling Provision

4927

POUND PRINTING & STATIONERY COMPANY
2125 FANNIN, HOUSTON, TEXAS 77002, (713) 658-2139

OIL, GAS AND MINERAL LEASE

THIS AGREEMENT made this 8th day of September 19 81, between Charles N. Avery, Jr. and Lucille S. Avery, husband and wife, Frances Avery McCorquodale, a widow, Helen Avery Phinney and Robert L. Phinney, wife and husband, Mary Avery Watt and T. N. Watt, wife and husband, Susan Phinney Conrad and Karl M. Conrad, wife and husband,

lessor (whether one or more), whose address is: 1120 American Bank Tower, Austin, Texas 78701
and M. L. McGinnis, 3005 Country Club Road, Garland, Texas 75043 lessee, WITNESSETH:

1. Lessor, in consideration of Ten or more Dollars, receipt of which is hereby acknowledged, and of the covenants and agreements of lessee hereinafter contained, does hereby grant, lease and let unto lessee the land covered hereby for the purposes and with the exclusive right of exploring, drilling, mining and operating for, producing and owning oil, gas, sulphur and all other minerals (whether or not similar to those mentioned), together with the right to make surveys on said land, lay pipe lines, establish and utilize facilities for surface or subsurface disposal of salt water, construct roads and bridges, dig canals, build tanks, power stations, telephone lines, employee houses and other structures on said land, [illegible] operations in, exploring, drilling for, producing, treating, storing and transporting minerals produced from this land covered hereby or any other land adjacent thereto. The land covered hereby, herein called "said land", is located in the County of Williamson, State of Texas, and is described as follows:

See rider attached hereto and by reference made a part hereof.

Seven tracts of land, containing a total of 2,206.02 net acres, more or less, being described as follows:

Tract I - 230.0 net acres, more or less, out of the Samuel Daymon League, Abstract No. 170 and being described as Tract No. 1 in the deed by and between T. E. Nelson et al to Charles Needham Avery, Jr. et al, dated December 7, 1940 and recorded in Volume 305, Page 228;

Tract II - 435.21 net acres, more or less, out of the Samuel Daymon League, Abstract No. 170 and being a part of the 460.0 acres, more or less, described as Tract No. 2 in the Partition Deed by and between T. E. Nelson et al to Charles Needham Avery, Jr. et al, dated December 7, 1940 and recorded in Volume 305, Page 228;

LESS AND EXCEPT: 24.79 acres, more or less, out of the Samuel Daymon League, Abstract No. 170 and being described in the deed from Charles N. Avery, Jr. et al to Will Wilson, dated January 1, 1956 and recorded in Volume 634, Page 628;

Tract III - 9.06 net acres, more or less, out of the Samuel Daymon Survey, Abstract No. 170 and being described as Tract No. 3 in the Partition Deed by and between T. E. Nelson et al to Charles Needham Avery, Jr. et al, dated December 7, 1940 and recorded in Volume 305, Page 228;

Tract IV - 531.0 net acres, more or less, 211.0 acres, more or less, out of the Rachel Saul Survey, Abstract No. 551 and 320.0 acres, more or less, out of the John H. Dillard Survey, Abstract No. 179, being described in the deed from J. B. Stroburg et ux to Charles N. Avery, Jr. et al, dated April 8, 1947 and recorded in Volume 340, Page 440;

Tract V - 331.0 net acres, more or less, out of the J. H. Dillard League, Abstract No. 179 and being a part of the 344.0 acres, more or less, described in the deed from Lewis N. White to Charles Needham Avery, Jr. et al, dated June 30, 1950 and recorded in Volume 362, Page 477;

LESS AND EXCEPT: 13.0 acres, more or less, out of the J. H. Dillard League, Abstract No. 179 and being described in the deed from Charles Needham Avery, Jr. et al to Will Wilson, dated June 1, 1955 and recorded in Volume 406, Page 507;

Tract VI - 200.0 net acres, more or less, out of the Samuel Daymon Survey, Abstract No. 170 and being described in the deed from J. O. Henry et ux to Charles N. Avery, Jr. et al, dated October 31, 1947 and recorded in Volume 344, Page 515;

Tract VII - 469.75 net acres, more or less, out of the William Dugan Survey, Abstract No. 190 and being a part of the 474.50 acres, more or less, described as Tract No. 4 in the Partition Deed by and between T. E. Nelson et al to Charles Needham Avery, Jr. et al, dated December 7, 1940 and recorded in Volume 305, Page 228;

LESS AND EXCEPT: 4.75 acres, more or less, out of the William Dugan Survey, Abstract No. 190 and being a part of the 8.29 acres, more or less, described in the deed from C. N. Avery, Jr. et al to Jack Garey, dated November 2, 1976 and recorded in Volume 654, Page 924, (3.54 acres, more or less, was deeded to Jack Garey by mistake, therefore Jack Garey Quitclaim said 3.54 acre tract back to original owner Leon E. Behrens, dated December 11, 1978 and recorded in Volume 751, Page 495 of the Deed Records of Williamson County, Texas).

This lease also covers and includes, in addition to that above described, all land, if any, contiguous or adjacent to or adjoining the land above described and (a) owned or claimed by lessor by limitation, prescription, possession, reversion or unrecorded instrument or (b) as to which lessor has a preference right of acquisition. Lessor agrees to execute any supplemental instrument requested by lessee for a more complete or accurate description of said land. For the purpose of determining the amount of any bonus, delay rental or other payment hereunder, said land shall be deemed to contain 2,206.02 acres, whether actually containing more or less, and the above recital of acreage in any tract shall be deemed to be the true acreage thereof. Lessor accepts the bonus and agrees to accept the delay rental as lump sum considerations for this lease and all rights and options hereunder.

2. Unless sooner terminated or longer kept in force under other provisions hereof, this lease shall remain in force for a term of ~~XXXXX~~ Five (5) years from the date hereof, hereinafter called "primary term", and as long thereafter as operations, as hereinafter defined, are conducted upon said land with no cessation for more than ninety (90) consecutive days.

3. As royalty, lessee covenants and agrees: (a) To deliver to the credit of lessor, in the pipe line to which lessee may connect its wells, the equal ~~one-eighth~~ part of all oil produced and saved by lessee from said land, or from time to time, at the option of lessee, to pay lessor the ~~average~~ posted market price of such ~~one-eighth~~ part of such oil at the wells as of the day it is run to the pipe line or storage tanks, lessor's interest, in either case, to bear ~~its~~ proportion of the cost of treating oil to render it marketable pipe line oil; (b) To pay lessor on gas and casinghead gas produced from said land (1) when sold by lessee ~~one-eighth~~ of the amount realized by lessee, computed at the mouth of the well, or (2) when used by lessee off said land or in the manufacture of gasoline or other products, the market value, at the mouth of the well, of ~~one-eighth~~ of such gas and casinghead gas; (c) To pay lessor on all other minerals mined and marketed or utilized by lessee from said land, one-tenth either in kind or value at the well or mine at lessee's election, except that on sulphur mined and marketed the royalty shall be one dollar ($1.00) per long ton. If, at the expiration of the primary term or at any time or times thereafter, there is any well on said land or on lands with which said land or any portion thereof has been pooled, capable of producing oil or gas, and all such wells are shut-in, this lease shall, nevertheless, continue in force as though operations were being conducted on said land for so long as said wells are shut-in, and thereafter this lease may be continued in force as if no shut-in had occurred. Lessee covenants and agrees to use reasonable diligence to produce, utilize, or market the minerals capable of being produced from said wells, but in the exercise of such diligence, lessee shall not be obligated to install or furnish facilities other than well facilities and ordinary lease facilities of flow lines, separator, and lease tank, and shall not be required to settle labor trouble or to market gas upon terms unacceptable to lessee. If, at any time or times after the expiration of the primary term, all such wells are shut-in for a period of ninety consecutive days, and during such time there are no operations on said land, then at or before the expiration of said ninety day period, lessee shall pay or tender, by check or draft of lessee, as royalty, a sum equal to the amount of annual delay rental provided for in this lease. Lessee shall make like payments or tenders at or before the end of each anniversary of the expiration of said ninety day period if upon such anniversary this lease is being continued in force solely by reason of the provisions of this paragraph. Each such payment or tender shall be made to the parties who at the time of payment would be entitled to receive the royalties which would be paid under this lease if the wells were producing, and may be deposited in a depository bank provided for below. Nothing herein shall impair lessee's right to release as provided in paragraph 5 hereof. In event of assignment of this lease in whole or in part, liability for payment hereunder shall rest exclusively on the then owner or owners of this lease, severally as to acreage owned by each.

4. Lessee is hereby granted the right, at its option, to pool or unitize any land covered by this lease with any other land covered by this lease, and/or with any other land, lease, or leases, as to any or all minerals or horizons, so as to establish units containing not more than 80 surface acres, plus 10% acreage tolerance; provided, however, units may be established as to any one or more horizons, or existing units may be enlarged as to any one or more horizons, so as to contain not more than 640 surface acres plus 10% acreage tolerance, if limited to one or more of the following: (1) gas, other than casinghead gas, (2) liquid hydrocarbons (condensate) which are not liquids in the subsurface reservoir, (3) minerals produced from wells classified as gas wells by the conservation agency having jurisdiction. If larger units than any of those herein permitted, either at the time established, or after enlargement, are required under any governmental rule or order, for the drilling or operation of a well at a regular location, or for the maximum allowable from any well to be drilled, drilling, or already drilled, any such unit may be established or enlarged to conform to the size required by such governmental order or rule. Lessee shall exercise said option as to each desired unit by executing an instrument identifying such unit and filing it for record in the public office in which this lease is recorded. Each of said options may be exercised by lessee at any time and from time to time while this lease is in force, and whether before or after production has been established either on said land, or on the portion of said land included in the unit, or on other land unitized therewith. A unit established hereunder shall be valid and effective for all purposes of this lease even though there may be mineral, royalty, or leasehold interests in lands within the unit which are not effectively pooled or unitized. Any operations conducted on any part of such unitized land shall be considered, for all purposes, except the payment of royalty, operations conducted upon said land under this lease. There shall be allocated to the land covered by this lease within each such unit (or to each separate tract within the unit if this lease covers separate tracts within the unit) that proportion of the total production of unitized minerals from the unit, after deducting any used in lease or unit operations, which the number of surface acres in such land (or in each such separate tract) covered by this lease within the unit bears to the total number of surface acres in the unit, and the production so allocated shall be considered for all purposes, including payment or delivery of royalty, overriding royalty and any other payments out of production, to be the entire production of unitized minerals from the land to which allocated in the same manner as though produced therefrom under the terms of this lease. The owner of the reversionary estate of any term royalty or mineral estate agrees that the accrual of royalties pursuant to this paragraph or of shut-in royalties from a well on the unit shall satisfy any limitation of term requiring production of oil or gas. The formation of any unit hereunder which includes land not covered by this lease shall not have the effect of exchanging or transferring any interest under this lease (including, without limitation, any delay rental and shut-in royalty which may become payable under this lease) between parties owning interests in land covered by this lease and parties owning interests in land not covered by this lease. Neither shall it impair the right of lessee to release as provided in paragraph 5 hereof, except that lessee may not so release as to lands within a unit while there are operations thereon for unitized minerals unless all pooled leases are released as to lands within the unit. At any time while this lease is in force lessee may dissolve any unit established hereunder by filing for record in the public office where this lease is recorded a declaration to that effect. If at that time no operations are being conducted thereon for unitized minerals. Subject to the provisions of this paragraph 4, a unit once established hereunder shall remain in force so long as any lease subject thereto shall remain in force. If this lease now or hereafter covers separate tracts, no pooling or unitization of royalty interests as between any such separate tracts is intended or shall be implied or result merely from the inclusion of such separate tracts within this lease but lessee shall nevertheless have the right to pool or unitize as provided in this paragraph 4 with consequent allocation of production as herein provided. As used in this paragraph 4, the words "separate tract" mean any tract with royalty ownership differing, now or hereafter, either as to parties or amounts, from that as to any other part of the leased premises.

5. If operations are not conducted on said land on or before the first anniversary date hereof, this lease shall terminate as to both parties, unless lessee on or before said date shall, subject to the further provisions hereof, pay or tender to lessor or to lessor's credit in the Bank of the Hills ~~XXXXX~~ at Cedar Park, Texas 78613 Acct. No. 1149.0413 or its successors, which shall continue as the depository, regardless of changes in ownership of delay rental, royalties, or other moneys, the sum of $4,412.04, which shall operate as delay rental and cover the privilege of deferring operations for one year from said date. In like manner and upon like payments or tenders, operations may be further deferred for like periods of one year each during the primary term. If at any time that lessee pays or tenders delay rental, royalties, or other moneys, two or more parties are, or claim to be, entitled to receive same, lessee may, in lieu of any other method of payment herein provided, pay or tender such rental, royalties, or other moneys, in the manner herein specified, either jointly to such parties or separately to each in accordance with their respective ownerships thereof, as lessee may elect. Any payment hereunder may be made by check or draft of lessee deposited in the mail or delivered to lessor or to a depository bank on or before the last date for payment. Said delay rental shall be apportionable as to said land on an acreage basis, and a failure to make proper payment or tender of delay rental as to any portion of said land or as to any interest therein shall not affect this lease as to any portion of said land or as to any interest therein as to which proper payment or tender is made. Any payment or tender which is made in an attempt to make proper payment, but which is erroneous in whole or in part as to parties, amounts, or depository shall nevertheless be sufficient to prevent termination of this lease and to extend the time within which operations may be conducted in the same manner as though a proper payment had been made; provided, however, lessee shall correct such error within thirty (30) days after lessee has received written notice thereof from lessor. Lessee may at any time and from time to time execute and deliver to lessor or file for record a release or releases of this lease as to any part or all of said land or of any mineral or horizon thereunder, and thereby be relieved of all obligations as to the released acreage or interest. If this lease is so released as to all minerals and horizons under a portion of said land, the delay rental and other payments computed in accordance therewith shall thereupon be reduced in the proportion that the acreage released bears to the acreage which was covered by this lease immediately prior to such release.

6. If at any time or times during the primary term operations are conducted on said land and if all operations are discontinued, this lease shall thereafter terminate on its anniversary date next following the ninetieth day after such discontinuance unless on or before such anniversary date lessee either (1) conducts operations or (2) commences or resumes the payment or tender of delay rental; provided, however, if such anniversary date is at the end of the primary term, or if there is no further anniversary date of the primary term, this lease shall terminate at the end of such term or on the ninetieth day after discontinuance of all operations, whichever is the later date, unless on such later date either (1) lessee is conducting operations or (2) the shut-in well provisions of paragraph 3 or the provisions of paragraph 11 are applicable. Whenever used in this lease the word "operations" shall mean operations for and any of the following: drilling, testing, completing, reworking, recompleting, deepening, plugging back or repairing or in an endeavor to obtain production of oil, gas, sulphur or other minerals, excavating a mine, production of oil, gas, sulphur or other mineral, whether or not in paying quantities.

7. Lessee shall have the use, free from royalty, of water, other than from lessor's water wells, and of oil and gas produced from said land in all operations hereunder. Lessee shall have the right at any time to remove all machinery and fixtures placed on said land, including the right to draw and remove casing. No well shall be drilled nearer than 200 feet to the house or barn now on said land without the consent of the lessor. Lessee shall pay for damages caused by its operations to growing crops and timber on said land.

8. The rights and estate of any party hereto may be assigned from time to time in whole or in part and as to any mineral or horizon. All of the covenants, obligations, and considerations of this lease shall extend to and be binding upon the parties hereto, their heirs, successors, assigns, and successive assigns. No change or division in the ownership of said land, royalties, delay rental, or other moneys, or any part thereof, however effected, shall increase the obligations or diminish the rights of lessee, including, but not limited to, the location and drilling of wells and the measurement of production. Notwithstanding any other actual or constructive knowledge or notice thereof or to lessee, its successors or assigns, no change or division in the ownership of said land or of the royalties, delay rental, or other moneys, or the right to receive the same, however effected, shall be binding upon the then record owner of this lease until thirty (30) days after there has been furnished to such record owner at his or its principal place of business by lessor or lessor's heirs, successors, or assigns, notice of such change or division, supported by either originals or duly certified copies of the instruments which have been properly filed for record and which evidence such change or division, and of such court records and proceedings, transcripts, or other documents as shall be necessary in the opinion of such record owner to establish the validity of such change or division. If any such change in ownership occurs by reason of the death of the owner thereof, lessee may, nevertheless pay or tender such royalties, delay rental, or other moneys, or part thereof, to the credit of the decedent in a depository bank provided for above. In the event of assignment of this lease as to any part (whether divided or undivided) of said land, the delay rental payable hereunder shall be apportionable as between the several leasehold owners, ratably according to the surface area or undivided interests of each, and default in delay rental payment by one shall not affect the right of other leasehold owners hereunder.

9. In the event lessor considers that lessee has not complied with all its obligations hereunder, both express and implied, lessor shall notify lessee in writing, setting out specifically in what respects lessee has breached this contract. Lessee shall then have sixty (60) days after receipt of said notice within which to meet or commence to meet all or any part of the breaches alleged by lessor. The service of said notice shall be precedent to the bringing of any action by lessor on said lease for any cause, and no such action shall be brought until the lapse of sixty (60) days after service of such notice on lessee. Neither the service of said notice nor the doing of any acts by lessee aimed to meet all or any of the alleged breaches shall be deemed an admission or presumption that lessee has failed to perform all its obligations hereunder. If this lease is cancelled for any cause, it shall nevertheless remain in force and effect as to (1) sufficient acreage around each well as to which there are operations to constitute a drilling or maximum allowable unit under applicable governmental regulations, (but in no event less than forty acres), such acreage to be designated by lessee as nearly as practicable in the form of a square centered at the well, or in such shape as then existing spacing rules require; and (2) any part of said land included in a pooled unit on which there are operations. Lessee shall also have such easements on said land as are necessary to operations on the acreage so retained.

10. Lessor hereby warrants and agrees to defend title to said land against the claims of all persons whomsoever. Lessor's rights and interests hereunder shall be charged primarily with any mortgages, taxes or other liens, or interest and other charges on said land, but lessor agrees that lessee shall have the right at any time to pay or reduce same for lessor, either before or after maturity, and be subrogated to the rights of the holder thereof and to deduct amounts so paid from royalties or other payments payable or which may become payable to lessor and/or assigns under this lease. If this lease covers a less interest in the oil, gas, sulphur, or other minerals in all or any part of said land than the entire and undivided fee simple estate (whether lessor's interest is herein specified or not), or no interest therein, then the royalties, delay rental, and other moneys accruing from any part as to which this lease covers less than such full interest, shall be paid only in the proportion which the interest therein, if any, covered by this lease, bears to the whole and undivided fee simple estate therein. All royalty interest covered by this lease (whether or not owned by lessor) shall be paid out of the royalty herein provided. This lease shall be binding upon each party who executes it without regard to whether it is executed by all those named herein as lessor.

11. If, while this lease is in force, at, or after the expiration of the primary term hereof, it is not being continued in force by reason of the shut-in well provisions of paragraph 3 hereof, and lessee is not conducting operations on said land by reason of (1) any law, order, rule or regulation, (whether or not subsequently determined to be invalid) or (2) any other cause, whether similar or dissimilar, (except financial) beyond the reasonable control of lessee, the primary term and the delay rental provisions hereof shall be extended until the first anniversary date hereof occurring ninety (90) or more days following the removal of such delaying cause, and this lease may be extended thereafter by operations as if such delay had not occurred. See rider attached hereto and by reference made a part hereof.

12. Lessee shall not conduct any surface operations or erect or maintain any surface equipment, buildings, tank batteries, etc. within 300 feet of existing buildings on the lands covered hereby without the express written consent of lessor. Lessee shall level all pits or excavations made by it in its operations hereunder promptly after the termination of its use thereof and shall construct and maintain fences surrounding such pits or excavations sufficient to turn livestock until such time as said pits or excavations are leveled. Lessee shall pay for all injury or damage done or caused by lessee in its operations hereunder to any buildings, fences, roads, culverts, trees, cultivated lands, growing crops or other improvements on said land or to livestock on said land. Also, it is expressly agreed and provided that if any salt water or other deleterious substances shall come from or in any manner be extracted or produced from said lands as a result of lessees operations hereunder, then lessee shall not permit same to flow on or over lessors land. Lessee shall construct and maintain substantial gates and/or cattleguards, sufficient to turn livestock, at all points where lessee cuts fence of lessor to gain access to said lands.

13. It is specifically understood and agreed that this lease shall cover only oil, gas, sulphur and associated liquid or liquifiable hydrocarbons, and the words "oil" and/or "gas", when used herein, shall mean and refer to only oil, gas, sulphur and associated liquid or liquifiable hydrocarbons. The words "all other minerals", when used herein, shall mean all other substances in and under said lands except oil and gas as above defined and produced through the borehole, which other substances shall be excepted and excluded herefrom and reserved to lessor.

14. Paragraph 4 above is hereby amended to provide that any gas unit or units established hereunder, insofar as any such unit(s) cover any horizons or strata from the surface of the ground to a depth of 9,500 feet shall not exceed 320 acres plus 10% tolerance; while any such unit or units covering any horizon or strata below 9,500 feet beneath the surface shall not exceed 640 acres plus 10% tolerance. Also, any oil unit or units established under the terms hereof covering any strata or horizons from the surface to a depth of 6,500 feet shall not exceed 40 acres plus 10% tolerance, and any such unit or units covering any strata or horizon below a depth of 6,500 feet shall not exceed 80 acres plus 10% tolerance, all provided that, the provisions of paragraph 4 relating to establishment or larger units, or enlargements of units, under governmental rules or orders shall remain in force and shall prevail.

15. If lessee exercises its rights to pool, as provided in paragraphs 4 and 15 herein, and if less than all of said lands are contained in any such unit or units, then and in that event production, drilling or reworking operations on any such unit shall only be considered as production, drilling or reworking operations only on the acreage covered by this lease and placed in such unit or units and shall not be considered as production, drilling or reworking operations on any acreage covered by this lease and not placed in said unit or units. This lease, during any period in which it is being so maintained as to part of said lands covered hereby, may be maintained as to the remainder of lands not included in a unit or units by operations on the unpooled portion of said lands, as elsewhere herein provided, or, if it be within the primary term or a period of two (2) years thereafter, by the payment of delay rentals in an amount proportionate to the number of acres of said lands not then included in a unit or units being maintained by production, drilling or reworking operations.

16. It is understood and agreed that lessee's right to maintain this lease solely by virtue of the shut-in gas well royalty payment provided for in paragraph 3 hereof is hereby limited to two (2) consecutive years immediately following the date such well is shut in, or for shorter terms at various intervals not to exceed in the aggregate three (3) years in all.

17. There shall be no hunting or fishing allowed on said lands, nor shall any firearms be brought on said lands by lessee or by his assigns, or by any employee, agent, contractor or representative of lessee or lessee's assigns without the prior written consent of lessor.

18. The foregoing provisions contained on this rider shall supersede and govern the provisions in the printed text hereof, even when to the contrary or apparently to the contrary, and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns.

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IN WITNESS WHEREOF, this instrument is executed on the date first above written.

Charles N. Avery, Jr.

Lucille S. Avery

Frances Avery McCorquodale

Helen Avery Phinney

Robert L. Phinney

Mary Avery Watt

T. N. Watt

Susan Phinney Conrad

Karl M. Conrad

VOL 877 PAGE 358

SEE ATTACHED RIDER

STATE OF Texas
COUNTY OF Travis

HUSBAND AND WIFE ACKNOWLEDGMENT—TEXAS OR NEW MEXICO

Before me, the undersigned authority, on this day personally appeared Charles N. Avery, Jr. and Lucille S. Avery husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 23rd day of September, 1981.

My Commission Expires
11-30-84

Rosalynn Koepsell ROSALYNN KOEPSELL
Notary Public in and for Travis County, State of Texas

STATE OF Texas
COUNTY OF Travis

ACKNOWLEDGMENT—TEXAS OR NEW MEXICO

Before me, the undersigned authority, on this day personally appeared Frances Avery McCorquodale

known to me to be the person whose name is (~~are~~) subscribed to the foregoing instrument, and acknowledged to me that she executed the same as her free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 23rd day of September, 1981.

My Commission Expires
11-30-84

Rosalynn Koepsell ROSALYNN KOEPSELL
Notary Public in and for Travis County, State of Texas

STATE OF Texas
COUNTY OF Travis

ACKNOWLEDGMENT—TEXAS OR NEW MEXICO

Before me, the undersigned authority, on this day personally appeared Helen Avery Phinney and Robert L. Phinney Wife and Husband known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 23rd day of September, 1981.

My Commission Expires
11-30-84

Rosalynn Koepsell ROSALYNN KOEPSELL
Notary Public in and for TRAVIS County, State of Texas

STATE OF Texas
COUNTY OF Travis

ACKNOWLEDGMENT—TEXAS OR NEW MEXICO

Before me, the undersigned authority, on this day personally appeared Mary Avery Watt and T. N. Watt, Wife and Husband,

known to me to be the persons whose name ~~is~~ (are) subscribed to the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 23rd day of September, 1981.

My Commission Expires
11-30-84

Rosalynn Koepsell ROSALYNN KOEPSELL
Notary Public in and for TRAVIS County, State of Texas

District of Columbia

ACKNOWLEDGMENT—TEXAS OR NEW MEXICO

Before me, the undersigned authority, on this day personally appeared Susan Phinney Conrad Susan Phinney Conrad and Karl M. Conrad Karl M. Conrad Wife and Husband known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same as their free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of September, 1981.

My Commission Expires
3-14-86

Notary Public in and for District of Columbia County, State of Texas

THE STATE OF TEXAS
County of Williamson

I, James N. Boydston, Clerk of the County Court of said County, do hereby certify that the foregoing instrument in writing, with its certificate of authentication, was filed for record in my office on the 1st day of June A.D. 1982, at 8:00 o'clock a M., and duly recorded this the 1st day of June A.D. 1982, at 10:30 o'clock a M., in the Deed Records of said County, in Vol. 877 pp. 354

WITNESS MY HAND and seal of the County Court of said County, at office in Georgetown, Texas, the date last above written.

By Marilyn Gardner Deputy

JAMES N. BOYDSTON, CLERK,
County Court, Williamson County, Texas

VOL. 2549 PAGE 0591

APPOINTMENT OF NEW MEMBERS
TO ARCHITECTURAL CONTROL COMMITTEE 30100

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

This Appointment of New Members to Architectural Control Committee is executed this 15th day of May, 1994 by Milburn Investments, Inc., ("Milburn"), a Texas corporation, and successor in interest to Bill Milburn, Inc.

RECITALS:

A. Bill Milburn, Jim Palmar and Steve Herring are Architectural Control Committee ("Committee") members, appointed pursuant to that one certain Declaration of Restrictionn Fern Bluff, Section Two (2), recorded at Volume 1402, Page 836, Official Records, Williamson County, Texas ("Restrictions"), which Restrictions encumber Fern Bluff, Section One, a subdivision in Williamson County, Texas according to the map or plat thereof recorded in Cabinet H, Slide(s) 283-287, Plat Records of Williamson County, Texas.

B. Milburn is the Developer set forth in the Restrictions.

C. Pursuant to Article II, Paragraph C of the Restrictions, Milburn desires to appoint new members to replace all current members of the Committee and to appointed Jo-Ann Robinson, Jean Cochran and John Lubenow as such new members.

NOW, THEREFORE, the following Appointments are made:

1. Milburn hereby replaces the existing Committee members and appoints in their place Jo-Ann Robinson, Jean Cochran and John Lubenow.

2. The notice address for the Committee is changed to: Architectural Control Committee, c/o Fern Bluff Neighborhood Association, P.O. Box 1083, Round Rock, Texas 78680.

27278.1/SP/LRP/1097/051994

OFFICIAL RECORDS
WILLIAMSON COUNTY, TEXAS

1A

VOL. 2549 PAGE 0592

Executed to be in effect the 15th day of May, 1994.

MILBURN INVESTMENTS, INC.,
a Texas corporation,
successor in interest to
Bill Milburn, Inc.

By: Terry P. Mitchell
Its: Vice President

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on June 13, 1994, by Terry P. Mitchell, Vice President, on behalf of Milburn Investments, Inc., a Texas corporation.

(SEAL)

DEBORAH E. MACK
Notary Public, State of Texas
My Commission Expires
JAN. 26, 1998

Deborah E. Mack
Notary Public, State of Texas

STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the Volume and Page of the named RECORDS of Williamson County Texas as stamped hereon by me, on

JUN 15 1994

Elaine Boyce
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

FILED FOR RECORD
WILLIAMSON COUNTY, TX.
1994 JUN 15 PM 1:23
Elaine Boyce
COUNTY CLERK

27278.1/SP/LRP/1097/051994

-2-

VOL 1431 PAGE 86

AMENDMENT OF DECLARATION OF RESTRICTIONS FOR
FERN BLUFF SECTION TWO (2) SUBDIVISION

41058

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

THIS AMENDMENT OF DECLARATION OF RESTRICTIONS is made this the 25th day of September, 1986, by BILL MILBURN, INC., a Texas corporation, hereinafter referred to as "Declarant".

W I T N E S S E T H:

Whereas, Declarant executed and recorded a certain Declaration of Restrictions for Fern Bluff Section Two (2) Subdivision, at Volume 1402, Page 836, Official Records of Williamson County, Texas; and

Whereas, Declarant is the sole owner of all lots in Fern Bluff Section Two (2), a subdivision in Williamson County, Texas, according to the map or plat thereof, recorded in Cabinet H, Slides 283-287, Plat Records of Williamson County, Texas; and

Whereas, Declarant desires to amend such Declaration of Restrictions;

NOW THEREFORE, Declarant hereby amends Article I of the Declaration of Restrictions to delete Lot Four (4), Block A, Fern Bluff Section Two (2), from the description of the property which is subject to the Declaration of Restrictions.

Except as modified herein, all terms, covenants, and conditions of the Declaration of Restrictions shall remain in full force and effect.

EXECUTED this the 26th day of September, 1986.

BILL MILBURN, INC.

By: _____
Joseph A. DiQuinzio, Jr.
Vice President

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on September 26, 1986, by JOSEPH A. DIQUINZIO, JR., VICE PRESIDENT OF BILL MILBURN, INC., a Texas corporation, on behalf of said corporation.

_____
Notary Public, State of Texas
Notary's printed name:
My commission expires:

0002s

Albert DeLaRosa
Notary Public, State of Texas
My Commission Expires 2-27-88

RETURN TO:
TRAVIS TITLE CO.
ONE PARK NORTH
8200 MOPAC, SUITE 240
AUSTIN, TEXAS 78759
KW
8605119 56

OFFICIAL RECORDS
WILLIAMSON COUNTY, TEXAS

VOL 1431 PAGE 187

FILED FOR RECORD
WILLIAMSON COUNTY, TX.

1986 OCT -6 AM 11:08

COUNTY CLERK

STATE OF TEXAS }
I hereby certify that this instrument was FILED
on the date and at the time stamped hereon
by me; and was duly RECORDED, in the Volume
and Page of the named RECORDS of Williamson
County, Texas, as stamped hereon by me, on

OCT 7, 1986

COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

11058

22382

DECLARATION OF RESTRICTIONS
FERN BLUFF SECTION ONE (1)

A TRUE COPY
WE CERTIFY
TRAVIS TITLE CO.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF WILLIAMSON §

This Declaration of Restrictions made this the 23rd day of July, 1986, by BILL KILBURN, INC., a Texas corporation, hereinafter called "Developer".

W I T N E S S E T H:

WHEREAS, Developer is the sole owner of all lots in FERN BLUFF, Section One (1), a subdivision in Williamson County, Texas, according to the map or plat thereof, recorded in Cabinet H, Slide(s) 277-282, Plat Records of Williamson County, Texas, to which plat and its record reference is here made for all purposes (hereinafter called the "Subdivision"), and desires to encumber the lots in the Subdivision with the covenants, conditions, restrictions, reservations and charges hereinafter set forth, which shall inure to the benefit and pass with the property, each and every parcel or resubdivision thereof, and shall apply to and bind the successors in interest and any other owner thereof:

NOW THEREFORE, Developer, the sole owner in fee simple of the Subdivision, hereby declares that all lots in the Subdivision shall be held, transferred, sold and conveyed, subject to the following covenants, conditions, restrictions, reservations and charges, hereby specifying and agreeing that this Declaration and the provisions hereof shall be and do constitute covenants to run with the land and shall be binding on Developer, its successors and assigns, and all subsequent owners of each lot, and the owners by acceptance of their deeds for themselves, their heirs, executors, administrators, successors and assigns, covenant and agree to abide by the terms and conditions of this Declaration.

I.

PROPERTY SUBJECT TO THE DECLARATION

The property which is and shall be held, transferred, sold and conveyed, subject to the covenants, conditions, restrictions, reservations and charges hereinafter set forth is described as follows:

All of the Lots in FERN BLUFF, Section One, (1), a Subdivision in Williamson County, Texas, according to the map or plat of record in Cabinet H, Slide(s) 277-282, Plat Records of Williamson County, Texas.

II.

COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS AND CHARGES

The property described in Section I hereof is encumbered by the covenants, conditions, restrictions, reservations and charges hereinafter set forth to insure the best and highest use and the most appropriate development and improvements of each lot for residential purposes within said subdivision; to protect owners of lots against improper use of surrounding lots; to preserve

OFFICIAL RECORDS
WILLIAMSON COUNTY TEXAS

so far as practicable, the natural beauty of said property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate location; to prevent haphazard and inharmonious improvements of lots; to secure and maintain proper set-backs from streets and adequate free space; and, in general, to provide for development of the highest quality to enhance the value of investments made by owners.

A. Land Use and Building Types. The lots shall be used solely for private residential purposes. On each residential lot no building shall be erected, altered, placed or permitted other than a residential unit not to exceed two (2) stories in height, with an attached private garage or carport for not more than two (2) cars. No building shall remain uncompleted for more than one (1) year after construction has been commenced.

B. Antennae. No exterior radio, television antenna or aerial, guy wire, or satellite dish antenna shall be erected or maintained without the prior written approval of the Architectural Committee.

C. Architectural Control. No building, wall, fence or any other improvement shall be erected or placed on, nor shall any building, wall fence or any other improvement be altered, modified, added to or removed from any lot until the construction plans and specifications thereof and a plan showing the location of all buildings, walls, fences and other improvements, including, but not limited to driveways and setbacks, have been approved in writing by the Architectural Control Committee, hereinafter called "Committee". Nor shall the topography of the lot be enlarged in any way which will impede, restrict or in any way divert the flow of water without the prior written approval of the Committee. The approval of the Committee shall not be unreasonably or whimsically withheld.

The Committee shall be composed of three (3) members. The original members of the Committee shall be Bill Milburn, Jim Palmer and Barney Reynolds. Each Committee member shall serve at the pleasure of the Developer. In the event of the death, resignation or removal of any member of said Committee, the remaining member or members will have full authority to act until the member or members have been replaced. A decision of a majority of the Committee shall be binding on all members thereof.

The Committee in considering each set of plans and specifications and the plan showing the location of all improvements shall consider, among other things, the quality of design and materials, harmony of the design with existing structures and location with respect to topography and finished grade elevation.

The Committee's approval or disapproval of the plans and specifications and plot plan for the improvements to be erected or placed on a lot, or the plans and specifications for the alteration, modification, addition to or removal of any improvements located on a lot, within thirty (30) days after the same have been submitted to the Committee, then in that event the same shall be deemed approved and this covenant complied with. All plans and

specifications shall be delivered to the Committee not less than thirty (30) days prior to the date construction is to be commenced at its office at 11911 Burnet Road, Austin, Travis County, Texas 78758, or any such other address as it may designate, by certified mail, return receipt requested, or delivered and a written receipt received therefor, and the date received by the Committee shall be considered the date of delivery to the Committee.

Anything herein to the contrary notwithstanding, the Committee is hereby authorized, at its sole discretion, to waive any requirements relating to carports, dwelling size, masonry requirements and fences and such decision shall be binding on all owners of lots encumbered by this Declaration.

D. Dwelling Size. The ground floor area of the main structure of the single story, residential unit shall be not less than SEVEN HUNDRED FIFTY (750) square feet per unit, excluding all open and covered porches and garage units. The Architectural Control Committee may approve a dwelling size containing less square feet, but such approval must be in writing.

E. Easements and Setbacks. Easements reserved and setback requirements are those set forth on the plat of record of the Subdivision on file in the Plat Records of Williamson County, Texas, and other such easements dedicated by separate instrument on file in the Real Property Records of Williamson County, Texas. Within these easements, no structure, planting or other material shall be placed, or permitted to remain, which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water. The easement area of each lot shall not be fenced out of the lot and shall be maintained continuously by the owner of the lot.

F. Fences. No fence, wall or hedge shall be erected, placed or altered on a lot nearer to the front street than the front wall of the house situated on such lot.

G. Garbage and Refuse. No lot shall be used or maintained as a dumping ground for trash, garbage or other waste and the same shall not be kept, except in sanitary containers. Each lot owner shall contract with an independent disposal service to collect all garbage or other waste, if such service is not provided by a governmental entity.

H. Hazardous Activities. No activities may be conducted on the Property and no improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted except within safe and well-designed interior fireplaces, or in contained barbeque units which are attended and in use for cooking purposes only.

I. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except any owner may keep no more than two (2) dogs, two (2) cats, or two (2) other household pets, provided they are not kept, bred or maintained for any commercial purpose.

J. Maintenance, Alteration or Removal of Improvements. All improvements upon any of the Property shall at all times be kept in good condition and

repair and adequately painted or otherwise maintained by the Owner thereof. The opinion of the Committee as to condition and repair shall be final. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any improvements, or the removal of any improvements within the Property shall be performed only with the prior written approval of the Committee.

K. Masonry. Each dwelling shall have not less than ten per cent (10%) of the exterior walls of masonry construction; provided, however, the Architectural Control Committee may waive this requirement in whole or in part, but any such waiver must be in writing.

L. Noise. No exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any of the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

M. Nuisances. No noxious or offensive activities shall be conducted on or upon any lot, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood, or which is opposed to the purpose of these restrictions.

N. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any character shall be permitted upon any lot.

O. Signs. No signs of any kind shall be displayed for public view on any lot, except for the following: One (1) sign of not more than five (5) square feet, advertising the property for sale or rent; signs used by builders to advertise the property for sale; and directional and marketing signs of not more than four (4) feet by eight (8) feet used by the developer and builders for marketing purposes. All merchandising, advertising and sales programing shall be subject to the approval of the Committee.

P. Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.

Q. Temporary Structures. No structure of a temporary character, mobile home, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent. No building may be moved on any lot. No racing vehicle, or any vehicle without a current license plate shall be permitted to remain on any lot or be parked on a street adjoining a lot.

R. Unsightly Articles; Vehicles. No article deemed to be unsightly by the Committee shall be permitted to remain on any Lot so as to be visible from adjoining property or public thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickpups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters and garden

maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrape, refuse, or trash of any kind shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

III.

SIDEWALKS

The owner of each lot shall construct, at his cost and expense and prior to his occupancy of the dwelling, sidewalks, if any, as set forth on the recorded subdivision plat.

IV.

TERM

These covenants are to run with the land and shall be binding on all persons claiming under them until January 1, 2011, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless by a vote of a majority of the then owners of the lots encumbered by this Declaration, it is agreed to change said Declaration in whole or in part.

Any such instrument of amendment or termination must be executed and acknowledged by fifty-one percent (51%) of the then owners of lots encumbered by this Declaration and filed of record in the Deed Records of Williamson County, Texas. The instrument of amendment or termination shall be effective to amend or terminate this Declaration at the expiration of the initial year term, if such instrument is filed of record as set forth above during the initial term hereof; or if such instrument is filed of record as set forth above during any ten (10) year period of extension, this Declaration shall be amended or terminated (as the case may be) at the end of such ten (10) year period of extension. Notwithstanding anything contained herein to the contrary, the Developer, its successors or assigns, may amend these covenants at any time, or from time to time, in order to correct any typographical errors or other errors or omissions which, in the discretion of the Developer, its successors or assigns, may require amendment in order to properly reflect the intent hereof. Such amendments to correct typographical or other errors shall be effective on the date that such an amendment is filed on record in the Deed Records of Williamson County, Texas, by the Developer, its successors or assigns. Notwithstanding anything hereinabove, no amendment shall be effective until the approval of any governmental regulatory body which is acquired shall have been obtained.

V.

EXTERIOR MAINTENANCE

In the event the owner of any lot shall fail to maintain the premises and the improvements situated thereon in a neat and orderly manner, the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and exteriors of the buildings and any other improvements erected thereon, all at the expense of the owner.

VI.

ENFORCEMENT

If the owner of any lot, or his heirs, executors, administrators, successors, assigns or tenants shall violate or attempt to violate any of the covenants set forth in this Declaration, it shall be lawful for any person, or persons, owning any lot encumbered by this Declaration, or Developer, to prosecute any proceedings against the person, or persons, violating, or attempting to violate, any such covenants. The failure of the owner or tenant to perform his obligations hereunder would result in irreparable damage to the Developer and other owners of lots in the Subdivision, thus the breach of any provisions of this Declaration may not only give rise to an action for damages at law, but also may be enjoined by an action for specific performance in equity in any court of competent jurisdiction. Such action may be brought against any person, firm or corporation violating, or apparently about to violate, any of these covenants, either before such violation occurs or within a reasonable time thereafter, for an appropriate order or injunction of either a restraining or mandatory nature, or both, and of either a temporary or permanent nature, or both, including, but not limited to, one restraining construction of any improvements commenced, or about to be commenced, without the prior written approval of the Committee or for the removal of any improvement constructed without the prior written approval of the Committee. In the event enforcement actions are instituted and the party bringing such action is successful in obtaining any relief, then in addition to the remedies specified above, the party or parties against whom such relief was granted shall pay to the enforcing party costs and reasonable attorney's fees in such amount as the court may determine. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

VII.

SEVERANCE

In the event any of the foregoing covenants, conditions, restrictions, reservations or charges is held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, restrictions, reservations or charges. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent hereof shall be enforced.

VIII.

NUMBER AND GENDER

The singular shall be treated as the plural and vice versa, if such treatment is necessary to interpret this Declaration. Likewise, if either the feminine, masculine or neuter gender should be any of the other genders, it shall be so treated.

EXECUTED this the 28 day of July, 1986.

BILL MILBURN, INC.

By: _____
Joseph A. DiQuinzio, Jr.
Vice President

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledge before me on the 28 day of July, 1986, by Joseph A. DiQuinzio, Jr., Vice President of Bill Milburn, Inc., a Texas corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

ROBERTA M. SPILKER
Notary Public, State of Texas
My Commission Expires 1/20/90

(Printed/typed name)
My commission expires: _____

STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Williamson County, Texas, as stamped hereon by me, on

AUG 12 1986

James S. Boyle
COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

FILED FOR RECORD
WILLIAMSON COUNTY, TX.
1986 AUG 11 PM 4:07

James S. Boyle
COUNTY CLERK

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